

EXHIBIT B

Subject: Internet Archive
Date: Fri, 21 Aug 2020 10:56:39 -0700
From: Brewster Kahle <brewster@archive.org>
To: Ken Doroshow <kdoroshow@riaa.com>

Mr. Doroshow,

The Internet Archive is a non-profit library. Far from the extreme characterization in your letter, our library thoughtfully collects and preserves cultural materials, including historical sound recordings across a number of formats, often in collaboration with other libraries, archives, companies, and creatives.

The Great 78 Project in particular is a community project for the preservation, research and discovery of 78rpm records. As you are no doubt aware, these records are extremely brittle and the format--in use from the late 1800s to the 1950s--is obsolete. The fragility of the discs, their relative obscurity, and the scarcity of equipment to play the physical items mean that we may lose access to millions of recordings if they are not preserved now. Digitizing these materials is important to ensure the survival of these cultural materials for future generations to study and enjoy.

Your letter highlights a few still known artists who started their recording careers during the period when 78s were in use. However, most of the recordings in this collection are obscure and rare. Due to the age of these records, the Great 78 Project is primarily a digital reference collection of underrepresented artists and genres, many of which have never been released in digital form. It enables researchers and others the ability to listen to artists who may still be known today in their historical and cultural context. Because these recordings were not eligible for federal copyright until passage of the Music Modernization Act, we understand that they were never deposited with the US Copyright Office. As such, there is no complete historical record of these materials stored elsewhere.

Our preservation process is not like the digital remastering that is used for commercial re-releases of these older materials. Instead, we painstakingly capture the often very prominent surface noise that is inherent in playing this obsolete format in real time. Our preservation

records are simply not substitutes for a commercial release.

Based on our conversations with your members, they seem to understand the importance of our work. To the extent that there may be particular recordings that your members may prefer to have removed from public access because they are currently being commercially exploited, we work with them according to standard procedures. Fortunately, no one wants this collection to be broken apart. The context it can provide to current and future researchers is both important and unique. We hope that when this pandemic is over, that you and your members will come and visit our special collections library to see how we have catalogued and preserved these materials for the long term. You can even listen to some of the less fragile old recordings on our 78rpm jukebox and crank-operated Victrolas.

Similarly, the “MySpace Dragon Hoard” collection appears to be a snapshot of everything on MySpace for a two-year window of time. It is our understanding that the company itself removed all materials prior to 2017, and this may be the only complete record of this community during that time period. Many of the sound recordings in that collection were made and posted by amateurs who were trying to make a name for themselves online. Some of those artists have been able to recover their own music that they had lost access to when MySpace deleted it. Some of these artists may now be popular. If your members claim to own some of these recordings and prefer to have them removed from their historical context, they can and should submit a list of the recordings they claim to own to info@archive.org and we will process them according to standard procedures.

We have had conversations with your members about our work, and we are exploring mechanisms to help them promote older works.

We also expeditiously respond to takedown notices when we receive them. We have been working with rightsholders and other stakeholders for decades now around these matters, and it’s going well.

I hope that you and your loved ones are safe and healthy during this time of COVID-19.

-brewster

Digital Librarian