

EXHIBIT 37

Ex. 37

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Sam H. Harris Is Sued Over Melody of Song

Plagiarism Charged On Number in 'As Thousands Cheer'

Jessica M. Hill, an instructor of English at Columbia University, filed suit in United States District Court yesterday against Sam H. Harris, theatrical producer, charging that the melody of the song "Good Morning to All," composed in 1893 by Miss Hill's two sisters, was plagiarized in a scene in "As Thousands Cheer," now playing at the Music Box Theater. The song was written by Patty Smith Hill, professor of education at Columbia, a kindergarten expert, and the late Mildred J. Hill, who provided in her will that her sister, Miss Jessica, was entitled to a share of any royalties.

The scene in "As Thousands Cheer," wherein Miss Hill alleged her tune was plagiarized, depicts John D. Rockefeller Jr., with members of the Rockefeller family ranged around, presenting to his aged father a miniature of Radio City and a birthday cake. The Rockefellers are singing "Happy Birthday To You," using the music, but not the words, of the song the Hill sisters claim is theirs.

"Good Morning To All" was published in 1893 in a collection called "Song Stories for the Kindergarten." The plaintiff alleged that her copyright was extended in 1921. She asked for an injunction and damages from the producer of "As Thousands Cheer," of "not less than \$250," which is the minimum prescribed by law for each infringing performance of a copyrighted song. The number of allegedly infringing performances was not included in the complaint.

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Ex. 37

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EXHIBIT 38

- Gone; w and m Alan Jones; with arr. for guit., etc. © May 17, 1935; E pub. 48321; Harms, inc., New York. 10926
- Goning [sic] back to Georgia; w and melody Mack and Billy. © 1 c. May 27, 1935; E unp. 104772; Claude S. McAvoy and Lillie Parker, Fern-dale, Mich. 10927
- Good by; fox, ze Diagnosa X, slova: J. V. Šmejkal, hudba: Josef Stelib-ský. © Feb. 4, 1933; E for. 39629; Evžen J. Rosendorf, Prague, Czecho-slovakia. 10928
- Good bye please; w and m J. W. Chap-man and C. A. Holaday. © 1 c. Apr. 23, 1935; E unp. 103977; Jerry Chapman and Charles Holaday, San Antonio. 10929
- Good-night love; fox trot, w and mel-ody. © 1 c. May 27, 1935; E unp. 104794; Elvio Bogni, Barre, Vt. 10930
- Good old Massachusetts; 6/8 march song. © 1 c. May 7, 1935; E unp. 103853; George Frederick Braun, Milton, Mass. 10931
- Goofy acrobats; by D. Buttolph. © 1 c. May 23, 1935; E unp. 104621; Movietone music corp., New York. 10932
- Grand festival; overture, E. De Lama-ter; full orch. pts. © May 1, 1935; E pub. 47983; Rubank, inc., Chi-cago. 10933
- Graziella: chanson napolitaine, pa-roles Henry Poncet, m Charles Pag-anetti; avec violon et violoncelle ad lib. © Apr. 1, 1935; E for. 39725; Charles Paganetti and Henry Pon-cet, Paris. 10934
- Great is the Lord; w from the Bible, m Harold L. Thomas; mixed cho. © May 17, 1935; E pub. 48270; Clay-ton F. Summy co., Chicago. 10935
- Grieg (Edvard Hagerup) Solvejg's song; op. 55, no. 4, transcribed and arr. George J. Trinkaus; brass sex-tet. Sc. and pts. © May 9, 1935; E pub. 48325; M. Witmark & sons, New York. 10936
- To spring; op. 43, no. 6, w Mar-garet Lester, choral transcription William Lester; sop. 1, 2 and alto. © May 20, 1935; E pub. 48360; Gamble hinged music co., Chicago. 10937
- Grüezi; revue-operette, Georg Burk-hard, gesangstexte Rudolph Bert-ram, m Robert Stolz. Vollständiger klavierauszug mit text u. gesangs-texte. © Dec. 4, 1934; D 28898; Musikverlag u. bühnenvertrieb Zü-richt, a. g., Zürich, Switzerland. 10937*
- Grüss mir das Lorle noch einmal; deutsches singspiel, Max Ferner u. Philipp Weichand, m Hans v. Fins-ter. Klavierauszug zum dirigieren eingerichtet. © Oct. 1, 1934; E for. 39571; Dreiklang-verlag, a. g., Ber-lin. 10938
- Guiding (The) spirit; march, op. 18; pf. © 1 c. May 27, 1935; E unp. 104748; Allan Charles Herbert, San Quentin, Calif. 10939
- Guitar (The); by Jessie L. Raynor, arr. Dorothy Gaynor Blake; pf. 1. 4 hands.—2. 6 hands. © Apr. 25, 1935; E pub. 47901, 47902; Clayton F. Summy co., Chicago. 10940, 10941
- Guten morgen, liebe sonne; marsch-lich, w R. A. Stemmle, m Harald Böhmelt, arr. Otto Linde. © Apr. 20, 1935; E for. 39547; Beboton-ver-lag, g. m. b. h., Berlin. 10942
- Gypsy; w and m Gene Wilkinson. © May 27, 1935; E pub. 48437; Vivian Virginia Wilkinson, New York. 10943
- Gypsy (The) fortune tellers; English version and m Florence Jepperson Madsen; sop. 1, 2 and alto cho.; with violin obbl. © Apr. 4, 1935; E pub. 47942; Oliver Ditson co., inc., Boston. 10944
- Gypsy interlude; w and melody. © 1 c. May 14, 1935; E unp. 104155; Norman Macer, Philadelphia. 10945
- Gypsy sweetheart; w Ann Robb, m Sylvester Long Cross; pf. © 1 c. May 11, 1935; E unp. 104067; Agnes F. Robertson, Bend, Or. 10946
- Gypsy (The) trail; song, w anon. © 1 c. May 4, 1935; E unp. 103768; Courty Rossi-Diehl, Glen Ridge, N. J. 10947
- Had I only known; w and melody. © 1 c. May 4, 1935; E unp. 103761; Mike Rogers, Los Angeles. 10948
- Händel (Georg Friedrich) Bourrée; arr. Arthur H. Brandenburg; 3 B flat clarinets. Sc. and pts. © May 13, 1935; E pub. 48192; Carl Fischer, inc., New York. 10949

- Headed for home; fox-trot, w D. Alexander, melody B. Elsey. © 1 c. July 24, 1935; E unp. 107363; Don Alexander and Billy Elsey, Detroit. 15492
- Heart-break house; w Red Clarke; pf. © 1 c. July 9, 1935; E unp. 106588; Wilbur Carl Hildenbrand, Pittsburgh. 15493
- Heart (A) like the ocean; w and m Zez Confrey and Irving Mills; with guit. arr. © July 3, 1935; E pub. 49096; Exclusive publications, inc., New York. 15494
- Heart of stone; fox-trot song; in A flat. © 1 c. June 3, 1935; E unp. 106913; Madie Roberts, San Jose, Calif. 15495
- Heart without love; w A. Monk, m E. Bear; pf. © 1 c. Jan. 31, 1935; E unp. 107271; Albert Monk and Ellen Bear, Los Angeles. 15496
- Heartstrings; fox-trot, w Stanley Adams, m Maria Grever, arr. Jack Mason; orch. pts., with male trio arr. J. Rosamond Johnson. © July 19, 1935; E pub. 49358; Edward B. Marks music corp., New York. 15497
- w Stanley Adams, m Maria Grever; with guit. arr. © July 17, 1935; E pub. 49305; Edward B. Marks music corp., New York. 15498
- Heat (The) goes up the chimney just the same; w and melody. © 1 c. July 3, 1935; E unp. 106747; G. Morgan Simpson, Baltimore. 15499
- Heat in my feet; from Common flesh, w Harry Tobias, melody Phil Boutelje. © 1 c. July 11, 1935; E unp. 106720; Famous music corp., New York. 15500
- Heather (The) bells of Clare; w Liam P. Clancy, m Josephine M. Rice; ten. or sop., in E flat. © July 2, 1935; E pub. 49129; Clayton F. Summy co., Chicago. 15501
- Heaven and you; w and m Jack Ryder, arr. Lew Gould. © 1 c. July 24, 1935; E unp. 107354; Forrest Daniel Ryder, St. Albans, W. Va. 15502
- Heaven for two; from Let's go gay, w George Frank Rubens and Cecil Landeau, m George Frank Rubens; with arr. for ukulele, etc., R. S. Stoddon. © June 11, 1935; E for. 40134; B. Feldman & co., London. 15503
- Heaven is here; m Charles C. Beebee; pf., with w. © July 1, 1935; E pub. 49245; Louis Paul Lehman, Wheeling, W. Va. 15504
- Heavenly home; hymn. © 1 c. July 8, 1935; E unp. 106834; Irene Baston, Ottawa, Kan. 15505
- Heaven's melody; w and melody. © 1 c. July 29, 1935; E unp. 107604; Harold H. (Pat) Patterson, San Francisco. 15506
- Heavy tread; misterioso dramatic agitato, Gerard Carbonara; pf.-conductor. © 1 c. July 30, 1935; E unp. 107904; Natl. screen service corp., New York. 15507
- Heinzelmännchens wachtparade; by Kurt Noack, op. 5, rev. and ed. Luis Sucra; pf. © June 1, 1935; E pub. 49291; A. Fassio, Brooklyn. 15508
- Hello, honey, we need money for our new deal; w Smiles Jennings, m Burrell Van Buren; pf. © 1 c. July 26, 1935; E unp. 107489; Edgar Petty Jennings, Beaumont, Tex. 15509
- Help love's smooth web to weave; w and melody. © 1 c. July 30, 1935; E unp. 107958; Columbia R. McClure, Buckner, Ark. 15510
- Help me forget; waltz song, m Starret system club. © 1 c. June 29, 1935; E unp. 106836; Gertrude Copes, Rochester, N. Y. 15511
- Her golden locks are fading lad; song, melody Allen Taub. © 1 c. July 19, 1935; E unp. 107113; James Hinphy, Niagara Falls, N. Y. 15512
- Here's luck to our love; w and m Billy James and Charlie Seitter; med. voice. © July 26, 1935; E pub. 49576; Shapiro, Bernstein & co., inc., New York. 15513
- Here she comes on a broomstick; w Lou Klein, melody Otis Spencer. © 1 c. July 10, 1935; E unp. 107246; Paramount productions music corp., New York. 15514
- Heure (L') exquise; paroles françaises Paul Verlaine, m Reynaldo Hahn, arr. et transcrit F. Angelo. © June 16, 1935; E pub. 49045; A. Fassio, Lachute, Que., Canada. 15515
- Hey diddle hot-cha; w and m Dorothy B. Pope. © 1 c. June 20, 1935; E unp. 106273; Dorothy B. Pope Kokesch, Utica, N. Y. 15516

- Hi-de-higher education; w Jack Yellen, m Dan Dougherty. © 1 c. July 23, 1935; E unp. 107310; Movietone music corp., New York. 15517
- Hi! Ho! on tiptoe; w and m Garnet Parker Erwin; pf. © July 12, 1935; E pub. 49261; Clayton F. Summy co., Chicago. 15518
- High-up in the mountains; w and melody. © 1 c. July 19, 1935; E unp. 107189; Louis W. Kasman, Chicago. 15519
- Hilda's wooden shoes; w Q. S. McCauley, m V. S. Barrows; pf. © May 24, 1935; E pub. 48992; Viva S. Barrows and Queen S. McCauley, Minneapolis. 15520
- Hill billy—cowboy and standard songs; arr. Frank Gaviani; pf. accordion, with w. © June 25, 1935; E pub. 49083; O. Pagani & bro., New York. 15521
- Hills (The) of Fairyland; 7 pieces, Dorothy Pilling; pf. © July 25, 1935; E for. 40315; Forsyth bros., ltd., London. 15522
- Hills of time; song, melody Viola Howard and Slater Brockman. © 1 c. July 25, 1935; E unp. 107404; Ollie Kelley, Chicago. 15523
- Hilo waltz; by A. J. Grice; guit. 1, 2, in diagram. © 1 c. July 5, 1935; E unp. 106431; Majestic conservatory of music, Ft. Wayne. 15524
- Hipp-i-ty hop; by George Hamilton Green, arr. Pietro Deiro; pf. accordion. © July 29, 1935; E pub. 49572; Sam Fox pub. co., Cleveland. 15525
- His Daisy's cigarette; fox-trot song; in G. © 1 c. June 25, 1935; E unp. 106952; Mae McRae, Rickreall, Or. 15526
- Hit it; fox-trot, Frank Ventre; pf. accordion. © 1 c. July 30, 1935; E unp. 107891; Natl. screen service corp., New York. 15527
- Hof-brau (The) song; w E. Odgers, m G. J. Johnson. © July 15, 1935; E pub. 49382; Ernie Odgers and George Johnson, Wildwood, N. J. 15528
- Hold on, little dogies, hold on; song, melody G. Autry and Smiley Burnette. © 1 c. July 1, 1935; E unp. 106265; Gene Autry, Hollywood, Calif. 15529
- Holiday; by Ethel Ponce, arr. D. Savino; 2 pfs. © July 25, 1935; E pub. 49561; Robbins music corp., New York. 15530
- Holiday fever; pf. with w. © 1 c. July 2, 1935; E unp. 106344; Ruth Ann Justice, Dunedin, Fla. 15531
- Hollywood blues; song, m B. Rich. © June 1, 1935; E pub. 48671; Ada Herndon, Linn, Mo. 15532
- Hollywood is calling me; m Sylvester Long Cross; pf., with w. © 1 c. July 29, 1935; E unp. 107774; Guy Everet Smith, San Antonio. 15533
- Holy Father, we adore Thee; anthem, Dimitri Bortniansky, arr. F. Flaxington Harker; sop. or ten. solo, mixed quartet and cho.; organ acc. © July 6, 1935; E pub. 49182; Harold Flammer, inc., New York. 15534
- Home; song. © 1 c. July 11, 1935; E unp. 106686; Clyde L. Hulsizer, Des Moines. 15535
- Home by the sunset sea; w and m Laurel Marguerite Dust; mixed voices. © Jan. 30, 1935; E pub. 49338; Richard Drake Saunders, Los Angeles. 15536
- Home in the west; w and melody. © 1 c. July 2, 1935; E unp. 106365; Lloyd E. Hutchings, Vetat, S. D. 15537
- Home 'neath the pines; w Sutherland and Aronsen, m Sylvester Long Cross; pf. © 1 c. July 29, 1935; E unp. 107759; Chester Westley Sutherland and Maud Ethel Aronsen, Oroville, Calif. 15538
- Home! Sweet home; by Henry B. Bishop, arr. Willis Conolly; Spanish guit., in diagram. © Dec. 20, 1934; E pub. 49399; Harry G. Stanley, Rocky River, O. 15539
- Home to Michigan; song, m James L. Brown; with ukulele arr. © 1 c. July 1, 1935; E unp. 106251; Lee Donnelly, Kalamazoo, Mich. 15540
- Homenaje a Carlos Gardel; tango, letra Nenette Noriega, y melodía. © 1 c. July 17, 1935; E unp. 107012; Tito Guizar, New York. 15541
- Homeward bound; sea chanty, w anon., m arr. Pauline Winslow; men's cho. © July 11, 1935; E pub. 49435; G. Schirmer, inc., New York. 15542

