

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 13-4460-GHK (MRWx)	Date	August 10, 2015
Title	<i>Rupa Marya, et al. v. Warner/Chappell Music, Inc.</i>		

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<b>Presiding: The Honorable</b>	<b>GEORGE H. KING, CHIEF U.S. DISTRICT JUDGE</b>
---------------------------------	--------------------------------------------------

Beatrice Herrera	N/A	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.

Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:
None	None

**Proceedings: (In Chambers) Order Notifying Parties of Rejected Ex Parte Communications**

On August 7, 2015, we received two unsolicited pieces of mail related to this matter. One, attached as Exhibit A, was from a "Ms. Irene Ujda." Two, attached as Exhibit B, was from a "Professor Deborah Gerhardt." Copies of the contents of the mailings are included in the attached exhibits. The personal address of Ms. Ujda has been redacted in accordance with L.R. 5.2-1. We did not and will not consider the contents of either mailing in relation to this case. Both have been rejected and returned to their senders.

**IT IS SO ORDERED.**

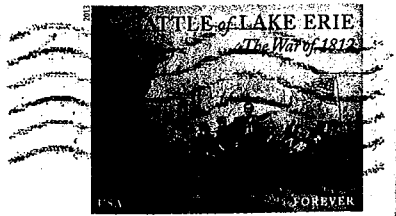
Initials of Deputy Clerk	:	DG for Bea
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Ms. Irene Elida



05 AUG 2015 PM 3 L



Hon. Geo. H. King  
Chief Judge Central District  
ROYBAL Fed. Bldg & U.S. COURTHOUSE/  
COURTROOM NO. 650  
255 E Temple St.  
Los Angeles, CA 90012-3332 .

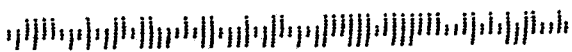
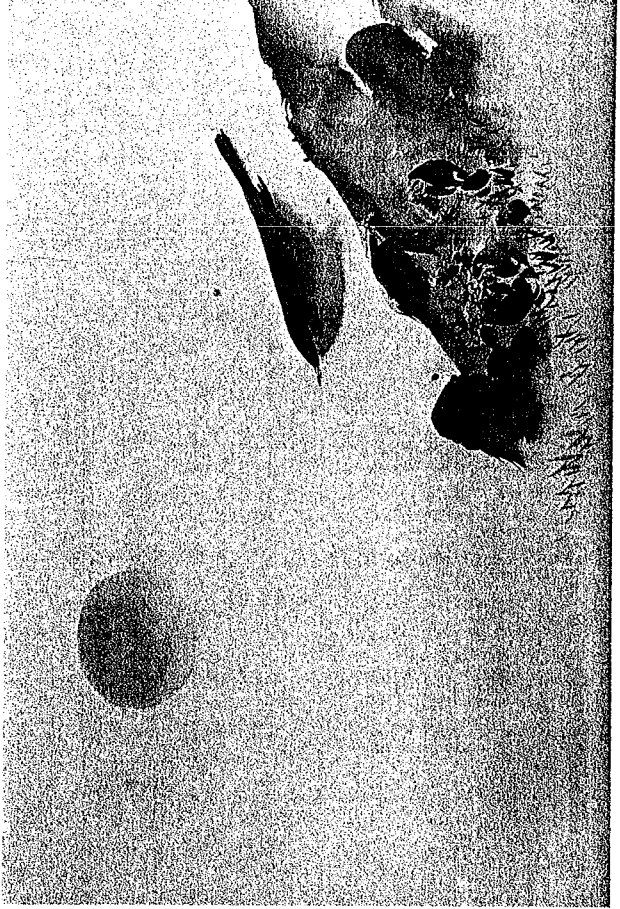


Exhibit A



# Pomegranate

Kishi Chikude (Japanese, 1826-1897)  
*Bird Album Lead from a set of 50, late 19th century*  
Ink and color on silk  
Gift of Mr. and Mrs. Robert Dickerman,  
USC Pacific Asia Museum Collection, 1994.57.6A  
Pomegranate Communications, Inc.  
19018 NE Portal Way, Portland OR 97230  
[www.pomegranate.com](http://www.pomegranate.com)

PRINTED WITH  
SOY-BASED INKS  
ON RECYCLED PAPER



re: lyrics of  
First Birthday To You  
= Happy  
Mrs. Forman  
2nd Mrs. Forman

P.S. we don't know date in the reverse either.

