

# EXHIBIT F

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**From:** Manifold, Betsy  
**Sent:** Friday, July 24, 2015 7:00 PM  
**To:** 'Klaus, Kelly'; Kaplan, Adam  
**Cc:** Rifkin, Mark  
**Subject:** RE: Warner Chappell: Plaintiffs' Ex Parte Application based on 1922 and 1927 Everyday Song Book

Kelly –

Received your e-mail and will inform the Court of your position. As agreed (and noted below), Plaintiffs will not file WC2397-2400 under seal. I will send you a copy of the papers via e-mail before we file with the Court. We plan to file Monday morning as early as practicable.

Plaintiffs do **not** agree that that the certified copies of the deposit copy and copyright receipt that Warner Chappell recently obtained from the British Library should be submitted to the Court in advance of the hearing on Wednesday. Pursuant to L.R. 7-9, Plaintiffs will oppose Warner Chappell's motion (Dkt. 223) to supplement the record with those materials.

Betsy

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**From:** Klaus, Kelly [<mailto:Kelly.Klaus@mt.com>]  
**Sent:** Friday, July 24, 2015 6:47 PM  
**To:** Manifold, Betsy; Kaplan, Adam  
**Cc:** Rifkin, Mark  
**Subject:** RE: Warner Chappell: Plaintiffs' Ex Parte Application based on 1922 and 1927 Everyday Song Book

Hi Betsy –

Thanks for your email, and for forwarding the documents.

Warner Chappell does not object to Plaintiffs' submission of the documents that you forwarded. (Warner Chappell also does not object to your filing WC 2397-2400 not under seal.) Warner Chappell does not agree that these documents warrant the grant of summary judgment in Plaintiffs' favor. When we spoke this afternoon, I asked you on what basis a publication of the lyrics to Happy Birthday to You by a third party, even if in fact done with the "special permission" of Summy (a point that we do not concede), would divest the common law copyright in those lyrics held by its authors, Mildred and Patty Hill, given that nothing in the Everyday Song Book (or anything else of which we are aware) provides any evidence of the Hills' authorization. You told me that you were not prepared to discuss your legal arguments in that regard, but rather only wanted to know Warner Chappell's position regarding Plaintiffs' request to submit the pages from the Everyday Song Book. Whatever your argument is in regard to Plaintiffs' motion for summary judgment, Warner Chappell would like the opportunity to review it and to respond in writing prior to arguing the matter before the Court.

In addition, Warner Chappell requests that Plaintiffs agree that the certified copies of the deposit copy and copyright receipt that Warner Chappell recently obtained from the British Library also be submitted to the Court in advance of the hearing on Wednesday. Warner Chappell filed a motion to supplement the record with those materials yesterday (Dkt. No. 223), but unlike your application, that motion was noticed for hearing in the ordinary course. If Plaintiffs are going to be making new, non-abandonment arguments to the Court on Wednesday, we think that the deposit copy also should be before the Court, since it is highly relevant to the issues relating to summary judgment and supportive of Warner Chappell's motion. In particular, the certified copy of the sheet music for Happy Birthday to You! from the British Library is compelling corroborative proof that Summy deposited the same sheet music (with the same "familiar lyrics" to Happy Birthday to You!) with the U.S. Copyright Office on the same date, December 6, 1935. Please let us know if Plaintiffs are agreeable to this request.

Please inform the Court of our position in response to your request; please attach a copy of this email to your submission; and please provide us with your submission as soon as it is ready, so that we can consider our response to your legal arguments.

Thanks, and regards,  
Kelly

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**From:** Manifold, Betsy [<mailto:manifold@whafh.com>]  
**Sent:** Friday, July 24, 2015 2:02 PM  
**To:** Klaus, Kelly; Kaplan, Adam  
**Cc:** Rifkin, Mark  
**Subject:** Warner Chappell: Plaintiffs' Ex Parte Application based on 1922 and 1927 Everyday Song Book

Counsel: As discussed, attached are the relevant pages from both the 1922 and 1927 Everyday Song Book. The clear 1927 version was located in the University of Pittsburgh music library and provided by one of their research librarians yesterday. The language blurred in the 1927 copy provided by Defendants (even in today's re-scanned version) shows Happy Birthday was published therein with "Special permission through courtesy of The Clayton F. Summy Co." This lead us to locate an earlier 1922 version of the Everyday Song Book which contains the same language.

We would like to submit this new evidence to the Court via ex parte application (today or Monday) and argue that it warrants the grant of Summary Judgment in Plaintiffs' favor. Please advise whether you oppose the submission of this new evidence to the Court and will oppose Plaintiffs' argument re: summary judgment so I can put Defendants' position in our ex parte application.

Thanks,  
Betsy