- When the world forgets I'll remember you; waltz, w Carol Lynne, melody S. Adelman and B. Adelman. © 1 c. July 10, 1935; E unp. 107178; Caroline Spotts, Muncy, Pa., Sam Adelman and Ben Adelman, Washington. 17237
- When we say good-night; fox-trot song; in A flat. © 1 c. June 18, 1935; E unp. 106938; Jack Corey, Detroit. 17238
- When you and I were young Maggie; by J. A. Butterfield, arr. Mort H. Glickman; pf. © Apr. 4, 1935; E pub. 49319; Calumet music co., Chicago. 17239
- w George W. Johnson, m J. A. Butterfield, arr. Harry Stanley; Hawaiian steel guit., in diagram. © Dec. 20, 1932; E pub. 49391; Oahu pub. co., Cleveland. 17240
- When you are in my arms; from Old Man Rhythm, w Johnny Mercer, m Lewis E. Gensler; with arr. for guit., etc. © July 22, 1935; E pub. 49493; Irving Berlin, inc., New York. 17241
- When you like me like I like you, then the liking is called love; m Roy Kohler; pf., with w. © 1 c. June 22, 1935; E unp. 106423; Edna Bright, Auburn, Neb. 17242
- When you're beside me; w and melody Bill Severo, with collaboration of Florence Trysnes. © 1 c. July 27, 1935; E unp. 107565; William S. Capalbo, Brooklyn. 17243
- When you said, We're through; song. © 1 c. July 26, 1935; E unp. 107495; Clark Houck, West Jefferson, N. C. 17244
- When you say goodbye; song. © 1 c. July 29, 1935; E unp. 107609; Maynard Niles Kinney, Berkeley, Calif. 17245
- When you seem so near; w and melody. © 1 c. July 31, 1935; E unp. 107943; Antoinette deBert, Decatur, Ga. 17246
- When you sing, make it ring, it's good for the soul; w and melody. © 1 c. July 18, 1935; E unp. 107076; Edward Butterfield, Brooklyn. 17247
- When you were mine; w Leita Roderic, m Sylvester Long Cross; pf. © 1 c. July 29, 1935; E unp. 107705; Charlotte Ann Stearns, Norwood, N. Y. 17248
- Where are you now; song, m Eloise Stocking. © 1 c. July 24, 1935; E unp. 107346; Elizabeth Kelly, Los Angeles. 17249
- Where are you tonight—lover; w and melody. © 1 c. July 17, 1935; E unp. 107048; Robert M. Ellery, Toledo. 17250
- Where moonbeams and roses were bliss; w Fred Gibbs, m Sylvester Long Cross; pf. © 1 c. July 29, 1935; E unp. 107682; James Frederick Gibbs, Gilroy, Calif. 17251
- Where the arches used to be; w and m Bud Flanagan and Horatio Nicholls; with arr. for ukulele, etc. © June 25, 1935; E for. 40128; Lawrence Wright music co., ltd., London. 17252
- Where the morning glories climb; song. © 1 c. July 15, 1935; E unp. 106762; Dorothy Stewart, Herculaneum, Mo. 17253
- Where the Rappahannock flows; fox trot song; in A flat. © 1 c. June 18, 1935; E unp. 106948; Betty Churchill Jones, Roanoke, Va. 17254
- Where the Shannon flows down to the sea; w and m Jack Lumsdaine. © June 24, 1935; E for. 40242; Sterling music pub. co., Sydney, Australia. 17255
- Which is it; w and melody. © 1 c. July 25, 1935; E unp. 107438; John Erwin, Winslow, Ariz. 17256
- While I'm away I'll write to you; m Burrell Van Buren; pf., with w. © 1 c. July 18, 1935; E unp. 107082; Claude H. Brady, Bison, Kan. 17257
- Whip-poor-will; w and m Garnet Parker Erwin; pf. © July 12, 1935; E pub. 49262; Clayton F. Summy co., Chicago. 17258
- Whisper it wind; valse song; in G. © 1 c. July 13, 1935; E unp. 107147; Georgia Downs, Tucson, Ariz. 17259
- Whisper (The) of a name; fox-trot song; in F. © 1 c. June 25, 1935; E unp. 106955; Marie Taverna, Watertown, Mass. 17260
- Whispering waves; waltz song. © 1 c. July 8, 1935; E unp. 106567; Warren G. Rice, Colville, Wash. 17261
- White (Paul) Five miniatures; orch. Sc. and pats. © Dec. 31, 1934; E pub. 49383; Elkan-Vogel co., inc., Philadelphia. 17262

- Echo (The) of my heart; w and melody Jack Long. © 1 c. Nov. 22, 1935; E unp. 113664; John George Long, Chicago. 25141
- Echoes d'Auvergne; valse bourrée, C. Arfeuille, arr. H. Mateo; pf. conducteur, accordeon ou violon. © Aug. 1, 1935; E for. 41527; H. Mac-Knight, Paris. 25142
- Eco, une su voz con la mia (Echo, bring her sweetest voice to me); fox-trot, w and melody. © 1 c. Nov. 16, 1935; E unp. 113989; José R. Carreón, New York. 25143
- Eenie, meenie, miney, moe; song, melody Eloise Stocking. © 1 c. Nov. 5, 1935; E unp. 112623; Myrtie Wise Stroup, Quitaque, Tex. 25144
- Effective stretching exercises for the pianist. © 1 c. Nov. 20, 1935; E unp. 113469; Hugo Scherzer, Santa Monica, Calif. 25145
- Eibige (Di) frage; w and melody. © 1 c. Nov. 15, 1935; E unp. 113178; Charls Simon, Brooklyn. 25146
- Either give up horses, or give up me; arr. W. G. Utermohlen; med. voice. © 1 c. Nov. 22, 1935; E unp. 113676; Florence S. Goodsell, Coral Gables, Fla. 25147
- Elegie; organ. © Nov. 18, 1935; E pub. 51639; Will H. Lebo, Hamilton, O. 25148
- Elephant gay; from the shadow play, w and m Lee Ruttle, arr. Clarence Jordan. © Nov. 29, 1935; E pub. 51811; Red gate shadow players, New York. 25149
- Embers; song. © 1 c. Nov. 4, 1935; E unp. 112501; Ida Lou Cooke, Medora, Ill. 25150
- Emmanuel; Christmas song, w William C. Dix, m Charles Gilbert Spross. 1. In C.—2. In A flat. © Nov. 6, 1935; E pub. 51451; John Church co., Philadelphia. 25151
- En attendant; blues, de Broadway, paroles Roger-Fernay, m Charles Tucker. © Aug. 1, 1935; E for. 41536; Editions Coda, s. a., Paris. 25152
- Encore une valse-musette; valse, paroles Ch. L. Pothier et Jan Marotte, m Maurice Marsac et Fietter. © Aug. 1, 1935; E for. 41443; Editions Salabert, Paris. 25153
- End (The) of the trail; w and m Gene Autry and Smiley Burnette, arr. Wm. F. Schiller. © 1 c. Nov. 13, 1935; E unp. 112954; Republic productions, inc., North Hollywood, Calif. 25154
- Enjoy once more the maddening spot in paradise; fox-trot song. © 1 c. Nov. 26, 1935; E unp. 113887; Alfonso Ardin, San Juan, Puerto Rico. 25155
- Ensemble (The) method; by Manuel Smith. bk. 1. 1. Violin or mand.—2. Hawaiian guit.—3. Ten. banjo.—4. Spanish guit. © Sept. 26, 1935; E pub. 51470-51472, 51474; Roy Smeck pub. co., Jersey City. 25156-25159
- Erie (The) canal; traditional w, pf. transcription arr. Hugo Friedhofer. © 1 c. Oct. 31, 1935; E unp. 112463; Movietone music corp., New York. 25160
- Erin is calling me; fox-trot song, melody Ben Adelman. © 1 c. Nov. 8, 1935; E unp. 112780; Mabel W. Fendly, Fort Johnson, N. Y. 25161
- Eterna Milonga; tango, José M. Lucchesi, arr. Francis Salabert; orch. ptes., avec paroles francaises et espagnoles. © Aug. 1, 1935; E for. 41447; Editions Salabert, Paris. 25162
- Etheopie's winnin' th' wah; song, m Sidney Warren Moore and Richard Finis Moore; with guit. arr. © 1 c. Nov. 29, 1935; E unp. 114027; Thomas Marion Howell, Memphis, Tenn. 25163
- Ethiopia shall be free; hymn. © Nov. 19, 1935; E pub. 51645; Maud L. Good, E. Liverpool, O. 25164
- Étude du rythme; par Georges Dandelot. 1^{er} cahier. Mesures simples.—2^{me} cahier. Mesures composées. © Aug. 1, 1935; E for. 41488, 41489; Alphonse Leduc & cie., Paris. 25165, 25166
- Etude for chorus no. 2; Latvian spiritual, melody from a Russian folk song, English text and choral arr. I. B. Sergei; mixed voices. © Aug. 15, 1935; E pub. 51621; Kalnin, Mohr & Apsit, Los Angeles. 25167
- Etudes for natural dance; pf. © Aug. 10, 1935; E pub. 51405; Daisy Dunham, Los Angeles. 25168

- One (The) whom I love and other new songs; w C. F. Weigle and others. © Aug. 12, 1935; E pub. 51236; Chas. F. Weigle, Winona Lake, Ind. 23737
- One wish; song. © 1 c. Sept. 19, 1935; E unp. 111034; Katherine J. Axness, Sisseton, S. D. 23738
- Only stay home; w Lillian Weisdorfer, m Sylvester Long Cross; pf. © 1 c. Oct. 8, 1935; E unp. 111311; Lillian Marie Weisdorfer, Roy, N. M. 23739
- Onward, Christian soldiers; song, new pf. arr. and Hawaiian guit. solo, in note and diagram, Nick Manoloff; with ukulele and guit. chords. © Oct. 25, 1935; E pub. 51177; Calumet music co., Chicago. 23740
- w Sabine Baring Gould, m Arthur Seymour Sullivan, arr. Willis Conolly; ten. guit., in diagram. © Dec. 20, 1934; E pub. 51012; Harry G. Stanley, Rocky River, O. 23741
- Onward goes America; march song. © 1 c. Oct. 8, 1935; E unp. 111283; Arthur Reginald Berg, Brooklyn. 23742
- Onward ride to the dawn; from Cinderella; pf. © 1 c. Oct. 24, 1935; E unp. 112078; George Touller, Brooklyn. 23743
- Operetten-rausch; Wiener potpourri, hrsg. Victor Hruby; klavier mit beigefügtem text. © July 25, 1935; E for. 41132; B. Schott's söhne, Mainz, Germany. 23744
- Optical illusion; w and melody. © 1 c. Oct. 12, 1935; E unp. 111480; Isma Palmisano, New Orleans. 23745
- Orange (The) and blue; pf., with w. © Oct. 19, 1935; E pub. 50897; Donald M. Brown, Washington. 23746
- Orchesterspiel; v. Wilhelm Maler. Partitur. © July 25, 1935; E for. 41136; B. Schott's söhne, Mainz, Germany. 23747
- Original individual; w La Veda Sheridan, and melody. © 1 c. Oct. 5, 1935; E unp. 111151; Eileen Marie Edblom, Eugene, Or. 23748
- Orpheus with his lute; w Shakespeare, air anon., arr. Ralph Greaves; unison voices. © June 27, 1935; E for. 41261; Oxford univ. press, London. 23749
- Otis (Edna Cogswell-) Ten responses; mixed voices. © Oct. 7, 1935; E pub. 50952; H. W. Gray co., New York. 23750
- Our beautiful Black Hills; song. © Aug. 5, 1935; E pub. 50703; Olive Lathrop, Deadwood, S. D. 23751
- Our beloved country; w and melody. © 1 c. Oct. 28, 1935; E unp. 112281; Steve Phillips, Youngstown, O. 23752
- Our bundle from heaven; song. © 1 c. Oct. 15, 1935; E unp. 111590; Axel Schalin, Buhl, Minn. 23753
- Our castles in Spain; song. © 1 c. Oct. 12, 1935; E unp. 111497; Grace Ullman, Brooklyn. 23754
- Our F. D. R. rules with a smile; song. © 1 c. Oct. 8, 1935; E unp. 111295; William Harry Young, Mount Vernon, N. Y. 23755
- Our flag forever; march song. © 1 c. Oct. 19, 1935; E unp. 111950; Albert Bange, Torreon, Coahuila, Mexico. 23756
- Our governor; march, Fortunato Sordillo; band pts. © Sept. 30, 1935; E pub. 50660; Carl Fischer, inc., New York. 23757
- Our Jesus hath a garden; Dutch carol, arr. Alfred Whitehead; mixed voices; pf. or organ acc. © Oct. 14, 1935; E pub. 50948; H. W. Gray co., New York. 23758
- Our Lady's secret; Christmas carol, w Father Andrew, m George Rathbone. © Oct. 19, 1935; E for. 41332; Banks & son, York, England. 23759
- Our love days are over; song, w Oscar Otterness. © 1 c. Oct. 19, 1935; E unp. 111895; Arthur Glaske, Chicago. 23760
- Our lucky star; w and melody; with chord symbols. © 1 c. Oct. 19, 1935; E unp. 112299; Lewis N. Paul, Santa Cruz, Calif. 23761
- Out of sight, out of mind; from In person, w Dorothy Fields, m Oscar Levant; with arr. for guit., etc. © Oct. 15, 1935; E pub. 50876; Irving Berlin, inc., New York. 23762
- Out of the depths; anthem, w from the Bible, m Alfred Wooler; mixed voices with sop. or ten. solo. © Oct. 11, 1935; E pub. 50828; Clayton F. Summy co., Chicago. 23763

- At the end of a waltz; w and melody.
© 1 c. Nov. 6, 1935; E unp. 112677;
Myra K. Thayer, Boston. 24775
- At the fair; by Eric Hauser; French
horn in F and pf. © Nov. 13, 1935;
E pub. 51803; Carl Fischer, inc., New
York. 24776
- At the manger; Christmas carol, w
anon., m William H. Anderson; 6-pt.
mixed cho.; organ acc. © Oct. 28,
1935; E pub. 51749; G. Schirmer,
inc., New York. 24777
- At the Santa Claus parade; w Mar-
jorie Harper, m Bill Livingston;
with arr. for guit., etc. © Nov. 12,
1935; E pub. 51510; Melo-art music
publishers, New York. 24778
- At your service, Madame; from Stars
over Broadway, w Al Dubin, m Har-
ry Warren; with arr. for ukulele,
etc. © Oct. 28, 1935; E pub. 51293;
Harms, inc., New York. 24779
- Athenian night; song. [Greek text]
© 1 c. Nov. 25, 1935; E unp. 113828;
Achilles D. Stefopoulos, Los Angeles.
24780
- Au clair de lune; mélodie, avec pf. acc.
© 1 c. Oct. 8, 1935; E unp. 112944;
Cécile Simon, Paris. 24781
- Au revoir; fox-trot, aus Tanzmusik, w
u. m Max Niederberger. © Aug. 9,
1935; E for. 41715; Ludwig Dobl-
inger (Bernhard Herzmansky), Vi-
enna. 24782
- Aunque sea en la tumba; bolero, letra
y melodía. © 1 c. Nov. 19, 1935;
E unp. 113438; José R. Carreón, New
York. 24783
- Ausencia; zamba argentina, paroles J.
Liogar, m Luis Mandarino; pf. ©
Aug. 1, 1935; E for. 41508; Julio
Garzon, Paris. 24784
- Ausgewählte klavierwerke; auch für
cembalo o. orgel, Johann Kaspar
Ferdinand Fischer, hrsg. Erich Do-
fflein. © Sept. 25, 1935; E for.
41594; B. Schott's söhne, Mainz, Ger-
many. 24785
- Autumn in Barcelona; by Charles E.
Overholt; pf. © Nov. 25, 1935; E
pub. 51793; Theodore Presser co.,
Philadelphia. 24786
- Autumn leaves; w Stanley F. Weiner,
m John Jacob Loeb, pf. sc. Lou Lea-
man; with arr. for guit. and banjo.
© Nov. 11, 1935; E pub. 51548; Mills
music, inc., New York. 24787
- Autumn (An) sunset; w Janet Donald-
son, m Cuthbert Harris, arr. Preston
Ware Orem; mixed cho. © Nov. 20,
1935; E pub. 51686; Clayton F. Sum-
my co., Chicago. 24788
- Autumn without love; w Reginald J.
Tompkins; pf. treble. © 1 c. Nov.
25, 1935; E unp. 113835; O. M. Wat-
son, Hollywood, Calif. 24789
- Ave Maria; liturgical w, melody E. C.
Masten, new arr. Royal A. Brown.
© 1 c. Oct. 5, 1935; E unp. 111143;
Joseph Masten Kendall, San Diego,
Calif. 24790
- Awake, my heart's beloved; anthem,
w and m Hans Sachs, English, Helen
A. Dickinson, m arr. Reimann—
Clarence Dickinson; solo and mixed
cho.; organ acc. © Nov. 5, 1935; E
pub. 51715; H. W. Gray co., New
York. 24791
- Awakening; w Tot Seymour, melody
Carmen Lombardo and Vee Lawn-
hurst. © 1 c. Nov. 14, 1935; E unp.
113099; Famous music corp., New
York. 24792
- Away in a manger; lullaby, William J.
Kirkpatrick, improvisation Ralph E.
Marryott; organ. © Nov. 22, 1935;
E pub. 51680; Boston music co., Bos-
ton. 24793
- Baby eyes; w and melody Lyla Myers.
© 1 c. Nov. 15, 1935; E unp. 113179;
Lyla Myers Prather, Little Rock,
Ark. 24794
- Baby lips; song. © 1 c. Nov. 16, 1935;
E unp. 113334; Hazel Thies, Minne-
apolis. 24795
- Baby, we don't need the moon; w and
melody. © 1 c. Nov. 4, 1935; E unp.
112596; John Wesley Brewer, Los
Angeles. 24796
- Baby's serenade; new w A. Silverman,
m Jonny Heykens, new arr. Albert
Szirmai; with arr. for guit., etc. ©
Nov. 18, 1935; E pub. 51601; Chap-
pell & co., inc., New York. 24797
- Bach (Johann Sebastian) Adagio;
from the organ toccata in C major,
transcribed Alexander Kelberine; 2
pfs. © Oct. 30, 1935; E pub. 51336;
Elkan-Vogel co., inc., Philadelphia.
24798
- From deepest woe I cry to Thee;
chorale, English version Th. Baker,
melody from J. Walther's book of
chorales, arr. J. S. Bach, ed. Carl

