

Wimoweh royalties start to roll

FRED KHUMALO

JOHANNESBURG — Between 1992 and 2002 *The Lion Sleeps Tonight* earned at least \$5 million (R31 million in today's money) in composer royalties, yet only \$15 000 reached the accounts of the daughters of Solomon Linda, composer of *Mbube*, on which the song is based.

Today, lawyers acting for the dead composer's daughters are expected to announce a legal breakthrough. Not only is this expected to improve the fortunes of the daughters, but it is also likely to set international precedents in copyright law.

Other local artists or their relatives might also get what is legally theirs,

such as the family of Simon "Mah-lathini" Nkabinde, who died in 1999.

"Although Linda's contribution is openly acknowledged by famed folkie Peter Seeger, who adopted *Mbube* as *Wimoweh*, and by George David Weiss, who turned *Wimoweh* into *The Lion Sleeps Tonight*, Linda was never credited as a co-composer and died a pauper in 1962 leaving his family too poor to even afford a headstone for his grave," said the law firm Spoor and Fisher.

The copyright law firm is striving to recapture the rights for Linda as the composer of the song, which has been recorded in various forms by at least 150 artists worldwide.

Hanno Friedrich, an attorney in

Johannesburg, became counsel for Linda's four daughters in 2000. He found their affairs were in disarray.

From time to time, small sums from overseas would materialise in the daughters' joint bank account, often accompanied by handwritten scraps of paper making reference to *The Lion Sleeps Tonight*.

"There was no contract and no proper account was given. They never had legal advice," said Friedrich.

To get the ball rolling, Friedrich asked a colleague in Los Angeles to open negotiations with Abilene Music, the company that controls *The Lion Sleeps Tonight* copyright.

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Abilene's response was swift and brutal: it cut off royalty payments entirely.

Shortly afterwards, Linda's youngest daughter, Adelaide, died. The surviving daughters — Elizabeth, Delphi and Fildah — live in Soweto.

Last year, the case was taken over by Owen Dean of Spoor and Fisher, who wrote his doctoral thesis on the historical aspects of South African copyright law.

Dean has formulated a strategy that he believes will overturn the US control of *The Lion Sleeps Tonight* copyright in many territories.

The story is told how Linda was paid 10 shillings when he sold his song *Mbube* to the record producer Eric Gallo in 1939.

Seeger's autobiography, *Where Have All the Flowers Gone*, details how 10 years later Alan Lomax visited Seeger with a box of South African records headed for the trash, among which was the recording that Linda had made for Gallo.

Seeger listened endlessly to the rich, unaccompanied harmonies of the song, ultimately transcribing the chorus *Mbube-wo, uyimbube-wo*, which in Zulu loosely means "lion, you're the lion".

To Seeger's ear it sounded like "Hey yap, boy, wimoweh," and he recorded his version, *Wimoweh*, with the Weavers in 1952.

Then came George Weiss, who added 16 words of English and copyrighted it as a wholly original composition *The Lion Sleeps Tonight*.

This version generated more than \$72 million in royalties through recordings by artists such as The Tokens. Later it was included in the soundtrack for the film *The Lion King*.

In 1989 a dispute between the Weavers' publisher, the Richmond Organisation, and Weiss over the copyright ownership of *The Lion Sleeps Tonight* came before a New York court. Judge John Keenan decided that Weiss's adaptation of the song constituted a separate composition.

Copyright lawyer sues Disney over Lion King theme song

JAMESON MALULEKE and SAPA

IN his bid to secure more royalty payments for the South African family of the man who wrote the song *The Lion Sleeps Tonight*, Spoor & Fisher copyright lawyer Owen Dean has been awarded a court order authorising him to attach legendary Disney trade marks.

Disney icons such as Mickey Mouse, Donald Duck and Winnie the Pooh will be "detained" until the royalty dispute is settled.

He said yesterday the song was originally a Zulu tune, composed by the father of the complainants.

Mr Dean, as executor of the estate of Solomon Linda, who died with less than R100 in his bank account in 1962, intends to claim nearly R10m in damages on behalf of the family from the Walt Disney company in the US.

