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What Happens When a Record Label Sues You for Sounding Like Yourself?

SPEAKERS

Christopher C. "Rusty" Close, Jr. | Austin Padgett

In this episode of *No Infringement Intended*, [Austin Padgett](#) and [Rusty Close](#) juxtapose professional wrestling's shape-shifting legend Mick Foley, who wrestled under wildly different personas like Cactus Jack, Mankind, and Dude Love, with Neil Young's own multitude of musical personas: folk rock, proto-grunge, country, and synth experimentation, complete with his famous guitars and Nashville collaborators. After signing with Geffen Records in 1982, Young turned in albums so unlike his prior work that David Geffen sued him for \$3.3 million for being "musically uncharacteristic" of himself. Young countersued, claiming his contract guaranteed total creative freedom. Austin and Rusty use the case to illustrate the way recording contracts try to define "acceptable" delivery, the difference between technical and commercial satisfaction standards, and the reason creative control clauses are nearly impossible to draft around an artist who refuses to be pinned down.

Transcript

Podcast: *No Infringement Intended*

Episode: What Happens When a Record Label Sues You for Sounding Like Yourself?

Hosts: Austin Padgett and Rusty Close

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Austin Padgett (00:13):

Come one and come all. It's time for Gavels and Gravy. Welcome to No Infringement Intended, an intellectual property podcast of our law firm, Troutman Pepper Locke, hosted by the bad boys of intellectual property, Rusty Close and me, Austin Padgett. In today's episode, we've got a wrestling legend with multiple personalities. We've got a rockabilly curveball and a \$3.3 million lawsuit that asks the question, brother, can I get sued for not sounding like myself? It's all coming to you right after these messages. Welcome back, listeners. So glad you're here for today's episode. As we get started, make sure that you're subscribed and then smash those five stars for your boys while you're at it. As we like to say, vote early and vote often.

Rusty Close (00:55):

Yeah, stuff the ballot box for sure.

Austin Padgett (00:58):

Rusty, I think we're skipping the mailbag today. You want to take us into what we've got?

Rusty Close (01:02):

We're going to jump right into it because we got a lot to cover. This one's going to touch on several of our favorite topics and we're going to do our best to tie them together. We're going to start from a wrestling perspective. The listeners will remember one of our earliest episodes was about the WWF changing its name to the WWE and why that all had to happen. But one thing I'm not sure we discussed on that episode, who were your favorite guys growing up? Who were your wrestlers?

Austin Padgett (01:29):

Oh, man, dude. It's probably kind of a multi-phase journey for me. Part of it's tied to where I grew up. Hulk Hogan started Southeastern Championship Wrestling out of Pensacola, Florida. He started as Sterling Golden there and then became the Hulk himself. That, I believe, is where he first fought André the Giant. At the time, the Hulkster for sure, but also all the other what we now view as cartoonish guys. Ultimate Warrior, Macho Man, Shawn Michaels, Undertaker, Lex Luger. But then maybe it was culture, maybe it was me, maybe it's a lot of a mix of the two. I love the Attitude Era. Everything at that point was some us versus them concept. So, you had British rock bands forcing you to pick a side.

Rusty Close (02:16):

Sure.

Austin Padgett (02:17):

If you watched TRL on MTV, they were stoking the fires of it for some reason between boy bands and nu metal. That was some sort of position you had to make.

Rusty Close (02:25):

You were always nu metal. We know.

Austin Padgett (02:27):

Yeah, everything was entertainment at that point.

Rusty Close (02:29):

Sure.

Austin Padgett (02:29):

But also I wanna give a big shout-out to my high school class president, Jared Salter, Salt Dog, who did the local wrestling circuit for a bit. I forget his character name, but I believe his big finishing move was called the McFlying Squirrel.

Rusty Close (02:42):

Nice.

Austin Padgett (02:42):

If I'm remembering that correctly. So shout-out, Jared.

Rusty Close (02:46):

Well, if you watch wrestling long enough, you'll see a wrestler who goes through several different kind of characters over the course of time where they're trying to figure out a character for this wrestler that's gonna click with the fans. Stone Cold Steve Austin, I think, is how most people remember him, but he didn't start out as Stone Cold. That was a character he came to later in the Attitude Era that you mentioned. He was in WCW as Stunning Steve Austin. He was kind of just this pretty boy heel. I don't know if you remember Flyin' Brian Pillman...

Austin Padgett (03:24):

Oh, yeah.

Rusty Close (03:24):

But they were the Hollywood Blonds, a tag team that had a little bit of a good run in the early '90s, but never kind of clicked. Then WCW lets him go. He goes to ECW as Superstar Steve Austin, makes his way to the WWF as the Ringmaster. He was managed by the Million Dollar Man, if you remember him, Ted DiBiase.

Austin Padgett (03:47):

No doubt. Yeah.

Rusty Close (03:49):

But none of them really broke through. Then he won King of the Ring in 1996. He cuts his Austin 3:16 promo, and after that he becomes Stone Cold. He's a straight-up legend from then on out. You kind of have this wrestler who's trying on these individual characters until one finally clicks. There's a different version of that, though, where you have a wrestler who has a variety of characters, but it's not because none of them ever click. It's just because... I don't know if it's a way for the wrestler to keep himself interested or whatever it might be, but Mick Foley is a good example of that.

Austin Padgett (04:29):

Oh, yeah.

Rusty Close (04:29):

Do you have any, I mean, you mentioned the Attitude Era, but what do you think of about Mick?

Austin Padgett (04:32):

I mean, multiple personality disorder, right? I mean, the guy was all over the place, as different folks. Yeah.

Rusty Close (04:39):

He kind of starts his career as Cactus Jack, who was just this full-on brawler, just really kind of violent, what he would put his body through. This starts out in the late '80s in Continental Wrestling Federation, which you might be familiar with. I think that's Alabama's regional territory.

Austin Padgett (04:58):

That's right.

Rusty Close (04:59):

He eventually comes to WCW as Cactus Jack and has some success there. He feuds with Sting and Big Van Vader. This kind of legendary match in '94, where against Vader, where his ear gets torn off, gets caught in the ropes, which I don't ever really remember exactly how that happened. He also fought in Japan as Cactus Jack. He was a legend over there. Cactus Jack and Terry Funk.

Austin Padgett (05:26):

Yeah, Chainsaw Charlie.

Rusty Close (05:28):

Yeah, exactly. They had this 1995 King of the Death Match tournament. Cactus Jack beats Terry Funk in what they called an exploding ring match. If you've ever seen clips from that, it is just insane.

Austin Padgett (05:42):

Yes, yeah.