- Lips, lips; song. © 1 c. Nov. 15, 1935; E unp. 113243; Florence S. Goodsell. Coral Gables, Fla. 25885
- Litanie amoureuse; tango habanera, chanson, paroles Rose Noël. © Aug. 1, 1935; E for. 41492; Georget Métayer, Paris. 25886
- Little (The) bench by my door; song, melody Allen Taub. © 1 c. Nov. 23, 1935; E unp. 113739; Almedia Perkins, Stamping Ground, Ky. 25887
- Little booties; w Gertrude Perry; pf. © 1 c. Nov. 13, 1935; E unp. 113034; Sylvester Long Cross, Portland, Or. 25888
- Little brown shoes; song, w Lysbeth Boyd Borie. © 1 c. Nov. 5, 1935; E unp. 113091; Hilda Emery Davis, i. e. Mrs. Meyer Davis, Philadelphia. 25889
- Little butterfly; w and m Valeria Brown. © 1 c. Nov. 20, 1935; E unp. 113457; Valeria Hill Brown, Geneva, Ill. 25890
- Little garden of roses; song, melody Allen Taub. © 1 c. Nov. 23, 1935; E unp. 113744; James L. Boggs, Pitcairn, Pa. 25891
- Little girl blue; from Jumbo, w Lorenz Hart, m Richard Rodgers; with arr. for guit., etc. © Nov. 1, 1935; E pub. 51389; T. B. Harms co., and Max Dreyfus, New York. 25892
- Little Jesus; Christmas carol, w and m Gale Gardner; voices in unison or harmony. © Nov. 8, 1935; E for. 41396; Novello & co., ltd., London. 25893
- Little ladies; valsette, Jeannette Dellafield Thal; pf. © Nov. 25, 1935; E pub. 51567; Bach music co., Boston. 25894
- Little (The) lake; w P. J. O'Reilly, m Denys Grayson. © Oct. 11, 1935; E for. 41601; Cary & co., London. 25895
- Little melody; melody, with pf. acc. © 1 c. Nov. 19, 1935; E unp. 113373; Irving Levine, Chicago. 25896
- Little Miss Muffet's debut; w and melody. © 1 c. Nov. 14, 1935; E unp. 113129; Patricia Channing, Detroit. 25897
- Little one; w and m Leslie Alan Williams; pf. © 1 c. Nov. 13, 1935; E unp. 112999; Sylvester Long Cross, Portland, Or. 25898
- Little rosewood casket; song, arr. Harold Potter; with guit. arr. © June 25, 1935; E pub. 48960; Morris music pub. co., Philadelphia. 25899
- Little serenade; violin. © 1 c. Nov. 5, 1935; E unp. 112618; Murrel Raymond Klinger, Sunbury, Pa. 25900
- Little songs for little folks; beginners and primaries, arr. Helen Miller. © Nov. 26, 1935; E pub. 51733; Gertrude N. Tamplet, Washington. 25901
- Little songs to play and sing; w and m Berenice Benson Bentley; pf. © Nov. 25, 1935; E pub. 51782; Clayton F. Summy co., Chicago. 25902
- Little (The) sweetshop down at the bottom of the lane; w Ralph Butler and Stan. Merrell, m Evan Chard. © Nov. 12, 1935; E for. 41425; Campbell, Connelly & co., ltd., London. 25903
- Little town of my dreams; song. © 1 c. Nov. 1, 1935; E unp. 112448; Mary Frances Hoover, Battle Creek. 25904
- Little toys in the corner; w and m Harry Leon and Leo Towers; with arr. for ukulele, etc. © Nov. 7, 1935; E for. 41637; Sun music pub. co., ltd., London. 25905
- Little (The) white house down in Georgia; song. © Nov. 26, 1935; E pub. 51808; Margaret Wilson Jones, Macon, Ga. 25906
- Little (The) windmills; by François Couperin, arr. Elizabeth Gest; 2 pfs., 4 hands. © Nov. 9, 1935; E pub. 51775; G. Schirmer, inc., New York. 25907
- Living in dreams; song, melody Allen Taub. © 1 c. Nov. 23, 1935; E unp. 113737; Mildred Jenkins, Cleveland, Miss. 25908
- Llorar por ti es mi anhelo; danza; pf., con letra. © 1 c. Oct. 28, 1935; E unp. 112608; Ray Nevarez, Los Angeles. 25909
- Locumba (La); from Music is magic. English, Sidney Clare, w and m Raul Roulien; with arr. for guit., etc. © Nov. 25, 1935; E pub. 51732; Movietone music corp., New York. 25910
- Log cabin; w and m Mary Stewart. © 1 c. Nov. 16, 1935; E unp. 113313; Mary Stewart Kidd, Seattle. 25911

**EXHIBIT 39 -
NON-PAPER EXHIBIT**

[PURUSANT TO L.R. 11-5.1 MANUALLY LODGED AND FILED]

EXHIBIT 40

I

DEC -9 1935

DEC -9 1935

E1

Summy (Clayton F.) co.

Happy birthday to you; pf., with words.

Fee rec'd \$

\$2.00

©Clayton F. 51990

58096 DEC-935

IMPORTANT. Applicant must not write in the blank lines above; to do so will cause delay in Copyright Office.

NAME

APPLICATION FOR COPYRIGHT

FOR REPUBLISHED MUSICAL COMPOSITION WITH NEW COPYRIGHT MATTER

REGISTER OF COPYRIGHTS, Washington, D. C.

Date

December 6, 1935

to the REPUBLISHED MUSICAL COMPOSITION named herein, containing new copyright matter, by a citizen of the United States, TWO complete copies of the best edition published on the date of deposit are herewith deposited to secure copyright registration according to the provisions of the Act of Mar. 3, 1909, §§ (statutory fee for registration and certificate) is also enclosed. The copyright is claimed upon the new copyright matter as stated below, the author of which is a citizen or subject of the country stated below. The copyright is claimed by

- (1) Name of copyright owner
Clayton F. Summy
- (2) Address of copyright owner
27 E. Madison St. Chicago, Ill.
- (3) Author of new copyright matter
Clayton F. Summy

(3) Author of new copyright matter Mrs. R. J. Traub

(City)

(State)

(Country)

(City)

(State)

(Country)

USE THIS BLANK WITH NEW COPYRIGHT MATTER

(4) Country of which the author of the new matter is a citizen U.S.A.

(Country)

(5) If an alien author domiciled in the United States, state where

(6) Title of musical composition Happy Birthday to you

DATE COPY RETURNED DEC 27 1935

(7) State exactly on what new matter copy-right is claimed (see Sec. 6 of Act of 1909)

piano solo, with lyrics

(8) Published on the day of month, and year when the work was placed on sale, sold, or publicly distributed

1935

(9) Send certificate of registration to Clayton J. Summery Co.

429 S. Wabash Ave. Chicago, Ill.

(10) Name and address of person or firm sending the fee Clayton J. Summery Co.

429 S. Wabash Ave. Chicago, Ill.

(City) (State) (Please turn this over)

(July, 1933-3,000)

U. S. GOVERNMENT PRINTING OFFICE: 1934

**EXHIBIT 41 -
NON-PAPER EXHIBIT**

[PURUSANT TO L.R. 11-5.1 MANUALLY LODGED AND FILED]

EXHIBIT 42

RECEIVED FOR RECORD

June 8, 1942

IGNOR^s, Patty S. Hill and Jessica M. Hill,

AGNEE, The Hill Foundation, Inc.,

The following assignment of copyright is recorded in the Copyright Office of the United States,

June 8, 1942, in book 485, pages 242-243, in conformity with the laws of the

States respecting copyright.

KNOW ALL MEN BY THESE PRESENTS, that we, PATTY S. HILL and JESSICA M. HILL, both residing at 21 Claremont Avenue, New York, New York, parties of the first part, for and in consideration of the sum of one (\$1.00) dollar and other good and valuable consideration to each of us in hand paid by THE HILL FOUNDATION, INC., a New York corporation with its principal office at Room 4810, 70 Pine Street, New York, New York, party of the second part, the receipt whereof is hereby acknowledged, have sold, transferred, conveyed and assigned, and by these presents do hereby sell, transfer, convey and assign to the said party of the second part, all our right, title and interest, joint and several, in and to the following copyrights and renewal copyrights:

1. A work entitled "Song Stories for the Kindergarten", words written and adopted by Patty S. Hill with an introduction by Anna E. Bryan; music by and arranged by Mildred J. Hill, entered in the United States Patent Office in the name of Clayton F. Sunny under No. 48,887 on October 13th, 1893; renewal registration in the name of Jessica M. Hill as next of kin under No. R 19,043 on September 3rd, 1921.

2. A work entitled "Song Stories for the Kindergarten", new edition, revised, enlarged and illustrated, words written and adopted by Patty S. Hill, illustrations by Margaret Byers, entered in the name of Clayton F. Sunny under No. 34,260 on June 8th, 1896; renewal registration in the name of Jessica M. Hill as next of kin under No. R 25,771 on January 9th, 1924.

3. A work entitled "Song Stories for the Sunday School" by Patty S. Hill and Mildred J. Hill, entered in the name of Clayton F. Sunny under No. 20,441 on March 20th, 1899; renewal registration in the name of Patty S. Hill under No. R 36,618 on January 3rd, 1927.

4. A work entitled "Good Morning To All", by Mildred J. Hill, entered in the name of Clayton F. Sunny under No. C 142,468 on February 7th, 1907; renewal registration in the name of Jessica M. Hill and Patty S. Hill as next of kin under No. R 34,877 on January 2nd, 1935.

TOGETHER WITH all the right, title and interest of the parties of the first part in and to all licenses, agreements and contracts for the publication and sale of the aforementioned works, and in and to any and all rights, demands, claims and causes of action, heretofore accrued or which may at any time hereafter accrue, for unpaid royalties

or by reason of any infringements of said copyrights and
renewal copyrights, and howsoever arising.

TO HAVE AND TO HOLD the same unto the said party
of the second part, its successors and assigns forever.

IN WITNESS WHEREOF the parties of the first part
have executed this instrument at Clinton, Connecticut, this
second day of June, one thousand nine hundred and forty-two.

Walter S. Hill.....
Individually and as next of kin,

Jessica M. Hill.....
Individually and as next of kin.

STATE OF CONNECTICUT)
COUNTY OF *Middlebury* 33.

Clinton Conn

On this 5 day of June, 1942, before me, a notary
public, personally came WALTER S. HILL and JESSICA M. HILL, to
me known and known to me to be the individuals described in
and who executed the foregoing instrument, and they severally
duly acknowledged to me that they executed the same.

Walter S. Hill.....
Jessica M. Hill.....

EXHIBIT 43

SUPPLEMENTARY MUSIC FOR SCHOOLS

59. Glad Springtime. (Inter. & H. S.)	Ben. H. Price. .10
60. The Whiney Crow. (Inter. & H. S.)	Ben. H. Price. .06
61. Squirrel, You're a Saucy Fellow. (H. S.)	Georges B. Nevin. .06
62. The Flag Goes By. (Inter. & H. S.)	Nellie Poorman. .08
63. Children's Peace Anthem. (Inter.)	Katharine C. Baker. .08
64. A Life on the Ocean Wave. (Inter. & H. S.)	Howard G. Bennett. .06
65. To Daffodils (Inter. & H. S.)	Howard G. Bennett. .06
66. We're a Bunch of Jolly Good Fellows. (Inter. & H. S.)	Howard G. Bennett. .06
67. Work (Inter.)	Georgina McIntyre. .06
68. It Isn't Raining Rain to Me (Inter.)	Will A. Harding. .06
69. Winona (H. S.)	George Colburn. .08
70. Let Us Make A Garden (Prim.)	Jessie L. Gaynor. .06
71. Illinois Union or two-part chorale; also for mixed voices	Ethelyn Mabry Newell. .06
72. The Call O'Spring (H. S.)	Irving Gingrich. .06
73. Li'l Boy (H. S.)	Hazzard-Holzworth. .06
74. Song of the Waves (Trio) (H. S.)	Joseph N. Moos. .06
75. Out Where the West Begins (Trio) (H. S.)	Philleo-Holzworth. .10
76. All for America. (Inter. & H. S.)	Clay Smith. .08
77. A Shepherd's Song (H. S.)	Joseph A. Michel. .06
78. The Cuckoo Clock Three-part (Inter. & H. S.)	Grant-Schaefer. .10
79. U. S. A. (Inter. & H. S.)	Ethelyn Mabry Newell. .08
80. Children's Easter Song (Inter.)	Rena S. Brush. .06
81. Mother, Chaste and Fair Two-part. (Inter. & H. S.)	Sister Mary Verda B.V.M. .10
82. A Festive Song Two-part. (Inter.)	Joseph N. Moos. .08
83. Hie Away! (H. S.)	Pauline Penn Russell. .15
84. Chicago The Beautiful	Edna Winifred Cookingham. .06
85. Those Evening Bells (Part song)	David Nyvall, Jr. .08
86. The Slumber Boat (Two-part)	Jessie L. Gaynor. .10
87. The Fiddler (Two-part)	G.A. Grant-Schaefer. .08
88. The Cuckoo Clock (Two-part)	G.A. Grant-Schaefer. .10

Prim. stands for Primary Grades. Inter. for Intermediate Grades. H. S. for High Schools.

Chicago
CLAYTON F. SUMMY CO.
429 So. WABASH AVE.

SCHOOL CHORUS MUSIC

DEC -9 1935
Oct pub. 51988

No.		Price
81	SONG OF GREETING (SATB)	.10
8	THE CURFEW (SATB)	.10
92	COME THE HOURS ARE FLEETING (SSA)	.12
86	THE SLUMBER BOAT (SA)	.10
26	THE SLUMBER BOAT (SSA)	.10
86	TO DAFFODILS (SSA)	.06
86	THE CUCKOO CLOCK (SA)	.10
78	THE CUCKOO CLOCK (SSA)	.10
68	IT ISN'T RAINING RAIN TO ME (Unison)	.06
94	THE MAN IN THE MOON (Unison)	.10
52	CARMENA (SSA)	.12
55	A SONG OF CHEER (SA)	.08
56	THE TROUT (SA)	.08
91	WHEN THE REGIMENT GOES MARCHING (SA)	.06
96	A SAILOR DEAR (SSA)	.10
96	HAPPY BIRTHDAY (Unison)	.08

Gaetano Donizetti .10
Harvey B. Gaul .10
Jessie L. Gaynor .12
Jessie L. Gaynor .10
Jessie L. Gaynor .10
Howard G. Bennett .06
G.A. Grant-Schaefer .10
G.A. Grant-Schaefer .10
Will A. Harding .06
Will A. Harding .10
H. Lane Wilson .12
Franz Schubert .08
Franz Schubert .08
Jessie L. Gaynor .06
Cliff L. Perkins .10
Mildred J. Hill .08

CLAYTON F. SUMMY COMPANY
CHICAGO NEW YORK

WC0000413

Happy Birthday to You!

Arr. by Mrs. B. R. Forman

Unison Song

MILDRED J. HILL

Lively

First system of musical notation for 'Happy Birthday to You!'. It features a treble and bass staff with a key signature of one sharp (F#) and a 3/4 time signature. The melody is written in the treble staff, and the bass staff provides a simple accompaniment. The lyrics 'Hap-py birth - day to you, Hap-py birth - day to' are written below the notes. The first measure is marked with a dynamic of *mf*.

Second system of musical notation. The melody continues with the lyrics 'you, Hap-py birth - day, dear * Hap-py birth - day to'. The asterisk indicates a place for a name. The dynamic *mf* is also present.

Third system of musical notation. The melody continues with the lyrics 'you; May your birth - day be bright, Full of cheer and de -'. The dynamic *mf* is also present.

Fourth system of musical notation. The melody concludes with the lyrics 'light, Hap-py birth - day, dear * Hap-py birth - day to you.' The asterisk indicates a place for a name. The dynamic *mf* is also present.

* Here insert the name of the one celebrating.

Copyright 1935 by Clayton F. Summy Co.
International Copyright

3076

May 6, 1935

**EXHIBIT 44 -
[Copy of "Unusual" Original
Exhibit (L.R. 5-4 & 11-5) 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



E 51988

June 12, 2014

Maria A. Pallante

Register of Copyrights and
Associate Librarian for Copyright Services

C-731 • 06/2011—10,000

Ex. 44

626

P006334

Summy (Clayton F.) co.
Happy birthday to you; unison song.

E1 2 c. rec'd DEC -9 1935
Applicant rec'd DEC -9 1935
Cat pub 51988

Fee rec'd \$ 2.00 58096 DEC-9'35

IMPORTANT. Applicant must not write in the blank lines above; to do so will cause delay in Copyright Office.

