

got parody?

by
Blaine Parker

Portions of the following story are so true. Names have been changed to protect the writer from the meanest lawyers in broadcasting.

Kragen tried to do it again. Seems like the millionth time. I explained why it was a lousy idea. He wouldn't believe me. To make my case, I finally had to go online and pull down legal decisions from the California Supreme Court.

But first, I said, "Think about this, Kragen. Think about all the award-winning radio spots you've ever heard. Your favorites. How many of them are blatant satires of a movie or TV show?"

He stared at me with that defiant gaze he has—the one that says, "I have no idea, all I am is reactive." Since he had no reply, I continued. "Off the top of my head, I can think of only one campaign: Cliff Freeman & Partners' *60-Second Theater* spots for Hollywood Video. And those commercials sell the movies they satirize. So...why? How come there aren't more brilliantly satirical, SNL-worthy advertising messages on the air and winning big awards?"

"You're so smart, you tell me." I guess I have this effect on reps. Over the years, they've made me less than diplomatic.

"Two simple reasons, Kragen: (a) they're too easy, and (b) they're illegal."

He scoffed. "Too easy? Easy for you to say! My *Adam 12* parody spots are kick ass! And illegal? First amendment rights! I can parody with impunity!"

"Bosh. Look, I am not a lawyer. I am not offering legal advice. I'm merely examining this from a common-sense perspective. Apply what you already know about using unlicensed music. Would you rip 'Yellow Submarine' to advertise a sub shop?"

He rolled his eyes. He'd lost this argument repeatedly over the years. He whined, "No. It's against the law."

"And why don't you do it?"

"Because I'd be exposing myself, the station and the client to a potential lawsuit."

"Good. That MegaMemory course is paying off. So, you can't use unlicensed music. And stealing characters and scenarios from popular culture is no different. If I use an impression of Arnold to advertise a car dealer, as one client recently tried to do, Arnold can sue. If I use impersonations of characters from *The Godfather* to advertise a pizza joint, like folks around here have done in the past, Paramount can sue. If I use a knock-off of Dr. Ginny in a recognizable parody of her show to advertise a frozen dessert product, as a friend of mine did, Dr. Ginny can sue—as her lawyers actually threatened to do."

That got his attention. "Dr. Ginny's lawyers threatened to sue a friend of yours?"

"More or less. A tiny agency came to him. They'd already sold a premise to the client: a kid calls 'The Dr. Jeannie' radio show. In a blatant parody of a Dr. Ginny stock phrase, the kid says, 'I carry my mother's baggage, and she's also my problem.' He complains that mom is eating all these guilt-free frozen treats, leaving none for him. Dr. Jeannie listens, then proceeds to rip into the kid for being so self-centered as she herself eats one of these frozen treats."

"Sounds like a cute spot."

"It was. Not particularly brilliant. But solid performances and production. It aired in the market on several major stations. For all I know, it may have even aired *inside* Dr. Ginny's show."

"Cool!"

"Uh...no. Not cool. And Dr. Ginny's people sent the cease & desist letter fast enough to make your head spin off its carriage bolt."

"What's a carriage bolt?"

"The point is, they were right. The little agency had no leg to stand on. The name was too close to Dr. Ginny's, and they'd insisted on

using a catch phrase from Dr. Ginny's show. Had they changed the name to Dr. Phyllis and dropped the catch phrase, life would've been peachy. Because then, the parody would've been generic—instead of infringing on Dr. Ginny's name and likeness.”

Kragen was getting shrill. He knew he was losing. “But what about the First Amendment!?”

“Real simple. Unlicensed, recognizable parody is not covered by the First Amendment when it's used in commercials. Make it even simpler: if you're doing a parody, and the real person you're parodying could charge money to do the same job, don't do it. If you want to expose yourself to a potential lawsuit, that's your business. But once you start dragging everybody around you into the pot—including your client—that's a little different.”

“That's not fair.”

“Besides being totally fair, let's face it: this is the lazy man's way out of creating a commercial. Instead of thinking up something new and inspired, you're resting on the laurels of somebody else's success. ‘Oooh, let's advertise fertilizer by doing a parody of *Green Acres*. That'd be funny!’”

His eyes lit up. “Yeah!”

“It's an *example*, Kragen. Funny? Maybe. Good ad? No. And it's also ripe for a lawsuit. And if you expect it to win an award for the pithy writing and dead-on impersonations of Eddie and Eva, well...no. You want to win awards, listen to the work of a guy like Steve McKenzie. Award trophies coming out his ears. His work is some of the most twistedly inspired radio creative around. And that's the key word: ‘inspired.’”

“I don't know that I've ever been inspired.”

“You ought to try it sometime. Real inspiration can sell product. It can also win awards. And best of all, it doesn't get us or our clients sued for theft of intellectual property.”

“So really, it's like, Got advertising? Then, just say ‘No’ to parody.”

“Here. Read this. *Saderup vs. Comedy III Productions*, *Newcombe v. Adolf Coors*, and *White v. Samsung Elecs. Am., Inc.* It'll all make you feel better. Now go away, Kragen.”

Blaine Parker is a Creative Director at Salem Radio Los Angeles. He welcomes your comments at blaine.parker@salemla.com.