

As a conductor of a community band, with a library which goes back to the early 1940s, often this issue arises concerning music: How to get missing copies of parts to older works which are gone without a trace, no way to contact a copyright holder. The other problem arises in that there are wonderful works which are still under copyright but where the copyright holder is out of business and the paper trail of who owns the copyright currently is impossible to follow, so that works remain out of print and we are unable to add them to our library for performances.

I see two different aspects to the orphaned copyright issue:

1) works which are still copyrighted but where the copyright owner is dead or out of business and there is no clear path to contact them or their heirs or assigns;

2) works which are still copyrighted but where the publisher (who may still be easy to contact) has decided to make the work permanently out of print and made no mechanism to hang onto archival copies so they can't provide the works, even if they wanted to, on a print-on-demand system.

My suggested solution for both orphaned copyrights situations:

When a work becomes impossible to obtain a legal copy from the copyright holder, either because the copyright holder is no longer known or traceable, or because the copyright holder has chosen to make that work no longer available to the public, the copyright would cease and the work would be placed in the public domain where copying and distribution by people other than the registered copyright holder would be legal.

I would further suggest that as part of the Copyright Office's efforts to make more and more of its copyright records available on-line, it also establish a database of copyright holders, including a history of the tracing of each copyright from origin to current copyright holder. I realize that this might not be possible using just the copyright office's resources, but might well require an intensive research effort to trace the buyouts of various publishers by others. I don't know about the book-publishing world, but in the printed music world where much music from the first half of the 20th century was published by very small music houses (which often were side businesses of music stores), the purchase of smaller publishers by larger publishers has left an often daunting trail which is impossible to follow. Obviously this is a major issue or you wouldn't be addressing this issue of orphan

copyrights at all. Having a well-organized, searchable on-line database maintained by an independent office such as the copyright office would make a wonderfully helpful tool so that many in the public could find out that orphan copyrights really aren't orphans at all.

Thank you for your attention to this very important issue. Musicians need to be able to resolve such issues legally so that we can continue to perform music from the rich heritage of American music which is still under copyright.

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David H. Bailey