Rusty Close (05:43):

Just crazy. Then he goes to ECW as Cactus Jack as well. I mean, that perfectly fit with what they were doing in ECW. But then he gets brought over to WWF in '96 and he debuts as Mankind. Do you remember Mankind at all?

Austin Padgett (05:59):

Oh, no doubt about it, man. Yeah, for sure. This was one of the peaks of, I was watching every episode and every pay-per-view that was coming down.

Rusty Close (06:08):

This is the Monday Night Wars, right in that sweet spot. But Mankind is totally different from Cactus Jack. I mean, he, the way he wrestles is kind of similar. He's still putting his body through just insane punishment. Mankind was just kind of this deranged lunatic. He wore this mask. He was kind of soft-spoken.

Austin Padgett (06:26):

Dr. Socko.

Rusty Close (06:27):

Yeah, and he had Socko, Mr. Socko.

Austin Padgett (06:29):

Mr. Socko, that's right. Yeah, yeah.

Rusty Close (06:31):

The sock puppet.

Austin Padgett (06:32):

He didn't get that doctorate yet. Yeah.

Rusty Close (06:34):

Yeah, right. His finishing move was the Mandible Claw. He's putting his hand in people's mouth, but then he starts doing it with Mr. Socko on his hand.

Austin Padgett (06:42):

That's gross.

Rusty Close (06:43):

The story kind of goes that Foley, if you can picture him, he does not fit what Vince McMahon's kind of prototypical wrestler looks like. The giant Hulk Hogan type, Sid Vicious type, Ultimate Warrior type. The story is that he wanted him to wear a mask and somehow that would, I don't know, be more in line with what McMahon wanted. But anyway, his most famous match as Mankind was Hell in a Cell at King of the Ring, 1998. Do you remember that match at all?

Austin Padgett (07:15):

Dude, I remember watching it live with my brother and a bunch of friends at my house, living room. I can remember the exact moment. You know, there are these, like, before and after moments in your life?

Rusty Close (07:25):

Yeah.

Austin Padgett (07:25):

That was one of them. I mean, that was an unbelievable match. I've shown it to my boys, too. It's one of those things that, like, comes up. My boys love Undertaker, and he's one of those characters, too, that's changed over time.

Rusty Close (07:37):

Yeah, for sure.

Austin Padgett (07:38):

I mean, if you watch early Undertaker, it's almost unrecognizable. Because it's cartoonish, and then it becomes kind of more horror, and then he's on a motorcycle, you know, driving to Kid Rock, and then.

Rusty Close (07:49):

Speaking of nu metal.

Austin Padgett (07:50):

Exactly. To answer your question, yes, I remember the match. I could tell you a lot about that match because it was such an unbelievable one.

Rusty Close (07:56):

There's three major spots. There's the first one. Taker throws Mankind off the top of the cage.

Austin Padgett (08:06):

Yeah.

Rusty Close (08:07):

We're talking, I think it's 20 feet to the floor. It is jarring to see him go off the top of the cage.

Austin Padgett (08:14):

It is.

Rusty Close (08:15):

He goes through the table. I think people are legitimately worried that he might be dead. They bring a stretcher out, and it's not like part of the show. This is legitimate. He may need a stretcher.

Austin Padgett (08:27):

Right. Yeah.

Rusty Close (08:28):

He refuses to leave. Immediately climbs back up to the top of the cage.

Austin Padgett (08:32):

To the top. Yes. Yeah.

Rusty Close (08:34):

Then Undertaker, I think, powerbombs him through the cage.

Austin Padgett (08:40):

Through the cage. Yeah. Onto the ring.

Rusty Close (08:42):

Onto the ring.

Austin Padgett (08:43):

Which has... Okay, I won't spoil it yet. But he has, if I remember right, Mankind has seeded the ring with some sharp items.

Rusty Close (08:51):

I think that comes later. But I think what happens is he goes through the ring, through the cage.

Austin Padgett (08:55):

Yes, yeah, yeah. Yeah. The sharp items come later. Yeah.

Rusty Close (08:57):

There's a chair on top of the cage that falls through and hits him in the mouth and knocks his tooth out.

Austin Padgett (09:05):

Yeah.

Rusty Close (09:05):

Then later, what you're referring to, he sprinkles thumbtacks all over the ring, and Taker powerbombs him into those as well. He gets up and he's got all these thumbtacks in his back.

Austin Padgett (09:15):

It's a visceral thing to watch. There's no doubt about it.

Rusty Close (09:18):

It is a crazy, crazy match. Anyway, we've got Cactus Jack, we've got Mankind, and then all of a sudden, we've got a new character. Do you remember the third?

Austin Padgett (09:28):

Yeah. Dude Love. Kind of a dirty old hippie fighter.

Rusty Close (09:31):

Yeah, yeah. He shows up and he's kind of strutting around and he's wearing tie-dyed ring tights. It seems completely out of nowhere, totally different than Cactus Jack and Mankind. The story here was, or the on the show story, Stone Cold needed a tag team partner. Mankind volunteers, and Stone Cold says he wanted nothing to do with a freak. So, Foley comes back out as Dude Love and becomes Stone Cold's tag team partner.

Austin Padgett (10:04):

I love it.

Rusty Close (10:04):

Not a situation where they're trying to figure out a character that clicks. It is a wrestler who has these different personas that he can put on at any time. It's just a really different universe of the way that a lot of wrestlers evolve over time. But we can tie that to one of our other favorite subjects, which is music.

Austin Padgett (10:26):

Oh, let's do it.

Rusty Close (10:27):

There are musicians who, in their own way, have these sort of different personas. They're just not always the same thing. They don't always sound the same. They play different styles of music. Are there any who kind of come to mind for you that fit that mold?

Austin Padgett (10:44):

Oh, without a doubt. My favorite artist, Nick Cave.

Rusty Close (10:47):

Okay.

Austin Padgett (10:47):

I can classify him into periods of time based on kind of albums or aesthetics of his music. Yeah, no doubt about it.

Rusty Close (10:54):

Is that a situation where his taste changes over time or is he kind of ping-ponging back and forth between them?

Austin Padgett (11:01):

It's interesting because, I mean, if you see him live, he plays across his catalog. He does it effectively. He just kind of accomplishes his goal on an album or a set of albums...

Rusty Close (11:11):

Sure.

Austin Padgett (11:11):

... and moves on to the next thing. It also has to do with who he's partnering with.

Rusty Close (11:14):

Yeah.

Austin Padgett (11:14):

His band is called the Bad Seeds. But there's been some different leadership and cast of characters that come in and out of that band over time.

Rusty Close (11:22):

In and out of the universe. Some other ones that I kind of thought of when I was putting this together, one that's more in your wheelhouse and less in mine, as we've discussed, but Radiohead seems like that to me, where their albums are kind of...