Disney has been targeted because the company was the "most active user" of the song.

"They are using his music in

the *Lion King* musical, which is running to full houses all over the world, while Linda's daughters work as domestic servants, live in shacks and struggle to feed their families."

Linda was a Zulu migrant worker and entertainer, who composed the song *Mbube* (lion) in Johannesburg in 1939 and recorded it with a singing group called the *Evening Birds*.

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Copyright lawyer sues Disney over theme song

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Mbube was an instant hit and would later become one of the most famous melodies from Africa.

Folk singer Pete Seeger came across the song in New York in 1949 and in his autobiography, he relates how he transcribed it "note for note" and called it *Wimoweh* from the Zulu "uyiMbube" which

means "He is a lion".

In 1961, the Tokens recorded the song and added the English lyrics starting with "In the jungle, the mighty jungle".

Since then, the song has been recorded by more than 150 different artists and features in at least 15 movies and stage musicals. It has also been translated into several languages.

It's estimated the song is worth \$15m (R93m) in composure royalties over the decades. Linda and his family got nowhere near this - most of their compensation came from SA music company Gallo, as well as R100 000 in royalties from the US in the 1970s.

Mr Dean said that, in terms of the Imperial Copyright Act (ICA), ownership of *Mbube* reverted to

Linda's heirs 25 years after his death. This revoked all existing deals and required anyone using Linda's music in Commonwealth territories to negotiate new agreements with his estate.

He said ICA's provisions applied in all territories once part of the British empire, so similar action in the UK, Australia, New Zealand and Canada was considered.

Disney denies liability in lion song dispute

US entertainment giant Walt Disney Co says it is not liable in a dispute with South African lawyers over the copyright to *The Lion Sleeps Tonight*.

Lawyers for the family of the song's original composer, Solomon Linda, are suing Walt Disney in South Africa for infringement of copyright to the song, which has earned an estimated \$15-million (about R92-million) since it was written in 1939.

The song, originally called *Mbube*, has been recorded by about 150 artists around the world and features in Disney's *Lion King* on film and on stage.

A statement from the

company yesterday said Walt Disney had obtained the right to use the song from Abilene Music, the New York firm which administers its copyright in the US.

"The Walt Disney Company takes all matters of copyright ownership seriously," it said, "to the extent that a copyright-ownership issue should be taken up with Abilene Music publishers, from which the rights to *The Lion Sleeps Tonight* were licensed."

South African lawyer Owen Dean said although the response from Walt Disney was factually correct, the US firm was still liable for copyright infringement under

British laws in force in the country when the song was recorded in 1939.

Lawyers for Linda's family - who live in Soweto - say that under laws in force in SA at the time, rights to the song should have reverted to Linda's heirs in 1962.

Dean said the family was claiming R10-million in damages from Disney.

The Pretoria High Court has attached the use of Disney's trademarks in South Africa - including Mickey Mouse and Donald Duck - to the case. That means proceeds from use of these trademarks will revert to the plaintiffs if Walt Disney loses the case. - Reuters

THE STAR

7/7/04

by the blaze. Police are investigating a case of arson.

Lion King lawyers reject Disney's 'not liable' claim

JOHANNESBURG — Lawyers acting for the family of late songwriter Solomon Linda yesterday rejected Disney's claims that it was not liable for copyright infringement of *The Lion Sleeps Tonight*.

Owen Dean, a South African copyright attorney, said: "Each and every licensor in the licensing chain ... is liable for copyright infringement. No licensor can offer a defence that someone else in the chain is also infringing copyright."

Disney Enterprises has apparently

denied infringing copyright because the entertainment giant obtained a licence to use the song from George Weiss, who wrote the version used in the smash hit *The Lion King*.

Dean said that Weiss's company, Ablene, would naturally also be liable for copyright infringement, "but it does not follow that this absolves Disney."

He said that his firm would seriously consider including Ablene in the law suit, if they could find the legal means.

