

BETWEEN:

LUDLOW MUSIC INC. PLAINTIFF;

Ottawa
1967
Apr. 10

AND

CANINT MUSIC CORP. LTD. AND }
ARC SOUND LTD. } DEFENDANTS.

Copyright—Infringement—Record of song with changed lyric—Song a single musical work consisting of words and tune—Copyright Act, R.S.C. 1952, c. 55, ss. 2(p), 19.

A song, which consists of words set to a tune, is a combination of melody and harmony and therefore a single musical work as defined by s. 2(p) of the *Copyright Act*. Accordingly s. 19 which permits the reproduction by records, etc., of a musical work on specified conditions upon payment of a royalty does not permit the reproduction of the tune of a song with substantially different words.

APPLICATION for interlocutory injunction.

G. F. Henderson, Q.C. and *C. R. Carson* for plaintiff.

Donald F. Sim, Q.C. and *D. Hill* for defendants.

JACKETT P. (*orally*):—This is an application for an order restraining the defendants from selling records using the tune of the composition *This Land is Your Land* with words other than the plaintiff's until the trial or other disposition of this action.

The application was argued before me on April 6, 1967, and, at the conclusion of the argument, I adjourned the matter until today for the purpose of rendering a decision.

In so far as the defendant Canint Music Corp. Ltd. is concerned, counsel for the defendants offered, on behalf of that defendant, to file an undertaking that it would not sell records using the tune of the composition *This Land is Your Land* with words other than the plaintiff's. Subject to such undertaking being filed, the application is dismissed as against that defendant. I do not think that the costs of the application have been appreciably increased by that defendant having been included and there will be no order for the costs of the application either for or against that defendant.

Where I refer hereafter in these reasons to "the defendant", the reference will be to the defendant "Arc Sound Limited".

1967
 LUDLOW
 MUSIC INC.
 v.
 CANINT
 MUSIC CORP.
 LTD. AND
 ARC SOUND
 LTD.
 JACKETT P.

In 1950, one "Woody" Guthrie executed, in the United States, an assignment of an unpublished "original musical composition" entitled *This Land* in favour of the plaintiff (whose name at that time was "Spencer Music Corporation") and, by the same document, warranted and represented to the plaintiff that he was the sole "writer, composer and owner" of the said composition. Before the assignment was signed, Guthrie had convinced the officers of the plaintiff that he was the composer of the composition in question. Subsequently the name of the composition was changed to *This Land is Your Land*.

In 1956, application for copyright in the unpublished work *This Land is Your Land* was filed in the United States Copyright Office by the plaintiff.

On December 15, 1958 the song *This Land is Your Land* was first published and offered for sale in Canada, in Great Britain and in the United States, in the form of sheet music representing that it was a song composed by "Woody Guthrie".

Application for copyright in the published work *This Land is Your Land* was filed in the United States Copyright Office on January 2, 1959.

The words of *This Land is Your Land* in its original form were:

Chorus: THIS LAND IS YOUR LAND

This land is my land
 from California to the New York island
 From the red wood forest
 to the Gulf Stream waters;
 This land was made for you and me—me.

Verses: As I was walking that ribbon of highway
 I saw above me that endless skyway
 I saw below me that golden valley
 This land was made for you and me.

I've roamed and rambled and I
 followed my footsteps
 to the sparkling sands of her diamond deserts
 And all around me a voice was sounding
 This land was made for you and me.

When the sun comes shining and I was strolling
 and the wheat fields waving
 and the dust clouds rolling
 As the fog was lifting a voice was chanting
 This land was made for you and me.

The plaintiff authorized the preparation of an adaptation of the song *This Land is Your Land* for use in Canada; and

a group of singers called "The Travellers" prepared such an adaptation, which is exactly the same as the original except that the words "Bonavista to Vancouver" are substituted for "California to the New York" and the words "Arctic Circle to the Great Lake" are substituted for "red wood forest to the Gulf Stream" in the chorus, and the words "fir clad forests of our mighty mountains" are substituted for the words "sparkling sands of her diamond deserts" in the second verse. In the adaptation, the words of the chorus and verses are otherwise unchanged and the music is unchanged. A document dated July 24, 1959, was executed by "The Travellers", reading in part as follows:

1967
 LUDLOW
 MUSIC INC.
 v.
 CANINT
 MUSIC CORP.
 LTD. AND
 ARC SOUND
 LTD.
 Jackett P.

On the understanding that you have given the undersigned permission to make changes in the lyric of your song, THIS LAND IS YOUR LAND by Woody Guthrie and The Travellers we hereby assign all rights and title to these changes to your Company.

