

JOEL SACHS, Ph.D. - 9/9/2014

Page 167

1 E 51990, in preparing your report that is 12:58:10

2 referred to in paragraph 28? 12:58:11

3 A. I think I did. I don't remember 12:58:12

4 the number offhand. 12:58:15

5 Q. It is referred to here in paragraph 12:58:15

6 28? 12:58:16

7 A. Then I did. 12:58:19

8 Q. It says it suggests that it may be 12:58:22

9 the print for the December 6th, 1935 copyright 12:58:24

10 certificate which says, "arrangement as easy 12:58:28

11 piano solo with text." You said the thing that 12:58:33

12 led you to believe that about Exhibit J is that 12:58:37

13 it was copyright 1935. Does the fact that the 12:58:40

14 cover of Exhibit J also says it is underlined 12:58:43

15 piano with words, does that also support that? 12:58:46

16 A. Yes. However there are a few of 12:58:48

17 them and that is what is in 30 whatever is the 12:58:50

18 number I just gave you that do that and there 12:58:53

19 are certain differences among them. They seem 12:58:56

20 possibly to be reprinted later, who knows. But 12:58:59

21 some of them have Preston Ware Orem's name and 12:59:02

22 some don't and that is peculiar, but that is 12:59:02

23 what it is. 12:59:04

24 Q. The fact that this says this is the

25 piano solo with words version also supports

1 that it is the copy of copyright 51990? 12:59:13

2 MR. RIFKIN: What are we referring 12:59:16

3 to that says piano solo with words? 12:59:17

4 MS. LE MOINE: Exhibit J. 12:59:19

5 MR. RIFKIN: I thought you were 12:59:20

6 referring to Exhibit J. 12:59:21

7 MS. LE MOINE: I am. 12:59:22

8 MR. RIFKIN: Where does it say 12:59:22

9 that. 12:59:24

10 MS. LE MOINE: The title page. 12:59:25

11 MR. RIFKIN: I thought you were 12:59:28

12 looking at plate number 3074. 12:59:29

13 MS. LE MOINE: No I'm asking the 12:59:31

14 professor if the fact that that piano solo with 12:59:33

15 words is underlined that that is the indication 12:59:36

16 that this is this piece of music. 12:59:46

17 A. As far as I could say yes. 12:59:49

18 Q. Let's look at paragraph 29 which 12:59:58

19 refers to tab K. If you look at tab K it has 13:00:02

20 the Hill sisters both names in the upper right 13:00:04

21 and arranged by Preston Ware Orem underneath 13:00:04

22 that. 13:00:05

23 A. Yes. 13:00:07

24 Q. Do you have any opinion as to why

25 Mildred Hill and Patty Hill are listed in the

1 just know from Marc? 13:06:25

2 A. Well I assume there was some 13:06:25

3 copyright reason and whoever provided that 13:06:32

4 decided it was better at that point to not 13:06:34

5 provide the actual text lest it being an 13:06:36

6 infringement of some sort. 13:06:40

7 Q. Let's look at paragraph 30. 13:06:44

8 Paragraph 30 refers to tab L that we looked at 13:06:48

9 briefly. The sequential catalog number, right 13:06:51

10 or engraving plate number, I'm not sure what -- 13:06:54

11 A. Yes. I don't know what it is 13:06:57

12 called now but that is what it is. It is some 13:07:01

13 kind of publisher's index. 13:07:03

14 Q. And indicating the order in which 13:07:04

15 these items were published? 13:07:06

16 A. Yes, I assume so. That is what it 13:07:07

17 always does. 13:07:09

18 Q. You have here at the top arranged 13:07:10

19 by Mrs. R.R. Forman? 13:07:11

20 A. Yes. 13:07:14

21 Q. And again Mildred Hill's name on 13:07:14

22 the right? 13:07:14

23 A. Yes. 13:07:17

24 Q. And you say, "It is customary for

25 arrangers to appear either on the upper right

1 upper left of tab V it says traditional? 14:39:17

2 A. I sure did note that. 14:39:19

3 Q. You say, "This is consistent with 14:39:22

4 the convention for identifying the author or 14:39:27

5 authors of the words and music and acknowledges 14:39:29

6 that the lyrics were originally a traditional 14:39:30

7 adaptation of the earlier work Good Morning To 14:39:32

8 All." 14:39:35

9 What about this is consistent with 14:39:37

10 the convention for identifying the author or 14:39:39

11 authors of the words and music? 14:39:43

12 A. Because on the examples that I saw 14:39:47

13 at Julliard where the text was a traditional 14:39:54

14 text, in some cases a psalm or some spirituals 14:39:57

15 that were arranged, it will often say 14:40:00

16 traditional on the left-hand side. It clearly 14:40:03

17 doesn't refer to the music because a composer's 14:40:06

18 name is on the right as normal. This to me 14:40:10

19 says the text for Happy Birthday was a 14:40:13

20 traditional text and not something written by a 14:40:13

21 person. 14:40:15

22 Q. Tell me what a traditional text is? 14:40:22

23 A. Perhaps from a folk poem, folk 14:40:24

24 song. Let's see if I could think of one

25 offhand. Yankee Doodle which was originally an

1	more complicated interaction of composing and	16:02:59
2	dealing with words than simply putting text to	16:03:01
3	music because you may be dealing with a	16:03:09
4	preexisting melody.	16:03:10
5	MS. LE MOINE: Let's take five	16:03:10
6	minutes.	16:03:11
7	THE VIDEOGRAPHER: Going off the	16:08:27
8	record at 16:03.	16:08:27
9	(Recess taken.)	16:08:30
10	THE VIDEOGRAPHER: Returning to	16:08:41
11	the record at 16:08.	16:08:42
12	MS. LE MOINE: Professor Sachs,	16:08:46
13	thank for your time. That's all I have today.	16:08:50
14	You indicated you might do additional research	16:08:54
15	and if you were to amend your report we reserve	16:08:55
16	the right to take another deposition.	16:08:56
17	THE WITNESS: The only thing that I	16:08:59
18	would do is out of curiosity I would see	16:09:02
19	whether the Julliard Library has any Happy	16:09:04
20	Birthday prints and we will let you know if	16:09:04
21	they do.	16:09:07
22	MR. RIFKIN: Thank you very much.	16:09:09
23	THE WITNESS: Thank you, well	16:09:09
24	done.	
25	THE VIDEOGRAPHER: This concludes	

1 the videotape deposition at 16:09.

