

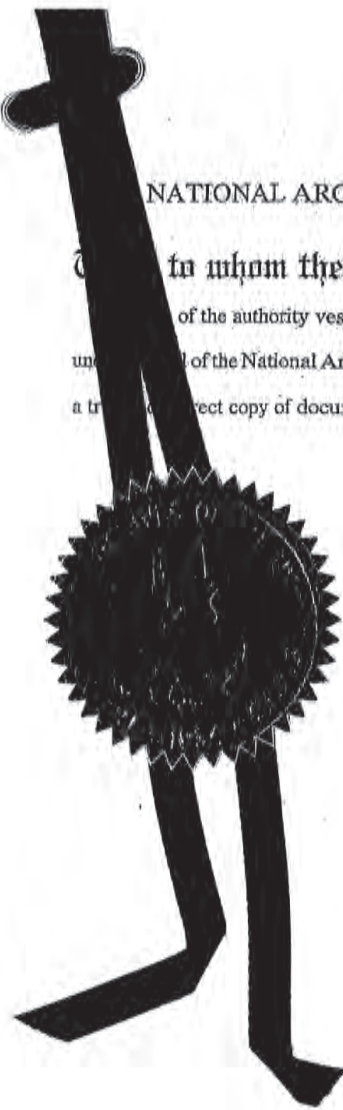
**VOLUME 4 OF 8 - EXS. 55-81
(PAGES 707 TO 947)**

EXHIBIT 55

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

to whom these presents shall come. Greeting:

of the authority vested in me by the Archivist of the United States, I certify on his behalf,
un of the National Archives and Records Administration, that the attached reproduction(s) is
a true and correct copy of documents in his custody.



SIGNATURE	
<i>Lori Cox-Paul</i>	
NAME	DATE
<i>Lori Cox-Paul</i>	<i>10-24-2014</i>
TITLE	
Director of Archival Operations	
NAME AND ADDRESS OF DEPOSITORY	
National Archives at Kansas City 400 West Pershing Road Kansas City, MO 64108	

NA FORM 13040 (10-86)

the laws of the United States.

6. On or about February 1, 1893, Betty S. Hill and Mildred J. Hill executed and delivered to Clayton F. Summy a written instrument by which they sold and assigned to him all their right, title and interest to the songs and authorized him to publish the songs in book form and to copyright the book in his own name.

7. Thereafter Clayton F. Summy after complying in all respects with the United States Revised Statutes, chapter 3, Title 60 (U.S. secs. 4948-4971) and all other laws governing copyright, on October 13, 1893 secured the exclusive rights and privileges in and to the copyright of the book, and received from the Register of Copyrights a certificate of registration of copyright No. 45997Y.

8. Since October 13, 1893, the book has been published by Clayton F. Summy or his successors and all copies of it or of selections from it, made by him or under his authority or license or that of his successors, have been printed, bound and published in strict conformity with the provisions of chapter 3, Title 60 of the Revised Statutes and all other laws governing copyright.

9. Thereafter and on or about January 14, 1895 Clayton F. Summy assigned all his right, title and interest in the copyright of the book to Clayton F. Summy Co., an Illinois corporation, which on or about April 15, 1925 assigned such right, title and interest to Clayton F. Summy Co., another Illinois corporation, which on or about August 31, 1931, assigned such right, title

and interest to the plaintiff Clayton F. Summy Co., a Delaware corporation.

10. Mildred J. Hill died intestate on or about June 5, 1916, leaving her surviving as all her next of kin, Patty S. Hill; Jessica M. Hill, another sister; Mary Hill, another sister; William Wallace Hill, a brother; and Archibald Anderson Hill, son of Archibald Anderson Hill, a deceased brother.

11. Thereafter Jessica M. Hill, after complying in all respects with the Act of March 4, 1909, ch. 320; 35 Stat. 1088; 17 U.S.C. secs. 23 and 24, and all other laws governing copyright, secured on September 3, 1921, a renewal of the copyright from the Register of Copyrights of the United States, numbered R19043, which she held in trust for all entitled to an interest therein.

12. Mary Hill died intestate on September 16, 1916, a resident of San Diego, California, unmarried, and leaving no descendants; William Wallace Hill died on April 3, 1923, a resident of Chicago, Illinois, leaving a will which was probated in the Probate Court for Cook County, Illinois.