The original melody for the song *The Lion Sleeps Tonight* was composed by Linda, a migrant mine worker, more than half a century ago. He sold the melody to Gallo for 10 shillings, in 1952, said Dean.

The tune, originally entitled *Mbube*, has since been modified by more than 150 artists, and has generated about \$15-million in royalties, AFP reported.

Linda's three surviving daughters and 10 grandchildren still live in Soweto. They decided to seek legal help after realising

they had lost out on millions of dollars in royalties.

Their lawyer reportedly planned to seek a court injunction to shut down the long-running London stage production of *The Lion King* as part of a string of lawsuits in several Commonwealth countries.

Under the provisions of a Commonwealth law in force at the time the song was first recorded, the rights to a song revert to the composer's heirs 25 years after his death. *Sapa*

SA family to go ahead with Disney lawsuit

Monday August 02, 2004 12:03 - (SA)

By Abhik Kumar Chanda

Sitting in her tiny ramshackle house in Johannesburg's township of Soweto, Elizabeth Gugu hates the Disney film "The Lion King," which uses a version of her father's hit song "Lion" without paying the family a cent in royalties.

Gugu and her two sisters - one a domestic worker and the other the wife of a driver - are suing the US entertainment giant for \$1.6 million for copyright infringement of her father's song "Mbube" or "Lion."

The version used in the Disney film is "The Lion Sleeps Tonight."

Disney has until August 12 to inform a South African court whether it intends to defend the claim and has so far taken the line that it has properly licensed the rights to the song composed by Solomon Linda, a former miner.

"When I saw the Lion King on television I was mad," Gugu told AFP in her poor home in Zola North, a seedy area of Johannesburg's black Soweto township.

"It reminded me that they were using the song without our permission and stealing our money," she said.

Linda, who was born in the eastern KwaZulu-Natal province, moved to Johannesburg and worked as a miner briefly, and then became a tea boy at Gallotone, a record company.

But he was also a gifted singer and as a youth in his native Natal "liked to play the guitar and make up songs while watching the cows grazing on the veld," Gugu said.

In Soweto, he became a local celebrity singing at music competitions in male hostels for black miners and being invited to weddings to perform.

He struck gold with his song "Mbube" - the original version of "The Lion Sleeps Tonight" - which was subsequently recorded by a slew of artists ranging from the Tokens, to

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Pete Seeger, Miriam Makeba and Bert Kaempfert.

When he died in 1962 at the age of 53, he left nothing, his eldest surviving daughter Filda Fikile said, apart from one pound in a bank account.

Fikile said her mother only received a little money from a record company in 1980 which "she used to build a cement tombstone on my father's grave which was made in concrete."

Only three daughters of Linda's eight children survive.

But they say that despite their poverty-ridden childhood, they had good times.

"Father was always singing. The house was full of music but we were short of food," Gugu said. "We didn't know what bread was. We only ate 'pap' (a maize porridge) and chicken's feet. Christmas was a torture because we inhaled meat cooking (in other homes) and had to be happy with the scent."

Gugu, who lives in her father's house, has put in tiles across the floor, which used to be an earthen one and where her mother used to smear cow dung every day - a traditional practice in many parts of Africa and Asia.

She has also plastered the walls but the house still has an asbestos roof.

During her childhood, cardboard cartons served as closets. The only furniture in the house was two wooden benches, a low table and four beds.

Gugu's poorest sister Delphie Simangele supports her unemployed boyfriend and her son with the mere R500 she earns working as a maid. But she was the one who put Gugu through school and nursing college, making her the only literate member of the Linda family.

Gugu - the best off of the lot with a take-home wage of R1,200 a month - refuses to speculate what she will do if they get the money apart from "building a decent tombstone for my father."