2 (TIME NOTED: 4:09 P.M.)

3

4

5

JOEL SACHS, Ph.D.

6

7 Subscribed and sworn to before me

8 this ____ day of _____, 2014

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1 C E R T I F I C A T E

2 STATE OF NEW YORK)

3 : ss.

4 COUNTY OF NEW YORK)

5 I, WILLIAM VISCONTI, a Shorthand Reporter
6 and Notary Public within and for the State of New York,
7 do hereby certify:

8 That prior to being examined, the witness named in
9 the foregoing deposition was duly sworn to testify the truth,
10 the whole truth, and nothing but the truth;

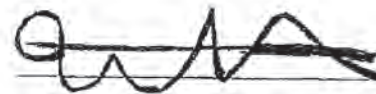
11 That said deposition was taken down by me in
12 shorthand at the time and place therein named and
13 thereafter reduced by me to typewritten form and that the
14 same is a true, correct, and complete transcript of said
15 proceedings.

16 Before completion of the deposition, review of the
17 transcript [X] was [] was not requested. If requested,
18 any changes made by the deponent (and provided to the
19 reporter) during the period allowed are appended hereto.

20 I further certify that I am not interested in the
21 outcome of the action.

22 Witness my hand this 23rd day of September, 2014.

23
24
25



WILLIAM VISCONTI

EXHIBIT 65

Sept 27, 1957

VOL. 1834 PAGE 10

**CERTIFICATE OF AMENDMENT
TO THE
CERTIFICATE OF INCORPORATION**

SUNNY PUBLISHING COMPANY, a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware, hereby certifies as follows:

FIRST: That the Board of Directors of said corporation, at a meeting duly convened and held, adopted a resolution proposing and declaring advisable the following amendment to the Certificate of Incorporation of said corporation:

RESOLVED that the Certificate of Incorporation of Sunny Publishing Company be amended by striking out all of Article First of the Certificate of Incorporation, as amended, and inserting in lieu thereof a new Article First to be and read as follows:

"**FIRST:** The name of the corporation is Sunny-Birchard Publishing Company."

SECOND: That the said amendment has been consented to and authorized by the holders of all the issued and outstanding stock, entitled to vote, by a written consent given in accordance with the provisions of Section 228 of Title 8 of the Delaware Code of 1953, and filed with the corporation on the 19th day of September 1957.

THIRD: That the aforesaid amendment was duly adopted in accordance with the applicable provisions of sections 244 and 228 of Title 8 of The Delaware Code of 1953.

IN WITNESS WHEREOF, the said **SUNNY PUBLISHING COMPANY** has caused its corporate seal to be hereunto affixed and this certificate to be signed by David K. Sangstack, its Vice President, and Robert O. Olsen, its Assistant Secretary, this 20th day of September 1957.



SUNNY PUBLISHING COMPANY

[Handwritten signature]
Assistant Secretary

VOL. 1834 PAGE 10

STATE OF ILLINOIS }
COUNTY OF COOK } ss:

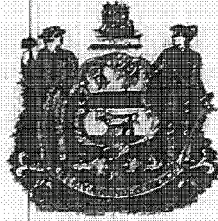
BE IT REMEMBERED, that on this 20th day of September, A.D. 1957, personally came before me Fred Poranco a Notary Public in and for the County and State aforesaid, David K. Sengstack, Vice President of Sunny Publishing Company, a corporation of the State of Delaware, the corporation described in and which executed the foregoing certificate, known to me personally to be such, and he, the said David K. Sengstack as such Vice President duly executed said certificate before me and acknowledged the said certificate to be his act and deed and the act and deed of said corporation; that the signatures of the said Vice President and of the Assistant Secretary of said corporation to the said foregoing certificate are in the handwriting of the said Vice President and Assistant Secretary of said corporation respectively and that the seal affixed to said certificate is the common or corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office the day and year aforesaid.

Fred Poranco
Notary Public

My Commission Expires August 2, 1960



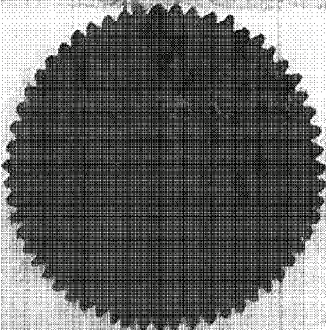


State
of
DELAWARE

Office of SECRETARY OF STATE

I, Glenn C. Kenton Secretary of State of the State of Delaware,
do hereby certify that the above and foregoing is a true and correct copy of
Certificate of Amendment of the "SUMMY PUBLISHING COMPANY", as received and filed in
this office the twenty-seventh day of September, A.D. 1957, at 10 o'clock A.M.

In Testimony Whereof, I have hereunto set my hand
and official seal at Dover this twenty-ninth day
of February in the year of our Lord
one thousand nine hundred and eighty.