13. On February 20, 1939, Archibald Anderson Hill conveyed all his right, title and interest in and to the copyright and its renewal to Patty S. Hill and Jessica M. Hill, together with all claims and causes of action theretofore accrued or which might thereafter accrue through its infringement, and the assignment was entered in the United States Copyright Office, in volume 425 at page 31; on March 22, 1939, Allen Davy, administrator de bonis non

with the will annexed of William Wallace Hill, pursuant to an order duly entered on the same day in the Probate Court for Cook County, Illinois, assigned all the right, title and interest of William Wallace Hill in and to the copyright to Clayton F. Summy Co., together with all claims and causes of action theretofore accrued or which might thereafter accrue through its infringement, and the assignment was entered in the United States Copyright Office, in volume 425 at page 34; on June 2, 1942, Jessica M. Hill and Patty S. Hill conveyed all their right, title and interest in and to the copyright and its renewal to The Hill Foundation, Inc., a New York corporation, together with all claims and causes of action theretofore accrued or which might thereafter accrue through infringement of the copyright, and the assignment was entered in the United States Copyright Office, in volume 485 at pages 242-243; and on October 16, 1944, The Hill Foundation, Inc. conveyed (subject to defeasance upon conditions subsequent which have not occurred) all its right, title and interest in and to the copyright and its renewal to the plaintiff, together with all claims and causes of action theretofore accrued or which might thereafter accrue through infringement of the copyright, and on November 10, 1944 the assignment was entered in the United States Copyright Office in volume 552, at pages 61-68.

14. Plaintiff is the sole proprietor of all right, title and interest in and to the copyright, and in and to any and all rights, demands, claims and causes of action arising through its infringement.

15. One of the songs in the book, entitled "Good Morning To All", later became popularly known as

Ex. 55

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"Happy Birthday to You", the opening lines of the verses later written by Patty S. Hill for the song.

16. In 1939 and thereafter defendant infringed the copyright by manufacturing, publishing and selling in the United States copies of "Sing-a-Song Player Book", a toy piano-xylophone to which was physically attached a sheet carrying the song "Happy Birthday To You" with the notes of the song denoted on the musical staff by numbers, so that the song might be played by striking the appropriately numbered keys of the toy piano.

17. Photostatic copies of the relevant pages of the copyrighted work are annexed hereto and marked exhibit A; no copy of "Sing-a-Song Player Book" is annexed because it is impractical to do so.

18. Defendant continued to infringe the copyright after receiving notice from plaintiff that it was infringing.

WHEREFORE plaintiff demands:

(a) that defendant be required to pay to plaintiff such damages as plaintiff has sustained in consequence of defendant's infringement of the copyright and to account and pay over to plaintiff all the gains, profits and advantages derived by defendant from its infringement of plaintiff's copyright or such damages as to the Court shall appear proper within the provisions of the copyright statutes;

(b) that defendant be required to deliver for destruction all infringing copies;

(c) that defendant pay to plaintiff the costs of this action and reasonable attorneys' fees to be allowed to the plaintiff by the Court; and

(d) that the plaintiff have such other and further relief as is just.

REKAIN & FOGU,
Attorneys for Plaintiff,
Office and Post Office Address,
No. 15 Broad Street,
New York 5, New York.

By



A member of the firm of
Attorneys of Record
for the plaintiff.

EXHIBIT A

SONG * STORIES

For the Kindergarten.

Music Composed and Arranged by

Mildred J. Hill.

Words Written and Adapted by

Patty S. Hill.

With an Introduction by

ANNA E. BRYAN.

BOARDS, \$1.00
CLOTH, 1.50.

Chicago:


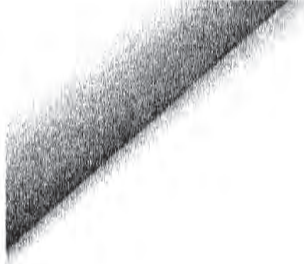
CLAYTON F. SUMMY,

174-176 Wabash Ave.

Copyright, 1909, by CLAYTON F. SUMMY

Ex. 55

715



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Ex. 55
716

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GOOD-MORNING TO ALL.

To be sung standing.

Brightly.

Good - morn - ing to you: Good - morn - ing to

you: Good - morn - ing dear chil - dren, Good - morn - ing to all

GOOD-BYE SONG.

Air from MOZART

All our work is o - ver - Bu - sy hands are thro' -
Tho' we part we meet a - gain The mor - rows work to do. So

Have they been thro' all the day - Lov - ing kind and true?
good - bye lit - tle chil - dren And lov - ing teach - ers too

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Ex-30-284

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CAYTON F. SUMMY CO.,

Plaintiff,

- against -

BOLDOUGHIN ENGINE, INC.,

Defendant.

15
COMPLAINT

SEEKMAN & BOSQUE

Attorneys for Plaintiff,

15 BROAD ST.

BOROUGH OF MANHATTAN

NEW YORK 5, N. Y.



EXHIBIT 56

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

To all to whom these presents shall come. Greeting:

In virtue of the authority vested in me by the Archivist of the United States, I certify on his behalf, under the seal of the National Archives and Records Administration, that the attached reproduction(s) is true and correct copy of documents in his custody.



SIGNATURE <i>Lori Cox-Paul</i>	
NAME <i>Lori Cox-Paul</i>	DATE <i>12-24-2014</i>
TITLE Director of Archival Operations	
NAME AND ADDRESS OF DEPOSITORY National Archives at Kansas City 400 West Pershing Road Kansas City, MO 64108	

NA FORM 13040 (10-86)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK.