Wed Aug 5, 2015

Dear Judge King,  
The Organization from 1935 was not for  
anything Ra Hill wrote - See enclosed: Miss Hill  
was a Spinster. Mrs RRFoman was an EMPLOYEE  
of mine publisher. The 1935 © cannot be  
for the first verse of Happy Birthday To You!  
See Betty Hill deposition in Section case, people  
[but I expect the publisher to not  
publish it.]  
Good luck! Love  
Arlene

Summy (Clayton F.) co.

E1

DEC -9 1935

Happy birthday to you; unison song.

Application rec'd DEC -9 1935

© Cl F 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.

APPLICATION FOR COPYRIGHT FOR REPUBLISHED MUSICAL COMPOSITION WITH NEW COPYRIGHT MATTER

REGISTER OF COPYRIGHTS, Washington, D. C. Date December 6, 1935

of 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 included. 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.
(2) Address 429 S. Wabash Ave. Chicago, Ill.
(3) Author of new copyright matter Mrs. R. R. Forman

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 for Unison Chorus and revised text

(8) Published on the 6th 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.

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

# Application for Registration of a Claim to Renewal Copyright

REGISTRATION NO.  
**R 306185**  
DO NOT WRITE HERE

**Instructions:** Make sure that all applicable spaces have been completed before you submit the form. The application must be typed at line 8. For further information, see page 4. Pages 1 and 2 should be typewritten or printed with pen and ink. Pages 3 and 4 should contain exactly the same

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

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

(a) Name Summy-Birchard Company  
Address 1834 Ridge Ave., Evanston, Ill.  
Claiming as proprietor of copyright in a work made for hire  
(Use the appropriate statement appearing on page 4)

(b) Name \_\_\_\_\_  
Address \_\_\_\_\_  
Claiming as \_\_\_\_\_

(c) Name \_\_\_\_\_  
Address \_\_\_\_\_  
Claiming as \_\_\_\_\_

**Title:** Give the full title of the work. In the case of music give specific instrumentation.  
HAPPY BIRTHDAY TO YOU! -- Unison Song

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

**(e) Contribution to Periodical or Other Composite Work:** If the work was a contribution, give the title of the periodical or composite work in which it was published.  
If a periodical, give: Vol. \_\_\_\_\_; No. \_\_\_\_\_; Date \_\_\_\_\_

**Authors of Renewable Matter:** Give the names of all authors who contributed copyrightable matter to this version, but not the names of authors of previous versions.  
[Clayton F. Summy Co. (now, by change of name, Summy-Birchard Company) as employer for hire] of Mrs. R.R. Forman

**Facts of Original Registration:** The facts given here must agree with the Copyright Office records of the original registration.  
Original registration number: Class E. pub. No. 51988

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

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

Summy-Birchard Company

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

7. Send certificate to:

(Type or  
print Name  
name and  
address) Address

Summy-Birchard Company

1834 Ridge Avenue

(Number and street)

Evanston,

(City)

(Zone)

Illinois

(State)

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

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

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

### Application Forms

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

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

#### FOR COPYRIGHT OFFICE USE ONLY

Application received

DEC - 6 1962

Fee received

By Mildred J. Hill  
Ass. by \_\_\_\_\_



FedEx  
TRK#  
0200 8083 5530 5946

THU - 06 AUG 8:00A  
FIRST OVERNIGHT

X1 EMTA

# 787 90012  
CA-US  
LAX



FTD 338161 05AUG15 RDU 537C1/FECA/EE4B

REC'D  
CLERK, U.S. DISTRICT COURT  
AUG - 6 2015  
CENTRAL DISTRICT OF CALIFORNIA  
BY DEPUTY

FedEx  
FIRST OVERNIGHT

Delivery Address  
255 E TEMPLE

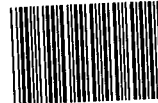


Exhibit B

RT FO 08:00 594  
FZ 08.00

FedEx NEW Package  
Express US Airbill

FedEx Tracking Number 8083 5530 5946

1 From  
Date 8/5/2015  
Sender's Name Deborah Garhardt Phone 919 357-4316  
Company UNC School of Law  
Address 160 Ridge Road Dept./Floor/Suite/Room  
City Chapel Hill State NC ZIP 27514

2 Your Internal Billing Reference

3 To  
Recipient's Name Honorable Chief Judge GEORGIE H. KING Phone  
Company United States District Court, Central District of California  
Address 255 East Temple Street Dept./Floor/Suite/Room  
We cannot deliver to P.O. boxes or P.O. ZIP codes.  
Address Use this line for the HOLD location address or for continuation of your shipping address.  
City Los Angeles State CA ZIP 90012-3332

4 Express Package Service \*To most locations. Pack For packages FedEx.  
NOTE: Service order fees changed. Please select carefully.

