

COUNTY OF RENSSELAER

EDWARD ROMAN,

against

Defendants.

I. Upon information and belief, that the defendant, Metro-
lyn-Mayer, Corp., is a corporation organized and existing
and by virtue of the laws of the State of New York and is
as been engaged in the business of the production of motion
res.

III. Upon information and belief, that heretofore and in or about the years 1931 and 1932 the defendant Jack Mahoney was an individual doing business under the assumed business name of Mahoney and Associates at number 2 East 23rd Street, in the City of New York and was engaged in the business of contracting for the purchase and sale of music and musical compositions.

IV. That prior to the year 1934, the plaintiff, Edward Roman, wrote and originated the music and lyrics of a musical composition or song to which was given the title "Blue Moon".

V. That heretofore and in or about December, 1931, plaintiff entered into negotiations with said Jack Mahoney for the purchase by said Jack Mahoney of said musical composition "Blue Moon"; that the score, lyrics and music of said composition was submitted to said Jack Mahoney who thereupon sent plaintiff a contract in writing to be signed by the plaintiff, but which contract was never executed or delivered to said Jack Mahoney and, upon information and belief, that heretofore and in or before the year 1934 the defendant, Jack Mahoney, with full knowledge of the rights of the plaintiff in and to said musical composition or song "Blue Moon", and without consent of said plaintiff and in violation of his rights thereto, did sell and transfer said musical composition or song "Blue Moon" to the defendants, Richard Rodgers and Lorenz Hart, which defendants, with full knowledge of the rights of the plaintiff in and to said musical composition or song and without consent of said plaintiff and in violation of his rights thereto, did cause said musical composition or song "Blue Moon" to be published under their authorship.

VI. Upon information and belief, that heretofore, and in the year 1934, with full knowledge of the rights of the plaintiff in and to said musical composition or song "Blue Moon", the defendant, Metro-Goldwyn-Mayer Corp., did, in the year 1934, publish and secure copyright under the name or style of Metro-Goldwyn-Mayer Corp., on said musical composition, "Blue Moon".

VII. Upon information and belief, that heretofore and in the year 1934, the defendant, Metro-Goldwyn-Mayer Corp., with full knowledge of the rights of the plaintiff in and to said musical composition or song "Blue Moon", did assign said copyright on said musical composition or song "Blue Moon" to defendant, Robbins Music Corp., which defendant, with full knowledge

of the rights of the plaintiff in and to said musical composition or song "Blue Moon", did place or caused to be placed upon the market for sale said musical composition entitled "Blue Moon".

VIII. That the said musical composition or song entitled "Blue Moon" so published, copyrighted, transferred, authored and ~~so~~ sold by said defendants is so similar to the words and music of the said musical composition or song "Blue Moon" as written, authored and composed by said plaintiff as to constitute them one and the same musical composition or song, and that the said musical composition or song "Blue Moon" as published, copyrighted, transferred, authored and sold by said defendants is a violation of the rights acquired by the plaintiff in the said musical composition or song entitled "Blue Moon" as written, authored and composed by him.

IX. That the publication of the said musical composition or song entitled "Blue Moon" containing music and lyrics of the plaintiff's said musical composition or song of the same title and the use by the said defendants herein named of the same was and is without the consent, permission or authority of the plaintiff, and that the wrongful acts of the said defendants have caused and are ^{causing} ~~causing~~ great injury, loss and damage to the plaintiff.

X. That the said defendants are publishing the said musical composition or song "Blue Moon" containing the music and words of the musical composition or song of the same title as written, authored and composed by said plaintiff without the consent of or the payment of any compensation or the royalty provided by section 1 of the Copyright Act of the United States, or any other consideration whatever to the plaintiff, and that each and all of said defendants are and have been manufacturing, using and publishing the musical composition or song by virtue of

alleged license granted or acquired by them severally by reason of the copyright alleged to have been secured by the defendant, Metro-Goldwyn-Mayer Corp., to the musical composition or song entitled "Blue Moon".