.....X
CLAYTON F. SUMMY CO., :
 :
 : Plaintiff, :
 :
 : -against- : COMPLAINT
 :
 : LOUIS MARX & COMPANY, INC., :
 :
 : Defendant. :
 :
 :X

The plaintiff, complaining of the defendant, by its attorneys Reekman & Bogue, respectfully shows to the Court and alleges:

1. The plaintiff is a corporation duly organized and existing under and by virtue of the laws of the State of Delaware.
2. The defendant is a corporation duly organized and existing under and by virtue of the laws of the State of New York.
3. This action arises under Act of March 4, 1909, ch. 320; 35 Stat. 1081; U. S. C. Title 17, as hereinafter more fully appears, and jurisdiction rests upon section 34 of the Act.
4. Prior to October 13, 1893, Patty S. Hill and her sister Mildred J. Hill, citizens of the United States, composed and wrote the music and words of a number of songs collectively entitled "Song Stories For the Kindergarten."
5. These songs were wholly original compositions and were and are copyrightable subject matter under the laws of the United States.

6. On or about February 1, 1893, Patty S. Hill and Mildred J. Hill executed and delivered to Clayton F. Summy a written instrument by which they sold and assigned to him all their right, title and interest to the songs and authorized him to publish the songs in book form and to copyright the book in his own name.

7. Thereafter Clayton F. Summy after complying in all respects with the United States Revised Statutes, chapter 3, Title 60 (R.S. secs. 4948-4971) and all other laws governing copyright, on October 13, 1893 secured the exclusive rights and privileges in and to the copyright of the book, and received from the Register of Copyrights a certificate of registration of copyright No. 45997Y.

8. Since October 13, 1893, the book has been published by Clayton F. Summy or his successors and all copies of it or of selections from it, made by him or under his authority or license or that of his successors, have been printed, bound and published in strict conformity with the provisions of chapter 3, Title 60 of the Revised Statutes and all other laws governing copyright.

9. Thereafter and on or about January 14, 1895 Clayton F. Summy assigned all his right, title and interest in the copyright of the book to Clayton F. Summy Co., an Illinois corporation, which on or about April 15, 1925 assigned such right, title and interest to Clayton F. Summy Co., another Illinois corporation, which on or about August 31, 1931, assigned such right, title and interest to the plaintiff Clayton F. Summy Co., a Delaware corporation.

10. Mildred J. Hill died intestate on or about

Ex. 56

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June 5, 1916, leaving her surviving as all her next of kin, Patty S. Hill; Jessica M. Hill, another sister; Mary Hill, another sister; William Wallace Hill, a brother; and Archibald Anderson Hill, son of Archibald Anderson Hill, a deceased brother.

11. Thereafter Jessica M. Hill, after complying in all respects with the Act of March 4, 1909, ch. 320; 35 Stat. 1088; 17 U.S.C. secs. 23 and 24, and all other laws governing copyright, secured on September 3, 1921, a renewal of the copyright from the Register of Copyrights of the United States, numbered R19043, which she held in trust for all entitled to an interest therein.

12. Mary Hill died intestate on September 16, 1916, a resident of San Diego, California, unmarried, and leaving no descendants; William Wallace Hill died on April 3, 1923, a resident of Chicago, Illinois, leaving a will which was probated in the Probate Court for Cook County, Illinois.

13. On February 20, 1939, Archibald Anderson Hill conveyed all his right, title and interest in and to the copyright and its renewal to Patty S. Hill and Jessica M. Hill, together with all claims and causes of action theretofore accrued or which might thereafter accrue through its infringement, and the assignment was entered in the United States Copyright Office, in volume 425 at page 31; on March 22, 1939, Allen Davy, administrator de bonis non with the will annexed of William Wallace Hill, pursuant to an order duly entered on the same day in the

Probate Court for Cook County, Illinois, assigned all the right, title and interest of William Wallace Hill in and to the copyright to Clayton F. Summy Co., together with all claims and causes of action theretofore accrued or which might thereafter accrue through its infringement, and the assignment was entered in the United States Copyright Office, in volume 425 at page 34; on June 2, 1942, Jessica M. Hill and Patty S. Hill conveyed all their right, title and interest in and to the copyright and its renewal to The Hill Foundation, Inc., a New York corporation, together with all claims and causes of action theretofore accrued or which might thereafter accrue through infringement of the copyright, and the assignment was entered in the United States Copyright Office, in volume 485 at pages 242-243; and on October 16, 1944, The Hill Foundation, Inc. conveyed (subject to defeasance upon conditions subsequent which have not occurred) all its right, title and interest in and to the copyright and its renewal to the plaintiff, together with all claims and causes of action theretofore accrued or which might thereafter accrue through infringement of the copyright, and on November 10, 1944 the assignment was entered in the United States Copyright Office in volume 552, at pages 61-68.