Austin Padgett (11:34):

Oh, for sure.

Rusty Close (11:34):

All distinct in their own way.

Austin Padgett (11:36):

Yeah, I mean, you can definitely group them together. I mean, a lot of people put Kid A and OK Computer together as kind of being a maturation from what you see earlier. But then you have later albums that kind of stand on their own as kind of being a blend or just something completely different.

Rusty Close (11:51):

Yeah.

Austin Padgett (11:52):

Yeah.

Rusty Close (11:52):

Beck was somebody who kind of came to mind, who does a lot of different stuff, seems to have a lot of different

interests. Prince, I think, is an obvious example. Then Willie Nelson was another one who over time, he's worn a lot of different kind of musical hats.

Austin Padgett (12:06):

Dude, I'm on this huge Ry Cooder kick right now.

Rusty Close (12:08):

Okay. Yeah.

Austin Padgett (12:09):

His mind is kind of a musicologist mind. So he is exploring all sorts of different types of music, trying to figure out how to honor them, but also make use of them to make art. That's really interesting to me because he's moving through different things. He sounds different across time.

Rusty Close (12:26):

Yeah.

Austin Padgett (12:26):

Yeah.

Rusty Close (12:27):

Then the one that really brings us together today is Neil Young, who I think really kind of fits the Mick Foley mold of these different musical personas. We're gonna use some sound clips to kind of tease out this idea. But are you a big Neil Young fan? Do you have any kind of affinity for him?

Austin Padgett (12:48):

Not a huge fan, in candor. Respect the music. I've certainly listened to, I think, all of the albums at least once.

Rusty Close (12:56):

At least once. I like that.

Austin Padgett (12:58):

Yeah. Well, there are some... We may talk about some of them, there's some albums that are just difficult.

Rusty Close (13:02):

That's gonna fit into this discussion for sure. Yeah.

Austin Padgett (13:05):

I would tell you that I align more with the people he surround... I think he surrounds himself with some of the best musicians ever. Those people, I listen to a lot of their stuff. I just, for whatever reason, maybe I'm not old enough yet, it just hasn't clicked yet. The other part is it's not something you can get into and be the person that's most into it.

Rusty Close (13:25):

Oh, never. Absolutely not. No.

Austin Padgett (13:27):

There's somebody who's way more into Neil Young than you are.

Rusty Close (13:30):

Way more. Yeah. I think that's a good jumping off point. We're gonna start with our first audio clip.

[music]

Rusty Close (13:59):

For those that don't know, that's Old Man. I think what we'll call that is our folk rock singer-songwriter Neil. Does that kind of make sense for you?

Austin Padgett (14:09):

For sure.

Rusty Close (14:10):

I think for most people, this is kind of where it all started for Neil Young. This persona is what he started as. He started out with Buffalo Springfield, which he co-founded in 1966. It was kind of his poetic lyricism, rock instrumentation. It kind of kicked off that sort of folk rock genre. Then after they broke up, he went solo, but pretty soon after that, joined Crosby, Stills & Nash. They became Crosby, Stills, Nash & Young. Which makes me wonder, Crosby, Stills, or Nash, are those guys he surrounded himself with that you have more affinity for?

Austin Padgett (14:50):

I would say it's like on this album, I mean, you've got James Taylor...

Rusty Close (14:53):

Yeah, yeah, yeah.

Austin Padgett (14:54):

On this album. You've got Ben Keith playing steel, who is incredible.

Rusty Close (14:59):

Right.

Austin Padgett (15:00):

Later on, Spooner Oldham comes on on different albums. One of my absolute favorite keys players ever.

Rusty Close (15:06):

Yeah. Spooner's gonna come up here in a bit.

Austin Padgett (15:08):

Yeah. I mean, just incredible players. Not only that, servants to the song.

Rusty Close (15:13):

Sure.

Austin Padgett (15:14):

Which is key for me. Neil has all these thoughts and he's creating all this stuff, and then he surrounds himself with people who will serve it. It's a beautiful thing, really. I get I'm not a super fan, but I see that as the gel.

Rusty Close (15:25):

They'll help serve it, and we might say they might make it a little more commercial and more digestible than when he's left on his own, which will kind of come up as we go through this.

Austin Padgett (15:37):

For sure. Let's do it.

Rusty Close (15:39):

For this era, this version of Neil, can we talk about the guitars? One of our other pet topics here. What do you know about the guitars that he plays as folk rock Neil?

Austin Padgett (15:51):

Yeah, I know he's a Martin guy.

Rusty Close (15:53):

Yeah.

Austin Padgett (15:53):

Here's the thing. I know James Taylor's playing a Gibson at this point in time in his life.

Rusty Close (15:56):

Okay.

Austin Padgett (15:57):

He later moves on to a different brand. But I know Neil's a Martin guy. I know his electrics better than I know his acoustics, but I've certainly seen him play Martins.

Rusty Close (16:06):

From what I understand, and we've well established you're the guitar guy, there's a Martin D-45. Is that one you're familiar with?

Austin Padgett (16:12):

Dude, that is the top-of-the-line Martin. Yeah.

Rusty Close (16:14):

Okay. It's a dreadnought, Brazilian rosewood. Does that all sound correct?

Austin Padgett (16:20):

Yeah. The key there is Brazilian. You can't get that anymore. You've got...

Rusty Close (16:23):

Okay. All right. You got to go vintage if you want the real deal.

Austin Padgett (16:26):

Yeah. Well, yeah, you got to go vintage. Or else now they make them with Indian rosewood. It's a customs issue. Maybe we'll do a whole episode on that one sometime.

Rusty Close (16:34):

Oh, I'm sure we can.

Austin Padgett (16:35):

Yeah.

Rusty Close (16:35):

Then I guess there's another one, a 1941 Martin D-28.

Austin Padgett (16:41):

Dude, you can't imagine how expensive that guitar would be to buy.

Rusty Close (16:44):

I would say borderline priceless, right?

Austin Padgett (16:46):

For sure. For sure. There's also this mystique about Martins, particularly before World War II.

Rusty Close (16:51):

Okay.

Austin Padgett (16:52):

What they call pre-war Martins because there weren't that many of them made or that exist, particularly on the higher D levels, like D-45. People pay hundreds of thousands of dollars for those guitars.

Rusty Close (17:03):

The one that Neil has is nicknamed Hank. The legend is that it was owned by Hank Williams Sr., though there's no hard evidence that's ever been put forth. But it's Neil's story, so who are we to argue?