Glenn C. Kenton

Glenn C. Kenton, Secretary of State

EXHIBIT 66

Dec. 22, 1961

VOL. 1834 PAGE

**CERTIFICATE OF AMENDMENT
OF
SUMMY-BIRCHARD PUBLISHING COMPANY**

SUMMY-BIRCHARD PUBLISHING COMPANY, a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware, hereby certifies as follows:

FIRST: That the Board of Directors of said corporation, at a meeting duly convened and held, adopted a resolution proposing and declaring advisable the following amendment to the Certificate of Incorporation of said corporation:

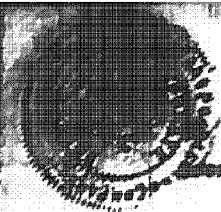
RESOLVED that the Certificate of Incorporation of Summy-Birchard Publishing Company be amended by striking out all of Article First of the Certificate of Incorporation, as amended, and inserting in lieu thereof a new Article First to be and read as follows:

"**FIRST:** The name of the corporation is Summy-Birchard Company"

SECOND: That the said amendment has been consented to and authorized by the holders of all the issued and outstanding stock, entitled to vote, by a written consent given in accordance with the provisions of Section 228 of Title 8 of the Delaware Code of 1953, and filed with the corporation on the 29th day of September, 1961.

THIRD: That the aforesaid amendment was duly adopted in accordance with the applicable provisions of sections 242 and 228 of Title 8 of The Delaware Code of 1959.

IN WITNESS WHEREOF, the said **SUMMY-BIRCHARD PUBLISHING COMPANY** has caused its corporate seal to be hereunto affixed and this certificate to be signed by David K. Seagstack, its President, and Robert O. Olson, its Assistant



Secretary, this 29th day of September, 1961.

~~SUNNY-BIRCHARD PUBLISHING COMPANY~~

By [Signature]
President

Attest: [Signature]
Assistant Secretary

VOL. 1834 PAGE 11

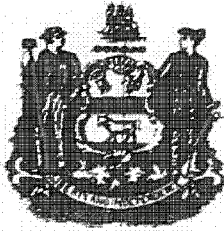
STATE OF ILLINOIS }
COUNTY OF COOK } ss,

BE IT REMEMBERED, that on this 29th day of September, A.D. 1961, personally came before me Lorraine Moburg, a Notary Public in and for the County and State aforesaid, David K. Bengstack, President of Sunny-Birchard Publishing Company, a corporation of the State of Delaware, the corporation described in and which executed the foregoing certificate, known to me personally to be such, and he, the said David K. Bengstack as such President duly presented said certificate before me and acknowledged the said certificate to be his act and deed and the act and deed of said corporation; that the signatures of the said President and of the Assistant Secretary of said corporation to the said foregoing certificate are in the handwriting of the said President and Assistant Secretary of said corporation respectively and that the seal affixed to said certificate is the common or corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office the day and year aforesaid.

[Signature]
Lorraine Moburg

commission expires: SEP 29 1962

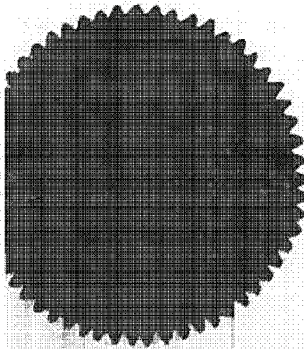


State of DELAWARE

Office of SECRETARY OF STATE

I, Glenn C. Kenton Secretary of State of the State of Delaware
do hereby certify that the above and foregoing is a true and correct copy of
Certificate of Amendment of the "SUMMY-BIRCHARD PUBLISHING COMPANY", as received and
filed in this office the twenty-second day of December, A.D. 1961, at 9 o'clock A.M.

In Testimony Whereof, I have hereunto set my hand
and official seal at Dover this twenty-ninth day
of February in the year of our Lord
one thousand nine hundred and eighty.



Glenn C. Kenton

Glenn C. Kenton, Secretary of State

**EXHIBIT 67 -
[ORIGINAL EXHIBIT MANUALLY LODGED
& FILED PURSUANT TO L.R. 11-5.4]**

[Copy of Original Exhibit Attached]

Additional Certificate of Registration of a Claim to Copyright

This is to certify that the statements set forth
in the attached have been made a part of the
records of the Copyright Office with claim
of copyright registered under number

In testimony whereof, the seal of this office
is affixed hereto on

R 306185

June 12 2014



Maria A. Pallante

Register of Copyrights and
Associate Librarian for Copyright Services

c-731 . 06/2011-10,000

Original copyright claimant

(Name of claimant in original registration)

Complete all applicable spaces on next page.

Ex. 67

808

P006338

Application for Registration of a Claim to Renewal Copyright

FORM R
REGISTRATION NO.
R 306185
DO NOT WRITE HERE

Instructions: Make sure that all applicable spaces have been completed before you submit the form. The application must be signed at line 8. For further information, see page 4.

information as pages 1 and 2, but may be carbon copies. Mail all pages of the application to the Register of Copyrights, Library of Congress, Washington 25, D. C., together with the registration fee of \$2. Make your remittance payable to the Register of Copyrights.

Pages 1 and 2 should be typewritten or printed with pen and ink. Pages 3 and 4 should contain exactly the same

1. Renewal Claimant(s), Address(es), and Statement of Claim: Give the full name(s) and mailing address(es) of the claimant(s) of the renewal copyright. State the statutory category of each renewal claimant. It must be one of the categories described on page 4.

(a) Name Summy-Birchard Company

Address 1834 Ridge Ave., Evanston, Ill.

Claiming as proprietor of copyright in a work made for hire
(Use the appropriate statement appearing on page 4)

(b) Name

Address

Claiming as

(c) Name

Address

Claiming as

2. (a) Title: Give the full title of the work. In the case of music give specific instrumentation.