14. Plaintiff is the sole proprietor of all right, title and interest in and to the copyright, and in and to any and all rights, demands, claims and causes of action arising through its infringement.

15. One of the songs in the book, entitled "Good Morning To All", later became popularly known as

"Happy Birthday to You", the opening lines of the verses later written by Patty S. Hill for the song.

16. In 1939 and thereafter defendant infringed the copyright by manufacturing, publishing and selling in the United States copies of "Play-A-Way Piano Book", a toy piano-xylophone to which was physically attached a sheet carrying the song "Happy Birthday To You" with the notes of the song denoted on the musical staff by numbers, so that the song might be played by striking the appropriately numbered keys of the toy piano.

17. Photostatic copies of the relevant pages of the copyrighted work are annexed hereto and marked Exhibit A; no copy of "Play-A-Way Piano Book" is annexed because it is impractical to do so.

18. Defendant continued to infringe the copyright after receiving notice from plaintiff that it was infringing.

WHEREFORE plaintiff demands:

(a) that defendant be required to pay to plaintiff such damages as plaintiff has sustained in consequence of defendant's infringement of the copyright and to account and pay over to plaintiff all the gains, profits and advantages derived by defendant from its infringement of plaintiff's copyright or such damages as to the Court shall appear proper within the provisions of the copyright statutes;

(b) that defendant be required to deliver for

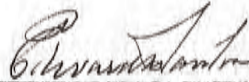
destruction all infringing copies;

(c) that defendant pay to plaintiff the costs of this action and reasonable attorneys' fees to be allowed to the plaintiff by the Court; and

(d) that the plaintiff have such other and further relief as is just.

FELKMAN & BOGUE,
Attorneys for Plaintiff,
Office and Post Office Address,
No. 15 Broad Street,
New York 5, N.Y.

By



A member of the firm of
Attorneys of Record
for the plaintiff.

E_X_H_I_B_I_T A

SONG * STORIES

For the Kindergarten.

Music Composed and Arranged by

Mildred J. Hill.

Words Written and Adapted by

Patty S. Hill.

With an Introduction by

ANNA E. BRYAN.

BOARDS, \$1.00
CLOTH, 1.50

Chicago :

CLAYTON F. SUMMY.

174-176 Wabash Ave

COPYRIGHT, 1912, BY CLAYTON F. SUMMY

Ex. 56

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Ex. 56

728

Copied at National Archives at Kansas City

GOOD-MORNING TO ALL.

To be sung - Gaudig.

Brightly.

Good - morn - ing to you Good - morn - ing to
you. Good - morn - ing dear chil - dren. Good - morn - ing to all

The musical score consists of three systems. Each system has a vocal line in treble clef and a piano accompaniment in grand staff (treble and bass clefs). The key signature has one sharp (F#) and the time signature is 3/4. The lyrics are: "Good - morn - ing to you Good - morn - ing to you. Good - morn - ing dear chil - dren. Good - morn - ing to all".

GOOD-BYE SONG.

Air from MOZART

All our work is a - void Bu - sy hands are thro' so
Tho' we part we meet a - gain The mor - rows work to do.
Have they been thro' all the day. Lov - ing kind and
good - bye to the chil - dren And lov - ing teach - ers

The musical score consists of two systems. Each system has a vocal line in treble clef and a piano accompaniment in grand staff (treble and bass clefs). The key signature has one sharp (F#) and the time signature is 3/4. The lyrics are: "All our work is a - void Bu - sy hands are thro' so Tho' we part we meet a - gain The mor - rows work to do. Have they been thro' all the day. Lov - ing kind and good - bye to the chil - dren And lov - ing teach - ers".

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Ex-30-185

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK.

CLAYTON F. SUNNY CO.,

Plaintiff,

-vs-

ADOLF WEISS & COMPANY, INC.,

Defendant.

15

BECKMAN & BOGUE
Attorneys for Defendant,

15 BROAD ST.
BOROUGH OF MANHATTAN
NEW YORK 5, N. Y.

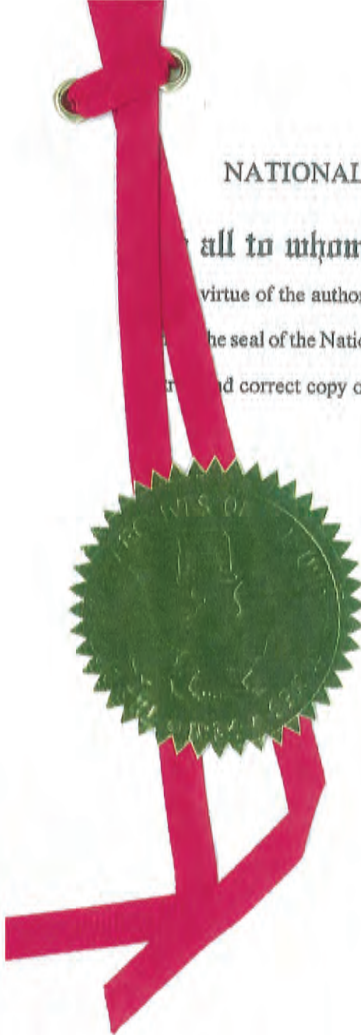


EXHIBIT 57

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

all to whom these presents shall come. Greeting:

in virtue of the authority vested in me by the Archivist of the United States, I certify on his behalf, under the seal of the National Archives and Records Administration, that the attached reproduction(s) is (are) a true and correct copy of documents in his custody.