The song was widely distributed in sheet music form throughout Canada. On the front of the sheet music as so distributed appeared the following:

Words and Music by WOODY GUTHRIE
 CANADIAN ADAPTATION BY "THE TRAVELLERS"

The song is described by an affidavit taken by an officer of the plaintiff company as follows:

11 The song "This Land is Your Land" including the Canadian Adaptation is attached to this my affidavit as Exhibit 7. This song is a patriotic song and has been widely distributed in schools throughout Canada. The song will again be published in 1967 by the Centennial Commission in the songbook "Young Canada Sings—"Le Jeune Canada Chante", 10,000 copies of the songbook will be distributed throughout Canada Attached as Exhibit 8 to this my affidavit is a copy of a letter from The Centennial Commission to Ludlow Music, Incorporated requesting permission to use the song "This Land is Your Land". Ludlow Music, Inc., has consented to such use in both 1966 and 1967.

12. The song "This Land is Your Land" is a standard, or song which will have a long life in Canada, and the use of words which are in bad taste and insulting to the Canadian public with the music of the composition "This Land is Your Land" will cause incalculable damage to the Plaintiff and destroy the meaning and acceptance of the song in the minds of the Canadian public.

The manager of "The Travellers" refers to the song, in an affidavit filed by the defendant on this application, as follows:

2. The Canadian version of the song "This Land is Your Land" was written by Jerry Gray, Jerry Goodis, Guy Carawan and myself and has since been performed publicly by The Travellers throughout Canada, at

1967
 LUDLOW
 MUSIC INC.
 v.
 CANINT
 MUSIC CORP.
 LTD. AND
 ARC SOUND
 LTD.
 Jactett P.

concerts, public performances, universities, and including a performance before Her Majesty the Queen and Prince Philip at Charlottetown, Prince Edward Island.

Referred to in that same affidavit, as an Exhibit, is a "long playing record album" entitled "Introducing The Travelers" recorded in 1960, in which album the Canadian version of *This Land is Your Land* was first recorded. On the back of this album appears the following sentence: "With a few changes, Woody Guthrie's song, This Land is Your Land, becomes Canadian". Referred to in the same affidavit filed by the defendant is another "long playing record album" entitled *This Land* on the outside of which is shown as its first number "This Land is Your Land (Woody Guthrie) Ludlow Music".

I interrupt my review of the facts at this point to deal with two objections made by the defendant to the sufficiency of the plaintiff's material to establish its right to seek the order sought. Such objections are

- (a) that the plaintiff's material does not establish that "Woody" Guthrie was the author of *This Land is Your Land*, and
- (b) that the plaintiff's material does not show that "Woody" Guthrie was a citizen of the United States at the time he composed that work.

To appreciate these objections, it is necessary to refer to certain provisions in the *Copyright Act*, R.S.C. 1952, chapter 55, *viz.*

4. (1) Subject to the provisions of this Act, copyright shall subsist in Canada for the term hereinafter mentioned, in every original literary, dramatic, musical and artistic work, if the author was at the date of the making of the work a British subject, a citizen or subject of a foreign country that has adhered to the Convention and the Additional Protocol thereto set out in the second Schedule, or resident within Her Majesty's Dominions; and if, in the case of a published work, the work was first published within Her Majesty's Dominions or in such foreign country; but in no other works, except so far as the protection conferred by this Act is extended as hereinafter provided to foreign countries to which this Act does not extend.

* * *

12. (1) Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein.

With reference to the question whether the material shows that "Woody" Guthrie was the author of the song in question, I am fully aware of the unsatisfactory character

