

CLAIMANT

MEMORANDUM

April 8, 1940

Remitter: Ernest Stramiello (74156)--Class E.

Title: "Maggio Fiorentino Opera"

Question: Copyright notice includes the names of two persons, one of whom applies for copyright registration urging that the other has no rights in the work. Query: Shall registration be made and the question of substantive rights left to the courts?

There is filed for registration application fee and copies for a work entitled "Maggio Fiorentino Opera." Application is filed on form E as a musical composition and the copies filed are music. The notice of copyright printed on the title-page reads as follows: Copyright 1938 by Armando Romano & Ernest Stramiello." The application filed gives the name of the copyright owner as Ernest Stramiello, and the date of publication as December 12, 1939. Some correspondence has been conducted as the result of which it has been established that Armando Romano in 1938 registered a dramatic composition of this title. Mr. Stramiello explains that it is his claim of copyright in the music which should now be recorded. There is apparently a dispute with respect to ownership in this work between Mr. Romano and Mr. Stramiello. In view of these circumstances it is the opinion of Mr. Wise, Mr. Smith, and Mr. Pierce that registration should be made in the name of Mr. Stramiello as applied for, leaving the question of substantive rights to be finally determined by a court of competent jurisdiction with all the facts before it should the case ever be submitted. Mrs. Brady, on the other hand, takes the position that registration can only be made in the names of both Mr. Romano and Mr. Stramiello in the absence of an assignment of copyright from Mr. Romano to Mr. Stramiello.

Respectfully submitted,



Chairman, Revisory Board

Register as applied for--order of Mr. Howell. "Stramiello entered the melody and simple harmony with an E unpublished application (1 copy October 5, 1938)."

(But see HAH's letter herewith)

MUSIC
(See "Claimant")

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Register as applied for--H.A. Howell. "Stramiello entered the melody and simple harmony with an E unpublished application (1 copy Oct. 5, 1938)."

HAN:jlp
4-19-40

MP-449

CLAIMANT

Mr. Ernest Straniello
406 West 56th Street
New York, N. Y.

Dear Sir:

My attention has been called to your application for registration of the opera buffa entitled "Maggio Fiorentino (Florentine May)," and your letter of March 26, 1940, to which no reply appears to have been made.

The situation as I understand it seems to be this: You and Mr. Armando Romano undertook to write the opera. He supplied the libretto and registered it separately in his own name as an unpublished drama in 1938. You wrote the music and registered it in your own name in 1938 as an unpublished musical composition. Each of you, therefore, holds a separate copyright, you in the music and Romano in the libretto. You have now combined the two and published the opera with copyright notice in both names, thus: "Copyright 1938 by Armando Romano and Ernest Straniello."

Under these circumstances the law expressly provides that when a piece of music or a drama has been registered in the first instance as unpublished and is afterwards published either separately or in combination, there shall be deposited two complete copies of the published work with application and fee for registration in the category to which it properly belongs. Operas, operettas and the like are separately classified in the Copyright Act as dramatico-musical compositions and your application, instead of being filed on Form F as a musical composition, should be filed on Form D-3 for registration in the appropriate class. Moreover, inasmuch as this is a joint copyright claim, both your name and that of Armando Romano should appear in space (1) of the application as copyright claimants, he being the claimant of copyright in the libretto and you in the music.

Respectfully,
C. L. BOUVÉ
Register of Copyrights

Enclosure:

By

Form D-3