Austin Padgett (17:16):

Yeah. He's floating in those circles. Ben Keith is playing slide for him, who's a Jerry Byrd disciple. He's floating in those same circles. He's connected to Nashville. I think he's recording in Nashville quite a bit.

Rusty Close (17:28):

That sounds right. Even for those that aren't big Neil Young fans, this sort of persona, Heart of Gold, Old Man, Helpless, all of those are gonna be pretty well known, I think, to most people. All right, let's play our second cut.

[music]

Rusty Close (18:07):

All right, so that song is a live version of Powderfinger. That portion of that live version of that song always makes the hair on my arms stand up. I love that song. I love that version. I don't know why. Just the phrasing, the way it kind of comes in.

Austin Padgett (18:23):

Oh, I love that.

Rusty Close (18:24):

I really love that song.

Austin Padgett (18:26):

I love that for you.

Rusty Close (18:27):

Yeah, yeah, yeah. It's good to have those in your life.

Austin Padgett (18:29):

That's awesome.

Rusty Close (18:30):

I think of this as the hard rocker, proto-grunge Neil. Does that seem like a fitting description?

Austin Padgett (18:37):

Yeah, for sure. It's very different than what we just heard before, right?

Rusty Close (18:39):

It is wildly different. This is like going from Mankind to Dude Love, for sure.

Austin Padgett (18:44):

That's right.

Rusty Close (18:45):

This is easily my favorite version of Neil. I kind of think about if I'm working from home on a Friday and I have the house to myself and I wanna rattle the windows, there's a good chance I'm gonna put on some Neil Young of this era...

Austin Padgett (18:59):

Oh, interesting.

Rusty Close (18:59):

Live version, and really crank it up. This is really my...

Austin Padgett (19:03):

I tend towards kind of the Stray Gators stuff rather than Crazy Horse, but it's just a preference. Yeah.

Rusty Close (19:09):

This version, though, it kind of emerged almost from the beginning as well. We've kind of had the folk rock, but the hard rocker, they kind of existed in parallel timelines. After he left Buffalo Springfield, he formed his backing band, Crazy Horse. Are you familiar with Crazy Horse at all?

Austin Padgett (19:29):

For sure.

Rusty Close (19:30):

Danny Whitten on guitar, Billy Talbot on bass, Ralph Molina on drums. Again, we've heard the two clips, so you can kind of hear how dramatically different they are, but it's almost hard to imagine that being the same person. They are so very different.

Austin Padgett (19:47):

Yeah. I mean, the voice is the same. He even changes some vocal inflections quite a bit, but the entire ethos of the music is different, for sure.

Rusty Close (19:55):

This is like Cinnamon Girl, Down by the River, Cowgirl in the Sand. There's distortion and feedback. I mean, it really is, if you're familiar with early grunge, that's what it sounds like. I mean, you can see why he was sort of the godfather of grunge. Also, one of the other songs from this version of Neil, Hey Hey, My My (Into the Black), which kind of gives us one of our credos, the way we live our lives, it's better to burn out than to fade away.

Austin Padgett (20:25):

That's exactly right.

Rusty Close (20:27):

You said you had more familiarity with the guitar from this era, from this version of Neil.

Austin Padgett (20:31):

Yeah, yeah. He has kind of a famous electric that is storied and...

Rusty Close (20:36):

Talk about it.

Austin Padgett (20:36):

I think you're talking about Old Black here. So, yeah, it's a Les Paul, early '50s Les Paul. Do you know the year? I don't have it in front of me.

Rusty Close (20:44):

'53 is what I think it is.

Austin Padgett (20:46):

Okay, so a second year Les Paul.

Rusty Close (20:48):

Yeah.

Austin Padgett (20:49):

That has some interesting upgrades, modifications.

Rusty Close (20:52):

When it started its life as a goldtop, right?

Austin Padgett (20:55):

That's right. Then it was painted black. I don't think Neil painted it black, as far as I understand.

Rusty Close (21:00):

I think the story is that when he acquired it, it had already been painted.

Austin Padgett (21:05):

Okay.

Rusty Close (21:06):

I don't know that this has ever been officially verified, but most think he got it from Jim Messina. Do you know Jim Messina?

Austin Padgett (21:14):

Yeah, yeah.

Rusty Close (21:14):

From Buffalo Springfield.

Austin Padgett (21:16):

Springfield, yeah.

Rusty Close (21:17):

Later in Poco, and then later than that in Loggins and Messina.

Austin Padgett (21:22):

I mean, the best combination that you could ever ask for.

Rusty Close (21:26):

That's your favorite Messina?

Austin Padgett (21:27):

It's my favorite duo, yeah.

Rusty Close (21:29):

Yeah. It's pretty hard to believe, but anyway, well, tell us about the mods to this guitar.

Austin Padgett (21:34):

The most striking is gonna be what's called a Bigsby tailpiece that you've got the neck and you follow all the strings all the way down at the very bottom of the guitar, they're attached to what's called a Bigsby system, which is known as the wiggle stick.

Rusty Close (21:48):

Okay.

Austin Padgett (21:49):

It has a spring on it, and you can kind of just wiggle this stick and it gives a little vibrato. It's not dive bombs like you can on a tremolo arm that you see on Fender Stratocasters, typically.

Rusty Close (22:00):

Right.

Austin Padgett (22:00):

This is typically more subtle. You can adjust that spring to do a lot of things, but it's typically pretty tight, and so you get just a little bounce off of it. The thing, '53 Les Pauls, these are rudimentary instruments. I mean, they're fine instruments in the sense that they were made by people who knew what they were doing, but the '52 had some major problems when it was launched. '53 and '54 are kind of transition years where they're figuring out, okay, how do we do this where we can make this a more viable, long-lasting product? To put a Bigsby just automatically creates tuning issues.

Rusty Close (22:33):

Okay.

Austin Padgett (22:34):

Which is why Neil Young is constantly out of tune. [laughter] Even if you don't wiggle the stick, a '53 won't have locking tuners on it, and I don't think they've been upgraded. Maybe, but from the tuning issues, I don't think they have. Just having that, it's extra tension because of the length, but also the ability to adjust it, and that bar rolls the string around it a little bit to create that tension.

Rusty Close (23:00):

Okay.

Austin Padgett (23:00):

It just grabs the strings out of tune. I have a Gretsch that has a wiggle stick on it and it doesn't have locking tuners either, but it's an issue, particularly on a few of the interior strings where it's just like, oh man, I've just got to keep tuning it between songs because it keeps pulling it.

Rusty Close (23:14):

Yeah, okay. You got to stay on top of it.

Austin Padgett (23:16):

Yeah. There's that issue. That's the most striking if you look at it. It also has a unique pickup on it where a '53 would have come with two P90s, what are called P90s, which are single-coil pickups. They're flat. If you think of Stratocasters, which are kind of like a tight oval, long oval.