NEW APPLICATION FOR COPYRIGHT
FOR REPUBLISHED MUSICAL COMPOSITION WITH NEW COPYRIGHT MATTER
REGISTER OF COPYRIGHTS, Washington, D. C. Date December 6, 1935

the REPUBLISHED MUSICAL COMPOSITION named herein, containing new copyright matter, by a citizen of the United States. TWO complete copies of the best edition published on the date stated herein are herewith deposited to secure copyright registration according to the provisions of the Act of Mar. 4, 1909. \$2 (statutory fee for registration and certificate) is also inclosed. The copyright is claimed upon the new copyright matter as stated below, the author of which is a citizen or subject of the country stated below. The copyright is claimed by

(1) Name of copyright owner Clayton F. Summy Co.
(Write full legal name of copyright owner)

(2) Address 429 S. Wabash Ave. Chicago, Ill.
(Street) (City) (State)

(3) Author of new copyright matter Mrs. R. R. Forman
(Write name in full) (Please turn this over)

USE THIS BLANK ONLY FOR
MUSICAL COMPOSITION REPUBLISHED WITH NEW COPYRIGHT MATTER

(4) Country of which the author of the new matter is a citizen U. S. A.
(MUST be stated)

(5) If an alien author domiciled in the United States, state where

(6) Title of musical composition Happy Birthday to You
ONE COPY RETURNED DEC 27 1935

(7) State exactly on what new matter copy-right is claimed (see Sec. 6 of Act of 1909) Arrangement for Unison Chorus and revised text

(8) Published on the sixth day of December 1935
(State here the day, month, and year when the work was placed on sale, sold, or publicly distributed)

(9) Send certificate of registration to Clayton F. Summy Co.
429 S. Wabash Ave. Chicago, Ill.
(Street) (City) (State)

(10) Name and address of person or firm sending the fee Clayton F. Summy Co.
429 S. Wabash Ave. Chicago, Ill.
(Street) (City) (State)

(July, 1933—3,000) U. S. GOVERNMENT PRINTING OFFICE: 1933 (Please turn this over)

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KYLE A. CASAZZA
ERIN J. COX
CLAIRE YAN
ALLISON S. WOODS
JESLYN A. MILLER
MARK R. SAYSON
CHRISTIAN K. WREDE
PETER E. GRATZINGER
ANJAN CHOUDHURY
JEREMY A. LAWRENCE
BENJAMIN E. FRIEDMAN
CHRISTOPHER M. LYNCH
RAY S. SEILIE
NICHOLAS C. SOLTMAN
ADAM I. KAPLAN
AMELIA L.B. SARGENT
KENNETH M. TRUJILLO-JAMISON
BRYAN H. HECKENLIVELY
LAURA WIRTH
JASMINE M. ROBERTS
JENNIFER A. JONES
LAURA K. LIN
KYLE W. MACH
JEFFREY M. OSOFSKY
GREGORY M. SERGI
ACHYUT J. PHADKE
DAVID A. TAYLOR
NEWMAN NAHAS
TINA W. ARROYO
MARI OVERBECK
JESSE MAX CREED
JOHN M. GILDERSLEEVE
ERIC K. CHIU
SARAH L. GRAHAM
JESSICA BARCLAY-STROBEL
ZACHARY M. BRIERS
JENNIFER M. BRODER
CHRISTINA P. MONODIS
JOHN P. MITTELBEACH
SARAH GARDER
SAMUEL T. GREENBERG
CAROLINE M. M'KAY

EMILY B. VIGLIETTA
WILLIAM J. EDELMAN
KEVIN L. BRADY
EMILY R.D. MURPHY
ELLEN MEDLIN RICHMOND
NICOLE S. PHILLIS
JORDAN D. SEGALL
DANIEL J. HARRIS
VICTORIA A. DEGTAREVA
WESLEY T.L. BURRELL
CHRISTA L. CULVER
ANYA J. GOLDSTEIN
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KURUVILLA J. OLASA
MATTHEW D. ROWEN
KEVIN H. SCOTT
JUSTIN P. RAPHAEL
HANNAH E. SHEARER
ELIA HERRERA
ROBERT W. GRAY, JR.
THOMAS P. CLANCY
JOSHUA PATASHNIK
ERIC C. TUNG
GUHA KRISHNAMURTHI
JOSHUA S. MELTZER
SARA E. CROLL
ANDREW G. PROUT
THANE REHN
ADAM B. WEISS
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ANDREW Z. WOLSTAN

OF COUNSEL
RICHARD D. ESBENSHADE
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RONALD K. MEYER
ALLISON B. STEIN
SUSAN E. NASH
WILLIANA CHANG
MIRANDA KANE
BRAD SCHNEIDER

E. LEROY TOLLES
(1922-2008)

November 6, 2014

A PROFESSIONAL CORPORATION

WRITER'S DIRECT LINE
(415) 512-4016
(415) 644-6916 FAX
adam.kaplan@mto.com

Via Email and U.S. Mail

Betsy C. Manifold (manifold@whafh.com)
Wolf Haldenstein Adler Freeman & Herz LLP
705 B Street, Suite 2770
San Diego, California 92101

Re: *Good Morning To You Productions Corp., et al. v.*
Warner/Chappell Music, Inc., et al.
Lead Case No.: CV 1 3-04460-GIHIK (MRWx)

Dear Betsy:

This letter responds to the outstanding issues that you raised during the parties' meet and confer last week.

1. Defendants' chain of title to 51990 and 51988 registrations: As we noted during our meet and confer last week, we had not focused on the chain of title issue because Plaintiffs had not previously raised it—in their complaints, discovery responses, Rule 26(f) report, or otherwise. Plaintiffs raised this issue for the first time just last Monday, in their draft statement of issues and draft statement of facts.

Clayton F. Summy Co. is identified as the owner of registration certificates 51990 and 51988. These registration certificates entitle Warner/Chappell to a prima facie presumption that Clayton F. Summy Co. obtained a valid assignment of rights from the author(s) of *Happy*

Ex. 45

Betsy C. Manifold

Page 2

Birthday to You. 3 Nimmer §12.11[C] (a defendant accused of infringement “bears the burden of controverting plaintiff’s chain of title” where “a plaintiff who, as assignee of the copyright, first registered a claim of statutory copyright in his name”).

Clayton F. Summy Co. underwent various name changes between 1935, when it registered the 51990 and 51988 copyrights, and 1962, when it renewed these copyrights under the new name of Summy-Birchard Company. The renewal certificates for 51990 (R306186) and 51988 (R30185) state that Clayton F. Summy Co. had changed its name to Summy-Birchard Company as of 1962. Between 1962 and today, Summy-Birchard Company underwent various mergers and name changes, ultimately becoming Summy-Birchard, Inc., one of the defendants in this lawsuit and a wholly-owned subsidiary of Warner/Chappell Music, Inc., the other defendant. Warner/Chappell will produce public records that contain additional detail about the mergers and name changes noted above.

2. Renewal authorization: Summy-Birchard Co. (previously Clayton F. Summy Co.) was authorized to renew the 51990 and 51988 registration certificates in 1962 as a result of the 1944 assignments from Patty and Jessica Hill to the Hill Foundation and from the Hill Foundation to Clayton F. Summy Co.

3. 1934/1935 agreement with Jessica Hill: We do not have a copy of the license referenced in the twenty-fourth paragraph of the amended complaint in *The Hill Foundation v. Clayton F. Summy Co.* We are not aware of any document produced by Plaintiffs that demonstrates that this license was not granted.

4. Other assignments: In addition to the agreement referenced in the preceding paragraph and the 1944 assignments from Jessica and Patty Hill to the Hill Foundation and the Hill Foundation to Clayton F. Summy Co., we are aware of *at least* these additional assignments, which may be germane to Warner/Chappell’s motion and/or opposition to Plaintiffs’ motion: WC0001439 (Archibald Anderson Hill to Patty and Jessica Hill, recorded in 1939); WC0001443 (Administrator of Estate of William Wallace Hill to Clayton F. Summy Co., recorded in 1939); WC0001446 (Patty and Jessica Hill to Clayton F. Summy Co., recorded in 1939); WC0001453 (Patty and Jessica Hill to The Hill Foundation, Inc., recorded in 1942).

5. Legal authority regarding allegedly defective copyright assignments: The 1976 Act states that “a transfer of copyright ownership ... is not valid unless an instrument of conveyance, or a note or memorandum of the transfer, is in writing and signed by the owner of the rights conveyed.” 17 U.S.C. § 204(a). In “validat[ing], as an alternative to an instrument of conveyance, ‘a note or memorandum of the transfer,’” however, the Act “codifies the judge-made rule under the 1909 Act that, if a prior oral grant is subsequently confirmed in writing, it validates the grant *ab initio* as of the time of the oral grant.” 3 Nimmer § 10.03[A][3] (citations omitted).

Betsy C. Manifold

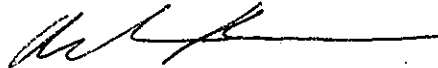
Page 3

6. Scope of prima facie presumptions under 1909 Act: The Ninth Circuit has made clear that under the 1909 Act a certificate of registration creates a presumption of copyright validity, and all that that entails, in addition to creating presumption that the facts stated in the certificate are true. *See, e.g., Acad. of Motion Picture Arts & Sciences v. Creative House Promotions, Inc.*, 944 F.2d 1446, 1451 (9th Cir. 1991).

7. Evidence that Mildred and/or Patty fixed lyrics to *Happy Birthday to You*: Patty Hill, in her deposition in *Hill v. Harris*, repeatedly stated that she and/or her sister Mildred (who died in 1916) "wrote" or "were writing" different lyrics to the melody from *Good Morning to All*. We are not aware of any document produced by Plaintiffs that demonstrates that neither Patty nor Mildred Hill fixed the lyrics to *Happy Birthday to You*. We also are not aware of any authority stating that fixation was required for Mildred and/or Patty's common law copyright or for Clayton F. Summy to obtain copyright registrations 51990 or 51988 in 1935. If you have such authority, please let us know.

8. Infringement actions based on 51990 and/or 51988: We have not undertaken a search to determine whether Warner/Chappell and/or its predecessors-in-interest have filed claims for infringement of the 51990 and/or 51988 copyrights.

Very truly yours,



Adam I. Kaplan

cc Mark Rifkin
Randall S. Newman

EXHIBIT 46

M1998
H. Hill Mildred
"Happy Birthday"

January 23, 1961

Dear Mr. Olson:

Your request of January 3 for a copy of the Green edition of "Happy Birthday," T. pub 51990, has been referred to the Music Division, and we are forced to report once more the situation that has been reported when previous orders for copies of this edition were received.

According to the Copyright Office records, one of the two deposit copies was returned to Jimmy, the claimant, on December 27, 1935. The other copy is supposed to have been transferred to the Music Division. We have no reason to believe it was not, but on the other hand we have made repeated and lengthy searches without ever finding the copy, at least within the fifteen years of my experience here. This time, as every time, another search was made in the hope that the piece might have turned up in the meantime; but it had not. (I should explain that a great majority of our sheet music is not cataloged but has to be located - some two million or so items of it - through various facets of our classification scheme or through the copyright information.)

We are sorry not to be able to fill your request, and I assure you that should Mr. Green's arrangement ever come to our eyes we shall certainly rejoice and pass along the news to you.

Sincerely yours,

William Lichterman
Acting Head
Reference Section

Mr. Robert G. Olson
Editor
Sammy-Birchard Publishing Company
1834 Ridge Avenue
Evanston, Illinois
w:lpew

cc: Photoduplication Service
cc: Oliver Dudley

Q1A

EXHIBIT 47

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3 WESTERN DIVISION

4

5 -----x

6 GOOD MORNING TO YOU PRODUCTIONS CORP.,
7 et al.,

8 Plaintiffs,

9 vs.

10 WARNER/CHAPPELL MUSIC INC., et al.,
11 Defendants.

12 -----x

13 Lead Case No. CV 13-04460-GHK (MRWx)

14

15

16

17 DEPOSITION OF THOMAS B. MARCOTULLIO

18 New York, New York

19 Tuesday, June 3, 2014

20 CONFIDENTIAL

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22

23

24 Reported by: David Henry

25 JOB NO. 80120

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June 3, 2014

9:00 a.m.

Videotaped 30(b)(6) Deposition of
THOMAS B. MARCOTULLIO, held at the
offices of Wolf Haldenstein Adler Freeman
& Herz, 270 Madison Avenue, New York, New
York, pursuant to Notice, before David
Henry, a Certified Court Reporter and
Notary Public of the State of New York.

1 A P P E A R A N C E S:

2

WOLF HALDENSTEIN ADLER FREEMAN
& HERZ

3

Attorneys for Plaintiffs

4

270 Madison Avenue

New York, NY 10016

5

BY: MARK RIFKIN, ESQ.

AND: BETH LANDES, ESQ.

6

7

RANDALL S. NEWMAN

Attorneys for Plaintiffs

8

37 Wall Street

New York, NY 10005

9

BY: RANDALL NEWMAN, ESQ.

10

MUNGER ROLLES & OLSON

11

Attorneys for Defendants and
the Witness

12

355 South Grand Avenue

Los Angeles, CA 90071

13

BY: KELLY KLAUS, ESQ.

14

15

16

17

18

19 ALSO PRESENT:

20

ELLEN HOCHBERG, ESQ.,

Warner Music Group

21

ALI TOUMADJ, Summer Associate,

22

Wolf Haldenstein Adler & Herz

23

MANUEL GARCIA, Videographer

24

25

1 THE VIDEOGRAPHER: This is the
2 start of the tape labelled number one
3 in the videotaped deposition of Mr.
4 Thomas B. Marcotullio in the matter of
5 Good Morning To You Productions versus
6 Warner/Chappell Music, on June 3rd,
7 2014, at approximately 9:06 a.m. My
8 name is Manuel Garcia for TSG
9 Reporting, Inc, and I am the legal
10 video specialist. The court reporter
11 is David Henry in association with TSG
12 Reporting. Counsel, will you please
13 introduce yourselves.

14 MR. RIFKIN: Mark Rifkin for the
15 plaintiffs.

16 MR. NEWMAN: Randall Newman, for
17 the plaintiffs.

18 MS. LANDES: Beth Landes for the
19 plaintiffs, and with us is our summer
20 associate Ali Toumadj.

21 MR. KLAUS: Kelly Klaus for the
22 defendants, and with me is Ellen
23 Hochberg from the Warner Music Group.
24
25

1 application which is now the bottom half of
2 Marcotullio 11, what does it say the new
3 matter for which copyright was claimed?

4 A. As I mentioned earlier, it's
5 arrangement as easy piano solo with text.

6 Q. And what exactly was the text?

7 A. I'm sorry?

8 Q. What was the text?

9 A. Oh, my reading the face of it,
10 whatever that was referred to as the
11 musical composition there registering for
12 the new copyright matter. So there is --
13 obviously they were registering it.

14 Q. Okay. Turn back if you would to
15 the document we marked for identification
16 as Marcotullio Exhibit 5. This is the
17 deposit copy for 51988, right?

18 A. Yes.

19 Q. Did you find -- and we talked
20 about the fact that there was a stamp on it
21 from the Copyright Office with 51988 on it,
22 right? On Marcotullio 5. You don't have a
23 document like that with a stamp on it from
24 the Copyright Office for 51990, correct?

25 MR. KLAUS: I think it's been

1 asked and answered, but you can answer
2 again.

3 A. I have not received a copy of a
4 deposit copy.

5 Q. Okay. And you are aware that
6 there was some effort to find out whether
7 there was a deposit copy or not, correct?

8 A. I received a copy of a letter,
9 yes, in connection with a request for a
10 deposit copy.

11 (Marcotullio Exhibit 12, WC405,
12 marked for identification.)

13 Q. Mr. Marcotullio, the court
14 reporter has marked for identification as
15 Exhibit Marcotullio 12 a one-page document
16 with the production WC405. This appears to
17 be a letter from William Lichtenwanger or
18 something like that from the Copyright
19 Office to Robert G. Olson of
20 Summy-Birchard Publishing Company dated
21 January 23, 1961. Is this the document you
22 were referring to just a moment ago when
23 you said you saw a letter about the deposit
24 copy?

25 A. This is the letter I was

1 barely see it, and I hadn't noticed it
2 prior.

3 Q. Okay. But this appears to be the
4 sheet music that was one of the two pieces
5 of sheet music that you mentioned just a
6 few moments ago, correct?

7 MR. KLAUS: Object to the form.
8 You can go ahead and answer.

9 A. It looks similar to what I
10 reviewed. Again, that third page makes me
11 just wonder whether it's the same.

12 Q. Okay. Does this indicate the
13 name Preston Ware Orem on it anywhere?

14 MR. KLAUS: You're talking
15 about Exhibit 13.

16 Q. Yes, sir, I am. Does Marcotullio
17 13 have the name Preston Ware Orem on it
18 anywhere?

19 A. I don't see that name on here,
20 no.

21 Q. Now, the claim for the copyright
22 51990 is an arrangement as an easy piano
23 solo with text.

24 A. Yes.

25 MR. KLAUS: I'm sorry, wait a

1 minute. You said the claim for it is
2 -- you're reading from what it says on
3 line number seven on Exhibit 11? Is
4 that correct?

