

Dr. Susan Pickett
Catharine Chism Professor of Music
Whitman College
Walla Walla, WA 99362

March 2, 2005

Jule L. Sigall
Associate Register for Policy & International Affairs
U.S. Copyright Office
Copyright GC / I&R
P.O. Box 70400, Southwest Station
Washington, DC 20024

Dear Ms. Sigall:

I have been dealing with the problem of orphaned copyrighted works during my 15 years of research about women composers. Frankly, I can see why some people just blatantly break the law: there are so many barriers and dead ends and catch-22s that it's frustrating beyond words even to the most law-abiding person. Here are two examples of typical problems I face in my research. While the second example deals with international copyright, I encounter equivalent problems with U.S. copyright and domestic music estates.

I wanted to photocopy Marion Bauer's music manuscripts (American woman composer, 1882-1955). The library said I needed written permission from the "estate" of Marion Bauer, but they didn't know who the "estate" was. After a full year of digging I discovered that Marion's will assigned a friend as the executor of her estate. When he died his wife took over and when she died her nieces and nephew took over. So a third generation of (now elderly) people had legal control over something about which they had no knowledge or interest. They asked why I wanted copies of the music and I said I wanted to perform it -- which upset them -- they didn't want her music performed -- which is in direct opposition to what the composer would have wanted. So I waited a few months and contacted them again, asking for permission to copy so I could "study" her music, and they happily granted permission.

A second example: I wanted copies of published music and manuscripts by a French woman composer, Marguerite Canal (1890-1979). I contacted the Bibliotheque Nationale (French version of Library of Congress) which said I needed permission from SACEM (the French version of ASCAP). I contacted SACEM and they said I needed permission from the "estate." But I soon discovered that she had no will and there were no known relatives. I contacted SACEM and the library again, demonstrating to them that there was no "estate" or will but got the same answer: I still needed permission of the "estate" even though there wasn't one. (Anti-American sentiment??) So I am currently caught in a catch-22. I hired an investigator in Paris (yes, I will go to great lengths for my research) to find any relatives and sure enough he found 2 distant cousins. When they were asked to provide permission for photocopying they wanted to know what was in it for them: what kind of treasure had been found and how much might it be worth to them (sure, as though classical music is a money-making profession). So far they haven't given permission.

There needs to be a national registry so that it's easier to find out who to contact for permission. If I could push a "magic button" and alter the copyright/public domain law I would say that unless a person has a will that specifies a secondary executor, when the primary executor dies the music comes into the public domain. And if there is no will at all the music comes into the public domain immediately.

Best regards,

Dr. Susan Pickett
Catharine Chism Professor of Music
Whitman College