

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
JESSICA M. HILL,

Plaintiff,

- against -

SAM H. HARRIS,

Defendant.
----- X

The plaintiff herein, by McKercher & Link, her solicitors, complaining of the defendant, alleges:

1. The plaintiff is a citizen of the United States and resides in the City, County, and State of New York.
2. That upon information and belief defendant is a citizen of the United States and resides in the State of New York.
3. That upon information and belief defendant presented and still continues to present a dramatic musical production for the convenience, accommodation, entertainment and refreshment of the public generally, known as "As Thousands Cheer"; that said dramatic musical production was and is presented as a commercial enterprise for the profit of defendant and for the purposes of profit; that said dramatic musical production was and is presented for the entertainment and amusement of the public generally and to promote and advance the interests and business of defendant; that defendant gave, and causes to be given, daily performances and renditions of said dramatic musical production publicly for profit.
4. That upon information and belief defendant presented and continues to present publicly for profit the said dramatic production and received and continues to

receive income therefrom.

5. That on or about or prior to October 13, 1893, Mildred J. Hill and Patty S. Hill originated, devised, created, and wrote, composed, and arranged the words, lyrics, and music of a new and original musical composition entitled "Good Morning to All".

6. That upon information and belief on or about the 13th day of October, 1893, Clayton F. Summy duly copyrighted said composition by publishing the same and offering the same to the general public in a volume entitled "Song Stories for the Kindergarten" and offering same to the general public with the following notice of copyright on the first and title page of said volume as follows: "Copyright, 1893, by Clayton F. Summy".

7. That upon information and belief after publication of such volume with such notices of copyright said Clayton F. Summy on or about the 15th day of October, 1893, deposited in the office of the Register of Copyrights, Washington, D.C., two complete copies of the best edition thereof then published accompanied by a claim of copyright and paid to the Register of Copyrights the fee required by law for the registration of the said work and the said work was duly registered by the said Register of Copyrights who thereupon issued his certificate of copyright registration thereunder #45997.

8. That upon information and belief on or about the 8th day of June, 1896, Clayton F. Summy Co. copyrighted said composition by publishing a new revised, enlarged, and illustrated edition of "Song Stories for the Kindergarten" and offering the same to the general public

with the following notice of copyright on the first and title page thereof "Copyright, 1896, by Clayton F. Summy".

9. That upon information and belief after publication of such volume with such notices of copyright said Clayton F. Summy Co. on or about the 18th day of June, 1896, deposited in the office of the Register of Copyrights, Washington, D.C., two complete copies of the best edition thereof then published, accompanied by a claim of copyright and paid to the Register of Copyrights the fee required by law for the registration of the said work and said work was duly registered by the said Register of Copyrights who thereupon issued his certificate of copyright registration thereunder #34260.

10. That upon information and belief since the date of the aforesaid copyright such volumes have been published by Clayton F. Summy Co.; that upon each copy of such volumes so published there has been inscribed on the first and title page thereof the copyright notices required by law in the words and figures set forth in paragraphs 6 and 8 hereof.

11. That on or about the 3rd day of September, 1921, a renewal registration for the copyright #45997 was made with the Register of Copyrights, Washington, D.C. by Jessica M. Hill under #R-19043 and that Jessica M. Hill is now the owner of said copyright.

12. That on or about the 9th day of January, 1924, renewal registration copyright #34260 was made by the filing thereof with the Register of Copyrights, Washington, D.C. by Jessica M. Hill under #R-25771, and that Jessica M. Hill is now the owner of said copyright.

These are the only copies of the music of the title and title

13. That in each and all of the volumes published under copyright #45997 and #34260 and renewal registrations thereof #R-19043 and R-25771 there appeared and still appears a certain musical composition composed and arranged by Mildred J. Hill, words written and adapted by Patty S. Hill, entitled "Good Morning to All".

14. That upon information and belief on or about the 10th day of September, 1933, and at other times prior and subsequent thereto without the previous knowledge, approval, procurement of consent of the plaintiff or Clayton F. Summy Co. and without the subsequent ratification or consent by either the plaintiff or Clayton F. Summy Co., in infringement of the aforesaid copyright and with full knowledge of the rights of plaintiff in such work and of such copyright belonging to said plaintiffs, the defendant herein by means of a dramatic musical production entitled "As Thousands Cheer" gave, and caused to be given, and still gives and causes to be given, public performances and renditions, for profit and for the purposes of profit, of the musical composition entitled "Good Morning to All" on and in premises known as "Music Box", a theatre situated at 239 West 45th Street, New York City, and other theatres, and that the defendant continues and threatens to continue such infringing performances.