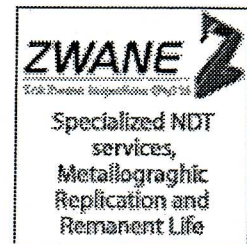
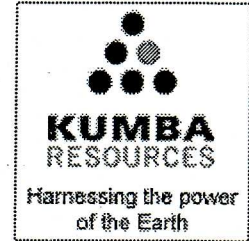
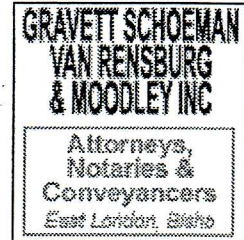
"See my house, there are so many things to do that I don't want to think about it," she said. Her elder sister wants to "buy a small car and put the rest of the money in a fixed deposit account."

But she is confident of victory, saying: "We believe in our ancestors, we pray to them and they will help us in a just fight."

The sisters are however bitter that the South African government has not helped them so far.

"If we get the money, they are going to deduct taxes but right now they are not intervening," Gugu said.

Linda sold the rights to the song - which in the Tokens'



Disney to face the music in SA for Lion King

Foreign Staff

Sapa

DISNEY Enterprises yesterday lost its bid to set aside an attachment order against its South African-registered trademarks, enabling the family of musician Solomon Linda to sue it for royalties in a South African court.

Pretoria High Court judge Hekkie Daniels dismissed Disney's application against the executors of Linda's estate, which represents his three daughters.

The executors obtained an attachment order in July against the more than 240 locally registered Disney trademarks.

Disney claimed SG Griesel, who instituted the damages claim on behalf of the estate, had not been appointed properly as executor by the master of the high court and did not have authority to represent Linda's estate.

The estate is claiming a total of R16m damages from Disney Enterprises for infringement of the copyright to the song Mbube —

on which is based the well-known The Lion Sleeps Tonight that was used in the Disney film The Lion King.

The judge said although it was true that Griesel was not named "executor" of the estate, this did not detract from the fact that he was appointed to represent the estate. Whether Griesel was called an agent or executor could not affect his entitlement to institute the action, the judge said.

Linda, a migrant worker, wrote the song Mbube, which means

lion in Zulu, in 1939.

The song has since then been reworked and its title changed to Wimoweh in 1951-52 by Pete Seeger and to The Lion Sleeps Tonight in 1961. It has featured in the Eddie Murphy film Coming to America and has been recorded 150 times.

The Linda family has received royalties of only R142 000 from various users.

Linda died penniless in 1962, leaving three daughters and 10 grandchildren.

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Big bucks as lion sleeps

C 28/09/04

CITIZEN REPORTER

THE lion may sleep more peacefully tonight as lawyers representing the estate of late songwriter Solomon Linda were on the brink of concluding a settlement with the New York music publishing house that controls the *Wimoweh* song.

Wimoweh was the first of two international hits spawned by Linda's 1939 song *Mbube*.

According to Linda estate lawyer Dr Owen Dean of Spoor and Fisher, the publishing house TRO/Folkways had offered to pay all future *Wimoweh* royalties to Linda's Soweto family, and to contribute to the costs of establishing a memorial to the Zulu composer.

According to Dean, TRO's involvement with the song dates back to 1951, when TRO founder Howie Richmond signed The Weavers, a folk group whose repertoire included a "note-for-note" adaptation of *Mbube*.

Unable to wrap their tongues around the Zulu lyrics, the

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The Citizen

Lion song settlement nears

C 28/09/04

/from page 1

Weavers called the song *Wimoweh*, and it rose to number six on the US charts. Ten years later, *Wimoweh* became the basis of *The Lion Sleeps Tonight*, a pop song whose massive earnings are the subject of a separate battle pitting the Linda estate against Disney Enterprises.

Dean added the publishing house was initially under the impression that *Mbube* was a traditional Zulu folk song, author unknown.

At the outset, therefore, all royalties earned by *Wimoweh* flowed

to The Weavers, although Linda received an ex gratia payment of \$1 000. In 1971, Folkways acknowledged that *Wimoweh* was indeed based on an original work by Solomon Linda. Since then, Linda's family has received regular royalty payments amounting to 12,5% of *Wimoweh*'s overall earnings.

Dean added Folkways CEO Larry Richmond had maintained that his firm's reputation was being damaged by the publicity surrounding the claim against Disney.

