

I am a classical music enthusiast and serious collector of sound recordings. Over the years, I have learned much from recordings. They have informed my enjoyment of live musical performances and enriched my life immeasurably.

Protection of intellectual property rights is of course vital to encouraging innovation, economic activity and creativity. All holders of copy rights to sound recordings should have a reasonable but limited right to the property they have created or own. But like almost anything else, the underlying principle and rationale can be distorted and carried too far. I believe this has happened with certain categories of sound recordings, especially older ones that exemplify now-historical performance practices.

Sound recordings of classical music can be valuable and important to performers, scholars and enthusiasts. Current law and rulings have placed the accessibility of too many older recordings under a stultifying and repressive cloud. The rare 40-year-old recording of a radio broadcast of a significant but obscure work performed by an aging master pianist is passed through underground channels like a fugitive slave traveling along the underground railroad. A brilliant recording by a no-longer-commercially-important performer deteriorates slowly but inexorably in a record company's vaults. A music scholar preparing study materials on our Western Art Music cultural heritage finds her way blocked by lack of access and needless uncertainty. Clearly, the public interest is not being served.

After 67 years hidden away in a private collection, Toscanini's penultimate 1937 recording of the Beethoven 9th symphony was finally issued on a Music & Arts CD. In 2009, live performances by Vladimir Horowitz from 1945 to 1950 were at last pried loose from the Yale University archives and issued by Sony Entertainment. They included Balakirev's famed Islamey, never recorded commercially by the unpredictable pianist and released from flawed-by-the-passage-of-time originals that had been tied up in ownership kerfuffles. Similarly, maverick engineer Bert Whyte's groundbreaking 1952 experimental stereo recordings of the Detroit Symphony under Leopold Stokowski emerged in spectacular sound in 2009, a full half century after they were captured on tape.

It is often difficult and expensive to track down intellectual property ownership. In the sound recordings field, an orphaned entity abandoned by its creators or owners for more than 30 years -- or one made before a certain date -- should almost surely be made available without restriction. New rules are needed.

Allowing the current situation to continue is unacceptable. It hampers the appreciation of fine music, inhibits legitimate scholarship and works against both the public interest and the principles our copyright laws were intended to promote.

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