15. That upon information and belief said performances of said composition "Good Morning to All" were given on and in said "Music Box" and other theatres by said defendant causing and participating therein and under the direction and control of said defendant; that same was for the entertainment and amusement of the patrons attending and patronizing said premises and to attract trade and custom

...to said premises; that such renditions and performances were public and for profit and for the purposes of profit; that same was for the purpose of making "As Thousands Cheer", the dramatic musical production presented by the defendant, well and favorably known and attractive to the public generally and to encourage the public to attend such performances of said production and to pay for the same for the purpose of ultimate profit of defendant.

16. That the said wrongful acts of the defendant have caused and are causing great injury and damage to the plaintiff which damage cannot accurately be computed and unless the court restrains the defendant from the further commission of said acts the plaintiff will suffer irreparable injury for all of which the plaintiff is without any adequate remedy at law.

17. That the continuation of such infringing performances will destroy the value of plaintiff's copyright and her rights thereunder and will lead and induce others to perform publicly for profit, and for the purposes of profit, public performances of said musical composition "Good Morning to All"; that others now paying a fixed royalty to plaintiff and/or her agents for the privilege of publicly performing such composition for profit will be induced to discontinue such payment of royalties to said plaintiff, and to give public performances for profit, of such composition without leave or license of said plaintiff; that by the acts of defendant as aforesaid plaintiff is deprived of the exclusive right to give public performances for profit of said musical composition and to grant others the right so to do.

STATE OF NEW YORK
COUNTY OF NEW YORK

18. As her remedies against the defendant herein the plaintiff prays:

(a) That the defendant and all persons acting under his direction, permission, control, or license, be enjoined and restrained from publicly performing said composition "Good Morning to all" and from causing or permitting same to be publicly performed, in the respective places of business of defendant or in any other place owned, used, controlled, or operated by him and from aiding or abetting the public performance of such composition in any public place or otherwise.

(b) That defendant be decreed to pay such damages as may have been sustained by plaintiff in consequence of defendant's said unlawful acts but in no event less than the sum of \$250.00.

(c) That defendant be decreed to pay the costs of this action and that a reasonable attorneys' fee be allowed.

(d) For such other and further relief in the premises as to this court may seem just and proper together with the costs of this action.

McKERCHER & LIND
Solicitors for Plaintiff
Office & P.O. Address
17 John Street
Borough of Manhattan
City of New York

STATE OF NEW YORK ss:
COUNTY OF NEW YORK

JESSICA M. HILL, being duly sworn, deposes and says that she is the plaintiff in the within action; that she has read the foregoing complaint and knows the contents thereof; that the same is true to her own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters she believes it to be true.

Sworn to before me this
14th day of August, 1934.

John L. Lockwood
JOHN L. LOCKWOOD
Notary Public, New York County
N. Y. Co. Clerk's No. 184
N. Y. Gen. No. 41358
Commission Expires March 30, 1934

Jessica M Hill

STATE OF NEW YORK
CITY OF NEW YORK } SS.
COUNTY OF

being duly sworn, deposes
and says that he is the herein,
that he has read the foregoing
and knows the contents thereof and that the same is true of his own knowledge except
as to the matters therein stated to be alleged upon information and belief, and that as to those
matters he believes it to be true.

Sworn to before me this
day of 19

STATE OF NEW YORK,
CITY OF NEW YORK, } ss.:
COUNTY OF

_____ , being duly sworn, deposes and says that
_____ he is the _____ of _____
the corporation named in the within entitled action; that he has _____ read the foregoing
_____ and knows the contents thereof, and that the same is true to his
own knowledge, except as to the matters herein stated to be alleged upon information and belief, and as to
those matters he believes it to be true.

Deponent further says that the reason this verification is made by deponent and not by _____
_____ is because the said _____
is a corporation and the grounds of deponent's belief as to all matters in the said _____
not stated upon his own knowledge, are investigations which deponent has caused to be made concerning
the subject matter of his _____ and information acquired by deponent in the
course of his _____ duties as an officer of the said _____
corporation and from the books and papers of said corporation.

Sworn to before me, this _____
day of _____ 19 _____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

278/350

JESSICA M. HILL,
Plaintiff,

- against -

SAM H. HARRIS,
Defendant.

10
COMPLAINT

SOLLOMERCHER & LINK
Plaintiff

17 JOHN ST.
BOROUGH OF MANHATTAN
NEW YORK CITY

U. S. S. 115-1417
Copy Received
AUG 14 1964
19

17 John Street
Manhattan Borough
New York City

SOLLOMERCHER & LINK

New York, New York

dated
19

that the within is a copy

New York City

Manhattan Borough