

Music and Soybeans

Dear Kristin, Martha, and Andrew,

I take this opportunity to try to clarify questions about dance music and copyrights. My preference is generally to tackle such problems out in the open so they can be discussed rationally. It does require those involved to be trustworthy. I trust all three of you, and have therefore included you jointly in this open discussion.

The Industrial Revolution is rubbing shoulders with the Electronic Revolution. The Industrial Revolution spawned copyright laws to protect the commercial interests of those who create. The Electronic Revolution has unleashed possibilities which could not have been foreseen when the copyright laws were written. Last week, the Supreme Court wrestled with the situation. They came down firmly on the side of commercial interests. Monsanto's soybean patents were being challenged. I think the case can help clarify where we stand in regards to uses of recorded music. Musicians who make the music, like Monsanto who made Roundup resistant soybeans, have a right to be compensated. Monsanto is compensated when they sell the seed to farmers who plant the seeds which will be fed to animals. Musicians are compensated when they are paid for playing for a dance event even if it is recorded (like planting the soybeans) to be used for other dances. Monsanto has not, so says the Supreme Court, given permission for someone to plant seeds and then sell those seeds to be planted instead of fed to animals or otherwise consumed. Musicians have not given permission (unless specifically given) for their recordings to be copied and the copies then sold.

In our case, our musicians have been compensated: they have usually been paid for rehearsals, for performances, and for recordings. As to recordings (which is the issue here), The Lewis and Clark Dance Manual and Kit was a joint project in which profits, though paltry, were to be shared by the four of producers after expenses. The expenses were paid and the proceeds distributed, i.e. the "soybean patent" was paid for. Similarly, at my 75th birthday party music was paid for with permission to record it and I also paid the commission for the composition, "Birthday Canon." Musicians were paid for the Lincoln Library performance and they granted permission for the performance to be recorded. For the homeschool HEAD project, the musicians were paid expressly to record music (in my living room) for the selected dances. Country dance has admittedly not been a lucrative activity. But we have done our best to compensate the musicians.

The purpose of recording dance music has been to make it possible to play the music for dances. I have had to use recorded music for dances whenever it is not possible to hire a live band. These dances have not been a commercial activity. The recordings had already been paid for and have been put to their intended use. The recordings were not sold. It is like the soybeans. Monsanto sells them to be planted and the yield is then to be fed to cattle. Music is recorded to be played for dances. Monsanto soybeans are sold to produce feed, not seed. Music is sold to be played not to be copied on CDs

and sold. Roundup ready soybean yields are sold to be fed not to be planted and thus copied.

Farmer Bowman got into trouble when he bought soybeans intended to be consumed as feed for cattle and instead used them to plant and produce a new crop. I contend that our dance music recordings have been used for their intended purposes and are within copyright laws. We have not copied them to be sold—they have been used as "feed." Even the making of videos of our dance programs, which were public events and put on YouTube (or like sites) have been without commercial intent. I consider them also to be feeding the world of country dance. We are all looking for a larger feed lot and an increase in demand for dance music.

Now, Andrew is proposing recording and *selling* instructional videos. This is different from feeding cattle. It is a new commercial (albeit not-for-profit) production. Andrew is aware of this. He contacted Tu'Penny about playing for the recording but they were not available. Andrew then chose dances previously recorded by Bare Necessities, contacted the individuals in that band, and set up a royalty arrangement before doing the recording (planting the soybeans). I strongly encourage everyone to support him in this endeavor. It is efforts like his which will shift the demand for country dancing from paltry to lucrative. He has agreed to royalty terms for potential sales.

We have been feeding the country dance activities involving Tu'Penny since 2004. Progress has been made. I urge Tu'Penny to accept Andrew's invitation to provide live music for a ball this year. Tu'Penny will be paid. I expect the ball will be recorded; that is the opportunity made so easy in this Electronic Revolution. If Andrew intends to edit the ball recordings (he is eminently capable of producing a fine product), Tu'Penny needs to discuss arrangements with him if he hopes to sell the videos. On the other hand, he may simply use them to "feed more cattle."

Using recordings for dancing and copying recordings for sale are two different matters.

John M Ramsay
520 Mapleview Drive
University City MO 63130-3811
telephone: 314-863-2476
email: johnmramsay@mac.com
Homepage: johnmramsay.com
youtube.com/user/johnmramsay