5 MR. RIFKIN: Correct.

6 Q. It says arrangement as easy piano
7 solo with text, right?

8 A. Yes.

9 Q. Do you believe that the sheet
10 music for -- on page two of Marcotullio 13
11 is an easy piano solo, is an arrangement as
12 an easy piano solo with text?

13 MR. KLAUS: Objection to form.
14 You can answer.

15 A. Yeah, I can't say exactly, but it
16 certainly looks like the Happy Birthday To
17 You that I am familiar with. I don't read
18 music, so I can't tell you for certain, but
19 it does look like it.

20 Q. Did anybody tell you that this
21 was an arrangement as an easy piano solo
22 with text?

23 A. I believe what we -- not
24 explicitly, other than this is the music
25 that I understand would be -- if this is

1 the same copy of what I reviewed would be
2 the sheet music that was covered by 51990,
3 similar to the copy of the deposit copy.

4 Q. And it doesn't say Preston Ware
5 Orem's name on it anywhere, does it, on
6 Marcotullio 13?

7 A. No, not that I see, although I
8 haven't studied the last page in detail.

9 Q. Do you recall if the sheet music
10 that you looked at, that you were referring
11 to, had Mr. Orem's name on it?

12 A. No, I don't recall.

13 Q. Let me ask the court reporter to
14 mark the next document for identification?

15 (Marcotullio Exhibit 14, Record
16 of the Filing of Copyright Deposits
17 Under the Act of March 4, 1909, marked
18 for identification.)

19 Mr. Marcotullio, the court
20 reporter has placed before you a document
21 marked for identification as Marcotullio
22 14. It is a one-page document that appears
23 to be a record of the filing of copyright
24 deposits for the year 1935 and this is part
25 of 519. And if you look down toward the

1 Q. Yes. Did the copy you have, was
2 that crossed out?

3 A. My recollection is yes, it was
4 the same copy.

5 Q. Do you know who crossed it out?

6 A. I do not.

7 Q. Or when it was crossed out?

8 A. I do not.

9 Q. Or why it was crossed out?

10 A. I do not.

11 Q. Okay, did you make any inquiry of
12 anyone to find that out?

13 A. Yes, I just asked where we
14 received this and whether we have any
15 information, and again I understand we
16 received this in our records from the Summy
17 transaction and we have no other
18 information with respect to this. No-one
19 else is around, again, at the time to give
20 us any information.

21 Q. Fair enough. When did the
22 Summy-Birchard Company first come into
23 existence?

24 MR. KLAUS: Object to the form.

25 It's outside the scope. You can

1 answer.

2 A. I don't recall all the specifics
3 of Summy-Birchard.

4 Q. Was it in existence in 1935?

5 MR. KLAUS: Object to the form.
6 It's outside the scope. You can
7 answer.

8 A. Yeah, I can't answer.

9 Q. Well, when you looked at this
10 sheet music that was copyrighted by
11 Summy-Birchard in 1935, did you do any
12 investigation to determine whether
13 Summy-Birchard Company even existed in
14 1935?

15 MR. KLAUS: You mean
16 copyrighted by Clayton Summy Company
17 in 1935?

18 Q. No, actually what it says on page
19 two of Exhibit Marcotullio 17, is copyright
20 1935 by Summy-Birchard Company.

21 MR. KLAUS: You're talking
22 about the words that are printed
23 there? I'm really not trying to be
24 difficult.

25 MR. RIFKIN: Yeah, but you

1 really shouldn't be doing this.

2 MR. KLAUS: But I mean this is
3 -- I think it's misleading the
4 witness. But go ahead.

5 MR. RIFKIN: Well, Mr. Klaus,
6 you've made an accusation that I'm
7 trying to mislead the witness by
8 reading the words on the document he
9 said he has seen. And in fact he said
10 it was one of the two pieces of sheet
11 music that he saw which supports the
12 claim that 51990 covers this work.
13 How exactly am I misleading the
14 witness by reading what is on the
15 document?

16 MR. KLAUS: Because you weren't
17 limiting it to the -- your question as
18 phrased is not limiting it to the
19 document. You said copyrighted music
20 in 1935 copyrighted by Summy-Birchard.
21 The statement does say that, but --
22 and I don't want to step on your
23 questioning of the witness, but there
24 is a reason that it says it, which has
25 to do with legal succession and what's

1 required to be in a copyright notice.

2 But anyway, go ahead, ask your
3 question.

4 Q. Mr. Marcotullio, is this a copy
5 of what was deposited with the copyright in
6 1935?

7 MR. KLAUS: Object to the form.
8 You can answer.

9 A. I can't speak to that.

10 Q. If Summy-Birchard Company did not
11 exist in 1935, do you believe it's possible
12 that this is a copy of what was deposited
13 in 1935?

14 A. I can't really answer that. I
15 don't know.

16 Q. Do you know whether the sheet
17 music we marked for identification as
18 Marcotullio 13, page two of Marcotullio 13,
19 if that is what was deposited with 51990?

20 MR. KLAUS: Meaning the exact
21 cop that's Exhibit Number 13?

22 A. That's how I'm interpreting your
23 question.

24 Q. Correct?

25 A. I don't know.

1 A C K N O W L E D G M E N T

2

3 STATE OF NEW YORK)

4 : ss

5 COUNTY OF)

6

7 I, THOMAS B. MARCOTULLIO, hereby

8 certify that I have read the transcript of

9 my testimony taken under oath in my

10 deposition of June 3, 2014; that the

11 transcript is a true, complete and correct

12 record of my testimony, and that the

13 answers on the record as given by me are

14 true and correct.

15

16

17 _____
THOMAS B. MARCOTULLIO

18

19 Signed and subscribed to before

20 me, this day

21 of , 2014.

22

23

24

25 _____
Notary Public, State of New York

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

2

3 STATE OF NEW YORK)

4) ss.:

5 COUNTY OF NEW YORK)

6

7 I, DAVID HENRY, a Notary Public within
8 and for the State of New York, do hereby
9 certify:

10 That THOMAS B. MARCOTULLIO, the
11 witness whose deposition is hereinbefore
12 set forth, was duly sworn by me and that
13 such deposition is a true record of the
14 testimony given by such witness.

15 I further certify that I am not
16 related to any of the parties to this
17 action by blood or marriage; and that I am
18 in no way interested in the outcome of this
19 matter.

20 IN WITNESS WHEREOF, I have hereunto
21 set my hand this 13th day of June, 2014.

22

23

24 -----

25 DAVID HENRY

1 E R R A T A

2 PAGE LINE EMENDATION

3 _____

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19 Signature of Deponent

20 SUBSCRIBED AND SWORN BEFORE ME

21 THIS _____ DAY OF _____, 2014.

22 _____

23 _____

24 (Notary Public)

25 MY COMMISSION EXPIRES: _____

**EXHIBIT 48 -
[Copy of Original "Unusual"
Exhibit (L.R. 5-4 & 11-5) 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



E 51990

June 12, 2014

Maria A. Pallante

Register of Copyrights and
Associate Librarian for Copyright Services

C-731 • 06/2011—10,000

Ex. 48

653

P006336

Summy (Clayton F.) co.

Happy birthday to you; pf., with words.

E1

2 c. rec'd

DEC -9 1935

Application

DEC -9 1935

rec'd

© Cl. pub. 51990c

Fee rec'd \$

\$2.00

58096 DEC-935

IMPORTANT. Applicant must not write in the blank lines above; to do so will cause delay in Copyright Office.

NAW

APPLICATION FOR COPYRIGHT

FOR REPUBLISHED MUSICAL COMPOSITION WITH NEW COPYRIGHT MATTER

REGISTER OF COPYRIGHTS, Washington, D. C.

Date December 6, 1935

On the REPUBLISHED MUSICAL COMPOSITION named herein, containing new copyright matter, by a citizen of the United States, TWO complete copies of the best edition published on the date stated herein are herewith deposited to secure copyright registration according to the provisions of the Act of Mar. 4, 1909. \$2 (statutory fee for registration and certificate) is also inclosed. The copyright is claimed upon the new copyright matter as stated below, the author of which is a citizen or subject of the country stated below. The copyright is claimed by

- (1) Name of copyright owner Clayton F. Summy Co.
(Write full legal name of copyright owner)
- (2) Address 429 S. Wabash Ave. Chicago, Ill.
(Street) (City) (State)
- (3) Author of new copyright matter Penton Ware Drew, employed for hire by Clayton F. Summy Co.
(Write name in full) (Please turn this over)

USE THIS BLANK MUSICAL COMPOSITION REPUBLISHED

ONLY FOR WITH NEW COPYRIGHT MATTER

- (4) Country of which the author of the new matter is a citizen U. S. A.
(MUST be stated)
- (5) If an alien author domiciled in the United States, state where
- (6) Title of musical composition Happy Birthday to you!
ONE COPY RETURNED DEC 27 1935
- (7) State exactly on what new matter copyright is claimed (see Sec. 6 of Act of 1909) Arrangement as sung by piano solo, with text
- (8) Published on the sixth day of December, 1935
(State here the day, month, and year when the work was placed on sale, sold, or publicly distributed)
- (9) Send certificate of registration to Clayton F. Summy Co.
429 S. Wabash Ave. Chicago, Ill.
(Street) (City) (State)
- (10) Name and address of person or firm sending the fee Clayton F. Summy Co.
429 S. Wabash Ave. Chicago, Ill.
(Street) (City) (State)
- (July, 1933—3,000) U. S. GOVERNMENT PRINTING OFFICE: 1933 (Please turn this over)

EXHIBIT 49

RECEIVED FOR RECORD

September 21, 1939

ASSIGNORS, Patty S. Hill and Jessica M. Hill

ASSIGNEE, Clayton P. Senny Co.

PHOTOSTAT COPY

The following assignment of copyright is this twenty-first
of September, 1939, recorded in the Copyright Office of the United States
book 425, page36-39, in conformity with the laws of the United States
respecting copyright.

(July, 1938—5,000)

U. S. GOVERNMENT PRINTING OFF

Ex. 49

656

WC0001446

ASSIGNMENT OF COPYRIGHTS

KNOW ALL MEN BY THESE PRESENTS that we, PATTY S. HILL and JESSICA W. HILL, of New York, New York, in consideration of the sum of One Dollar (1.00) and other good and valuable considerations to us in hand paid by CLAYTON F. SUMMY CO., a Delaware corporation, with its principal office at No. 321 South Wabash Avenue, Chicago, Illinois, the receipt whereof is hereby acknowledged, do hereby sell, convey, assign, transfer, and set over to said Clayton F. Summy Co., all of our property, right, title and interest, in and to the present copyrights and present renewals and extensions of copyrights (including the copyrights and renewals and extensions of copyrights hereinafter specifically described) secured in the United States of America or in any foreign country or countries, in and to the following books and musical compositions:

- (1) "Song Stories for the Kindergarten" (original United States copyright registration, October 13, 1893, entry #45997 or #45997Y; renewal registration, September 3, 1921, renewal registration #19043);
- (2) "Song Stories for the Kindergarten. New edition, revised, illustrated and enlarged." (Original United States copyright registration, June 8, 1896, entry #34260 or #34260B2; renewal registration, January 9, 1924, renewal registration #25771);
- (3) "Song Stories for the Sunday School" (original United States copyright registration, March 20, 1899, entry #20441; renewal registration, January 3, 1927, renewal registration #36618);
- (4) "Good Morning to All" (original United States copyright registration, February 7, 1907, entry #142468 or #G142468; renewal registration, January 2, 1936, renewal registration #34877 or #R34877);

and all of our right, title, and interest in and to all renewals and extensions of the copyrights thereto that have been and may, can, or shall hereafter be secured under the laws now or hereafter in effect in the United States or in any foreign country or countries, and all of our property, right, title, and interest in and to said books and musical compositions, including

both the words and the music thereof, and also all rights, claims, demands, and causes of action which we or either of us now have or hereafter can, shall, or may have against any person or persons who have heretofore infringed any of the rights and privileges which we or either of us may, can, or shall have in and to said books and musical compositions, and the copyrights thereto and the renewals and extensions of said copyrights.

IT IS EXPRESSLY UNDERSTOOD AND AGREED that this assignment includes and effects a sale, assignment, conveyance and transfer of all copyrights to the above enumerated books and musical compositions and of all renewals and extensions of such copyrights which may have been omitted from the descriptions of copyrights, renewals and extensions of copyrights appearing in the above specific enumeration.

IT IS ALSO EXPRESSLY UNDERSTOOD AND AGREED that this assignment includes and effects a sale, assignment, conveyance, and transfer of all of our property, right, title, and interest in and to said books and musical compositions, said copyrights, and renewals and extensions of copyrights, and of said rights, claims, demands, and causes of action which we or either of us may now have or own as next of kin and as assignees of the next of kin of Mildred J. Hill.

IN WITNESS WHEREOF we have hereunto set our respective hands and seals this 2nd day of September, A.D. 1939.

Patty S. Hill (SEAL)
Jessica M. Hill (SEAL)

STATE OF NEW YORK) 33
COUNTY OF NEW YORK)

On the 2nd day of September, A.D. 1939, before me personally came PATTY S. HILL and JESSICA M. HILL, to me known and known to me to be the persons described in and who executed the foregoing instrument, and acknowledged to me that

they executed the same.

VOL. 425 PAGE 38

Landrum
Notary Public

My commission expires *Mar. 30, 1991.*

Ex. 49

659

WC0001449

EXHIBIT 50

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK.	
THE HILL FOUNDATION, INC., Plaintiff,	
-against- CLAYTON F. SUMMY CO., Defendant.	
(Original)	
AMENDED COMPLAINT.	
SAMUEL MANN, Attorney for Plaintiff, 70 PINE STREET, BOROUGH OF MANHATTAN, CITY OF NEW YORK.	
DEC 4 1942 <i>Alford</i>	

U.S. DISTRICT COURT
FILED
DEC 18 1942
S.D. OF N.Y.

Mc 273869 A

UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF NEW YORK.

-----X

THE HILL FOUNDATION, INC.,

Plaintiff,

-against-

AMENDED COMPLAINT.

CLAYTON F. SUMMY CO.,

Civil 19-377.

Defendant.

-----X

Plaintiff, for its amended complaint, respectfully
shows to the Court and alleges upon information and belief:

FOR A FIRST CAUSE OF ACTION.

FIRST: That at the time of the execution and delivery of the hereinafter mentioned and described assignment, plaintiff was and still is a domestic corporation.

SECOND: That the defendant herein was organized as a corporation under the laws of the State of Delaware on or about August 31st, 1931; and that subsequent to the aforesaid date of the filing of its certificate of incorporation but at a time presently unknown to plaintiff or its hereinafter named assignors it became and still is engaged in the business of publishing and generally dealing in music and musical compositions in sheet music and book form in the City of Chicago, State of Illinois.

THIRD: That prior to October 13th, 1893, one PATTY S. HILL and her sister, MILDRED J. HILL, composed and wrote the music and words of a number of songs which were collectively entitled "SONG STORIES FOR THE KINDERGARTEN" by them, and thereby became the proprietors of the music and words of said songs entitled as aforesaid.

FOURTH: Reposing the utmost faith, confidence and trust in one CLAYTON F. SUMMY who was then engaged in the business

of publishing and dealing in music and musical compositions in sheet music and book form, the said PATTY S. HILL and MILDRED J. HILL executed and delivered to the said CLAYTON F. SUMMY (who is hereinafter called SUMMY) a license to publish and sell said book, and to copyright said book in his own name; and in consideration of said license SUMMY agreed to accept, copyright and publish, and to offer for sale in the usual course of business the aforesaid book, and from the proceeds of such sales, if any, to pay to the said PATTY S. HILL and MILDRED J. HILL the sum of ten percent of the retail price per copy for each and every copy so sold.

FIFTH: In accordance with said license SUMMY entered said songs collectively entitled as aforesaid in the United States Patent Office in his own name under copyright number 45,997 on the 13th day of October, 1893; and thereby became a trustee thereof.

SIXTH: That thereafter the said SUMMY formed or caused to be formed a corporation under the laws of the State of Illinois which was known as CLAYTON F. SUMMY CO. and whose charter or certificate of incorporation was filed in the office of the Secretary of State of Illinois on or about January 14th, 1895. Said corporation is hereinafter referred to as "the first corporation."

SEVENTH: That thereafter the said SUMMY and the first corporation published and offered for sale and did sell in book form the songs copyrighted as aforesaid and as in said license provided.

EIGHTH: Said book or work was subsequently revised and enlarged by the said PATTY S. HILL, and a new edition thereof so revised and enlarged was duly copyrighted in the name of SUMMY on the 8th day of June, 1896, under copyright number 34,260.