of the material that has been put before me. On the other hand, it must be recognized that difficult problems of proof are involved whenever a contemporary title to property has its origin in a fact that occurred at some time in the past and that business people do not organize their affairs so that they will be prepared at a moment's notice to bring evidence, in the orderly and complete form in which courts would prefer to receive it, of the facts on which their titles to various kinds of personal property are based. Fortunately, the occasion rarely arises for a person to demonstrate his title to the things that others all recognize as belonging to him. When it does arise, because it becomes necessary to seek the aid of the Court to protect his property from trespass by a third person, it becomes necessary to assemble evidence the gathering and recording of which would otherwise be an unprofitable exercise and when the challenge to his property rights is sudden and unforeseen, it must be met with such evidence as can be gathered on short notice. (Here indeed the defendant reproaches the plaintiff with a delay of two weeks from the cessation of correspondence between the parties to the launching of this application.) I am of the view that, when weighing the evidence adduced to establish the essential facts on an application of this kind, one must keep the above considerations in mind. In this case, there is another consideration, in that the defendant, as well as the plaintiff, has proceeded on the basis that the song in question was composed by "Woody" Guthrie. The dispute here did not arise out of a *bona fide* dispute as to that fact. The dispute arose on another question, to which I will come later in these reasons. The challenge to Guthrie's authorship did not arise until, in the course of the proceedings, it appeared that there was a lack of direct evidence on this point available to the plaintiff. Here again, I do not think that the Court should be overly ready to allow any decision, at least in a civil matter, to turn on an accidental circumstance completely unrelated to the source of the dispute that brought the parties to Court.

I have concluded, not completely unaffected by the above considerations, that the balance of probability, on the facts that I have outlined, is that Guthrie was the author of the words and music of the song in question; and I so find for the purposes of this application.

1967
 LUDLOW
 MUSIC INC.
 v.
 CANINT
 MUSIC CORP.
 LTD. AND
 ARC SOUND
 LTD.
 Jackett P.

1967
 LUDLOW
 MUSIC INC.
 v.
 CANINT
 MUSIC CORP.
 LTD. AND
 ARC SOUND
 LTD.
 ———
 Jackett P.
 ———

The second objection made by the defendant to the plaintiff's material, to which I have referred, is that that material does not show that "Woody" Guthrie was a citizen of the United States at the time that he composed the song in question. Involved in this objection are two questions:

- (a) Is it a condition precedent to the existence of copyright in the case of a published work, on a correct interpretation of section 4(1) of the *Copyright Act*, *supra*, not only that the work has been first published within Her Majesty's Dominions or a foreign country that adhered to the Copyright Convention therein referred to, but that the author was, at the date of the making of the work, a British subject, a citizen or subject of a foreign country that has adhered to that Convention or resident within Her Majesty's Dominions? and
- (b) Is there evidence that establishes that the balance of probability is that, at the date of composing the song in question, "Woody" Guthrie was a citizen of the United States?

Obviously, on the first question, I have not to reach a concluded opinion but only to decide whether that question will probably be answered ultimately in the negative or whether there is a fairly arguable case that it should be answered in the negative. Having regard to the way in which section 4(1) is broken up by semi-colons rather than commas, I should have been inclined to regard the part thereof between the first semi-colon and the second semi-colon as an elliptical independent enactment, which, if extended, would read "...and copyright shall subsist in Canada...in every original...work...if, in the case of a published work, the work was first published within Her Majesty's Dominions or in such foreign country", and which would therefore extend, in the case of published works, the class of cases in which copyright otherwise exists in both published and unpublished works by virtue of the part of section 4(1) before the first semi-colon. (Compare *Imperial Act, Copyright Act, 1911*, chapter 46, section 1.) On the other hand, I assume, for the purpose of this application, that it is proper to construe section 4(1), which is certainly open to a charge of ambiguity, in the light of Article 4 of the Convention contained in the Second

Schedule to the Act, and this would appear to indicate that, as far as the Convention is concerned, the requirement of first publication is a requirement that, in the case of published works, is in addition to the requirement, in respect of all works, of being a citizen or subject of a specified class or having a specified kind of residence. On the whole, I regard this question of interpretation as being, on the basis of what has come to my attention up to this point, no more than fairly arguable from the plaintiff's point of view. I cannot say that I am of the view that citizenship, etc., is probably not a condition precedent in the case of a published work.

With reference to the question of fact as to whether Guthrie was a United States citizen at the date when he composed the song, the situation is that there are indications on the file that he was, at that time, a United States citizen, and there is nothing to suggest the contrary. On the other hand, there is considerable doubt that the material containing such indications is of probative value, at least as far as Guthrie's citizenship is concerned. In the circumstances, I hereby grant the plaintiff leave to file supplementary material on this point. On the assumption that such material will have been filed within twenty-five days from today and that the Court will conclude that it establishes that Guthrie was a United States citizen at the time of the composition of the song *This Land*, I reject the second attack on the adequacy of the plaintiff's material as filed in support of this application.

