MARCH 20, 1929.

Mr. Allen T. Simmons,
Allen Theatre Broadcasting
Station W A D C,
Akron, Ohio.

Dear Sir:

We desire to acknowledge receipt of yours of the 18th inst. replying to ours of the 12th inst. We note your statement of your thought in connection with the matter; also your statement that the guilty party should pay the penalty and that you are willing to work along with us with this end in view. You ask for our further suggestions.

We have great difficulty, however, in getting away from the conclusion that the station being yours, and under your direction and control, the responsibility is likewise yours. The situation, as we see it, has its parallel in the case of a newspaper. Where the owner of the paper has put agents in charge thereof, who, unknown to him, print therein a copyrighted work without the knowledge or consent of the owner thereof, nevertheless, the owner of the paper is liable for the infringement of the copyright. You are doubtlessly aware of the fact that the owner of a theatre who has no proprietary interest in a play which is presented and operated therein by an independent manager, may nevertheless be held to be a contributory infringer where the play violates the copyright of a third party. Were this not so, as you can readily see, it would be most difficult to bring home to the person who owns the medium of the infringement, such as a newspaper, a theatre or a motion picture or a broadcasting station, prior knowledge of the proposed infringement. It is for this reason, as we understand it, that the United States Copyright Act, and the decisions based thereupon, have imposed upon the agency by means of which unauthorized presentations or publications of the copyrighted work are made, legal responsibility therefor. This responsibility is known and accepted by the owners of our New York Stations.

Since you own the station, unless its operation was in the hands of others and not subject to your control, we are unable to escape the conclusion that the legal responsibility rests upon your shoulders. If the station was not operated by you, will you kindly advise who was operating it?

Before conferring with Miss Tarbell, we will await your answer.

Yours very truly,

HHG:ES

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