XI. That each and all of said defendants have received large amounts as royalties for the publication and sale of copies of said musical composition or song "Blue MOON" and also for the reproduction thereof upon mechanical instruments and otherwise and have failed to account to the plaintiff for any of the receipts and profits thus realized and received and that the defendants have threatened and are about to continue in the violation of this plaintiff's rights, as aforesaid, and that the said defendants were and will continue to be paid large sums for and on account of royalties for the said musical composition or song "Blue Moon" by reason whereof the rights acquired by said plaintiff will be materially impaired and the plaintiff will sustain irreparable damage and injury to such an extent that no damages recoverable in an action at law will afford him adequate relief and that the damages which may be suffered by the plaintiff are not capable of exact estimation or calculation.

XII. Upon information and belief, that by reason of the foregoing, there is due to the plaintiff from the defendants as royalty for the use by them of said musical composition or song "Blue Moon" various sums of money, the exact amount of which the plaintiff does not know at the present time, which, although duly demanded by the plaintiff, the defendants have refused to pay.

XIII. That the plaintiff has no adequate remedy at law.

WHEREFORE, plaintiff demands judgment:

I. That each and all of the defendants be severally restrained and enjoined permanently and perpetually from collecting or receiving any further sums of money as royalty,

compensation or ~~otherwise~~ otherwise from the publication of said musical composition or song "Blue Moon" or from the use thereof pursuant to license or otherwise, by reason of mechanical reproduction or from the use in any manner of said musical composition or song "Blue Moon".

2. That each and all defendants be severally required to account for and pay over unto the plaintiff the profits and revenue or other income had, obtained, derived or received by reason of the violation of the plaintiff's rights, as aforesaid, or the sale or publication of of the said musical composition or song "Blue Moon" or the performance thereof upon mechanical instruments or otherwise, and all damages sustained by the plaintiff by reason thereof. That the defendants be decreed to pay and account for all royalties paid or owing to them at the time they received notice of the plaintiff's rights and title to the said musical composition and for all royalties or profits earned or accrued or to become due them subsequent thereto.

3. That the alleged copyright and the registration thereof obtained or claimed to have been obtained by the defendant, Metro-Goldwyn-Mayer Corp., upon the musical composition or song entitled "Blue Moon" and assigned to the defendant, Robbins Music Corp., be assigned to the plaintiff or cancelled and declared null and void.

4. That the defendants pay the plaintiff the costs and disbursements of this action.

5. That the plaintiff have such other and further relief in the premises as may be just and equitable.

E. STEWART JONES,
Attorney for Plaintiff,
Office and P. O. Address,
400 Cannon Place,
Troy, N. Y.

STATE OF NEW YORK,

County of Rensselaer } ss:

City of Troy }

EDWARD ROMAN

being duly sworn,

deposes and says that he is the plaintiff

in this action; that he has

read the foregoing complaint and knows

the contents thereof; that the same is true to the knowledge of deponent, except as to the matters therein stated to be alleged on information and belief, and as to those matters he believes it to be true.

Edward Roman.

Sworn to before me, this 13th

day of October, 1962

Charles W. Whithall

Notary Public

(CORPORATION VERIFICATION)

State of New York

County of _____ } ss:

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 therein 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 this _____ and information acquired by deponent in the course of his duties as an officer of said
corporation and from the books and papers of said corporation.

Sworn to before me, this _____

day of _____ 19 _____

Sir : Take notice of an-----



of which the within is a copy, duly
granted in the within entitled action, on
the-----day of-----19--
and duly entered in the office of the Clerk
of the County of-----on the
-----day of-----19--

Dated -----, N. Y.,
-----19--

~~RECEIVED~~

Attorney for

Office and Post Office Address

309 CANNON PLACE

TROY, N. Y.

OFFICE OF
RENSSELAER COUNTY CLERK

1935 OCT 20 AM 11

TROY, N. Y.

To -----

Attorney for -----



STATE OF NEW YORK

SUPREME COURT,

COUNTY OF RENSSELAER

EDWARD ROMAN, Plaintiff,

against
RICHARD RODGERS, LORENZ HART,
JACK MAHONEY, doing business
under the assumed business
name of "MAHONEY AND ASSO-
CIATES", METRO-GOLDWYN-MAYER
CORP., and ROBBINS MUSIC
CORP.,
Defendants.

XXX orig.

COMPLAINT

E. STEWART JONES,
~~ABROGATED~~

Attorney for Plaintiff,

Office and Post Office Address

400 8th/CANNON PLACE

TROY, N. Y.

Due and personal service of the within

is admitted this-----day of-----19--

Attorney for -----

At a trial Term of the
Rensselaer County Court, held in
and for the County of Rensselaer
at the Rensselaer County Court
House in the City of Troy, N. Y.,
on the 27 day of November, 1936.