In the event that such satisfactory supplementary material is not filed, it will be open to the defendant to apply for rescission of the interlocutory injunction, which I may now indicate that I propose to grant, on the basis that it will then be necessary to consider the balance of convenience in the light of the conclusion that I have already reached as to the fairly arguable view as to the meaning of section 4(1), on which the plaintiff's title will then depend.

As the further facts that are relevant to the questions that I have to consider bear on the application of section 19 of the *Copyright Act*, I quote now the portions of the section that may have to be considered.

19. (1) It shall not be deemed to be an infringement of copyright in any musical, literary or dramatic work for any person to make within

1967
 LUDLOW
 MUSIC INC.
 v.
 CANINT
 MUSIC CORP.
 LTD. AND
 ARC SOUND
 LTD.
 Jackett P.

1967
 LUDLOW
 MUSIC INC.
 v.
 CANINT
 MUSIC CORP.
 LTD. AND
 ARC SOUND
 LTD.
 Jackett P.

Canada records, perforated rolls, or other contrivances, by means of which sounds may be reproduced and by means of which the work may be mechanically performed, if such person proves

- (a) that such contrivances have previously been made by, or with the consent or acquiescence of, the owner of the copyright in the work; and
- (b) that he has given the prescribed notice of his intention to make the contrivances, and that there has been paid in the prescribed manner to, or for the benefit of, the owner of the copyright in the work royalties in respect of all such contrivances sold by him, as hereinafter mentioned.

(2) Nothing in subsection (1) authorizes any alterations in, or omissions from, the work reproduced, unless contrivances reproducing the work subject to similar alterations and omissions have been previously made by, or with the consent or acquiescence of, the owner of the copyright, or unless such alterations or omissions are reasonably necessary for the adaptation of the work to the contrivances in question.

* * *

(4) The making of the necessary manuscript arrangement and instrumentations of the copyrighted work, for the sole purpose of the adaptation of the work to the contrivances in question, shall not be deemed an infringement of copyright.

(5) The royalty as aforesaid shall be two cents for each playing surface of each such record and two cents for each such perforated roll or other contrivance.

(6) Where any such contrivance is made reproducing on the same playing surface two or more different works in which copyright subsists, and the owners of the copyright therein are different persons, the sums payable by way of royalties under this section shall be apportioned amongst the several owners of the copyright equally.

* * *

(8) For the purposes of this section, the Governor in Council may make regulations prescribing anything that under this section is to be prescribed, and prescribing the mode in which notices are to be given and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties; and any such regulations may, if the governor in Council thinks fit, include regulations requiring payment in advance or otherwise securing the payment of royalties.

Regulations have been made under section 19; see Rule 21(2) and Rule 22(a) of the *Copyright Rules*, which read:

21. (2) Where a person intends to make a contrivance, the notice required by paragraph (b) of subsection (1) of section 19 of the Act shall contain the following particulars:

- (a) the name and address of the person intending to make the contrivances;
- (b) the name of the work which it is intended to reproduce and of the author, if known, and, if necessary, a description sufficient to identify the work;

- (c) the class of contrivance on which it is intended to reproduce the work, that is to say, whether on discs, cylinders, music rolls, or otherwise;
- (d) the earliest date at which any of the contrivances will be delivered to a purchaser; and
- (e) whether any other work is to be reproduced on the same playing surface of a disc or on the same perforated roll or other contrivance with the work specified in accordance with paragraph (b).

22. Not less than 10 days before any contrivances on which the work is reproduced are delivered to a purchaser,

- (a) if the name and address of the owner of the copyright, or his agent for the receipt of notice, are known or can with reasonable diligence be ascertained, the notice described in rule 21 shall be sent by registered mail or by prepaid telegraph to such owner or agent at such address; or

1967
 LUDLOW
 MUSIC INC.
 v.
 CANINT
 MUSIC CORP.
 LTD. AND
 ARC SOUND
 LTD.
 Jackett P.

It is fair to say here that the defendant, in effect, concedes that, subject to the objections that I have already disposed of, it proposes to do things that would be an infringement of the plaintiff's copyright unless, on the facts, it has statutory authority to do such things by virtue of section 19. It is also fair to say here that the plaintiff concedes that the condition contained in section 10(1)(a) has been satisfied.

I return now to the facts.

A letter dated February 15, 1967 addressed to the plaintiff and signed by the defendant Canint Music Corp. Ltd., re "This Land is Your Land—Composer Woody Guthrie", reads as follows:

Please be advised that the tune to the above mentioned song has been used with another set of words, written by Mr. Alec Somerville, and recorded on an Arc single 45 rpm recording, A-1161 by The Brothers-In-Law.

