

# POPULAR MUSIC IN POLITICAL CAMPAIGNS

As campaign season heats up again in 2018 and beyond, so do controversial music uses for some high-profile political campaigns. It is not uncommon for a campaign to use popular music without permission, however, this may result in the delivery of legal letters, cease and desist orders and lawsuits from the copyright owners.

Popular music in political campaigns can create a concise message that is both upbeat and direct. A well-known and popular song can grab the listener's attention within seconds and transport them to an emotional place and time. Using music in campaigns is not new. It dates to the Dwight Eisenhower campaign, and even George Washington. The Eisenhower campaign created a jingle called "They Like Ike". Original music jingles were common place during this period. But it is the music of the 60s & 70's pop/ rock era that hold a special meaning to most listeners. This era created a long-standing run of popular music used in commercials, TV shows, films and political campaigns.

Clearance requirements for these uses depend on the use itself. Where and how a copyrighted piece is used can impact the rights needed, the fees associated with it, and whether the artist may object to the use. Artists are very sensitive when it comes to their image and work being associated with one political party or another, so most often than not, they deny these types of requests.

A major obstacle for artists, is that their music can be used in a public performance. Public Performance Rights are nearly automatic and do not require permission from the copyright holders. Typically, when music is played within a public venue and the music is not synchronized to film or video, it's considered a public performance. If the venue where a political campaign or convention is being held may have a Direct or Public Performance License.

Copyright Law, however, prohibits the Synchronization of music to film without permission from the copyright holders. There may be more than one if not many copyright holders and subsequent permissions required for proper clearance. Where a Synchronization has occurred, and Synchronization Licenses have not been requested and approved, some political campaigns have been sued. The Copyright Law also provides for "Fair Use" which is generally used for education and the transmission of news. It is not safe to claim Fair Use for political campaigns.

Here are some high-profile music uses associated with political campaigns in the past.

Bobby McFerrin's "Don't Worry Be Happy" was used in George Bush's 1988 presidential campaign. The campaign stopped using the song after McFerrin requested so. It is said Bobby McFerrin was a Dukakis supporter. In 1984 Ronald Reagan was asked to stop using "Born in the USA" by Bruce Springsteen. His legal interaction with Springsteen mounted when instead of stopping to use the song Reagan continued to

reference the lyrics in his speeches. For his senate campaign Marco Rubio used the Taking Heads songs "Road to Nowhere". According to Lawstreet.com, the use was posted on Rubio's website which resulted in a lawsuit. Jackson Brown successfully sued John McCain for use of "Running on Empty" in an Internet video. Because this copyrighted title was synchronized to a video image, Brown's attorney had a strong case for infringement. This suit was settled with an apology and an undisclosed amount exchanged according to the Washington Post. Donald Trump's presidential campaign used Twisted Sister's "We're Not Gonna Take It" and R.E.M.'s "It's the End of the World (as we now it)". Both the R.E.M piece and Neil Young's "Rockin In the Free World" were denied by the artists, who requested the campaign cease the associations. Trump claimed to have cleared a Performance License for these uses. Adele asked Trump to stop using "Rolling In the Deep" and "Skyfall". The Washington Post reports in February 2016 that Elton John asked the Trump campaign to stop using "Tiny Dancer" and "Rocket Man". Elton was reported to have said "I am no Republican, not in a million years. Why don't you ask F\*\*\*\*\*G Ted Nugent? Tis is Rock-N-Roll after all..."

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