Rusty Close (23:35):

Right.

Austin Padgett (23:36):

These are more squared off, flatter, and kind of more broader. They have this... what is typically known as a warmer sound, but when you push them, they get a little more aggressive than others, too. One of those has been pulled out and a mini humbucker has been put in. A humbucker is, when I say single-coil, there's a single coil of wire wrapped around the magnet that picks up the field from the string vibrating. The humbucker has two of those wrapped with reverse polarity, because the thing about P90s is they hum like crazy. There's a 60 Hz hum that you just... Or 60 cycle hum, I think it's called, that you just hear it when you're not playing because it's picking it up from... Their magnet's picking up electrical fields. You're just getting all that noise back. To cancel the hum, you do that. Anyway, it's a mini humbucker, which is a smaller version of the larger humbucker that had came out in the late '50s and was put into Les Pauls. But this is a mini version of that. It's a little brighter than a humbucker, which is typically more warm than a single-coil, those sorts of things. It's a unique setup.

Rusty Close (24:44):

It's also kind of the foundational sound of grunge, really. I mean, it really sets the tone for what becomes grunge with all that feedback, being out of tune, kind of all these things fit right in that world.

Austin Padgett (24:59):

Yeah. I'm just thinking about, I've got a mini humbucker on my Telecaster and it's one of my favorite pickups. I love that thing. [laughter] Though mine's in the neck position. Neil's is in the bridge. But anyway...

Rusty Close (25:08):

In the bridge. Okay. All right.

Austin Padgett (25:08):

Let's keep going.

Rusty Close (25:10):

Yeah, let's keep... We can do this all day.

Austin Padgett (25:11):

Absolutely.

Rusty Close (25:12):

Let's get into our third clip, which is gonna introduce us to our country rock Neil.

[music]

Rusty Close (25:38):

This one is the song Comes a Time, and you can just hear again how this one is closer to folk rock Neil, dramatically different from proto-grunge Neil. This comes off the album Comes a Time, which is from 1978. This is, it's just a different personality of his. This is when he's got the Nashville session players, he's got the fiddles. When he was in this persona, he was really immersed in this kind of music. He wasn't just kind of messing around with it and trying it on. Anything from this version that strikes you?

Austin Padgett (26:31):

No. I mean, it sounds very similar to kind of what we're calling the folk version. It's much different, right, than we've kind of gone back and forth, but definitely more kind of country western.

Rusty Close (26:43):

Yeah.

Austin Padgett (26:43):

Like the steel guitar that's used in Old Man is more like ethereal than it is...

Rusty Close (26:49):

Nashville.

Austin Padgett (26:49):

Yeah. What you would think of as, like, I'm gonna take the solo now. It's setting texture...

Rusty Close (26:54):

That's right.

Austin Padgett (26:54):

And tone a lot. Yeah, for sure.

Rusty Close (26:55):

Whereas on this version of Neil, you could imagine it being more out front, more taking a solo. Then, like we said, you get the banjo sound, you've got that kind of stuff.

Austin Padgett (27:06):

Yeah. Spooner Oldham's on the keys on that track.

Rusty Close (27:09):

Yep. But like we said, these all exist at the same time. Neil, trying to pin down the type of musician he is or the type of music he makes is just a fool's errand. If you've ever been to one of his concerts, you'll know this. It can kind of give you whiplash sometimes because it's just ping-ponging all over the place. You said you're not a huge fan. I assume you've never seen him in concert?

Austin Padgett (27:34):

I have not seen him. I think I'd like to, but I have not. But yeah, I do appreciate that. Like I was saying, Nick Cave plays across his catalog, and so you get some, like move from ambient into, like, wild post-grunge...

Rusty Close (27:50):

Sure.

Austin Padgett (27:50):

From one song to the other, and it works.

Rusty Close (27:53):

I saw him... I saw... No, I saw Neil in 2010, and it was just like that. I mean, we had the grunge version, we had Cortez the Killer, Cinnamon Girl, Down by the River, My My, Hey Hey. We also had Ohio and Helpless. Then in addition, there were some tracks from a forthcoming album that was titled Le Noise.

Austin Padgett (28:18):

New stuff. Le Noise, yeah, yeah.

Rusty Close (28:20):

Yeah, that was like, okay, let's make the quick run to the bathroom kind of songs.

Austin Padgett (28:24):

I love it.

Rusty Close (28:25):

Neil has kind of described himself as saying, "All my music comes from all music. I'm not country, I'm not rock and roll. I'm just me, and all these things are what I like." That kind of gets us to the legal part of our discussion, right? In 1982, Neil leaves the record label he's been on, which was Reprise Records. He did 13 albums with Reprise, and he signs with Geffen Records, which was a kind of upstart label at the time, founded by David Geffen. Does that name mean anything to you?

Austin Padgett (29:03):

Yeah, yeah, it does. Huge, huge figure in the music industry, right?

Rusty Close (29:07):

Yeah, I mean, he's a big, big-timer in the music industry. Another one we could do a whole episode on.

Austin Padgett (29:13):

For sure.

Rusty Close (29:14):

He had started this label, kind of saw Neil as a big fish. He already had John Lennon, Donna Summer, Elton John. But it's pretty clear from the way things are gonna play out that Geffen was thinking he was gonna get kind of the Rust Never Sleeps, commercially viable Neil. That's not exactly what he got.

Austin Padgett (29:36):

For sure.

Rusty Close (29:37):

The question kind of becomes, what's a record label really getting into when they sign a Neil Young type to a record deal? To kind of show us what we're dealing with, we've got our next clip here.

[music]

Rusty Close (30:13):

That is from the song Transformer Man, which is from the album Trans, which was his first release on Geffen. Do you wanna give your initial thoughts on that one?

Austin Padgett (30:24):

Yeah. You got to create a new bucket, right?

Rusty Close (30:27):

I mean, almost. Yeah.

Austin Padgett (30:29):

You've created, I think, two or three buckets of what Neil Young does. This is nothing like any of that, right? I mean, it's not even similar instrumentation.

Rusty Close (30:39):

Not even close.

Austin Padgett (30:40):

Yeah.

Rusty Close (30:40):

Synthesizers, vocoders, it's said to be kind of inspired by Kraftwerk and New Wave. I assume you're a big Kraftwerk fan.

Austin Padgett (30:49):

Oh, huge, right? I celebrate the whole catalog. Kraftwerk. Yeah. No doubt about it.