PRESENT: HON. JAMES F. BREARTON, JUDGE.

SUPREME COURT

RENSSELAER COUNTY

EDWARD ROMAN,

Plaintiff,

- against -

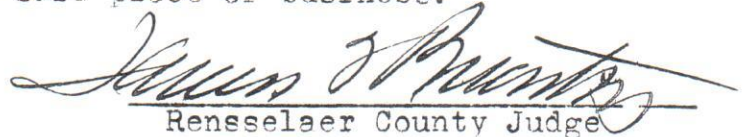
RICHARD RODGERS, LORENZ HART, JACK MAHONEY, doing business
under the assumed business name of " MAHONEY and ASSOCIATES,"
METRO-GOLDWYN-MAYER CORP. and ROBBINS MUSIC CORP.,

Defendants.

Satisfactory proof having been presented to the
Court by the affidavit of Howard Campbell, Jr., verified the
18th day of November, 1936, that Jack Mahoney, one of the
defendants in the above entitled action, is a resident of
this state and has a place of business at 309 Fifth Avenue,
in the Borough of Manhattan, City and State of New York, and
that the plaintiff has been unable with due diligence to
make personal service of the summons in this action.

NOW, on motion of E. STEWART JONES, ESQ.,
attorney for the plaintiff herein, it is

ORDERED, that the service of said summons upon
said defendant, Jack Mahoney, be made by leaving a copy
thereof and of this order at the place of business of said
Jack Mahoney, defendant herein, at 309 Fifth Avenue, City
and State of New York, with a person of proper age, if, upon
reasonable application, admittance can be obtained and such
person found who will receive it; or, if admittance cannot be
so obtained, nor such person found, by affixing the same to
the outer or other door of the said defendant's place of
business, and by depositing in a post office another copy
thereof properly enclosed in a post-paid wrapper, addressed
to said defendant at his said place of business.


Rensselaer County Judge

ENTER

STATE OF NEW YORK

SUPREME COURT, COUNTY OF RENSSELAER

EDWARD ROMAN,

Plaintiff,

vs.

RICHARD RODGERS, LORENZ HART, JACK MAHONEY, doing business
under the assumed business name of " MAHONEY and ASSOCIATES,"
METRO-GOLDWYN-MAYER CORP. and ROBBINS MUSIC CORP.,

Defendants.

TO THE ABOVE NAMED DEFENDANT S :

YOU ARE HEREBY SUMMONED to answer the complaint
in this action, and to serve a copy of your answer, or,
if the complaint is not served with this summons, to
serve a notice of appearance, on the plaintiff's
attorney within twenty days after the service of
this Summons, exclusive of the day of service. In
case of your failure to appear or answer, judgment will
be taken against you by default for the relief demanded
in the complaint.

Trial to be held in the County of Rensselaer

Dated this 25th day of November

19 36.

E. STEWART JONES

Plaintiff 's Attorney

Office and Post Office Address
400 Cannon Place,
Troy, New York.

SUPREME COURT : COUNTY OF RENSSELAER

- - - - - X

EDWARD ROMAN

Plaintiff

-against-

RICHARD RODGERS, et al

Defendants

- - - - - X

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS . :

HOWARD CAMPBELL JR., being duly sworn, deposes and says:

That he is over the age of eighteen years and is the manager of H. CAMPBELL COMPANY, process servers of 140 Nassau Street, New York City, N.Y.

That on the 23rd day of October, 1936, a copy of Summons and Complaint in the above entitled action was placed with him for service upon Jack Mahoney, one of the defendants in said action, whose place of business was stated to be at 309 - 5th Avenue, in the Borough of Manhattan, City and State of New York.

That your deponent was also furnished with a photograph of the defendant, Jack Mahoney to assist him in identifying the defendant. That on the said 23rd day of October, 1936, your deponent called at defendant's place of business, 309 - 5th Avenue, in the Borough of Manhattan, City of New York and found several men in the office of Jack Mahoney. He inquired of one whether or not Jack Mahoney was in and was directed to a man sitting in the office. Your deponent asked this man to whom he had been directed whether or not he was Jack Mahoney and was advised that he was not and that Jack Mahoney was not in. Said person bore a strong resemblance to the picture of Jack Mahoney in your deponent's possession, but your deponent did not serve him with Summons and Complaint as said person had not admitted his identity.