SIGNATURE <i>Lori Cox-Paul</i>	
NAME Lori Cox-Paul	DATE <i>10-24-2014</i>
TITLE Director of Archival Operations	
NAME AND ADDRESS OF DEPOSITORY National Archives at Kansas City 400 West Pershing Road Kansas City, MO 64108	

NA FORM 13040 (10-86)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -X
CLAYTON F. SULLY CO., :
Plaintiff, :
-against- : COMPLAINT
PAUL FRIGAY and OLIVER SMITH, :
Defendants.:
- - - - -X

The plaintiff, complaining of the defendants, by its attorneys Beekman & Bogue, respectfully shows to the Court and alleges:

1. The Plaintiff is a corporation duly organized and existing under and by virtue of the laws of the state of Delaware.
2. Upon information and belief the defendants are citizens of the United States and residents of the State of New York.
3. This action arises under Act of March 4, 1909. ch. 320; 35 Stat. 1081; U. S. C. Title 17, as hereinafter more fully appears, and jurisdiction rests upon section 34 of the Act.
4. Prior to October 13, 1893, Patty S. Hill and her sister, Mildred J. Hill, citizens of the United States, composed and wrote the music and words of a number of songs collectively entitled "Song Stories For the Kindergarten".

5. These songs were wholly original compositions and were and are copyrightable subject matter under the laws of the United States.

6. On or about February 1, 1893, Patty S. Hill and Mildred J. Hill executed and delivered to Clayton F. Summy a written instrument by which they sold and assigned to him all their right, title and interest to the songs and authorized him to publish the songs in book form and to copyright the book in his own name.

7. Thereafter Clayton F. Summy after complying in all respects with the United States Revised Statutes, chapter 3, Title 60 (U. S. secs. 4948-4971) and all other laws governing copyrights, on October 13, 1893 secured the exclusive rights and privileges in and to the copyright of the book, and received from the Register of Copyrights a certificate of registration of copyright No. 45997Y.

8. Since October 13, 1893, the book has been published by Clayton F. Summy or his successors and all copies of it or of selections from it, made by him or under his authority or license or that of his successors, have been printed, bound and published in strict conformity with the provisions of chapter 3, Title 60 of the Revised Statutes and all other laws governing copyright.

9. Thereafter and on or about January 14, 1895 Clayton F. Summy assigned all his right, title and interest in the copyright of the book to Clayton F. Summy Co., an Illinois corporation, which on or about April 15, 1925 assigned such right, title and interest to Clayton F. Summy Co., another Illinois corporation, which on or about August 31, 1931, assigned such right, title and interest to the plaintiff Clayton F. Summy Co., a Delaware corporation.

Ex. 57

734

10. Mildred J. Hill died intestate on or about June 5, 1916, leaving her surviving as all her next of kin, Patty S. Hill; Jessica M. Hill, another sister; Mary Hill, another sister; William Wallace Hill, a brother; and Archibald Anderson Hill, son of Archibald Alexander Hill, a deceased brother.

11. Thereafter Jessica M. Hill, after complying in all respects with the Act of March 4, 1909, ch. 320; 35 Stat. 1088, 17 U. S. C. secs. 23 and 24, and all other laws governing copyright, secured on September 3, 1921, a renewal of the copyright from the Register of Copyrights of the United States, numbered R19043, which she held in trust for all entitled to an interest therein.

12. Mary Hill died intestate on September 16, 1916, a resident of San Diego, California, unmarried, and leaving no descendants; William Wallace Hill died on April 3, 1923, a resident of Chicago, Illinois, leaving a will which was probated in the Probate Court for Cook County, Illinois.