Rusty Close (30:55):

You have to imagine this thing is just completely out of left field. Maybe you're thinking, okay, well, I've got these... I've got Mankind, I've got Cactus Jack, I've got Dude Love. I'm gonna get one of those three. Then you get this thing, which is this altogether new thing. But the thing is, there's a story behind this album, I mean this song in particular, Transformer Man, and kind of a touching, emotionally resonant story. Neil had a young son, Ben. He was born with cerebral palsy. From Neil's perspective, the vocoder and the distorted vocals, it was kind of a simulation of his experience in trying to communicate with his son.

Austin Padgett (31:42):

Yeah, that was my understanding, that this album is an exploration of how his son interacts with the world.

Rusty Close (31:49):

Yeah, I think that's definitely a big part of it. I think there's a bit about the remote control. Neil had set up, I think, a big... What are the trains called that kids play with? They had this big train track system and all of that, and that was kind of one of the things that they could do together and sort of a way for them to connect. That's what this album was. He said at one point, "That's what Trans is all about. And that's why on that record, I'm saying something, but you can't understand what it is. Well, that's the exact same feeling I was getting from my son." This came out in '82. His son was kind of in that three to four range. We've both been parents, and when your kids are that age, that's kind of that, where they're framing or building up the way that they communicate with you. You can imagine not being able to do that with your child at the time, it's gonna be top of mind all the time. I didn't know this, but if you've ever heard of the Bridge School, and they do that big sort of concert fundraiser every year, which is always a big deal. Neil and his wife founded that school. They were inspired by their son and what they didn't feel like they had the resources that they needed for his experience.

Austin Padgett (33:01):

Wow.

Rusty Close (33:01):

The album, as crazy and off-the-wall sounding as it is, it actually charted pretty high on the Billboard 200, and it was higher than his previous two albums on his earlier record label. It wasn't a matter of that it was unsuccessful. It was just not what was expected. David Geffen was a little bit disappointed. I guess they're having these discussions about, well, what should his next record be? Neil comes back with a country album that was called Old Ways. Geffen wasn't having that either. He just outright, he outright rejects it.

Austin Padgett (33:42):

Wow.

Rusty Close (33:43):

– and demands, as the story goes, a rock album. Here's a clip from the rock album that Neil turned in.

[music]

Rusty Close (34:14):

That's the song Wonderin'. The album was titled Everybody's Rockin'.

Austin Padgett (34:19):

Yeah.

Rusty Close (34:19):

Geffen demands a rock album. He's probably imagining, Powderfinger and Cortez, and he being Neil turns in this album that says, okay, sure, you want a rock album? You can have a rock album. I would kind of think of it as a 1950s kind of rockabilly record. Is that a fair characterization?

Austin Padgett (34:41):

Yeah, yeah. It matches the original year of his guitar that he's playing on it.

Rusty Close (34:46):

Yeah, exactly.

Austin Padgett (34:48):

When I get into an artist or decide I need to learn more, I'll go listen to everything. Neil Young's catalog is long and huge, so it took me many days to do it. I hated this album... Fortunately, it was short. I remember it being short.

Rusty Close (35:04):

It's his shortest album, 25 minutes.

Austin Padgett (35:06):

Wow. Okay, yeah. I remember it being forgivingly short, but I was just like, this is the worst of everything that I've listened to. I mean, it's very accessible in the sense that it's straight up '50s doo-wop.

Rusty Close (35:19):

Yeah, that's right.

Austin Padgett (35:20):

If that's the word for it.

Rusty Close (35:22):

I think so. Yeah.

Austin Padgett (35:23):

Rockabilly, doo-wop type stuff.

Rusty Close (35:25):

Right. His quote at the time was, "They told me they wanted me to play rock and roll and told me I didn't sound like Neil Young. I gave them Everybody's Rockin' and said, 'This is a rock and roll album by Neil Young after somebody tells him what to do.'" [laughter] Which I just love that attitude. He said later, "Did people really think I put that out thinking it was the greatest effing thing I'd ever recorded? Obviously, I'm aware it's not." [laughter]

Austin Padgett (35:57):

Wow. I appreciate that because he won't listen to the podcast to be offended that I didn't enjoy it then.

Rusty Close (36:02):

Absolutely not. No.

Austin Padgett (36:04):

Shout out, Neil.

[laughter]

Rusty Close (36:06):

All right, so for our legal podcast, what happens? December 1st, 1983, Geffen files a \$3.3 million lawsuit against Neil. Can you characterize the gist of their claim?

Austin Padgett (36:18):

Yeah, it's, "I spent a lot of money trying to get a record from you, and you gave me straight up garbage that I didn't want." It's basically the nature of their claim. To put more of it, "We had contractual expectations that were not fulfilled." I'm guessing is the basis. Yeah.

Rusty Close (36:36):

Yeah, I mean, they said it was "musically uncharacteristic" of his previous albums. Meaning, "We paid you to be Neil Young and you weren't Neil Young." This is... We always have to be clear, this is 40-some-odd years ago. Source documents are a little bit limited here, so we're going off of reporting and quotes that people have given over time. But it's kind of like, to tie the whole thing together, if WWE sued Mick Foley because he showed up and wrestled as Dude Love and they were expecting Cactus Jack. You know what I mean? It's like...

Austin Padgett (37:12):

Sure.

Rusty Close (37:12):

Look, you never know with Neil. It shouldn't be a surprise if he gives you something you didn't have in mind or gives you country folk or gives you, whatever it is. The point is, there's no one musical persona that solely reflects Neil Young as a proven commodity. He's kind of been all of those different things. What do you imagine Neil does? He does what any good defendant would do and countersues. It's kind of that, "You don't sue me, I sue you." He says that the contract granted him complete artistic freedom. Paraphrasing a bit here, but he essentially said, "They sued me for playing music that was non-characteristic of Neil Young. Now, that is the most ridiculous thing I've ever heard."

Austin Padgett (37:58):

Right.

Rusty Close (37:59):

"I was sued for being myself. I was sued for being an artist." which I know you can relate to.

Austin Padgett (38:04):

That's right. That's right. It's every artist's burden.

Rusty Close (38:08):

Yeah, I just wanna be me. His manager at the time had also worked early in his career with David Geffen. They worked in the mailroom together at the William Morris Agency.

Austin Padgett (38:21):

Oh, there you go. Climb that ladder.

Rusty Close (38:23):

Yeah, exactly. He was kind of uniquely positioned between the two of them. He is said to have called the lawsuit unconscionable and commented that the one thing he knew with Neil is you could never, ever tell him what to record. Like, that was just a non-starter. The lawsuit's pending. Neil doesn't sit around. This is when he goes full-on country. Country rock Neil. This is when he puts together a touring band with all the Nashville... Sorry all the Nashville musicians. They called them the International Harvesters, which is a name of a tractor for those who don't know. It really fits the vibe. They were playing state fairs across the country, and I think Waylon Jennings' manager is kind of the one that booked the tour for them. But you wanted to talk about Spooner earlier. I'll tell you what I know about Spooner. You can fill in the gaps, but...