As a result, Folkways proposed that some form of memorial to Solomon Linda should be set up in

South Africa.

"Moreover, Folkways is willing to pay all future composer royalties arising out of the exploitation of *Wimoweh* to the Linda heirs," Dean said.

This could mean an additional R20 000 a year for the family.

Dean said that the attitudes of Folkways and The Weavers was in sharp contrast to that of Disney Enterprises and Abilene Music, the owners of *The Lion Sleeps Tonight*, who had responded "to our appeals for justice with strenuous legal counter-measures, mainly of a technical nature".

Family of Wimoweh songwriter should sleep well tonight — the lion must wait

TO 28/09/04

PRETORIA — An American music-publishing house has offered to pay all future royalties on the song *Wimoweh* to the family of its South African writer, lawyers for the late composer Solomon Linda said yesterday.

TRO/Folkways of New York has also offered to contribute to the erection of a memorial structure for Linda, law firm Spoor & Fischer said in a statement.

A settlement was "on the brink" of being concluded, it said.

Copyright lawyer Owen Dean said an agreement had been reached in principle and was expected to be formalised "within a week or two".

The song *Wimoweh* was spawned

by Linda's 1939 song *Mbube*.

Mbube also gave rise to the well-known tune *The lion sleeps tonight* — the subject of a separate copyright battle between the Linda family and Disney Enterprises.

TRO founder Howie Richmond signed a folk group, The Weavers, to record a version of *Mbube* in about 1951. It became known as *Wimoweh* and rose to No 6 on the US music charts.

Dean said TRO was initially under the impression that the tune was a traditional Zulu folk song and its author unknown. Royalties were thus paid to The Weavers.

In 1971, the company acknowledged that the song was based on

Linda's original work. Since then his family, who live in Soweto, have been receiving royalty payments amounting to 12,5 percent of the overall earnings of *Wimoweh*.

But these payments did not amount to the full composer's royalties due, Dean said. Once the deal is signed, Linda's heirs will receive the full amount — estimated at R20 000 a year.

The statement quoted attorney Hanro Friedrich, who represents Linda's three surviving daughters, as saying his clients were struggling to pay their rates and electricity bills. The local council was threatening to attach their family home.

"For people in their position,

Folkways' offer means a great deal."

In July, Dean obtained a Pretoria high court order attaching 240 Disney trademarks, including Donald Duck and Mickey Mouse, pending the outcome of the family's claim.

Earlier this month, Disney lost a bid to have the attachment order set aside.

The Linda family are claiming damages totalling R15 million for copyright breaches against Disney Enterprises, Nu Metro Home Entertainment, the David Gresham Entertainment Group and David Gresham Records, as well as an interdict against the four companies who are continuing to use the song. *Sapa*

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Last Updated: Monday, 5 July, 2004, 16:24 GMT 17:24 UK

[E-mail this to a friend](#) [Printable version](#)**Family sues Disney over Lion song****Disney is being sued \$1.6m (£898,000) by a South African family for alleged unpaid royalties for the use of the song The Lion Sleeps Tonight.**

The Lion King has also been transformed into a stage show

Lawyers acting on behalf of Solomon Linda's family are seeking payments for the song's appearance in The Lion King.

Mr Linda originally sold copyright to a local firm, but under British law at that time, it should have reverted to his heirs 25 years after his death.

The complaints will be filed in South Africa next week.

Linda was a migrant Zulu worker who came up with the melody for the song in 1939, calling the tune Mbube, and recording it with a group called the Evening Birds.

\$15,000 payment

The song became one of the most popular in Africa. It was later discovered by the US folk singer Pete Seeger.

In his autobiography, Seeger said he had transcribed the song "note for note" and called it Wimoweh, taken from the Zulu word uyiMbube, which means "he is a lion".

U.S. songwriter George David Weiss rewrote the song as The Lion Sleeps Tonight. It was later covered by Dave Newman and Tight Fit, among others.

The song has allegedly earned more than \$15m (£8.4m) because of its use in the The Lion King movies, but Linda's family have only ever received \$15,000 (£8,400).