HAPPY BIRTHDAY TO YOU! -- Unison Song

(b) Renewable Matter: If the work was a new version of a previous work, renewal may be claimed only in the new matter. If this work was a new version, state in general the new matter (e. g., arrangement, editing, illustrations, translation, etc.) upon which copyright was claimed.

Arrangement and revised text

(c) Contribution to Periodical or Other Composite Work: If the work was a contribution, give the title of the periodical or composite work in which it was published.

If a periodical, give: Vol.; No.; Date

3. Authors of Renewable Matter: Give the names of all authors who contributed copyrightable matter to this version, but not the names of authors of previous versions: Clayton F. Summy Co. (now, by change of name,

Summy-Birchard Company) as employer for hire of Mrs. R.R. Forman

4. Facts of Original Registration: The facts given here must agree with the Copyright Office records of the original registration.

Original registration number: Class E pub..... No. 51988

If registered as published, give date of publication December 6, 1935
(Month, day, and year)

If registered as unpublished, give date of registration

Original copyright claimant Clayton F. Summy Co.
(Name of claimant in original registration) *Complete all applicable spaces on next page.*

... is to be charged to a deposit account established in the Copyright Office, give name of account:

Summy-Birchard Company

6. Name and address of person or organization to whom correspondence or refund, if any, should be sent:

Name Brown, Jackson, Boettcher & Dienner Address 53 W. Jackson Blvd., Chicago 4,

Mr. C. Lyman Emrich, Jr.

7. Send certificate to:

(Type or print name and address)

Name
Address

Summy-Birchard Company

1834 Ridge Avenue

(Number and street)

Evanston,

(City)

(Zone)

Illinois

(State)

8. Certification: (NOTE: Application not acceptable unless signed)

I CERTIFY that the statements made by me in this application are correct to the best of my knowledge.

(Signature)
Antony J. Graves, Ass't. Sec'y.
Application Forms

Copies of the following forms will be supplied by the Copyright Office without charge upon request.

- Class A Form A—Published book manufactured in the United States of America.
- Class A Form A-B Foreign—Book or periodical manufactured outside the United States of America (except works subject to the ad interim provisions of the copyright law).
- Class A or B Form A-B Ad Interim—Book or periodical in the English language manufactured and first published outside the United States of America.
- Class B Form B—Periodical manufactured in the United States of America.
- Class B Form BB—Contribution to a periodical manufactured in the United States of America.
- Class C Form C—Lecture or similar production prepared for oral delivery.
- Class D Form D—Dramatic or dramatico-musical composition.
- Class E Form E—Musical composition the author of which is a citizen or domiciliary of the United States of America or which was first published in the United States of America.
- Class E Form E Foreign—Musical composition the author of which is not a citizen or domiciliary of the United States of America and which was not first published in the United States of America.
- Class F Form F—Map.
- Class G Form G—Work of art or a model or design for a work of art.
- Class H Form H—Reproduction of a work of art.
- Class I Form I—Drawing or plastic work of a scientific or technical character.
- Class J Form J—Photograph.
- Class K Form K—Print or pictorial illustration.
- Class K Form KK—Print or label used for an article of merchandise.
- Class L or M Form L-M—Motion Picture.
- Form R—Renewal of copyright.
- Form U—Notice of use of copyrighted music on mechanical instruments.

FOR COPYRIGHT OFFICE USE ONLY	
Application received	<i>Mildred J. Hill -</i> <i>Ans. by _____</i>
DEC -6 1962	
Fee received	

**EXHIBIT 68 -
[ORIGINAL EXHIBIT MANUALLY LODGED
& FILED PURSUANT TO L.R. 11-5.4]**

[Copy of Original Exhibit Attached]

Additional Certificate of Registration of a Claim to Copyright

This is to certify that the statements set forth
in the attached have been made a part of the
records of the Copyright Office with claim
of copyright registered under number

In testimony whereof, the seal of this office
is affixed hereto on

R 306186

June 12 2014



Maria A. Pallante

Register of Copyrights and
Associate Librarian for Copyright Services

C-731 . 06/2011-10,000

Original copyright claimant

Clayton F. Summy Co.

(Month, day, and year)



Ex. 68

812

P006341

Application for Registration of a Claim to Renewal Copyright

FORM R	
REGISTRATION NO.	
R	306186
DO NOT WRITE HERE	

Instructions: Make sure that all applicable spaces have been completed before you submit the form. The application must be signed at line 8. For further information, see page 4.

Pages 1 and 2 should be typewritten or printed with pen and ink. Pages 3 and 4 should contain exactly the same

information as pages 1 and 2, but may be carbon copies.

Mail all pages of the application to the Register of Copyrights, Library of Congress, Washington 25, D. C., together with the registration fee of \$2. Make your remittance payable to the Register of Copyrights.

1. Renewal Claimant(s), Address(es), and Statement of Claim: Give the full name(s) and mailing address(es) of the claimant(s) of the renewal copyright. State the statutory category of each renewal claimant. It must be one of the categories described on page 4.

(a) Name Summy-Birchard Company

Address 1834 Ridge Ave., Evanston, Ill.

Claiming as proprietor of copyright in a work made for hire
(Use the appropriate statement appearing on page 4)

(b) Name

Address

Claiming as

(c) Name

Address

Claiming as

2. (a) Title: Give the full title of the work. In the case of music give specific instrumentation.

HAPPY BIRTHDAY TO YOU! -- easy piano solo with text

(b) Renewable Matter: If the work was a new version of a previous work, renewal may be claimed only in the new matter. If this work was a new version, state in general the new matter (e. g., arrangement, editing, illustrations, translation, etc.) upon which copyright was claimed.