Next Business Day

- FedEx First Overnight  
Earliest next business morning delivery to select locations. Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
- FedEx Priority Overnight  
Next business morning.\* Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
- FedEx Standard Overnight  
Next business afternoon.\* Saturday Delivery NOT available.

2 or 3 Business Days

- FedEx 2Day A.M.  
Second business morning.\* Saturday Delivery NOT available.
- FedEx 2Day  
Second business afternoon.\* Thursday will be delivered on Monday unless Delivery is selected.
- FedEx Express Saver  
Third business day.\* Saturday Delivery NOT available.

5 Packaging \*Declared value limit \$500.

- FedEx Envelope\*  FedEx Pak\*  FedEx Box  FedEx Tube

6 Special Handling and Delivery Signature Options

- SATURDAY Delivery  
NOT available for FedEx Standard Overnight, FedEx 2Day A.M., or FedEx Express Saver.
- No Signature Required  
Package may be left without obtaining a signature for delivery.
- Direct Signature  
Someone at recipient's address may sign for delivery. Fee applies.
- Indirect Signature  
Someone at recipient's address may sign for delivery. Fee applies.

Does this shipment contain dangerous goods?

- No  Yes As per attached Shipper's Declaration.  Yes Shipper's Declaration not required.  Dry Ice UN 1845  Cargo Air

7 Payment Bill to:

Enter FedEx Acct. No. or Credit Card No. below.  
 Sender Acct. No. in Section 7 will be billed.  Recipient  Third Party  Credit Card  
Total Packages Total Weight Credit Card Auth.

fedex.com 1800.GoFedEx 1800.463.3339





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VAN HECKE-WETTACH HALL  
CAMPUS BOX 3380  
CHAPEL HILL, NC 27599-3380

T 919.962.5106  
F 919.962.1277  
www.law.unc.edu

The Honorable Chief Judge George H. King  
United States District Court, Central District of California  
255 East Temple Street  
Los Angeles, CA 90012-3332

Re: Happy Birthday Litigation

Dear Chief Judge King,

Enclosed please find two articles that I hope will save you and your clerks some time. I received a substantial grant from the Mellon Foundation to read and analyze every federal court decision I could find dealing with copyright publication. As you'll see, the first paper is a comprehensive overview of the doctrine. The second piece focuses on whether historical documents and art are in the public domain.

I hope you will find them useful in analyzing the Happy Birthday song. Please do not hesitate to contact me if I could be of further assistance.

Sincerely yours,

Deborah R. Gerhardt  
Associate Professor  
UNC School of Law  
Chapel Hill, NC 27516  
919 882-7143  
919 357-4316 (mobile)  
dgerhardt@unc.edu

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# Journal

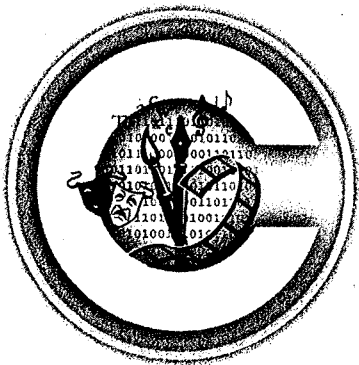
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of the

# Copyright Society

of the USA

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Copyright at the Museum:  
Using the Publication Doctrine to  
Free Art and History

DEBORAH R. GERHARDT

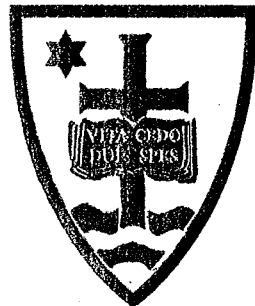
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SPRING 2014

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# NOTRE DAME LAW REVIEW



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AN EMPIRICAL STUDY

*Deborah R. Gerhardt*

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