

I am currently the Interim Director of the Center for Popular Music, a research archive that hold more than 170,000 recordings in its collections, from the 1890s to the present. We staff and maintain a sound recordings laboratory that conserves and preserves recordings in nearly all historical formats. Our mission is to make our recordings available to scholars, students, and the public, which we do by controlling access to the collection through a policy of fair use.

Let me, though, give an example of what we would like to be doing, and how we are frustrated by the mishmash of current copyright laws regarding recordings. Just this morning I was in conversation with our curator of recorded media, our librarian, and our archivist (all professional, full-time positions). In our geographical area is an extraordinary collection of sheet music and recordings (among other things) collected and developed over seventy years by a musician; it's a staggering collection with, among other things, 225,000 pieces of sheet music. We cannot begin to think about purchasing his collection, nor will he or his heirs (eventually) want to part with it without some compensation. (A rough valuation is more than two million dollars.) So, we have begun to think of ways to gather the information in the collection through a longterm digitization project. For the sheet music, that would be daunting work but it could be done easily enough with everything pre-1923, for such date clearly defines what is in the public domain and what is not. So we could begin an ambitious project to bring to the public for public use the nation's cultural history made manifest through sheet music. We cannot do that for most recordings, though, because we must assume that all recordings are not in public domain (Edison and some few others are obvious exceptions) and that only through time- and money-consuming efforts can we get rights of reproduction (or not). Remember that we are a publicly funded research center trying to make materials available to the public. We are, thus, stymied in our mission, and will likely have to abandon that part of our innovative digitization project. The citizens of the nation are to be denied access, then, to a cultural heritage that surely belongs in large part to them.

I should emphasize too, that there is no or very little money to be made here by a hypothetical rights holder. Pre-1923 recordings are all acoustic and will never enjoy sales that anywhere approach substantial profit.

One does wonder what the arguments are for maintaining copyright privileges for the holders of pre-1923 recordings!