Arrangement as easy piano solo with text

(c) Contribution to Periodical or Other Composite Work: If the work was a contribution, give the title of the periodical or composite work in which it was published.

If a periodical, give: Vol.; No.; Date

3. Authors of Renewable Matter: Give the names of all authors who contributed copyrightable matter to this version, but not the names of authors of previous versions.

[Clayton F. Summy Co. (now, by change of name, Summy-Birchard Company) as employer for hire of] Preston Ware Orem

4. Facts of Original Registration: The facts given here must agree with the Copyright Office records of the original registration.

Original registration number: Class E pub No. 51990

If registered as published, give date of publication December 6, 1935
(Month, day, and year)

If registered as unpublished, give date of registration

Original copyright claimant Clayton F. Summy Co.
(Name of claimant in original registration)

5. If registration fee is to be charged to a deposit account established in the Copyright Office, give name of account:
Summy-Birchard Publishing Company

6. Name and address of person or organization to whom correspondence or refund, if any, should be sent:
Name: Brown, Jackson, Boettcher & Diemer
Mr. C. Lyman Emrich, Jr.
Address: 53 W. Jackson Blvd., Chicago 4

7. Send certificate to:

(Type or print name and address)	Name	Summy-Birchard Company	
	Address	1834 Ridge Ave.	
		(Number and street)	
		Evanston, Ill.	
		(City)	(Zone) (State)

8. Certification: (NOTE: Application not acceptable unless signed)

I CERTIFY that the statements made by me in this application are correct to the best of my knowledge.



Antony J. Graves
(Signature)

Antony J. Graves, Ass't. Sec'y.
Application Forms

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 - Class B Form A-B Ad Interim—Book or periodical in the English language manufactured and first published outside the United States of America.
 - Class B Form B—Periodical manufactured in the United States of America.
 - Class B Form BB—Contribution to a periodical manufactured in the United States of America.
 - Class C Form C—Lecture or similar production prepared for oral delivery.
 - Class D Form D—Dramatic or dramatico-musical composition.
 - Class E Form E—Musical composition the author of which is a citizen or domiciliary of the United States of America or which was first published in the United States of America.
 - Class E Form E Foreign—Musical composition the author of which is not a citizen or domiciliary of the United States of America and which was not first published in the United States of America.
 - Class F Form F—Map.
 - Class G Form G—Work of art or a model or design for a work of art.
 - Class H Form H—Reproduction of a work of art.
 - Class I Form I—Drawing or plastic work of a scientific or technical character.
 - Class J Form J—Photograph.
 - Class K Form K—Print or pictorial illustration.
 - Class K Form KK—Print or label used for an article of merchandise.
 - Class L or M Form L-M—Motion Picture.
 - Form R—Renewal copyright.
 - Form U—Notice of use of copyrighted music on mechanical instruments.

Application received		FOR COPYRIGHT OFFICE USE ONLY	
DEC -6 1962		By Mildred J. Hill	
Fee received		_____	

EXHIBIT 69

JOHN SENGSTACK, ACCOUNTANT, 77

Senior Partner in Lybrand
Ross Bros. Is Dead

John F. Sengstack, a certified public accountant and a leader in the music industry, died on Sunday at the age of 77. He lived at 40 Fifth Avenue and in Springfield, N. J.

Mr. Sengstack was for many years a senior partner of Scovell, Wellington & Co., and upon the merger of the firm with Lybrand, Ross Bros. & Montgomery, he continued as a senior partner.

He had been president of the Music Publishers Association for 15 years and was a member of the board of appeals of the American Society of Composers, Authors and Publishers.

At one time Mr. Sengstack was general manager of Theodore Presser & Co., a magazine and music publisher. Later he acquired the Clayton F. Summy Company, now the Summy-Birchard Company, also music publishers, and served as its president and chairman for many years.

He was one of the early exponents of cost accounting. In the 1930's, as a partner at Scovell, Wellington, Mr. Sengstack was in charge of the installation of standard cost-accounting systems, inventory and production control and other management services for the United States Steel Company and its principal operating subsidiaries.

Mr. Sengstack was an early member of the Association of Consulting Management Engineers and served as its secretary-treasurer. He was also a member of the American Institute of Certified Public Accountants, the National Association of Accountants, the Union League Club and the Downtown Athletic Club.

He also was a director of Doubleday & Co., the book publisher.

Mr. Sengstack took part in many of the tournaments of the senior golf associations of which he was a member. He was a member of the Baltusrol Golf Club, the Pine Valley Golf Club and the Pinehurst Country Club.

A memorial service will be held at 11 A.M. on Thursday, at All Souls Unitarian Church, Lexington Avenue at 80th Street.

EXHIBIT 70

SYLVINE OIL ILLINOIS

ORIGINATED BY
THE SUGAR BEHAVIOR OF SYLVINE



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 31st day of July A.D. 1973, as provided by "THE BUSINESS CORPORATION ACT" of Illinois, in force July 13, A.D. 1933.

Now Therefore, I, ~~Michael J. Howlett~~ 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 have set my hand and cause to be affixed the Great Seal of the State of Illinois, Done at the City of Springfield this 31st day of July A.D. 1973 and of the Independence of the United States the one hundred and 98th.

(SEAL)

Michael J. Howlett
SECRETARY OF STATE

1713-375-6
 (Do not write in this space)
 Date Paid 7-31-77
 License Fee \$
 Franchise Tax \$
 Filing Fee \$25.00
 Clerk

(File in Duplicate)

ARTICLES OF AMENDMENT
 TO THE
ARTICLES OF INCORPORATION
 OF

VOL. 1834, PAGE 147

EDUCATIONAL MUSIC BUREAU

P A I D

1977

To JOHN W. LEWIS
 Secretary of State
 Springfield, Illinois

Michael J. H.
 Secretary of State

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:

ARTICLE FIRST: The name of the corporation is:

EDUCATIONAL MUSIC BUREAU

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

Article 3 of the Articles of Incorporation is hereby amended to read as follows:

"Article 3. The duration of the corporation is perpetual."