NINTH: Thereafter and on or about April 17th, 1899, the aforesaid MILDRED J. HILL licensed the first corporation to

publish certain songs from the book entitled "SONG STORIES FOR THE KINDERGARTEN" in a new book to be entitled "SONG STORIES FOR THE SUNDAY SCHOOL", and to copyright the same; and in consideration thereof, said corporation agreed to pay to the said MILDRED J. HILL \$1.20 per hundred for all copies sold of said work, excepting the first three hundred copies.

TENTH: That one of the songs contained in the works mentioned and described in paragraphs "FOURTH" to "EIGHTH" inclusive hereof is one entitled "GOOD MORNING TO ALL" which, with words written by the said PATTY S. HILL, was later entitled "HAPPY BIRTHDAY TO YOU" and was included among the songs copyrighted as aforesaid by the said SUMMY.

ELEVENTH: The said song, "HAPPY BIRTHDAY TO YOU", written and composed by the said PATTY S. HILL and MILDRED J. HILL, thereafter acquired a nation-wide popularity which has continued down to the present time; performances thereof being given vocally, by orchestras, in various dramatic performances on the stage, and in various forms over the radio; all of which was and still is known to this defendant.

TWELFTH: The aforesaid MILDRED J. HILL having thereafter died prior to the expiration of the original copyrights mentioned and described in paragraphs "FIFTH", "SEVENTH", "EIGHTH" and "NINTH" hereof, renewals of said copyrights were thereafter obtained from the Register of Copyrights in the United States Patent Office as follows:

a. Original copyright number 45,997:
renewal registration in the name of JESSICA M. HILL,
(a sister of the said MILDRED J. HILL and PATTY S.
HILL) as next of kin under number R 19,043 on the 3rd
day of September, 1921.

b. Original copyright number 34,260:

renewal registration in the name of the aforesaid JESSICA M. HILL as next of kin under number R 25,771 on the 9th day of January, 1924; and

c. Original copyright number 20,441:

renewal registration in the name of the aforesaid PATTY S. HILL under number R 36,618 on the 3rd day of January, 1927.

THIRTEENTH: That subsequent to the commencement of this action plaintiff and plaintiff's hereinbelow mentioned assignors were informed for the first time and now allege that the duration of the first corporation was for a period of twenty-five years and that its charter under the laws of the State of Illinois expired on January 14th, 1920; that thereafter and on or about April 15th, 1925, another corporation known as CLAYTON F. SUMMY CO. (and hereinafter referred to as the second corporation) was organized under the laws of the State of Illinois.

FOURTEENTH: Continuing to repose faith, confidence and trust in Summy individually, the said PATTY S. HILL and JESSICA M. HILL as next of kin and individually (and hereinafter referred to as plaintiff's assignors), acquiesced in the continued publication and sale by said Summy of the books or works mentioned and described in paragraphs "THIRD", "EIGHTH" and "NINTH" hereof under the renewals of copyrights mentioned and described in paragraph "TWELFTH" hereof, without any express license therefor; and said Summy thereby agreed to continue and did continue to publish and sell said books or works only upon the terms and conditions contained in and contemplated by the express licenses originally granted to it.

FIFTEENTH: That at the time of the granting of the aforesaid licenses to SUMMY under the original and renewal copyrights above mentioned and described, sound motion pictures were

unknown commercially, and the licenses granted to SUMMY did not contemplate the use of the aforementioned songs in sound motion pictures or dramatic performances or in any other wise or manner except in sheet music form; nor did such licenses contemplate or contain any agreement that SUMMY should have the right to grant licenses or sub-licenses to the producers of sound motion pictures or dramatic performances in respect to the use of any of said songs therein and in particular the aforesaid song "HAPPY BIRTHDAY TO YOU"; the only rights acquired at any time by SUMMY under the original express licenses and the oral renewals thereof being those of publication and sale of said songs or works in sheet music form.

SIXTEENTH: That thereafter SUMMY and the second corporation continued to publish and offer for sale said books or works upon the terms and conditions above set forth and contemplated by the parties to such arrangement.

SEVENTEENTH: That thereafter, as plaintiff is now informed, the said SUMMY retired from business prior to the date of the incorporation of the defendant herein; and on or about May 17th, 1933, the second corporation was dissolved by action of the Attorney General of the State of Illinois for non-payment of taxes.

EIGHTEENTH: That thereafter the defendant herein, without notifying plaintiff's assignors or this plaintiff that it was a newly created business entity separate and distinct from the above-mentioned first and second corporations, but on the contrary representing that it was the same enterprise but with merely new management, and without the knowledge, permission or consent of plaintiff's assignors or of this plaintiff, secretly entered into various agreements with the producers of sound motion pictures and of stage or dramatic performances and others presently unknown to plaintiff for the sound and dialogue rights for the use of the song "HAPPY BIRTH-

DAY TO YOU" and purported to hold itself out as having the right to grant licenses or sub-licenses in respect to the use of the aforesaid song; whereas in truth and in fact no such licenses had been granted to it by plaintiff's assignors and by this plaintiff; and in consequence thereof this defendant received from various producers of sound motion pictures and stage or dramatic performances and from others presently unknown to plaintiff and its assignors substantial sums of money by way of royalties for the use of said song without disclosing the same.

NINETEENTH: Plaintiff's assignors did not learn of the wrongful acts and conduct of this defendant in disposing of the sound and dialogue rights to said song until about November, 1941; and upon acquiring knowledge thereof, due demand was made upon the defendant for an accounting of all sums received by them as royalties, and for payment of the amounts collected by them, which was refused.

TWENTIETH: That as the plaintiff is informed and verily believes, this defendant has collected upwards of five thousand dollars or more by way of royalties from producers of sound motion pictures and of stage or dramatic performances and from others; that it is continuing to grant, without the knowledge, permission or consent of plaintiff's assignors or of this plaintiff such sound and dialogue rights to the aforesaid song, all in violation of the rights conferred upon plaintiff's assignors and this plaintiff by the copyright laws of the United States of America; that it has collected and will continue to collect and receive royalties therefrom in amounts which are within its peculiar knowledge and which it will not disclose to plaintiff.

TWENTY-FIRST: Plaintiff has no adequate remedy at law.

TWENTY-SECOND: Prior to the commencement of this action,

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plaintiff's assignors, by an instrument in writing bearing date the 2nd day of June, 1942, duly assigned to the plaintiff herein all their right, title and interest, joint and several, in and to the above-mentioned and described copyrights and renewals thereof, together with all their right, title and interest in and to licenses, agreements and contracts for the publication and sale of said works, and in and to any and all rights, demands, claims and causes of action heretofore accrued or which may at any time hereafter accrue, for unpaid royalties, or by reason of any infringements of said copyrights or renewal copyrights, and howsoever arising; which assignment was duly recorded in the Copyright Office of the United States of America on June 8th, 1942, in Copyright Office Book 485, at pages 242-243, in conformity with the laws of the United States respecting copyrights; and plaintiff is still owner and holder thereof.

FOR A SECOND CAUSE OF ACTION.

TWENTY-THIRD: Plaintiff repeats and reiterates the allegations contained in the paragraphs of the complaint herein numbered "FIRST" to "FOURTEENTH" inclusive.

TWENTY-FOURTH: That during the calendar years 1934 and 1935, the aforesaid JESSICA M. HILL as owner of the copyright of the said book or work entitled "SONG STORIES FOR THE KINDERGARTEN", in the belief that the defendant herein was the same business entity as the first and second corporations above-mentioned and described and in whom she had reposed faith, trust and confidence, granted to this defendant a number of licenses for the publication, sale and performance of various piano arrangements of the song variously entitled "GOOD MORNING TO ALL" or "HAPPY BIRTHDAY TO YOU"; in consideration of which the defendant agreed to pay to the said JESSICA M. HILL, five per cent of the marked retail price on the first 700 copies sold of each work in respect to which a license was granted;

and ten per cent on all subsequent sales.

TWENTY-FIFTH: That said licenses contained a provision that an accounting should be rendered and payment made once each year if desired, but that no accounting should be required unless and until 500 copies of each work licensed as aforesaid, had been sold.

TWENTY-SIXTH: Each said license contained a further provision that should the defendant receive any payment for the publication of said work in any foreign country; or for the mechanical reproduction or performance thereof in any country; or for any arrangements permitted to be published by any other publishing house under royalty contract, that one-half of the amount so received was to be paid to the said JESSICA M. HILL.

TWENTY-SEVENTH: That said work entitled "GOOD MORNING TO ALL" (which included the said song known as "HAPPY BIRTHDAY TO YOU") was duly copyrighted in the name of the aforesaid CLAYTON F. SUMMY under number C-142,468, on the 7th day of February, 1907; and a renewal thereof was obtained from the Register of Copyrights of the United States Patent Office in the name of the aforesaid JESSICA M. HILL and PATTY S. HILL as next of kin, under number R34,877, on the 2nd day of January, 1935.

TWENTY-EIGHTH: Plaintiff repeats and reiterates the allegations contained in the paragraph of the complaint numbered "TWENTY-SECOND" with the same force and effect as if set forth at length herein.

TWENTY-NINTH: That the licenses granted herein to the defendant by the said JESSICA M. HILL are by their terms revocable at the will of the said licensor, JESSICA M. HILL; that by reason of this defendant's breach of duty and wrongful conduct as alleged in the paragraphs of this amended complaint designated "EIGHTEENTH"

to "TWENTIETH" inclusive, plaintiff's assignors and plaintiff have elected and do hereby elect to terminate and cancel said licenses and desire that this defendant may be made to account in respect to the sales made by it of the various piano arrangements of said song "GOOD MORNING TO ALL", and for any moneys received by it for the publication of said work in any foreign country, or for mechanical reproductions or performances thereof in any country; or for any arrangements permitted to be published by any other publishing house under a royalty contract.

THIRTIETH: Plaintiff has no adequate remedy at law.

FOR A THIRD CAUSE OF ACTION.

THIRTY-FIRST: Plaintiff repeats and reiterates the allegations contained in the paragraphs of the complaint numbered "FIRST" to "ELEVENTH" inclusive, with the same force and effect as if set forth at length herein.

THIRTY-SECOND: The aforesaid MILDRED J. HILL died intestate on June 5th, 1916, a resident of Louisville, Kentucky, leaving her surviving as her sole heirs and next of kin two sisters, the above mentioned PATTY S. HILL and JESSICA M. HILL and a brother WILLIAM WALLACE HILL, all of whom were of full age at the date of her death.

THIRTY-THIRD: Thereafter and in October, 1916, the said PATTY S. HILL, JESSICA M. HILL and WILLIAM WALLACE HILL, as the sole heirs and next of kin of the said MILDRED J. HILL, deceased, requested the first corporation to pay all royalties properly payable to the said MILDRED J. HILL under the licenses mentioned and describe in the paragraphs hereof numbered "FOURTH" to "NINTH" inclusive, to the said JESSICA M. HILL; it being the intention of the parties there that all the right, title and interest of the said WILLIAM WALLACE

HILL as one of the heirs and next of kin of the said MILDRED J. HILL, in and to the aforesaid copyrights and the royalties payable thereunder should be deemed assigned to his sister, JESSICA M. HILL, and vested in her absolutely as her sole property; of all of which the first corporation had due notice and in which it acquiesced.

THIRTY-FOURTH: In accordance with said request payments of royalties which might otherwise have been payable to the said WILLIAM WALLACE HILL or to his estate upon his decease were made by the first corporation, by SUMMY, by the second corporation and by the defendant herein subsequent to the date when it commenced doing business.

THIRTY-FIFTH: On or about April 4th, 1923, the aforesaid WILLIAM WALLACE HILL died a resident of Chicago, Cook County, Illinois, leaving a last will and testament which was admitted to probate in the Probate Court of Cook County, Illinois.

THIRTY-SIXTH: By his said last will and testament said WILLIAM WALLACE HILL gave, devised and bequeathed all property of which he died seized, to his widow, CORINNE DOROTHY HILL, who was nominated and appointed Executrix under said will, and who thereafter qualified as such Executrix.

THIRTY-SEVENTH: Said CORINNE DOROTHY HILL died intestate in September, 1934, leaving her surviving no children and no known heirs at law or next of kin.

THIRTY-EIGHTH: That at no time during her lifetime did said CORINNE DOROTHY HILL, either individually or as Executrix under the last will and testament of said WILLIAM WALLACE HILL, deceased, assert any claim, interest in, or title to the copyrights or the renewals thereof more specifically mentioned and described in paragraphs numbered "FIFTH", "EIGHTH" and "TWELFTH" of this complaint.

THIRTY-NINTH: That the defendant, well knowing the premises, and while a relationship of trust existed between it and the aforesaid PATTY S. HILL and JESSICA M. HILL, and while the legal title to the hereinbelow mentioned and described copyrights and renewals thereof was vested in the said PATTY S. HILL and JESSICA M. HILL, purchased or purported to purchase, without the knowledge, permission or consent of the said PATTY S. HILL and JESSICA M. HILL, at Chicago, Illinois, in March, 1939, from one ALLEN DAVY as administrator de bonis non with the will annexed of the estate of the aforesaid WILLIAM WALLACE HILL, deceased, and for a recited consideration of twenty-five dollars, all of the right, title and interest of the said ALLEN DAVY as administrator aforesaid, and all of the right, title and interest of the said WILLIAM WALLACE HILL, deceased, and of the estate of WILLIAM WALLACE HILL, deceased, in and to the following property, to wit: an undivided one-quarter (1/4) legal and equitable interest in the following copyrights and renewal copyrights to the following books and musical compositions written by the aforesaid MILDRED J. HILL and PATTY S. HILL:

- 1) Song Stories for the Kindergarten. Original United States copyright registration, October 13, 1893, entry #45997 or #45997Y; renewal registration, September 3, 1921, renewal registration #19043.
- 2) Song Stories for the Kindergarten. New edition, revised, illustrated and enlarged. Original United States copyright registration, June 8, 1896, entry #34260 or #34260B2; renewal registration, January 9, 1924, renewal registration #25771.
- 3) Song Stories for the Sunday School. Original United States copyright registration, March 20, 1899, entry #20441; renewal registration January 3, 1927, renewal registration #36618.
- 4) Good Morning to All. Original United States copyright registration, February 7, 1907, entry #142468 or #G142468; renewal registration January 2, 1936, renewal registration #34877 or #R34877,

and in any rights, claims, demands and causes of action which may have heretofore accrued or which may hereafter accrue because of infringements of said copyrights and renewal copyrights.

-all-

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FORTIETH: That the copyrights and the renewals thereof described in paragraph "THIRTY-NINTH" hereof are the same copyrights and renewals under which this defendant has heretofore purported to act as licensee and under which it is still purporting to act as such licensee in granting licenses and sub-licenses more particularly mentioned and described in the first cause of action of this amended complaint.

FORTY-FIRST: That the defendant herein furnished the money to pay the aforesaid purchase price of \$25.00 recited by the said ALLEN DAVY as administrator as the consideration for the conveyance by him to this defendant; that this defendant claims to be the holder of some interest in and to the aforesaid copyrights and the renewals thereof wrongfully and without any color of right thereto and in violation of its duty to the said PATTY S. HILL and JESSICA M. HILL as trustee of any copyrights as to which licenses were heretofore granted to it.

FORTY-SECOND: Plaintiff repeats and reiterates the allegations contained in the paragraph of the complaint numbered "TWENTY-SECOND" with the same force and effect as if set forth at length herein.

FORTY-THIRD: Plaintiff has no adequate remedy at law.

WHEREFORE plaintiff demands judgment as follows:

- a) That the defendant may be required to account to the plaintiff for its acts, conduct and receipts of all moneys received by it from all sources whatsoever as royalties for the sound and dramatic rights of the song "HAPPY BIRTHDAY TO YOU."
- b) That upon such account being had, the defendant be directed to pay over to this plaintiff the amount thereof together with all interest properly payable thereon.

c) That the defendant may be required to account to the plaintiff for all royalties payable to the plaintiff by reason of the publication and sale in the regular course of business of the copyrighted books or works mentioned and described in the complaint herein.

d) That the defendant, its officers, agents, and employees, may be enjoined and restrained, during the pendency of this action, from licensing any person, firm or corporation whatsoever to use the song described as aforesaid and entitled "HAPPY BIRTHDAY TO YOU" in sound motion pictures, dramatic performances, or otherwise, without the written permission and consent of this plaintiff.

e) That the defendant, its officers, agents and employees be adjudged and decreed to deliver into Court for cancellation any and all written instruments of license mentioned and described in the second cause of action herein.

f) That it may be adjudged and decreed that the purchase or the purported purchase by this defendant of the alleged interest of WILLIAM WALLACE HILL, deceased, in and to the aforesaid copyrights and renewals thereof, is null and void, and of no force and effect in law or in equity; and that the defendant be adjudged and decreed to execute, acknowledge and deliver to this plaintiff, in due form for recording, any and all instruments which by reason of the premises shall or may be necessary to convey to the plaintiff herein any outstanding interest which this defendant has or claims to have in and to said copyrights and the renewals thereof.

g) That the defendant, its officers, agents and employees, may be permanently enjoined and forever restrained from licensing or granting licenses to, any person, firm or corporation whatsoever, and wheresoever located, in respect

to the use of the song "HAPPY BIRTHDAY TO YOU" in sound motion pictures, dramatic or stage performances, or otherwise.

h) That the plaintiff may have such other further and different relief during the pendency of this action and upon the trial hereof as to the Court may seem just, proper and equitable, together with the costs and disbursements of this action.