Your deponent then talked to the elevator operator and was informed that to the best of his knowledge Jack Mahoney was in and that he had not seen him leave. That between the 23rd day of October, 1936 and the 18th day of November, 1936, your deponent has called at the office of Jack Mahoney at various times of the day and at least three times weekly, but has on all occasions been advised by the girl in said office that Jack Mahoney was not in nor could she tell your deponent when he would be in.

That your deponent has at no subsequent time seen the person with whom he has talked as hereinbefore stated. That your deponent verily believes that defendant, Jack Mahoney, is hiding and evading service of the Summons and Complaint in this action and although he has used due and diligent efforts in endeavoring to effect service upon him, he verily believes that he will be unable to do so. Sworn to before me this 18th day of November, 1936.

Dorothy Schwartz, Notary Public
Kings Co. Clk's No. 677, Reg. No. 8764
N.Y. Co. Clk's No. 1956, Reg. No. 851162
Commission Expires March 30, 1938

Howard Campbell Jr

SUPREME COURT

RENSSELAER COUNTY

EDWARD ROMAN,

Plaintiff,

-against-

RICHARD RODGERS, LORENZ HART, JACK MAHONEY doing business
under the assumed business name of " MAHONEY and ASSOCIATES,"
METRO-GOLDWYN-MAYER CORP. and ROBBINS MUSIC CORP.,

Defendants.

STATE OF NEW YORK)
COUNTY OF RENSSELAER) ss.
CITY OF TROY)

EDWARD ROMAN, being duly sworn, deposes and
says:

That he is the plaintiff in the above-entitled
action.

That Jack Mahoney, one of the defendants herein,
is a resident of the City and State of New York.

That the plaintiff has been and will be unable
with due diligence to make personal service of the summons
upon Jack Mahoney, one of the defendants in the above-en-
titled action, as more fully appears from the affidavit
hereto annexed.

That no previous application has been made for
the relief sought herein.

WHEREFORE, the deponent prays for an order
directing substituted service of the summons in the within
action upon Jack Mahoney, one of the above named defendants,
pursuant to the Civil Practice Act, sections 230 and 231.

Edward Roman

Sworn to before me, this
25th day of November, 1936.

Charles W. Marshall

Notary Public

..... X

Plaintiff

RICHARD RODGERS, et al

..... X

STATE OF NEW YORK)
) SS . :
COUNTY OF NEW YORK)

HOWARD CAMPBELL JR., being duly sworn, deposes and says that he resides in the Borough of Brooklyn, City of New York and is over the age of eighteen years.

That on the 30th day of November, 1936, deponent personally served copies of the annexed Summons and Order of Substituted Service in the above entitled action on JACK MAHONEY, the defendant therein mentioned at 309 - 5th Avenue, in the Borough of Manhattan, City of New York, by delivering to and leaving with JACK MORRIS, an office associate of said defendant, and a person of proper age, personally, a true copy of said Summons and Order of Substituted Service, pursuant to Order dated the 27th day of November, 1936, and signed by Justice James F. Brearton, ~~one of the Justices of the County of Rensselaer~~ Rensselaer County Judge.

Sworn to before me this

30th day of November, 1936.

Dorothy Schwartz, Notary Public
Kings Co. Clk's No. 677, Reg. No. 8764
N.Y.Co.Clk's No.1956, Reg. No. 8S1162
Commission Expires March 30, 1938

STATE OF NEW YORK,

County of _____ } ss:

_____ of _____ }

_____ being duly sworn,
deposes and says that he is _____
_____ in this action; that he has
_____ read the foregoing _____ and knows
the contents thereof; that the same is true to the knowledge of deponent, except as to the
matters therein stated to be alleged on information and belief, and as to those matters he
believes it to be true.

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

(CORPORATION VERIFICATION)

State of New York }
County of _____ } ss:

_____ 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 therein 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 this _____ and information acquired by deponent in the course of his duties as an officer of said
_____ corporation and from the books and papers of said corporation.

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

Sir : Take notice of an-----

of which the within is a copy, duly
granted in the within entitled action, on
the-----day of-----19--,
and duly entered in the office of the Clerk
of the County of-----on the
-----day of-----19--
Dated -----, N. Y.,
-----19--

ABBOTT H. JONES

Attorney for

Office and Post Office Address
309 CANNON PLACE
TROY, N. Y.