Austin Padgett (39:13):

Sure.

Rusty Close (39:13):

I think he was a... He was one of the... He was a session player with the Muscle Shoals rhythm section, and so he's on a lot of those classic records, Mustang Sally and Slip Away, When a Man Loves a Woman. I came to know him because he played for a time with the Drive-By Truckers, who we've talked about before. That's how I came to know him.

Austin Padgett (39:32):

Oh, nice.

Rusty Close (39:33):

Yeah. He plays a... What is it? A Hammond?

Austin Padgett (39:36):

Yeah. He plays any keys, basically, but typically he's on some sort of electric piano.

Rusty Close (39:40):

Yeah, yeah.

Austin Padgett (39:40):

The licks, he is just so tasteful.

Rusty Close (39:44):

Very much so, yeah.

Austin Padgett (39:45):

He doesn't get in the way, like I said, serves the song, but you know you're in completely capable hands because this dude is unbelievable. I've seen him a couple of times with Dan Penn, the two of them together, and they play a lot of the old classics, and it's just, I mean, it's amazing.

Rusty Close (40:03):

Yeah. Well, I would imagine, especially for a piano guy, it's like right in your wheelhouse.

Austin Padgett (40:08):

Love it.

Rusty Close (40:09):

The lawsuit eventually reaches a confidential settlement, and at least as a part of it, we know Geffen had to issue an apology. [laughter] There was a PBS documentary called Inventing David Geffen, and he said on that, "The truth is, I fought with him because I wanted him to do better work. I was taking too much of a fatherly role in his life." He also called the lawsuit a heinous mistake. I think that's a reasonable tap on the chest and say, "My bad here, guys."

Austin Padgett (40:42):

Yeah, he wasn't angry. He was disappointed.

Rusty Close (40:44):

That's right. "I'm not mad. I'm just disappointed." Let's hear one more clip.

[music]

Rusty Close (41:09):

That's the song Are There Any More Real Cowboys? From Old Ways. You remember Old Ways was the album that Neil turned in that was just flat-out rejected. Country rock Neil eventually got his way. That album got released, but it wasn't the same one that he submitted before. He had brought in Waylon and Willie. They sang harmonies on a bunch of the songs. It also included Béla Fleck on banjo. I assume you're a big Flecktones guy.

Austin Padgett (41:40):

I got to eat pancakes with Victor Wooten one time.

Rusty Close (41:43):

Oh, wow.

Austin Padgett (41:43):

In New Hampshire, which was pretty wild. Just through knowing a common friend. Yeah, love the Flecktones. No doubt about it.

Rusty Close (41:49):

Neil goes on to record two more albums for Geffen, so five in total. But by the time his contract was up, his album sales were at an all-time low. Not a particularly productive period for him, though I don't know, it seems like a lot of those artists from the '60s and '70s really struggled to find themselves in the '80s. Then it all kind of comes back around in the '90s and on into the 2000s.

Austin Padgett (42:15):

Sure.

Rusty Close (42:16):

It was a pretty rough period for all those guys. I always think about, we've talked about, I'm an Allman Brothers fan, and when I met one of my best friends in our first year of law school, so this is 2004, and he was kind of surprised that I was such a big fan of theirs. I remember him saying something like, "I just thought it was one of those bands whose tapes you'd find in the bargain bin at a gas station." [laughter] That was his view on the Allman Brothers, which is a real slap in the face.

Austin Padgett (42:42):

Yeah, I get it. At the same time, I kind of understand.

Rusty Close (42:45):

Yeah, 100%. Let's talk about the contract and some of the legal concepts here, just so we don't get a slap on the wrist for just goofing off for an hour. The contract reportedly included a clause that granted Neil freedom from creative interference by the label. That was the basis of his countersuit. The complaint used the language of musically uncharacteristic and unrepresentative recordings. This gets across the idea that there was some sort of delivery or acceptance standard. Right? I imagine you've seen recording contracts, either negotiating them or maybe being a party to them. But can you talk about kind of what standards go into these types of agreements in terms of expectations on the label's end, how much control the artist has? How does that usually work in one of these agreements?

Austin Padgett (43:43):

Any standard just exists, as you know, primarily to protect the label's right to reject and withhold payment. The record contract is just, it's essentially a loan. The label advances money, the artist records, and the label recoups from royalties. The delivery standard, whatever it might be, and we can talk about particular items, but it's just the mechanism by which the label decides whether it's obligated to release the record and pay or not. Does it have to be commercially satisfactory or just merely technically satisfactory?

Rusty Close (44:21):

Right.

Austin Padgett (44:22):

You can capture it a lot of different ways, but it's really kind of like whose burden is it to show the level of satisfaction that must be met?

Rusty Close (44:31):

Sure.

Austin Padgett (44:32):

And what is that level? What do you have to meet to hop over the bar to have an album that's obliged to be released or at least counts to get paid for?

Rusty Close (44:43):

I mean, technically satisfactory, that's obviously a much lower bar. Like is it... It's mixed properly, it's mastered, there's no defects. Whereas commercial satisfaction to me is gonna bring in a much more subjective aspect to it. Right?

Austin Padgett (45:02):

Yeah, for sure. I think of it more like as a burden shift...

Rusty Close (45:07):

Okay.

Austin Padgett (45:07):

To the artist. Basically, they would have to prove, because in any of these, there has to be some level of objectiveness in that it's reasonable, that it wasn't shelved in bad faith or something like that.

Rusty Close (45:21):

Yeah, right, right, right.

Austin Padgett (45:22):

But I view... Yeah, that's one that I would view as like, oh, well, if that's the standard, it's probably more on the artist's side to show that the label acted in bad faith or didn't have a good enough reason. Probably the label has to put forth a reason if we're in court about this. But what that has to be, probably they would just say XYZ, and then it's more on the artist to say why that doesn't live up to the standard.

Rusty Close (45:49):

Yeah, that makes sense. Then what about the idea of a creative control clause? Because here Neil seems to suggest that he had that in this agreement. I imagine most artists don't get that, sort of that much leeway, but is that something that kind of comes up from time to time?

Austin Padgett (46:05):

Oh, for sure. Yeah. I mean, that's the ultimate thing you want, right? To borrow somebody else's money and do whatever you want with it.

Rusty Close (46:10):

When we signed our contract to do this podcast, we demanded creative control.

Austin Padgett (46:14):

Absolutely. Nothing can be removed is what I was told.

