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From: Zach Lipton

Comment:

As a theatrical sound designer, I often find myself searching for a particular sound or piece of music that speaks to and complements a particular work and performance. Doing so can be an arduous, yet rewarding task, but the job is complicated by the process of obtaining rights clearances for the chosen music.

These copyright permissions cannot be purchased through rights clearinghouses such as BMI, and instead must be requested from the individual copyright owner or his/her agent. With many musical works, especially the types of older and instrumental works, which are likely to be used in creative designs, tracking down the ownership history can be costly or oftentimes, impossible. The Copyright Office needs to create an easy, affordable alternative to the existing process, which all too often results in a fruitless search for the true owner of the work. Even where it would be possible to locate the owner, the cost for this search far exceeds the budget of non-profit theaters.

While services do exist to handle the rights clearance process for sound designers, their prohibitory expensive cost (typically over \$50 per piece in addition to the actual rights charges which can range in the hundreds of dollars), often forces sound designers to report to illegal use of music in violation of copyright law, a situation which benefits neither the designer nor the copyright owner. While the vast majority of designers are honest people who would be willing to pay a reasonable price to incorporate music into their designs, they are left with little alternative but to steal, as finding the rights owner and securing permission is often just plain impossible.

The problem of orphaned works creates a "chilling effect" on the work of theatrical sound designers, forcing productions to either use music in violation of copyright law or to avoid the use of the medium of sound in their works altogether. I ask that the Copyright Office reforms the current system to address these concerns and further the ability of creative professionals to pursue and create the arts that our nation depends on.