The Publisher royalties for this record will be split, 50% to Harry Fox for Ludlow Music and 50% to Canint Music Corp. Ltd.

A reply was made to this letter by a letter dated February 17, 1967, reading:

This will acknowledge receipt of your letter of February 15, 1967 subject as above.

We hasten to advise you that any usage whatsoever of our above copyrighted composition with any lyric written without our consent is an absolute and flagrant violation and infringement of our copyright in the above composition.

Further you are advised that under no circumstances would we permit any lyric other than one specifically authorized by us and same would be in contradiction of our legal rights. Accordingly, demand is hereby made upon you to cease and desist from any use whatsoever of our said composition.

1967
 LUDLOW
 MUSIC INC.
 v.
 CANINT
 MUSIC CORP.
 LTD. AND
 ARC SOUND
 LTD.
 Jackett P.

Your failure to comply with the above demand shall necessitate our bringing legal action against you to enjoin any unauthorized use and seek the appropriate remedies at law

We expect your confirmation of compliance with the above by return mail.

A reply was written to this letter, by a person who is an officer of both of the defendant companies, on February 24, 1967, reading as follows:

I wish to apologize for not being able to speak with you on the 'phone the other day when you called long distance and realizing your concern I have taken this opportunity of replying to your letter of February 17, 1967.

A group called "The Brothers-In-Law" of which Alec Somerville is the creative genius, has taken substantially the tune "THIS LAND IS YOUR LAND" and has written a clever totally new set of lyrics which gently chides the Canadian Government and the Canadian people for their alleged feelings of inferiority. This album fits very nicely into the feeling on the Canadian scene in this particular year as it is the 100th anniversary of Canada as a nation.

There is no dispute with you as to the payment of royalties required by Canadian Copyright Law as regards the tune, but with respect to the lyrics the English courts have taken the stand that a satire or parody on the lyrics of an existing copyrighted tune does not constitute infringement provided that the lyrics are rewritten skilfully. Having heard the Somerville lyrics, I feel perfectly safe in taking the stand that Mr. Somerville has shown inventiveness, imagination and considerable skill in the choice of the words expressing the various thoughts and ideas that he intended to portray and therefore the lyrics fall safely within the previously noted English law. This is not a question of simple modification of a few thoughts or words, but a total rewriting of lyrics thereby precluding the necessity of authorization by the copyright owner as regards lyrics.

Accordingly, if you will be so kind as to provide me with good evidence as of the ownership of the song "THIS LAND IS YOUR LAND", one half of the Canadian statutory royalty will be paid in the prescribed form on behalf of the tune only. Nothing will be paid of course on behalf of the lyrics.

A letter dated March 1, 1967 was written to the defendant, Canint Music Corp. Ltd., by solicitors for the plaintiff. That letter reads:

We have been retained by Ludlow Music, Inc., the owner of the copyright in the words and music of the song, "This Land is Your Land".

We are informed that your firm has infringed our client's above noted copyright by recording our client's music with another set of words.

Unless we receive your undertaking by telephone on or before Friday, March 3, we have been instructed to proceed with the commencement of legal proceedings in the Exchequer Court of Canada to protect our client's copyright. We also require your written undertaking not to infringe the copyright in "This Land is Your Land". We will require an affidavit from an officer of your company under oath, setting out the number of

infringing records sold and a statement that all remaining records on hand have been destroyed. The matter of damages can be determined as soon as we are aware of the extent of distribution of the infringing record

1967
 LUDLOW
 MUSIC INC.
 v.
 CANINT
 MUSIC CORP.
 LTD. AND
 ARC SOUND
 LTD.
 JACKETT P.

A letter dated March 6, 1967 was then written on behalf of the defendant to a representative of the plaintiff. That letter reads:

I have been contacted by Mr. Carson of Gowling, MacTavish, Osborne & Henderson by letter and 'phone and I have taken the liberty of sending a letter to Mr. Carson with the new lyrics composed by Alec Somerville.

I take this opportunity of forwarding to you as well, a copy of the new lyrics proposed to be put to the tune "This Land is Your Land" and marketed under the title "This Land is Whose Land". As you can see these lyrics are taken in a jocular vein and could not, by any reasonable interpretation, be regarded as competing on the market in the same phonograph record area as "This Land Is Your Land".