(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 367 shares common stock; 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	367

Previously there were 400 shares issued and outstanding, 33 of which were reacquired by the corporation, held as treasury stock, and subsequently retired.

(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 367 common shares; and the number of shares voted against said amendment or amendments was None. 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

(Disregard separation into classes if the amendment restates the articles of incorporation.)

Item 1. On the date of the adoption of this amendment, restating the articles of incorporation, the corporation had _____ shares issued, itemized as follows:

Class	Series (If Any)	Number of Shares	Par value per share or statement that shares are without par value

Item 2. On the date of the adoption of this amendment restating the articles of incorporation, the corporation had a stated capital of \$ _____ and a paid-in surplus of \$ _____ or a total of \$ _____.

Disregard this Article where this amendment contains no such provisions.

5, 17
ARTICLE FIFTH: The manner in which the exchange, reclassification, or cancellation of issued shares, or a reduction of the number of authorized shares of any class below the number of issued shares of that class, provided for in, or effected by, this amendment, is as follows:

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Disregard this Paragraph where amendment does not affect stated capital or paid-in surplus.

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

Disregard this Paragraph where amendment does not affect stated capital or paid-in surplus.

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

	Before Amendment	After Amendment
Stated capital	\$	\$
Paid-in surplus	\$	\$

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 16th day of July, 1973

EDUCATIONAL MUSIC BUREAU

(Exact Corporate Name)

By

Jeffrey S. Sengstack
President

Place
(CORPORATE SEAL)
Here

ATTEST:

Dennis M. Siegel
Secretary

STATE OF Missouri
COUNTY OF St. Louis } ss.

I, Barbara M. Bacon, a Notary Public, do hereby certify that on the 16th day of July, 1973, Jeffrey S. Sengstack, 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.

Place
NOTARIAL SEAL
Here

Barbara M. Bacon
Notary Public
My Comm. Expires October 3, 1976

Form 100-100
Box 100-100
File 100-100

ARTICLES OF AMENDMENT
to the
ARTICLES OF INCORPORATION
of

FILED

JUL 31 1973

Michael J. Bennett
Secretary of State

FILE IN DUPLICATE

Filing Fee \$25.00

Filing Fee for Re-Filed Articles \$100.00

(100-100-100) 10-672

EXHIBIT 71



To all to whom these Presents Shall Come, Greeting:

Whereas, Articles of MERGER duly signed and verified of SUMMY-BIRCHARD COMPANY, a Delaware Corporation, merged into EDUCATIONAL MUSIC BUREAU, an Illinois Corporation, and name of surviving corporation changed to SUMMY-BIRCHARD COMPANY

have been filed in the Office of the Secretary of State on the 28th day of December 1973 as provided by THE BUSINESS CORPORATION ACT of Illinois in force July 13, 1933 as amended.

Now Therefore, I, Michael J. Howlett Secretary of State of the State of Illinois, by virtue of the powers vested in me by law, do hereby issue this certificate of MERGER and attach thereto a copy of the Articles of MERGER of the aforesaid corporation

In Testimony Whereof, I have set my hand and cause to be affixed the Great Seal of the State of Illinois.

Done at the City of Springfield this 28th day of December AD 1973 and of the Independence of the United States the one hundred and 92th

(SEAL)

Michael J. Howlett

SECRETARY OF STATE

1713-375-6
(Do not write in this space)
Date Paid 15-38-73
Filing Fee \$ 100.00
Clerk [Signature]

ARTICLES OF MERGER
OF DOMESTIC AND FOREIGN
CONSOLIDATION
CORPORATION
(Strike Inapplicable Words)

JOHN W. LEWIS
to ~~PAUL POWERS~~ Secretary of State,

625 48
VOL. 1836 PAGE 167

The undersigned corporations, pursuant to Section 69a of "The Business Corporation Act" of the State of Illinois, hereby execute the following articles of ~~consolidation~~ merger:

ARTICLE ONE

The names of the corporations proposing to ~~consolidate~~ merge and the names of the States under the laws of which such corporations are organized, are as follows:

Name of Corporation	State of Incorporation
EDUCATIONAL MUSIC BUREAU	ILLINOIS
SUMMY-BIRCHARD COMPANY	DELAWARE

PAID
JAN 7 1974

ARTICLE TWO

The laws of Delaware corporation in Delaware State under which such foreign corporations are organized, permit such ~~consolidation~~ merger.

ARTICLE THREE

The name of the ~~consolidating~~ surviving corporation shall be SUMMY-BIRCHARD COMPANY and it shall be governed by the laws of the State of ILLINOIS.

ARTICLE FOUR

The plan of ~~consolidation~~ merger is as follows:

See Exhibit A attached hereto and made a part hereof.