13. On February 20, 1939, Archibald Anderson Hill conveyed all his right, title and interest in and to the copyright and its renewal to Patty S. Hill and Jessica M. Hill, together with all claims and causes of action theretofore accrued or which might thereafter accrue through its infringement, and the assignment was entered in the United States Copyright Office, in volume 425 at page 31; on March 22, 1939, Allen Davy, administrator de bonis non with the will annexed of William Wallace Hill, pursuant to an order duly entered on the same day in the Probate Court for Cook County, Illinois, assigned all the right,

title and interest of William Wallace Hill in and to the copyright to Clayton F. Summy Co., together with all claims and causes of action theretofore accrued or which might thereafter accrue through its infringement, and the assignment was entered in the United States Copyright Office, in volume 425 at page 34; on June 2, 1942, Jessica A. Hill and Patty S. Hill conveyed all their right, title and interest in and to the copyright and its renewal to The Hill Foundation, Inc., a New York corporation, together with all claims and causes of action theretofore accrued or which might thereafter accrue through infringement of the copyright, and the assignment was entered in the United States Copyright Office, in volume 485 at pages 242-243; and on October 16, 1944, The Hill Foundation, Inc. conveyed (subject to defeasance upon conditions subsequent which have not occurred) all its right, title and interest in and to the copyright and its renewal to the plaintiff, together with all claims and causes of action theretofore accrued or which might thereafter accrue through infringement of the copyright, and on November 10, 1944, the assignment was entered in the United States Copyright Office in volume 552, at pages 61-68.

14. Plaintiff is the sole proprietor of all right, title and interest in and to the copyright, and in and to any and all rights, demands, claims and causes of action arising through its infringement.

15. One of the songs in the book, entitled "Good Morning To All", later became popularly known as "Happy Birthday to You", the opening lines of the verses later written by Patty S. Hill for the song.

16. Upon information and belief defendants presented and still continue to present a dramatic musical produc-

tion for the convenience, accommodation, entertainment and refreshment of the public generally, known as "On The Town"; said dramatic musical production was and is presented for the profit of defendants and for the purposes of profit; said dramatic musical production was and is presented for the entertainment and amusement of the public generally and to promote and advance the interests and business of defendants; and defendants gave and continues to give, daily performances and renditions of said dramatic musical production publicly for profit, and received and continue to receive income therefrom.

17. Upon information and belief, on or about the 13th day of April, 1945 and at other times prior and subsequent thereto, the defendants as a part of and by means of said dramatic musical production entitled "On The Town" gave and caused to be given public performances and renditions of said composition "Happy Birthday to You", for profit and for the purposes of profit, on and in premises known as the Adelphi Theatre, situated at 152 West 54th Street, New York, N. Y. and elsewhere.

18. The performances of said composition "Happy Birthday to You" referred to in Paragraph 17 hereof were given by defendants without the previous knowledge, approval or consent of the plaintiff, in infringement of the aforesaid copyright.

19. Upon information and belief said performances of said composition "Happy Birthday to You" were given in said Adelphi Theatre and elsewhere by defendants causing and participating therein and under the direction and control of the defendants; the same was for the entertainment and amusement of the patrons attending and patronizing said theatres and to attract trade and custo-

Ex. 57

737

ers to said theatres; such renditions and performances were public and for profit and for the purposes of profit; and the same was for the purpose of making "On The Town", the dramatic musical production presented by defendants, well and favorably known and attractive to the public generally and to encourage the public to attend such performances of said production and to pay for the same for the purpose of ultimate profit of the defendants.

20. The said wrongful acts of the defendants have caused and are causing injury and damage to the plaintiff, which damage cannot be accurately computed and unless the court restrains the defendants from the further commission of said acts the plaintiff will suffer irreparable injury for all of which the plaintiff is without any adequate remedy at law.

WHEREFORE, plaintiff demands

(a) That defendants and all persons acting under their direction, permission, control, or license, be enjoined and restrained from publicly performing said composition "Happy Birthday to You" and from causing or permitting same to be publicly performed in the respective places of business of defendants or in any other place owned, used, controlled or operated by them and from aiding and abetting public performance of such composition in any public place or otherwise.

(b) That defendants be required to pay the plaintiff such damages as plaintiff has sustained in consequence of defendants' infringement of the copyright and to account and pay over to plaintiff all gains, profits and advantages derived by defendants from its infringement

of plaintiff's copyright or such damage as to the court shall appear proper within the provisions of the copyright statutes.

(c) That defendants pay to plaintiff the costs of this action and reasonable attorneys' fees to be allowed to the plaintiff by the court.

(d) That the plaintiff have such other and further relief as to the court may seem just and proper.

BERKMAN & BOGUE
Attorneys for Plaintiff
Office and P. O. Address
15 Broad Street
New York 5, N. Y.

By



A member of the firm of
Attorneys of Record for
the plaintiff.

12/3-48
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CLAYTON F. SURETY CO.,

Plaintiff,

-against-

PAUL FEIGAY and OLIVER SMITH,
Defendants.

K
COMPLAINT

BECKMAN & BOGUE
Attorneys for Plaintiff

15 BROAD ST.
BOROUGH OF MANHATTAN
NEW YORK 5, N. Y.

OK
RECEIVED

EXHIBIT 58

NEWS of the THEATER

By BERT McCORD

'Happy Birthday' Trouble

The Hildegard sketch in "Angel in the Wings" calls for Grace and Paul Hartman to portray a couple of hayseeds celebrating a birthday in a New York club. A cake is brought on stage and "Happy Birthday" is sung. At least it was sung during the first days of rehearsal, until somebody piped up to say that he didn't think the song was in public domain and that they would probably have to pay royalties for the number at every performance. Thereupon the composers, Bob Hilliard and Carl Sigman, sat down and dashed off a little number called "Here's a Happy Birthday," which is the one that is used in the show.