Attorney for -----

STATE OF NEW YORK

SUPREME COURT,

COUNTY OF RENSSELAER

EDWARD ROMAN, Plaintiff

against
RICHARD RODGERS, LORENZ HART,
JACK MAHONEY, doing business
etc., METRO-GOLDWYN-MAYER
CORP. and ROBBINS MUSIC
CORP.

369 131
369 Defendants.

XXX ORIG.
ORDER, SUMMONS, AFFIDAVITS
and PROOF OF SERVICE OF
SUBSTITUTED SERVICE

E. STEWART JONES
~~ABBOTT H. JONES~~

Attorney for Plaintiff,

Office and Post Office Address
400 309 CANNON PLACE
TROY, N. Y.

Due and personal service of the within

is admitted this-----day of-----19--

Attorney for -----

SUPREME COURT : COUNTY OF RENSSELAER

-----X

EDWARD ROMAN,

Plaintiff,

-against-

RICHARD RODGERS, LORENZ HART, JACK MAHONEY,
doing business under the assumed business
name of "MAHONEY AND ASSOCIATES", METRO-
GOLDWYN-MAYER CORP., and ROBBINS MUSIC CORP.,

Defendants.

-----X

IT IS HEREBY STIPULATED, CONSENTED AND AGREED by
and between the attorneys for the respective parties hereto
that the above-entitled action be, and the same hereby is,
settled and discontinued without costs to any party as against
any other party herein, and that an Order to such effect may
be entered upon this stipulation by any party to this action,
ex-parte.

Dated: January 18, 1937.

C. Stewart Jones
Attorney for Plaintiff

J. Robert Rubin
Attorney for Defendant, Metro-
Goldwyn-Mayer Corp.

Julian J. Abeles
Attorney for Defendant, Robbins
Music Corporation

Wattenberg & Wattenberg
Attorneys for Defendants, Richard
Rodgers and Lorenz Hart

Jacob M. Weinstein
Attorney for Defendant, Jack Mahoney

Sir: Take notice of an _____

which the within is a copy, duly granted in
the within entitled action, on the _____

day of _____ 19____, and

duly entered in the office of the Clerk of the

County of _____ on the

day of _____ 19____

Dated _____, N. Y.,
_____, 19____

E. STEWART JONES

Attorney for Plaintiff

Office and Post Office Address
400 CANNON PLACE
TROY, N. Y.

STATE OF NEW YORK

SUPREME COURT

County of RENSSELAER

EDWARD ROMAN, Plaintiff,

-against-

RICHARD RODGERS, LORENZ
HART, JACK MAHONEY, etc.,
METRO-GOLDWYN-MAYER CORP.,
and ROBBINS MUSIC CORP.,

Defendants.

STIPULATION OF DISCONTINUANCE

E. STEWART JONES

Attorney for Plaintiff

Office and Post Office Address
400 CANNON PLACE
TROY, N. Y.

Due and personal service of the within

is
admitted this 19____ day of _____, 19____


Attorney for _____

NATIONAL LEGAL SUPPLY, ALBANY, N. Y.

From: Merola, Frank [mailto:FMerola@rensko.com]
Sent: Thursday, August 14, 2014 11:24 AM
To: 'Liz Gallese '
Subject: RE: Roman law suit-1936

Everything that we have on the suit is included in the attachment.

Frank J. Merola
Rensselaer County Clerk
105 Third Street
Troy, New York 12180
Phone: (518) 270-4080
Fax: (518) 271-7998
fmerola@rensko.com

From: Liz Gallese [mailto:liz@
Sent: Wednesday, August 13, 2014 4:26 PM
To: Merola, Frank
Subject: Roman law suit-1936

Hello Mr. Merola,

Thank you for so promptly locating the law suit from 1936 that I asked about, the plaintiff being Edward W. Roman.

I would appreciate your scanning the documents, as you proposed, and emailing them to me.

Sincerely,

Liz Roman Gallese
">liz@
781-

This Email has been scanned for all viruses by PAETEC's Hosted E-mail Security Services, utilizing MessageLabs proprietary SkyScan infrastructure. For more information on a proactive anti-virus service working around the clock, around the globe, visit <http://www.paetec.com>.