ARTICLE FIVE

As to each corporation, the number of shares outstanding, the number of shares entitled to vote, and the number and designation of the shares of any class entitled to vote as a class, are: VOL. 1231

Name of Corporation	Total Number of Shares Outstanding	Total Number of Shares Entitled to Vote	Designation of Class Entitled to Vote as a Class (if any)	Number of Shares of Such Class (if any)
<u>Educational Music Bureau</u>	<u>367*</u>	<u>367</u>	<u>D.N.A.</u>	<u>D.N.A.</u>
<u>Summy-Birchard Company</u>	<u>1500</u>	<u>1500</u>	<u>D.N.A.</u>	<u>D.N.A.</u>
<u>An additional 22 shares held in treasury</u>				

ARTICLE SIX

As to each corporation, the number of shares voted for and against the plan, respectively, and the number of shares of any class entitled to vote as a class voted for and against the plan, are:

Name of Corporation	Total Shares Voted for	Total Shares Voted Against	Class	Shares Voted for	Shares Voted Against
<u>Educational Music Bureau</u>	<u>367</u>	<u>0</u>			
<u>Summy-Birchard Company</u>	<u>1500</u>	<u>0</u>			

ARTICLE SEVEN

All provisions of the laws of the State of Illinois and the State of Delaware applicable to the proposed ~~merger~~ merger have been complied with.

ARTICLE EIGHT

(Delete this article if surviving or flow corporation is to be governed by the laws of the State of Illinois.)

It is agreed that, upon and after the issuance of a certificate of merger by the Secretary of State of the State of Illinois: VOL. 183

- 1. The surviving corporation may be served with process in the State of Illinois in any proceeding for the enforcement of any obligation of any corporation organized under the laws of the State of Illinois which is a party to the merger and in any proceeding for the enforcement of the rights of a dissenting shareholder of any such corporation organized under the laws of the State of Illinois against the surviving or new corporation;
2. The Secretary of State of the State of Illinois shall be and he irrevocably appointed as the agent of the surviving corporation to accept service of process in any such proceedings; and
3. The surviving corporation will promptly pay to the dissenting shareholders of any corporation organized under the laws of the State of Illinois which is a party to the merger the amount, if any, to which they shall be entitled under the provisions of "The Business Corporation Act" of the State of Illinois with respect to the rights of dissenting shareholders.

IN WITNESS WHEREOF each of the undersigned corporations has caused these articles of merger to be executed in its name by its president or vice president and its corporate seal to be hereunto affixed, attested by its secretary or assistant secretary, this 21st day of December, 1973

Place (Corporate Seal) Here

EDUCATIONAL MUSIC BUREAU

By [Signature] Its President Vice President

ATTEST:

[Signature] Secretary Assistant Secretary

Place (Corporate Seal) Here

BUMMY-BIRCHARD COMPANY

By [Signature] Its President Vice-President

ATTEST:

[Signature] Secretary Assistant Secretary

(over)

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

I, MARLENE MEYER, a Notary Public, do hereby certify that on the 21st day of December, A.D. 19 73, personally appeared before me JEFFREY SENGSTACK

who declares that he is the President of Educational Music Bureau, one of the corporations executing the foregoing documents, and being first duly sworn, acknowledged that he signed the foregoing articles of merger ~~consolidation~~ 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.

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Marlene Meyer
Notary Public

Place
(Notarial Seal)
Here

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

I, MARLENE MEYER Notary Public, do hereby certify that on the 21st day of December, A.D. 19 73, personally appeared before me DAVID SENGSTACK,

who declares that he is the President of Sunny-Birchard Company one of the corporations executing the foregoing documents, and being first duly sworn, acknowledged that he signed the foregoing articles of merger ~~consolidation~~ 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.

Marlene Meyer
Notary Public

Place
(Notarial Seal)
Here

Form BCA-69a
1713
File 32576

ARTICLES OF
MERGER
CONSOLIDATION

OF

EDUCATIONAL MUSIC BUREAU

AND

SUNNY-BIRCHARD COMPANY

(File in Duplicate)

Filing Fee \$100.00

If merger involves more than two corporations, \$50.00 for each additional corporation.

Rev. 1-64, 117-2047-11-6-51

EXHIBIT 72

PLAN AND AGREEMENT OF MERGER

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THIS PLAN and AGREEMENT OF MERGER is made and entered into this 21st day of December, 1973, by and between SUMMY-BIRCHARD COMPANY, a Delaware Corporation (hereinafter called "SUMMY") and EDUCATIONAL MUSIC BUREAU, an Illinois Corporation (hereinafter called "EMB").

WITNESSETH:

WHEREAS, the Board of Directors of SUMMY and the Board of Directors of EMB deem it advisable that SUMMY merge with and into EMB under and pursuant to the terms and conditions hereinafter set forth:

NOW, THEREFORE, in consideration of the premises and the mutual agreements and covenants herein contained, the parties hereto agree as follows:

1. Pursuant to the provisions of section 69a of the Illinois Business Corporation Act and section 253 of the Delaware Corporation Law, SUMMY shall be merged into EMB as a single corporation which shall be the surviving corporation. The terms and conditions of the merger and the mode of carrying it into effect are as hereinafter set forth.

2. The Articles of Incorporation of EMB in force at the effective date of the merger shall remain and be the Articles of Incorporation after the merger until altered or amended as provided by law.

3. The By-Laws of EMB in force at the effective date of the merger shall remain and be the By-Laws after the merger until the same shall be altered or amended.

4. The directors of EMB on the effective date of the merger shall remain and be the directors after the merger and thereafter until their respective successors are chosen or appointed.

5. The officers of EMB on the effective date of the merger shall remain and be the officers after the merger and thereafter until the Board of Directors shall otherwise determine.

6. The manner and basis of converting the shares of SUMMY into shares or other securities or obligations of EMB is as follows:

PL 1034 PAGE 172

a. Forthwith on the effective date of the merger and without further act on the part of either corporation or its stockholders, 2.712 shares of the common stock, without par value, of SUMMY issued and outstanding on the effective date of the merger shall be converted into one share of fully paid and assessable common stock, par value \$100.00 per share, of EMB. Certificates representing shares of the common stock of SUMMY shall thenceforth represent shares of the common stock of EMB on the basis hereinabove provided, and the holder thereof shall be entitled to the same rights as though he held certificates issued by EMB.

b. Upon the surrender of certificates of SUMMY to EMB, the holder of the certificates surrendered shall receive in exchange a certificate or certificates of EMB for *ONE* share of common stock of EMB for 2.712 shares of common stock of EMB represented by such surrendered certificate.