Some delving into the background of "Happy Birthday," which must surely be as much a part of all our heritage as "Auld Lang Syne," disclosed the fact that it was written in the '90s by two of four sisters who were born in Louisville, Ky. Patty Smith Hill, who is responsible for the lyrics, and Mildred J. Hill, who conceived the melody, ran a kindergarten in Louisville and were considered pioneers in the field of modern pedagogy. In its original form, the song was written for their schoolchildren and was known as "Good Morning to You."

The Hill sisters had their song copyrighted in 1893 and renewed it in 1921. It will expire in 1949, but subsequent copyrights on certain arrangements will extend until 1965. Jessica Hill, the only surviving sister, is today a resident of New York City. Her attorney, Samuel Mann, who provided much of the above information, said yesterday that they had worked out a royalty arrangement with the motion picture companies. ASCAP collects these and other royalties emanating from radio, stage, night clubs etc. Mr. Mann also volunteered the information that the reason Western Union dropped the song as a singing telegram several years ago was because "they got tired of paying royalties."

Oddly enough, the song is not used in "Happy Birthday," the Anita Loos play starring Helen Hayes at the Broadhurst Theater. Instead, the words are merely

shouted at Addie Bemis by the crowd gathered in the Jersey Mecca cocktail bar.

Yes, Yes, Nanette

There has been much speculation as to who will play the feminine lead in "A Dish for the Gods," the Alan Jay Lerner-Kurt Weill musical to be produced here next fall by Cheryl Crawford. The authors first traveled to Boston to talk to Gertrude Lawrence about it and then went to Chicago to discuss it with Mary Martin. This department has reason to believe that they will wind up by offering it to Nanette Fabray, who scored a personal triumph this season in the hit musical, "High Button Shoes."

Myerberg to Rejoin League

Michael Myerberg has decided to rejoin the League of New York Theaters. Myerberg, who submitted his petition yesterday, explained his action by saying that he thought membership in the league was "the only way that a manager can be heard and I have been silent long enough in that respect." Asked if this meant that he would subscribe to the curtailed first-night list adopted by the league, the producer said, "I'm coming in after that," and added that he had every intention of continuing to adhere to his own list.

Myerberg's production of Marc Blitzstein's musical, "The Cradle Will Rock," which will begin a limited engagement of five weeks at the Mansfield on Dec. 26, is now in rehearsal. Howard da Silva, who directed the work when it was presented recently for two performances at the City Center, will come on from Hollywood to assist with the staging, although he will not appear in it this time. Also, Leonard Bernstein, who was announced to conduct the orchestra at the opening performance, has agreed to remain in the pit for two additional performances.

The producer held a reading of Vivian Connell's "The Nineteenth Hole of Europe" last night at the Mansfield. This play goes into rehearsal Jan. 15 and will open Feb. 16 in Washington. It is headed for the Mansfield but may be preceded by his production of "The

Marc Blitzstein



Author of "The Cradle Will Rock," which begins a five-week engagement at the Mansfield Theater on Dec. 26

Rape of Lucretia," Benjamin Britten's opera, to open Feb. 3.

Jessie Royce Landis Signed

Jessie Royce Landis has been signed by James Russo and Michael Ellis for the feminine starring role opposite Oscar Homolka in their forthcoming production of "A Friend of the Family," a free adaptation by Peter Goldbaum and Robin Short of Strindberg's "Dodsandancen," formerly known as "Strange Anniversary." Miss Landis made her last Broadway appearance last season in "Little A." "A Friend of the Family" will be staged by Peter Ashmore in settings by Ralph Alswang.

On and Off Broadway

Ninety-five per cent of the membership subscriptions to the Experimental Theater have already been taken and it was reported yesterday that the only memberships now available are for the Monday and Wednesday evening performances of the remaining five productions. . . . The repertory company called "Workshop '48" has leased the Studio Theater on West Sixteenth Street and will present as its initial offering Oscar Wilde's "Salome," opening Jan. 3 for a run of eight consecutive week ends. The leading roles will be taken by Pat

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METROPOLITAN OPERA

EXHIBIT 59



To all to whom these Presents Shall Come, Greeting:

Whereas, Articles of amendment to the Articles of Incorporation duly signed and verified of

EDUCATIONAL MUSIC BUREAU

have been filed in the Office of the Secretary of State, on the 2nd day of June A. D. 19 48, as provided by "THE BUSINESS CORPORATION ACT" of Illinois, in force July 13, A. D. 1933.

Now Therefore, I, EDWARD J. BAPRETT, Secretary of State of the State of Illinois by virtue of the powers vested in me by law do hereby issue this certificate of amendment and attach thereto a copy of the Articles of Amendment to the Articles of Incorporation of the aforesaid corporation.