Please disregard the former Notice of Intent to Use which was mailed through error under Canint Music Corporation letterhead and in its place find a new Intent to Use under Arc Sound.

A letter bearing date March 7, 1967, was written by the same representative of the defendants to the plaintiff's solicitors re *This Land is Your Land (This Land is Whose Land)*. That letter reads:

This will confirm my telephone conversation with you on Monday, March 6, 1967 in the matter of the above subject.

This will confirm that no-one is laying claim to ownership of the tune "This Land Is Your Land", ownership of which is claimed by Ludlow Music Inc, but that entirely new lyrics in parody form were written by one Alec Somerville, which lyrics were put with the above noted tune.

Arc Sound Limited will be distributing phonograph records embodying this material entitled "This Land Is Whose Land" and will be responsible for paying royalties on the tune and the lyrics. The royalties on the tune will be paid by Arc directly to Ludlow when they establish satisfactorily their right to royalty claim as copyright owners of the tune and the royalty on the lyrics will be paid by Arc to Canint Music Corporation, which company acquired the new lyrics from Alec Somerville. As requested I enclose herewith a true copy of the new lyrics for your perusal and I can confirm that on this day I sent out a copy of same to Mr Shulman, your client.

As I pointed out to you in my telephone conversation, this project was not launched spuriously without due consideration being given to the possibility of infringing upon the rights of the copyright owners of "This Land Is Your Land" both as regards the tune and the lyrics. I discussed the proposed song "This Land Is Whose Land" with Donald Sim of the firm of McCarthy and McCarthy who took the trouble of looking up the law on the matter of writing new lyrics to existing songs comprising of a tune with words. The test clearly seems to be according to the English

1967
 LUDLOW
 MUSIC INC.
 v.
 CANINT
 MUSIC CORP.
 LTD. AND
 ARC SOUND
 LTD.
 Jackett P.

application, that the author of the lyrics must have shown skill and imagination in composing the new lyrics to a degree sufficient to separate the new set of lyrics clearly apart from the lyrics of the original composer. Minor rearranging and replacing of words would of course not fall within this interpretation according to the case in question.

By the lyrics composed by Alec Somerville, copy of which is enclosed, it can be readily seen that the entire concept and portrayal of the Somerville lyrics are new and different completely from the original lyrics of "This Land Is Your Land". Copyright is intended to protect the owner, author or composer against infringement by others who would seek to make profit on the ingenuity and creativity of such owner, author or composer. The prohibition against such infringement is certainly clear enough to preclude any doubts in this regard but there doesn't appear to be any prohibition against new lyrics being set to an existing copyrighted tune, either by statute or decisions of the court. These new lyrics are the creation of another person entirely, totally different from the original. Therefore it appears that the copyright owner of a tune to which entirely new lyrics are introduced, would be entitled to payment of royalties covering the tune portion only after Notice of Intent to Use has been communicated. It therefore follows that the owner of the copyright of the new lyrics would be entitled to payment of royalties for the lyric portion.

There is no intention by Arc Sound Limited or anyone else associated with same to avoid this responsibility, but since the song "This Land Is Whose Land" incorporates a copyrighted tune presumably owned by your client and Arc Sound has put to it lyrics composed by Alec Somerville and signed to Canint Music Corporation, then the royalty must be split, half for the lyrics and half for the tune and this is exactly what Arc proposes to do.

Through an error the Intent to Use originally went out under the Canint Music Corporation letterhead. I can advise that a new Intent to Use form has been made under the Arc Sound letterhead, which has been forwarded on to Ludlow correcting this error, and notification to Ludlow has been made that the original Intent to Use in the name of Canint Music is being withdrawn.

I trust that your investigation of this matter will bring you to the same conclusion as Mr. Donald Sim and that this matter can be thereby resolved quite simply.

The Notice of Intent referred to in that letter bears date March 7, 1967 and reads as follows:

You are hereby notified that we intend to reproduce on phonograph records the following song on which we understand you own or control the copyright. Kindly prove ownership including photostat copies of assignment contracts and/or songwriter's contracts plus U.S. or Berne Convention Country copyright number and date of first registration.

We will pay statutory royalties according to the Canadian Copyright Act (1952) or as follows, if you send a mechanical license agreement *for world use* at the rates listed below:

L.P.'s retailing at \$1.98 or less—1c

L.P.'s retailing at above \$1.98 to \$2.98—1-1/2c each

L.P.'s retailing at above \$2.98—2c