7. This Plan and Agreement of Merger shall be submitted to the respective stockholders of SUMMY and EMB as provided by law, and, for the merger to become effective, must be approved and adopted by the affirmative vote of stockholders of both SUMMY and EMB in the manner and as provided by law. Anything herein to the contrary notwithstanding, this Plan and Agreement of Merger may be abandoned by ~~either SUMMY or EMB by appropriate resolution of its Board of Directors~~ at any time prior to its approval or adoption by the stockholders thereof.

8. Upon the effective date of this merger, the separate existence of SUMMY shall cease and said corporation shall be merged, in accordance with the provisions of the agreement, into ~~the~~ ~~which~~ shall survive such merger and shall continue in existence ~~and shall~~.

without other transfer, succeed to the possession of all the rights, privileges, powers, franchises and immunities, as well of a public as of a private nature, and be subject to all the restrictions, disabilities and duties of SUMMY and of EMB; and all and singular the rights, privileges, powers, franchises and immunities of SUMMY and of EMB, and all property, real, personal and mixed, and all debts due to SUMMY or EMB on whatever account, including subscriptions to shares, and all other choses in action belonging to SUMMY and EMB, shall be vested in EMB; and all property, rights, privileges, powers and franchises, and all and every other interest, shall be thereafter as effectually the property of EMB as they were of the several and SUMMY and EMB; the title to any real estate, vested by deed or otherwise, under the laws of the States of Illinois or Delaware, or of any of the other states of the United States, in either SUMMY or EMB, shall not revert or be in any way impaired by reason of the merger; provided that all rights of creditors and all liens upon any property of SUMMY and EMB shall be preserved unimpaired, limited to the property affected by such liens at the time of such merger, and all debts, liabilities and duties of SUMMY and EMB, shall thenceforth attach to EMB and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it.

9. If at any time before or after the effective date of this merger EMB shall consider or be advised that any instruments of further assurance are necessary or desirable to vest or to perfect or confirm, of record or otherwise, the title of EMB to any property of SUMMY acquired or to be acquired by reason of or as a result of the merger provided for by this agreement, SUMMY and its proper officers and directors shall and will execute and deliver any and all such proper deeds, assignments and assurances and do all things necessary or proper so to vest, perfect or confirm title to such property in EMB and otherwise to carry out the purposes of this Plan and Agreement of Merger.

10. The Articles of Incorporation of EMB shall be amended

- ~~as follows:~~
- a. To change the name of the corporation to "Summy-Birchard Company" and
 - b. To change the number of authorized shares to 953 shares of common stock, par value of \$100.00 per share.

11. This Plan and Agreement of Merger, or adoption thereof by the stockholders of the Company, shall be subject to the requirements of the laws of the state of Illinois and of the state of Delaware, and upon the execution, filing and recording of such documents and the doing of such acts and things as shall be required for accomplishing the merger under the provisions of the laws and statutes of the state of Illinois and of the state of Delaware as heretofore amended and supplemented, shall become effective at the close of business on the date this Plan and Agreement of Merger is filed with the Secretary of State of Illinois and a Certificate of Merger is issued by the Secretary of State of Illinois.

IN WITNESS WHEREOF, the parties to this agreement, pursuant to the approval and authority duly given by resolutions adopted by their respective boards of directors have caused those presents to be executed by the President and attested by the Secretary of each party hereto, and have caused to be affixed their respective corporate seals.

[CORPORATE SEAL]

SUMMY-BIRCHARD COMPANY

By [Signature]

Its President

ATTEST:

[Signature]
Its Secretary

[CORPORATE SEAL]

EDUCATIONAL MUSIC BUREAU

By [Signature]

Its President

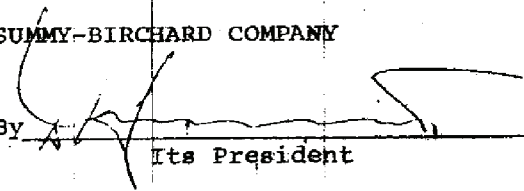
ATTEST:

[Signature]
Its Secretary

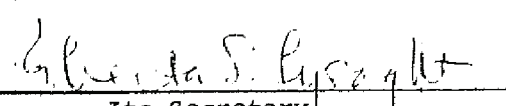
THE ABOVE PLAN AND AGREEMENT OF MERGER, has been executed on behalf of each corporate party thereto, and has been adopted separately by the stockholders of each corporate party thereto, in accordance with the provisions of the General Corporation Law of the State of Delaware, and the Business Corporation Act of the State of Illinois, the President of each corporate party thereto does now hereby execute the said Plan and Agreement of Merger and the Secretary of each corporate party thereto does now hereby attest the said Plan and Agreement of Merger, as the respective act, deed and agreement of each of said corporations, and that the facts stated herein are true, on this 21st day of December, 1973.

[CORPORATE SEAL]

SUNNY-BIRCHARD COMPANY

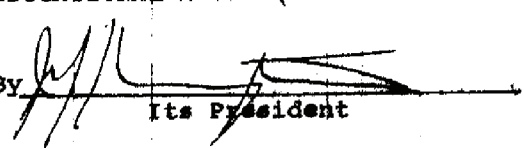
By  Its President

ATTEST:


Its Secretary

[CORPORATE SEAL]

EDUCATIONAL MUSIC BUREAU

By  Its President

ATTEST:


Its Secretary