In Testimony Whereof, I here do set my hand and course to be affixed the Great Seal of the State of Illinois, I once at the City of Springfield this 2nd day of June A. D. 19 48 and of the Independence of the United States the one hundred and 72nd.

(SEAL)

Edward J. Barrett

SECRETARY OF STATE

1948

DATE 6-2-48
FILING FEE 70-
CLERK U.S.

(File in Duplicate)

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ARTICLES OF AMENDMENT
TO THE
ARTICLES OF INCORPORATION
OF

EDUCATIONAL MUSIC BUREAU
(Exact Corporate Name)

To EDWARD J. BARRETT
Secretary of State
Springfield, Illinois

752 41

The undersigned corporation, for the purpose of amending its Articles of Incorporation and pursuant to the provisions of Section 55 of "The Business Corporation Act" of the State of Illinois, hereby executes the following Articles of Amendment:

PAID

ARTICLE FIRST: The name of the corporation is:

JUN 2 1948

EDUCATIONAL MUSIC BUREAU

Edward J. Barrett
Secretary of State

ARTICLE SECOND: The following amendment or amendments were adopted in the manner prescribed by "The Business Corporation Act" of the State of Illinois.

RESOLVED, that the aggregate number of shares which the corporation will have authority to issue will be 400 common shares of the par value of \$100 per share and the stated capital is hereby reduced from \$51,000 to \$40,000 by the cancellation of 110 preferred shares which have been reacquired by the corporation and are now held in the treasury. Said preferred shares were reacquired by the corporation for not less than \$100 per share.

(Disregard separation into classes if class voting does not apply to the amendment voted on.)

ARTICLE THIRD: The number of shares of the corporation outstanding at the time of the adoption of said amendment or amendments was 400; and the number of shares of each class entitled to vote as a class on the adoption of said amendment or amendments, and the designation of each such class were as follows:

Class	Number of Shares
Common	400

Note: 110 Preferred shares are held in the treasury.

(Disregard separation into classes if class voting does not apply to the amendment voted on.)

ARTICLE FOURTH: The number of shares voted for said amendment or amendments was 400; and the number of shares voted against said amendment or amendments was -0-. The number of shares of each class entitled to vote as a class voted for and against said amendment or amendments, respectively, was:

Class	Number of Shares Voted	
	For	Against
Common	400	-0-

(Disregard this Article where the amendments contain no such provisions.)

ARTICLE FIFTH: The manner in which the exchange, reclassification, or cancellation of issued shares, or the reduction of the number of authorized shares of any class below the number of issued shares of that class, provided for said amendment or amendments, shall be effected, is as follows:

(Disregard this Paragraph where amendments do not affect stated capital or paid-in surplus.)

ARTICLE SIXTH: Paragraph 1: The manner in which said amendment or amendments effecting a change in the amount of stated capital or the amount of paid-in surplus, or both, is effected is as follows:

The aggregate number of shares which the corporation will have authority to issue will be 400 common shares of the par value of \$100 per share and the stated capital is hereby reduced from \$51,000 to \$40,000 by the cancellation of 110 preferred shares which have been reacquired by the corporation and are now held in the treasury. Said preferred shares were reacquired by the corporation for not less than \$100 per share.

(Disregard this Paragraph where amendments do not reduce stated capital.)

Paragraph 2: The amounts of stated capital and of paid-in surplus as changed by said amendment or amendments are as follows:

	Before Amendment	After Amendment
Stated capital\$	51,000.00	\$ 40,000.00
Paid-in Surplus ...\$	None	\$ None

IN WITNESS WHEREOF, the undersigned corporation has caused these Articles of Amendment to be executed in its name by its _____ President, and its corporate seal to be hereto affixed, attested by its Secretary, this 1st day of June, 1948

EDUCATIONAL MUSIC BUREAU
(Exact Corporate Name)

PLACE
(CORPORATE SEAL)
HERE

By M. J. Hoover
President

Attest:

Fredrick Schneider
its Secretary

STATE OF ILLINOIS
COUNTY OF COOK ss.

I, L. G. Agezim a Notary Public, do hereby certify that on the 1st day of June, 1948, M. J. Hoover personally appeared before me and, being first duly sworn by me, acknowledged that he signed the foregoing document in the capacity therein set forth and declared that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year before written.

L. G. Agezim
Notary Public.

PLACE
(NOTARIAL SEAL)
HERE

Form 62-55

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File

1713

Box

ARTICLES OF AMENDMENT

to the

ARTICLES OF INCORPORATION

of

EDUCATIONAL MUSIC BUREAU

Decrease number of authorized shares from 650 Shs. P.V. to 400 Shs. P.V. & Decrease state capital.

FILED

JUN 1 1948

L. G. Agezim

FILE IN DUPLICATE

Filing Fee \$20.00