

It is our opinion, however, that under present circumstances no authorized Russian edition has been published and, therefore, Feltrinelli has no rights under copyright law or convention in a Russian edition.

There is no question that Feltrinelli has copyright protection on his Italian translation not only in Italy but in all signatories to the Berne Convention and to the Universal Copyright Convention.

However, both the Berne and Universal Copyright Conventions consider translations as separate and apart from the original work so that publication of a translation does not vest any rights in the Russian edition in Feltrinelli.

Further, pursuant to Article 11 (Bis) of the Berne Convention the exclusive right of authorizing the radio broadcasting of the work in Russian is vested in Mr. Pasternak.

Under the Berne Convention it is a matter for legislation in the countries of the Berne Union to determine the conditions under which the radio broadcasting rights may be exercised but the Convention provides that such legislation shall not be prejudicial to the moral right of the author, nor to his right to obtain just remuneration which in the absence of agreement shall be fixed by competent authority.

In view of the fact that the USSR has refused permission to Mr. Pasternak to publish the literary work in Russian we believe a fair inference may be drawn that Pasternak has not granted any broadcasting rights in Russian to Feltrinelli.

Further, if the public press is to be believed there appears to be little chance of Mr. Pasternak being permitted to leave the USSR at the present time.

If Mr. Pasternak should be ejected from the USSR he would under the Berne Convention, and provided he established domicile in a Berne Convention Country, be able to bring action for the unauthorized use of the radio broadcasting rights.

In view of the fact, however, that, as we understand it, such planned radio broadcasts would be to the so-called "Iron Curtain" countries we do not believe any competent authority would award substantial damages to Mr. Pasternak.

Very truly yours,

/s/

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Counselors At Law

November 12, 1958

Henry Poor, Esq.
Greenman, Shea & Zimet
20 Pine Street
New York, N.Y.

Dear Mr. Poor:

You have requested our opinion as to the legal liability of American Committee for Liberation, if such Committee should broadcast by radio in Russia the literary work entitled "Dr. Zhivago" by Boris Pasternak.

The facts as disclosed to us by you and from our own research in the matter are as follows:

Boris Pasternak the author of Dr. Zhivago is a citizen of and is domiciled in the USSR. The USSR is not a party to any copyright convention and more particularly is not a signatory to the Berne Convention, or the Universal Copyright Convention.

A manuscript in Russian of the literary work was obtained by G. Feltrinelli, Editore of Milan, Italy. Whether such manuscript was obtained by Feltrinelli directly from Mr. Pasternak, or from a Soviet publishing firm is not known. Similarly, whether or not any contract or grant of rights exists between Mr. Pasternak, or any Soviet publishing house and Feltrinelli is also unknown.

Feltrinelli caused an Italian translation of the Russian manuscript to be made which despite the protests of Mr. Pasternak was published in 1958 and copyright thereon was obtained by Feltrinelli by compliance with Italian law and the provisions of the Universal Copyright Convention.

Subsequently, an English translation was published and copyrighted in England by William Collins & Sons Company, Ltd. of London, England with the consent of Feltrinelli. Similarly, Pantheon Books, Inc. in New York has published an American edition with revisions of the English translation which has been copyrighted by Pantheon Books, Inc.

In 1958, a limited edition in Russian was printed and published in Holland bearing the name of Feltrinelli as publisher. We are informed that in fact such edition was not published, nor was its publication authorized by Feltrinelli.

You will, of course, appreciate that in the absence of an inspection of whatever documents may be held by Feltrinelli it is, of course, impossible to render a definitive opinion as to Feltrinelli's rights.