SAMUEL MANN,
Attorney for Plaintiff,
Office & P. O. Address,
No. 70 Pine Street,
Borough of Manhattan,
New York City.

EXHIBIT 51

Civil 19-377
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE HILL FOUNDATION, INC.,

Plaintiff,

-against-

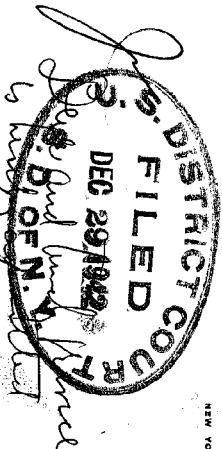
CLAYTON F. SUMMY CO.,

Defendant

ANSWER TO AMENDED COMPLAINT

BERKMAN, BOQUE, STEPHENS & BLACK
Attorneys for Defendant

15 BROAD ST.,
BOROUGH OF MANHATTAN,
NEW YORK.



*For filing
att. for Glantz*

Mc 273 869A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
THE HILL FOUNDATION, INC.,

Plaintiff,

-against-

CLAYTON F. SUMMY CO.,

Defendant.
----- X

:
: ANSWER TO
: AMENDED COMPLAINT
:
: Civil 19-377
:

The defendant, answering the amended complaint herein, by its attorneys Beekman, Bogue, Stephens & Black:

AS TO THE FIRST ALLEGED CAUSE OF ACTION

1. Referring to the allegations of paragraph Third of the amended complaint, admits and avers that prior to October 13, 1893, one Patty S. Hill and her sister, Mildred J. Hill, prepared a compilation of songs and music entitled "Song Stories For The Kindergarten", whereof the music was composed and/or arranged by said Mildred J. Hill, and whereof the words were written and/or adapted by the said Patty S. Hill, and that said Patty S. Hill and her sister, Mildred J. Hill, thereby obtained some right, title and interest, respectively or jointly, in said compilation and the several parts thereof; and except as so admitted and averred the defendant denies each and every allegation in said paragraph contained.

2. Referring to the allegations of paragraph Fourth of the amended complaint, admits and avers that on or about February 1, 1893, said Patty S. Hill and Mildred J. Hill executed and delivered to one Clayton F. Summy, who was then engaged in the business of publishing and dealing in music and musical compositions in sheet music and book form, a written instrument whereby there was sold and assigned to said Clayton F. Summy the said book entitled "Song

Stories For The Kindergarten", and all of the right, title and interest therein of the said Patty S. Hill and Mildred J. Hill, and wherein and whereby the said Summy was authorized and empowered to copyright the said book in his own name and to publish and sell said book, all in consideration of the said Summy's accepting, copyrighting and publishing, and offering for sale in the usual course of business, said book, and from the proceeds of such sales, if any, paying to the said Patty S. Hill and Mildred J. Hill the sum of ten per cent (10%) of the retail price per copy for each and every copy so sold; and except as so admitted and averred the defendant denies each and every allegation in said paragraph contained.

3. Referring to the allegations of paragraph Fifth and Seventh of the amended complaint, admits and avers that thereafter and on October 13, 1893, in accordance with the provisions of said written instrument hereinbefore referred to, the said Clayton F. Summy copyrighted the said book in the Copyright Office of the United States of America, in Washington, D.C. under copyright No. 45997Y, and that Summy and the first corporation referred to in the amended complaint published and offered for sale and did sell said book as in said written instrument provided; and except as so admitted and averred the defendant denies each and every allegation in said paragraphs contained.

4. Referring to the allegations of paragraph Eighth of the amended complaint, admits that said book was thereafter revised and enlarged, states that it is without knowledge or information sufficient to form a belief as to the truth of the averment that such revision and enlargement were by the aforesaid Patty S. Hill, and admits and avers

that the said new edition thereof was thereafter copyrighted by Clayton F. Summy Co., an Illinois corporation (being the corporation referred to in the amended complaint and herein as "the first corporation"), in the Copyright Office of the United States of America, in Washington, D. C. under copyright No. 34260B² on June 8th, 1896; and except as so admitted and averred the defendant denies each and every allegation in said paragraph contained.

5. Referring to the allegations of paragraph Ninth of the amended complaint, admits and avers that thereafter and on or about April 17, 1899 the said Mildred J. Hill and the first corporation entered into an agreement in writing, wherein and whereby the said Mildred J. Hill sold, assigned and transferred to the first corporation certain songs from the said book hereinbefore referred to, to be published as a collection entitled "Song Stories For The Sunday School", and all rights of and to copyright, extension of copyright, publication, sale and performance of said work in and for the United States of America and Europe, and wherein and whereby the first corporation agreed to pay to the said Mildred J. Hill \$1.20 per hundred for all copies sold of said work, excepting the first three hundred copies; and except as so admitted and averred the defendant denies each and every allegation in said paragraph contained.

6. Referring to the allegations in paragraph Tenth of the amended complaint, admits and avers that one of the songs contained in the books mentioned and described in paragraphs Third to Ninth inclusive of the amended complaint is one entitled "Good Morning to All", which, with different words, later became entitled "Happy Birthday to

ppst the said new words were written by the aforesaid
You", avers that it is without knowledge or information
sufficient to form a belief as to the truth of the aver-
ment that said new words were written by the aforesaid
Patty S. Hill, admits and avers that the said song entitled
"Good Morning to All" was included among the songs copy-
righted as aforesaid by the said Clayton F. Summy and the
first corporation respectively; and except as so admitted
and averred the defendant denies each and every allegation
in said paragraph contained.

7. Avers that it is without knowledge or infor-
mation sufficient to form a belief as to the truth of each
and every averment contained in paragraph Thirteenth of the
amended complaint.

8. Denies each and every allegation contained in
paragraph Fourteenth of the amended complaint, except that
the defendant admits and avers that subsequent to the renewal
of the several copyrights as set forth in paragraph Twelfth
of the amended complaint, the first corporation and there-
after a successor corporation, Clayton F. Summy Co., also
organized under the laws of the State of Illinois, and there-
after this defendant, by agreement with the said Patty S.
Hill and Jessica M. Hill, received from said Patty S. Hill
and Jessica M. Hill at least all of the right, title and
interest in respect of said books or works mentioned in
paragraphs Third to Tenth of the amended complaint as had
theretofore been granted by said instrument of February 1,
1893 and said agreement of April 17, 1899.

9. Denies each and every allegation contained in
paragraph Fifteenth of the amended complaint, except that
the defendant admits that at the time of the execution of the
instrument and agreement respectively hereinbefore referred

to sound motion pictures were unknown commercially.

10. Denies each and every allegation contained in paragraph Sixteenth of the amended complaint, except the defendant admits that at the times therein referred to Summy and the second corporation, therein referred to, continued to publish and offer for sale the books and works therein referred to.

11. Referring to the allegations in Paragraph Seventeenth of the amended complaint, admits that the said Summy individually, as distinguished from the two Illinois corporations mentioned in the amended complaint, retired from business prior to the date of the incorporation of the defendant herein, and avers that it is without knowledge or information sufficient to form a belief as to the truth of the allegation that on or about May 17, 1933 the second Illinois corporation was dissolved by action of the Attorney General of the State of Illinois for non-payment of taxes.

12. Denies each and every allegation contained in paragraph Eighteenth of the amended complaint, except that it admits that it entered into various agreements with producers of sound motion pictures and of stage or dramatic performances with respect to the use of the said song entitled "Happy Birthday to You", without the express permission or consent of the said Patty S. Hill and Jessica M. Hill, avers that it is without knowledge or information sufficient to form a belief as to the truth of the averment that said agreements were made without the knowledge of said Patty S. Hill or Jessica M. Hill, admits that it held itself out as having the right to enter into such agreements, and admits that in consequence of such agreements it has received from such producers sums of money by way of

royalties, without disclosing the amounts thereof to the said Patty S. Hill, or the said Jessica M. Hill or the plaintiff.

13. Referring to paragraph Nineteenth of the amended complaint, the defendant is without knowledge or information sufficient to form a belief as to the truth of the averment that said Patty S. Hill and Jessica M. Hill did not learn of the said agreements with such producers until about November, 1941, and otherwise the defendant denies each and every allegation in said paragraph contained.

14. Referring to the allegations in paragraph Twentieth of the amended complaint, this defendant admits and avers that it has collected upwards of \$5,000 from such producers pursuant to such agreements with such producers, and that it is continuing to grant to such producers, without the express permission or consent of the said Patty S. Hill and Jessica M. Hill or of the plaintiff, rights for the use of the said song above referred to, to wit, "Happy Birthday to You", and that it will possibly continue to collect and receive royalties therefrom, avers that it is under no obligation to disclose the amounts thereof to the plaintiff; and except as so admitted and averred, the defendant denies each and every allegation in said paragraph contained.

15. Denies each and every allegation contained in paragraph Twenty-first of the amended complaint.

16. Avers that it is without knowledge or information sufficient to form a belief as to the truth of each and every averment contained in paragraph Twenty-second of the amended complaint.

AS TO THE SECOND ALLEGED CAUSE OF ACTION

17. Referring to paragraph Twenty-third of the amended complaint, and the repetitions and reiterations therein contained, the defendant repeats and realleges the denials, admissions and averments herein contained in paragraphs 1 to 8 inclusive.

18. Referring to the allegations in paragraphs Twenty-fourth, Twenty-fifth and Twenty-sixth of the amended complaint, admits and avers that during the calendar years 1934 and 1935 the said Jessica M. Hill and this defendant entered into several so-called royalty contracts wherein and whereby it was provided that the said Jessica M. Hill sold, assigned and transferred to this defendant various piano arrangements of the said musical composition "Good Morning To All" and all world rights (including publishing, public performance and mechanical reproduction rights) of and to copyright, extension of copyright, publication, sale and performance of said work in and for the United States of America, Europe, Great Britain and its colonies, and wherein and whereby among other things this defendant agreed to pay to the said Jessica M. Hill, in each instance, five per cent (5%) of the marked retail price on the first seven hundred copies sold of the particular arrangement covered by the particular royalty contract, and ten per cent (10%) on all subsequent sales, subject to the credit to this defendant of \$25 in each instance for having the particular arrangement made, and wherein and whereby it was further provided that an accounting should be rendered and payment made once each year, if desired, but that no accounting should be required unless and until five hundred copies of the particular arrangement had been sold; and wherein and whereby it was

further provided that, should this defendant receive any payment for publication of said work in any foreign country, or for the mechanical reproduction or performance thereof in any country, or for any arrangements that are permitted to be published by any other publishing house under royalty contract, one-half of the amount so received should be paid to the said Jessica M. Hill; and except as so admitted and averred the defendant denies each and every allegation in said paragraphs contained.

19. Referring to the allegations in paragraph Twenty-seventh of the amended complaint, admits and avers that a copyright on the musical composition entitled "Good Morning To All" was duly registered in the name of the first corporation, under No. C142468 on February 7, 1907, and renewal thereof was obtained in the office of the Register of Copyrights in the Copyright Office of the United States on January 2nd, 1935, under No. R34877, in the names of the said Jessica M. Hill and Patty S. Hill as next of kin; and except as so admitted and averred the defendant denies each and every allegation in said paragraph contained.

20. This defendant is without knowledge or information sufficient to form a belief as to the truth of each and every averment contained in paragraph Twenty-second of the amended complaint, the allegations of which said paragraph are repeated and reiterated in paragraph Twenty-eighth of the amended complaint.

21. Referring to the allegations in paragraph Twenty-ninth of the amended complaint, denies that the instruments therein referred to are by their terms revocable at the will of said Jessica M. Hill and denies that it has been guilty of any breach of duty as alleged in the amended complaint,

and therefore denies each and every allegation in said paragraph contained.

22. Denies each and every allegation contained in paragraph Thirtieth of the amended complaint.

AS TO THE THIRD ALLEGED CAUSE OF ACTION

23. Referring to paragraph Thirty-first of the amended complaint, and the repetitions and reiterations therein contained, the defendant repeats and realleges the denials, admissions and averments herein contained in paragraphs 1 to 7 inclusive.

24. Referring to the allegations in paragraph Thirty-second of the amended complaint, admits that the said Mildred J. Hill died intestate on June 5, 1916, a resident of Louisville, Kentucky, avers that she left her surviving as her sole heirs and next of kin three sisters, to wit, the above-mentioned Patty S. Hill and Jessica M. Hill and one Mary Hill, a brother, one William Wallace Hill, and a nephew, one Archibald Anderson Hill; avers that it is without knowledge or information sufficient to form a belief as to whether said next of kin were of full age at the time of the death of said Mildred J. Hill; and except as so admitted and averred the defendant denies each and every allegation in said paragraph contained.

25. Referring to the allegations in paragraph Thirty-third of the amended complaint, avers that it is without knowledge or information sufficient to form a belief as to the truth of each and every allegation in said paragraph contained, except that it admits that in October, 1916 the said Patty S. Hill, Jessica M. Hill and William Wallace Hill executed and delivered to the first corporation a

and therefore denies each and every allegation in said
paper writing reading as follows, to wit:

"The undersigned, Patty S. Hill, Jessica M. Hill, and William Wallace Hill, being the sole heirs at law of the late Mildred J. Hill, and all of legal age, hereby request you to make payment of any royalties due under contracts with the late Mildred J. Hill, to Jessica M. Hill, 620 West 116th Street, New York City, N.Y., and we hereby indemnify and hold you harmless against all claims whatsoever by reason of your action in making such payments as herein requested."

26. Referring to the allegations in paragraph Thirty-fourth of the amended complaint, avers that it is without knowledge or information sufficient to form a belief as to the truth of each and every allegation in said paragraph contained, except that it admits that subsequent to August, 1931, it made payments to the said Jessica M. Hill of royalties payable to the said Mildred J. Hill.

27. The defendant is without knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs Thirty-sixth, Thirty-seventh and Thirty-eighth of the amended complaint.

28. Referring to the allegations in paragraph Thirty-ninth of the amended complaint, the defendant admits that in March, 1939 it purchased from one Allen Davy, as administrator de bonis non with the will annexed of the estate of William Wallace Hill, deceased, for the recited consideration of \$25, all of the right, title and interest of the said administrator, and all of the right, title and interest of the said William Wallace Hill, deceased, and all of the right, title and interest of the estate of the said William Wallace Hill, deceased, in and to the property described in the said paragraph of the amended complaint; avers that it is without knowledge or information sufficient to form a belief as to the truth of the averment that such

purchase was without the knowledge, permission or consent of the said Patty S. Hill and Jessica M. Hill; and except as hereinabove admitted and averred, the defendant denies each and every allegation in the said paragraph contained.

29. Referring to the allegations in paragraph Fortieth of the amended complaint, admits and avers that the copyrights and renewals referred to in paragraph Thirty-ninth of the amended complaint are some of the same copyrights and renewals referred to in various instruments and agreements running to or entered into by said Clayton F. Summy, said Illinois corporations, and this defendant with respect to the publication, sale and performance of said works; and except as so admitted and averred the defendant denies each and every allegation in said paragraph contained.

30. Referring to the allegations in paragraph Forty-first of the amended complaint, admits that this defendant furnished the money to pay the aforesaid purchase price to the said Allen Davy, as administrator as aforesaid, for the conveyance by him to this defendant of the property hereinbefore referred to; and that this defendant claims to be the holder of some interest in and to the aforesaid copyrights and the renewals thereof; and except as so admitted the defendant denies each and every allegation in the said paragraph contained.


31. The defendant is without knowledge or information sufficient to form a belief as to the truth of each and every averment contained in paragraph Twenty-second of the amended complaint, the allegations of which said paragraph are repeated and reiterated in paragraph Forty-second of the amended complaint.

32. Denies each and every allegation contained in paragraph Forty-third of the amended complaint.

WHEREFORE, the defendant demands judgment dismissing the amended complaint herein, together with the costs and disbursements of this action.

BEEKMAN, BOGUE, STEPHENS & BLACK,
Attorneys for Defendant
Office & P. O. Address
No. 15 Broad Street
Borough of Manhattan
New York City

By



A member of the firm of
attorneys of record for the
defendant.

EXHIBIT 52

Index No. *Ad 20.439*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK.

THE HILL FOUNDATION, INC.,
Plaintiff,
-against-

POSTAL TELEGRAPH-CABLE COMPANY
Defendant.