Rusty Close (46:17):

Yeah, I'm not sure that it's been lived up to, but it was at least our expectation.

Austin Padgett (46:21):

That's right. But let bygones be bygones. I say it's a new day. [laughter] You could break down creative control into... You could break it down even further. Like, who chooses the songs? Who has final approval of the finished record packaging? What does that have to look like? I mean, typically the person who pays gets to choose.

Rusty Close (46:43):

Yeah, that's usually the way it goes.

Austin Padgett (46:45):

But you're dealing with the meeting of commerce and art, and so there's gonna be compromises and different leverage points.

Rusty Close (46:52):

Right. Just from a contracting standpoint in general, in the kind of work that we do, whenever you've got a situation where you're trying to build expectations into an agreement, right? Whether this is some sort of performance contract, it's a product development contract, it is any of these things, you run into these situations where, well, we're hiring this salesperson. We want them to do this, this, this, this, this, and this. They come up with this laundry list of essentially tasks, which can kind of become box-checking things, right? Oh, you got to make this number of calls. You got to do this, you got to do that, you got to do that. The flip side of it is you need to use best efforts or commercially reasonable efforts or whatever. You can see where there's this tension between, well, how do we get them to perform, but we don't put them in this position where they're having to do these kind of nonsensical, "Hey, make sure you meet the checklist every month because that's what's in your contract." It is a difficult thing to contract expectations between parties. I guess one thing that comes to mind is, is there a... Can you concoct a scenario where the label says, "Neil, we want you to perform as grunge Neil here"? Or, I mean, that seems like it would end up in the same thing because you... It's again gonna be subjective in some ways. He could be Pearl Jam-style grunge, or he could be Dinosaur Jr., style grunge. It still might not meet your expectations.

Austin Padgett (48:38):

I mean, you could take it out of the music context and put it into basically any contractual issue. I'm doing a lot more scorecards for clients where, so for like media buy agreements, where you're a brand and you're gonna go have an agency go do media buys for you, it can go off the rails pretty quickly if you don't have some guidelines in place. At the same time, you got to be able to be flexible. So, how do you... Basically we've put together scorecards, and this is not something I came up with, but you see it in the industry of just, here are the types of things I want to reward. I'm gonna incentivize you in these ways to take these types of actions. Then these other types of actions, if, let's say, you don't get me placements on the types of ad networks that I wanna be on and it's sub that, then you're gonna take a financial penalty or something like that.

Rusty Close (49:35):

It's a carrot and stick approach in some ways.

Austin Padgett (49:38):

Right, exactly. But it's tough to identify every little thing that you want, particularly in an artistic context, because that doesn't feel like art.

Rusty Close (49:47):

Exactly. Yeah.

Austin Padgett (49:49):

You're just like, I want you to give me a commercial album. Brother, if anybody could just do that, it would be done. We kind of know what you mean, and so putting language around that's going to be relatively difficult in this context. Probably not impossible. But you also lose the serendipity that art can bring with it too.

Rusty Close (50:08):

That art is. Yeah. Hey, you're trying too hard.

Austin Padgett (50:12):

Kind of. That's right.

Rusty Close (50:12):

It's... Just let it happen. You got to, sometimes you got to let the art happen.

Austin Padgett (50:15):

I want you to give me a hack album, like... [laughter]

Rusty Close (50:19):

Right. Well, let's round this out. He leaves Geffen after the five albums; he returns to Reprise in '88. In '89, he releases his comeback album, probably not by coincidence, was titled Freedom. It includes the song Rockin' in the Free World, which is probably what Geffen was looking for all along. I mean, it is a straight-up Live Rust-style rocker and becomes one of his biggest hits. Pearl Jam plays the song a lot. I think people are probably familiar with it. Then after that, he released Ragged Glory, which was a full-on Crazy Horse record. Then this one, in '91, he releases the live album Weld, and it has this companion album, Arc. Do you know these at all?

Austin Padgett (51:09):

I've listened to them. I can't tell you that I remember exactly what happened on these.

Rusty Close (51:13):

Weld is awesome if... I mean, if you like that style of Neil Young. I mean, it is like a Crazy Horse record.

Austin Padgett (51:20):

Yeah, for sure.

Rusty Close (51:21):

It's an album, it's a live recording, put compilation of live recordings from that era. Arc, on the other hand, is... Here's how it's described: it's a 35-minute composition of pure feedback, distortion, and noise assembled from fragments from that tour.

Austin Padgett (51:40):

Fascinating.

Rusty Close (51:41):

It is more or less unlistenable noise. I mean, I cannot imagine the person who puts that on and is like, "He's done it. He has done it."

Austin Padgett (51:52):

Peaked. This is peak Neil Young.

Rusty Close (51:55):

It's like, it is just, it is wild. You can kind of imagine him turning that into David Geffen and saying, "Here, here's your album, if you want that."

Austin Padgett (52:02):

Right. Yeah. This one will count. Yeah.

Rusty Close (52:04):

All right, following those, we got one more clip.

[music]

Rusty Close (52:31):

That's Harvest Moon from the album Harvest Moon, which came out in '92. If you're imagining this kind of crazy feedback record, Arc, and then you hear Harvest Moon, it's like, okay, there goes Neil again. He's slipping out of grunge Neil and back into folk rock Neil.

Austin Padgett (52:49):

Back into Dude Love.

Rusty Close (52:50):

Yeah, exactly. Dude Love is back in town.

Austin Padgett (52:52):

Back into his Dude Love getup. Yeah.

Rusty Close (52:53):

It is a spiritual sequel to Harvest, which came out in the early '70s.

Austin Padgett (52:58):

James Taylor's on it again, I believe.

Rusty Close (52:59):

He's back on it, yep. Literally got the band back together kind of thing.

Austin Padgett (53:03):

Right.

Rusty Close (53:04):

If you did not have the context and you just heard the song, you would easily think, “Oh, I bet that’s from that same album. I bet that’s from Harvest.” It just kind of goes to show that all of those personas were always there all the time, kind of living, I don’t know about living in harmony, but living together. It’s kind of a hard thing to contract what you want from an artist. I think that’s the real gist. Anything else that you wanna add, or are we ready to take us out?

Austin Padgett (53:29):

I think we can take it out if you’re ready, man.

Rusty Close (53:31):

I’m ready, man. We did it in just under an hour.

Austin Padgett (53:33):

Yeah. Big Kev’s getting nervous back there. I want to thank everyone for listening. You like that, you all? Who are you kidding? You loved it. You were digging it the whole way. Hit like and subscribe, and give us those five-star ratings that we just crave, and we’re worth it. Remember, whether you look at your life or not, there’s No Infringement Intended.

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