Linda's 16-year old grandson Zathele Madonsela, who lives with his family in Soweto, told reporters: "Life is difficult, we are really struggling."

“ The family are entitled to royalties**”**

Lawyer Owen Dean

'Misappropriation'

"The court attached use of Disney trademarks in South Africa to the case last week. We believe our legal position is very sound," Owen Dean, lawyer for the Linda family, told reporters.

"The family are entitled to royalties. There has also been a misappropriation of South African culture - the song is thought to be American," he said.

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Linda sold his rights to the song to a local company in South Africa, but under British law copyright reverted to his three daughters and 10 grand-children in 1987.

Executors of Mr Linda's estate are seeking a further 6 million rand from three South African companies who have benefited from royalty income from the song, which has so far been recorded by 140 bands.

It is thought the case could have implications for other songs written by South African musicians whose rights were sold, where artists may not have been aware of their entitlements under British copyright law.

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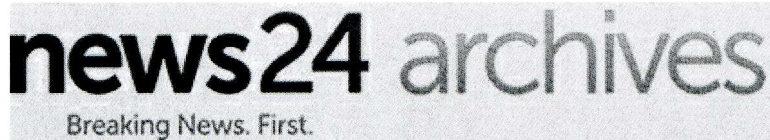
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Wimoweh proudly SA

2006-02-16 17:56

Johannesburg - Relatives of the original composer of *The Lion Sleeps Tonight* have dropped a lawsuit against Disney after settling for an undisclosed sum of money with a US music publishing house, their lawyer said on Thursday.

The family of the late Solomon Linda, who composed the original Zulu tune for the song, was claiming \$10m in damages from the entertainment giant.

Linda, who died with less than \$25 in his bank account in 1962, was a Zulu migrant worker who composed the song *Mbube* (lion) in Johannesburg in 1939 and recorded it with a singing group called the Evening Birds.

South African lawyer Owen Dean said the settlement was reached with New Jersey-based Abilene Music, which holds the copyright to *The Lion Sleeps Tonight* which in turn licensed it to the Walt Disney Corporation.

"All of the parties to the litigation plus Abilene are part of the settlement and in terms of it all, the litigation will be withdrawn," Dean told AFP.

'Satisfied' with amount

"The settlement involves a payment of back royalties to the family and the right to participate in the royalties in the future and that's on a worldwide basis," he said.

The lawyer declined to disclose the amount paid by Abilene Music, simply stating: "We are satisfied with it."

The settlement ends a long-running dispute between Solomon's relatives and companies including Disney over the rights to the song, sparked by a Rolling Stone magazine article in 2001 which reported on Linda's family living in abject poverty in Soweto.

The song has been recorded by more than 150 different artists and features in at least 15 movies and stage musicals.

It has been translated into several languages including French, Japanese, Danish and Spanish.

Although many productions have used the hit song, Disney has been identified as the "most active user" of the song, including in the 1994 blockbuster film *The Lion King* and spinoff musicals.

"When I saw the *Lion King* on television I was mad," daughter Elizabeth Gugu told AFP in her home in a seedy area of Soweto back in July 2004.

"It reminded me that they were using the song without our permission and stealing our money," she said.

Dean said one of the settlement's most important victories were that Linda in future will be acknowledged as a co-composer of *The Lion Sleeps Tonight*.

Wimoweh Folk singer Pete Seeger came across the song in New York in 1949, transcribed it "note for note" and called it *Wimoweh*, from the Zulu "uyiMbube", which means "He is a lion".

In 1961, the Tokens recorded the song and added the English lyrics starting with *In the jungle, the mighty jungle*.

The case was brought under an obscure piece of 1911 copyright legislation which gives artists' families the rights to their works 25 years after their deaths and entitle relatives to renegotiate deals and secure better royalty terms.

"We have set the precedent for other people who were perhaps not given proper recompense for their artistic creations," said Dean.

Disney in September 2004 lost a bid to set aside the lawsuit by the Zulu family and the case was to resume in a South African court next week.

AFP
