

the current agreement, it might well be argued that any rights that exist are in the Russian publishing house. Feltrinelli would have some right, for instance, in an Italian translation, but presumably in a contest the question of his right to translate in the first place would be controlled by the nature and extent of his authority from Pasternak.



~~Assistant General Counsel~~

OGC:

✓ Subject
Signer
Chrono

~~SECRET~~

20 March 1959

MEMORANDUM FOR THE RECORD

SUBJECT: Dr. Zhivago - Telephone Conversation with [REDACTED]

1. [REDACTED] called today to give me the answers to questions that I asked about Feltrinelli's rights in any of the Pasternak material. It had turned out to be a fascinating project involving considerable research and some definite conflicts of opinion. However, the following are his conclusions. They fall into three areas: common-law copyright, unpublished works and Universal Copyright Convention.

2. As far as Dr. Zhivago is concerned, [REDACTED] feels that Pasternak had a common-law copyright even though he was an alien. This was reserved by the U.S. act of 1909. As to whether an alien loses this common-law right as a result of translation in a third country, there is a difference of opinion, and [REDACTED] admits that some of his colleagues do not agree with him. He thinks, however, that the alien does lose what he described as the pre-publication rights in the manuscript. This either leaves him without the right ([REDACTED] opinion) or raises the problem of how he might enforce it in this country.

3. As an unpublished work, there is no statutory protection even under the Universal Copyright Convention. This follows for two reasons: (a) he has not complied with the formalities, and (b) he has authorized translations. Sections 2 and 11 of the U.S. act control. We should note that Sec. 11 has been held to apply to unpublished manuscripts even though it seems restricted to musical works. Generally, this is the protection for works that are not reproduced for sale. A song writer, for example, who did not want to put his work on the market right away, would file a copy with the Library of Congress under this provision.

4. The Universal Copyright Convention provides for preservation of the common-law copyright in accordance with local law and this, as we have just mentioned, is accomplished under Sections 2 and 11 of the U.S. act.

5. Again, any rights that Feltrinelli might have obtained from Pasternak would be derivative insofar as the Russian manuscript is concerned. This raises the problem of whether Pasternak has any rights to transfer. Under