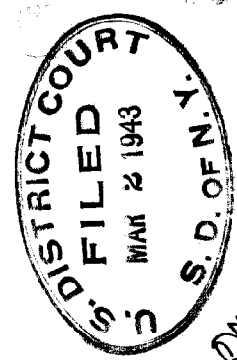
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(Original)

BILL OF COMPLAINT.

SAMUEL MANN,
Attorney for Plaintiff.

70 PINE STREET.
BOROUGH OF MANHATTAN.
CITY OF NEW YORK.



UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF NEW YORK.

-----X

THE HILL FOUNDATION, INC.,

Plaintiff,

-against-

POSTAL TELEGRAPH-CABLE COMPANY,

Defendant.

-----X

Plaintiff, for its cause of action against the above-named defendant, respectfully shows to the Court and alleges upon information and belief:

FIRST: That at the time of the execution and delivery of the hereinafter mentioned and described assignment, plaintiff was and still is a New York corporation.

SECOND: That at all times hereinafter mentioned the defendant was and still is a New York corporation.

THIRD: That this action arises under the Copyright Laws of the United States, by reason of which jurisdiction is conferred upon this Court.

FOURTH: That at all times hereinafter mentioned the defendant was and still is engaged in the business of transmitting and delivering domestic telegrams and foreign cablegrams and radio messages, for which it charges and receives certain tolls or tariffs prescribed by it. The amount of toll or tariff charged by defendant for the transmission by it of a domestic telegram covers its delivery either by messengers employed by defendant or where no messengers are employed by telephoning such telegram to the addressee.

FIFTH: That prior to October 13th, 1893, one PATTY S. HILL and MILDRED J. HILL, her sister, composed and wrote the

music and words of a number of songs collectively entitled "SONG STORIES FOR THE KINDERGARTEN"; and thereby became the proprietors of the music and words of said songs entitled as aforesaid.

SIXTH: Thereafter the said PATTY S. HILL and MILDRED J. HILL licensed one CLAYTON F. SUMMY to copyright said book in his own name but as their agent; and in accordance with said license SUMMY entered the songs collectively entitled as aforesaid in the office of the Register of Copyrights of the United States in his name under copyright number 45,997 on the 13th day of October, 1893.

SEVENTH: Said book was subsequently revised and enlarged by the said PATTY S. HILL, and a new edition thereof so revised and enlarged was duly copyrighted in the name of SUMMY on the 8th day of June, 1896, under copyright number 34,260.

EIGHTH: That one of the songs contained in the book mentioned and described in paragraphs "FIFTH" to "SEVENTH" inclusive hereof is one entitled "GOOD MORNING TO ALL" which, with words written by the said PATTY S. HILL, was later entitled "HAPPY BIRTHDAY TO YOU" and was included among the songs copyrighted as aforesaid by the said SUMMY as the agent for PATTY S. HILL and MILDRED J. HILL.

NINTH: The said song, "HAPPY BIRTHDAY TO YOU", written and composed by the said PATTY S. HILL and MILDRED J. HILL, thereafter acquired a nation-wide popularity which has continued down to the present time; performances thereof being given vocally, orchestrally, in various dramatic performances on the stage and in moving pictures and over the radio; all of which was and still is known to this defendant.

TENTH: The said MILDRED J. HILL having thereafter died prior to the expiration of the original copyrights mentioned and described above, renewals of said copyrights were thereafter obtained from the Register of Copyrights of the United States as

follows:

a. Original copyright number 45,997; renewal registration in the name of JESSICA M. HILL (a sister of the said MILDRED J. HILL and PATTY S. HILL) as next of kin under number R 19,043 on the 3rd day of September, 1921.

b. Original copyright number 34,260; renewal registration in the name of the aforesaid JESSICA M. HILL as next of kin under number R 25,771 on the 9th day of January, 1924; and

c. Original copyright number 20,441; renewal registration in the name of the aforesaid PATTY S. HILL under number R 36,618 on the 3rd day of January, 1927;

the aforesaid song "HAPPY BIRTHDAY TO YOU" being included in the renewal copyrighted works above set forth.

ELEVENTH: That some time prior to or in or about the month of February, 1938, the defendant herein conceived or had suggested to it and adopted the idea of transmitting and delivering, as a regular part of its business, birthday greetings for a fixed toll or tariff; the manner or method of transmitting such greetings being substantially as follows: in consideration of the payment to it of a toll or tariff prescribed by it, the defendant would undertake to convey birthday greetings from any sender by causing a messenger in its employ to call at the residence of the addressee or at any other address designated by the sender and there have such messenger sing the words and music of the aforesaid copyrighted song "HAPPY BIRTHDAY TO YOU" to the recipient of such birthday greetings, or, where such messenger was not or could not be used to sing said song the defendant would cause the same to be sung by one of its employees over the telephone; and in either case the name of the sender of such greetings would be furnished at the end of each such transmission to the recipient thereof.

TWELFTH: Defendant then put into execution the idea of transmitting and delivering, for a prescribed toll or charge and as a regular part of its business, birthday greetings by the use of said copyrighted song "HAPPY BIRTHDAY TO YOU" and in the manner described above; and as plaintiff and its assignors are informed and commencing with February, 1938, and for a period of more than three

and one-half years continuously thereafter the defendant accepted for transmission and delivery and did transmit and deliver, as plaintiff is informed and verily believes, upwards of fifty thousand of such birthday messages or greetings throughout the several states of the United States of America and elsewhere, in the manner mentioned and described in paragraph ELEVENTH hereof, and for which it charged and received for each such message or birthday greeting transmitted and delivered by it a toll or tariff prescribed by it.

THIRTEENTH: That the use by the defendant herein of said copyrighted song "HAPPY BIRTHDAY TO YOU" in the transmission and delivery of each and every birthday greeting transmitted and delivered by it in the manner and at the times set forth in paragraphs ELEVENTH and TWELFTH hereof was without the consent or authority of plaintiff's assignors, the aforesaid PATTY S. HILL and JESSICA M. HILL, who were then the owners and proprietors of said copyrighted song, or of this plaintiff, or of any other person, firm or corporation authorized by plaintiff's assignors or by this plaintiff to grant licenses in respect to the use of said copyrighted song; but on the contrary this defendant in each and every instance infringed said copyrighted song or work by its use in the manner and for the purpose hereinabove set forth.

FOURTEENTH: Prior to the commencement of this action plaintiff's assignors, the aforesaid PATTY S. HILL and JESSICA M. HILL, by an instrument in writing bearing date the 2nd day of June, 1942, duly assigned to the plaintiff herein all their right, title and interest, joint and several, in and to the above-mentioned and described copyrights and renewals thereof, together with all their right, title and interest in and to licenses, agreements and contracts for the publication and sale of said works, and in and to any and all rights, demands, claims and causes of action heretofore accrued or which may at any time hereafter accrue, for unpaid royalties, or by

reason of any infringements of said copyrights or renewal copyrights, and howsoever arising; which assignment was duly recorded in the Copyright Office of the United States of America on June 8th, 1942, in Copyright Office Book 485, at pages 242-243, in conformity with the laws of the United States respecting copyrights; and plaintiff is still the owner and holder thereof.

FIFTEENTH: That thereafter plaintiff notified defendant that it, the said defendant, infringed the aforesaid copyrights and requested said defendant to account to plaintiff for the proceeds received by it by reason of such infringement; but defendant refused and continues to refuse to render any accounting whatsoever.

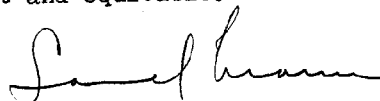
WHEREFORE plaintiff demands judgment:

1. That the defendant, its agents, servants and employees, be enjoined and restrained during the pendency of this action and permanently from infringing said copyrights of the plaintiff in any manner.

2. That defendant be required to pay to plaintiff such damages as plaintiff has sustained in consequence of defendant's infringement of said copyright and to account and pay over to plaintiff all the gains, profits, and advantages derived by defendant from its infringement of plaintiff's copyrights or such damages as to the court shall appear proper within the provisions of the copyright statutes, but not less than two hundred and fifty dollars.

3. That defendant pay to plaintiff the costs of this action and reasonable attorney's fees to be allowed to the plaintiff by the court.

4. That the plaintiff may have such other and further relief in the premises as may be just and equitable.



SAMUEL MANN,
Attorney for Plaintiff,
Office & P.O. Address,
No. 70 Pine Street,
New York, New York.

EXHIBIT 53

KN ALL MEN BY THESE PRESENTS, that we, PATTY S. HILL and JESSICA M. HILL, both residing at No. 21 Claremont Avenue, New York, New York, parties of the first part, for and in consideration of the sum of one (\$1.00) dollar and other good and valuable consideration to each of us in hand paid by THE HILL FOUNDATION, INC., a New York corporation with its principal office at Room 4810, No. 70 Pine Street, New York, New York, party of the second part, the receipt whereof is hereby acknowledged, have sold, transferred, conveyed and assigned, and by these presents do hereby sell, transfer, convey and assign to the said party of the second part, all our right, title and interest, joint and several, in and to the following copyrights:

(1) "Good Morning to All" (original United States copyright registration, July 28, 1921, entry #513745),

(2) "Happy Birthday", a March, Piano Solo (original United States copyright registration, December 27, 1934, entry #45655),

(3) "Happy Birthday", 1 Piano - 4 Hands, (original United States copyright registration, February 15, 1935, entry #46661),

(4) "Happy Birthday", 1 Piano - 6 Hands, (original United States copyright registration, April 3, 1935, entry #47440),

(5) "Happy Birthday", 2nd Piano Part, (original United States copyright registration, April 3, 1935, entry #47439),

(6) "Happy Birthday to You", Piano Solo with Words, (original United States copyright registration, December 6, 1935, entry #51990), and

(7) "Happy Birthday to You", Oct. #96 Unison, (original United States copyright registration, December 6, 1935, entry #51988);

TOGETHER WITH all the right, title and interest of the parties of the first part in and to all licenses, agreements and contracts for the publication and sale of the aforementioned works, and in and to any and all rights, demands, claims and

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causes of action, heretofore accrued or which may at any time hereafter accrue, for unpaid royalties or by reason of any infringements of said copyrights and renewal copyrights, and howsoever arising.

TO HAVE AND TO HOLD the same unto the said party of the second part, its successors and assigns forever.

IN WITNESS WHEREOF the parties of the first part have executed this instrument at New York City this 16th day of October, one thousand nine hundred and forty-four.

*Arthur
L. L. L.*

Patty S. Hill
.....
Individually and as Next of Kin

Jessica M. Hill
.....
Individually and as Next of Kin

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS.

On this 16th day of October, 1944, before me, a notary public, personally came PATTY S. HILL and JESSICA M. HILL, to me known and known to me to be the individuals described in and who executed the foregoing instrument, and they severally duly acknowledged to me that they executed the same.

Grace D. Gordon
.....
GRACE D. GORDON
Notary Public, Kings County
Kings County Clerk's No. 483
New York County Clerk's No. 547
Commission Expires March 31, 1945

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EXHIBIT 54

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ASSIGNMENT

KNOW ALL MEN BY THESE PRESENTS that THE HILL FOUNDATION, INC., a corporation of the State of New York, having its principal place of business at No. 70 Pine Street, New York City, in consideration of the sum of ONE (\$1.00) DOLLAR and other good and valuable consideration to us in hand paid by CLAYTON F. SUMMY CO., a corporation of the State of Delaware, having its principal office at No. 321 South Wabash Avenue, Chicago, Illinois,

DOES HEREBY sell, convey, assign, transfer and set over to CLAYTON F. SUMMY CO.,

TO HAVE AND TO HOLD so long as said CLAYTON F. SUMMY CO. or any corporation with which it may merge or consolidate is not adjudicated a bankrupt; or does not make a general assignment for the benefit of creditors; or does not take the benefit of any insolvency or debtor and creditor law; or does not suffer the appointment of receiver or trustee of its property or the assignment or transfer of its property by operation of law upon any other person, firm, association or corporation; or (except in connection with its merger or consolidation with such firm, association or corporation) does not attempt to assign, transfer, sell or pledge its rights in and to this assignment or the interests conveyed thereby to any person, firm, association or corporation for

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any purpose whatsoever, provided, however, that Clayton F. Summy Co. may assign the rights now enjoyed by the American Society of Composers, Authors and Publishers under certain assignments heretofore made, to any other person, firm or corporation, in return for substantially the same services now given and substantially the same consideration as now computed and paid by the said American Society of Composers, Authors and Publishers.

ALL of its property, right, title and interest in and to the present copyrights and present renewals and extensions of copyrights (including the copyrights and renewals and extensions of copyrights hereinafter specifically described) secured in the United States of America or in any foreign country or countries, in and to the following books, musical compositions and arrangements thereof:

- (1) "Song Stories for the Kindergarten"
(original United States copyright registration, October 13, 1893, entry #45997 or #45997Y; renewal registration, September 3, 1921, renewal registration #19043);
- (2) "Song Stories for the Kindergarten. New edition, revised, illustrated and enlarged."
(original United States copyright registration, June 8, 1896, entry #34260 or #34260B2; renewal registration, January 9, 1924, renewal registration #25771);
- (3) "Song Stories for the Sunday School"
(original United States copyright registration, March 20, 1899, entry #20441; renewal registration, January 3, 1927, renewal registration #36618);

- (4) "Good Morning to All" (original United States copyright registration, February 7, 1907, entry #142468 or #C142468; renewal registration, January 2, 1935, renewal registration #34877 or #R34877);
- (5) "Good Morning to All" (original United States copyright registration, July 28, 1921, entry #513745);
- (6) "Happy Birthday", a March, Piano Solo (original United States copyright registration, December 27, 1934, entry #45655);
- (7) "Happy Birthday", 1 Piano - 4 Hands, (original United States copyright registration, February 15, 1935, entry #46661);
- (8) "Happy Birthday", 1 Piano - 6 Hands, (original United States copyright registration, April 3, 1935, entry #47440).
- (9) "Happy Birthday", 2nd Piano Part, (original United States copyright registration, April 3, 1935, entry #47439);
- (10) "Happy Birthday to You", Piano Solo with Words, (original United States copyright registration, December 6, 1935, entry #51990); and
- (11) "Happy Birthday to You", Oct. #96 Unison, (original United States copyright registration, December 6, 1935, entry #51988);

all of its right, title and interest in and to all renewals and extensions of the copyrights thereto that have been and may, can or shall hereafter be secured under the laws now or hereafter in effect in the United States or in any foreign country or countries; all of its property, right, title and

interest in and to said books, musical compositions and arrangements, including both the words and music thereof; and all of its right, title and interest in and to any further or other arrangements hereafter made by others than Patty S. Hill or Jessica M. Hill of the words or musical compositions above enumerated or any new words or music or arrangements in connection therewith, and any copyrights or renewals of copyrights thereof; and also all rights, claims, demands and causes of action which it now has or hereafter can, shall, or may have against any person or persons, firms or corporations who have heretofore infringed any of the rights and privileges which it may, can or shall have in and to said books, musical compositions or arrangements, and the copyrights thereto and the renewals and extensions of said copyrights;

IT BEING EXPRESSLY UNDERSTOOD AND AGREED that this assignment includes and effects the sale, assignment, conveyance or transfer of all copyrights to the above-enumerated books, musical compositions and arrangements thereof and of all renewals and extensions of said copyrights which may have been omitted from the descriptions of copyrights, renewals and extensions of copyrights appearing in the above specific enumeration;

IT BEING ALSO EXPRESSLY UNDERSTOOD AND AGREED that this assignment includes and effects a sale, assignment, conveyance and transfer of all of its property, right, title

5.

and interest in and to said books, musical compositions and arrangements thereof, said copyrights, and the renewals and extensions of copyrights, and of said rights, claims, demands and causes of action which it may now have or own as assignee of the next of kin and as assignee of the assignees of the next of kin of Mildred J. Hill.

IN WITNESS WHEREOF, THE HILL FOUNDATION, INC.
has caused its corporate seal to be hereunto affixed this 16th
day of October, 1944.

THE HILL FOUNDATION, INC.,

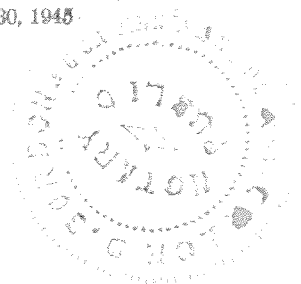
By *Harry S. Hill*
President.

STATE OF NEW YORK)
 : ss.
COUNTY OF NEW YORK)

On this 16th day of October, 1944, before me personally came PATTY S. HILL, to me known, who, being by me duly sworn, did depose and say that she resides at No. 21 Claremont Avenue, New York, New York; that she is the President of The Hill Foundation, Inc., the corporation described in and which executed the foregoing instrument; that she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Corporation, and that she signed her name thereto by like order.

Grace D. Gordon

GRACE D. GORDON
Notary Public, Kings County
Kings County Clerk's No. 483
New York County Clerk's No. 547
Commission Expires March 30, 1945



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