

The New York Times
Anne Frank's Diary Gains 'Co-Author' in Copyright Move
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PARIS — When Otto Frank first published his daughter's red-checked diary and notebooks, he wrote a prologue assuring readers that the book mostly contained her words, written while hiding from the Nazis in a secret annex of a factory in Amsterdam.

But now the Swiss foundation that holds the copyright to "The Diary of Anne Frank" is alerting publishers that her father is not only the editor but also legally the co-author of the celebrated book.

The move has a practical effect: It extends the copyright from Jan. 1, when it is set to expire in most of Europe, to the end of 2050. Copyrights in Europe generally end 70 years after an author's death. Anne Frank died 70 years ago at Bergen-Belsen, a concentration camp, and Otto Frank died in 1980. Extending the copyright would block others from being able to publish the book without paying royalties or receiving permission.

In the United States, the diary's copyright will still end in 2047, 95 years after the first publication of the book in 1952.

While the foundation, the Anne Frank Fonds, in Basel, signaled its intentions a year ago, warnings about the change have provoked a furor as the deadline approaches. Some people opposed to the move have declared that they would defy the foundation and publish portions of her text.

Foundation officials "should think very carefully about the consequences," said Agnès Tricoire, a lawyer in Paris who specializes in intellectual property rights in France, where critics have been the most vociferous and are organizing a challenge. "If you follow their arguments, it means that they have lied for years about the fact that it was only written by Anne Frank."

The decision has also set the foundation on a possible collision course with the Anne Frank House museum in Amsterdam, a separate entity that for years has sparred with the Anne Frank foundation over legal questions, such as ownership of archives and trademark issues.

The museum has been working for five years with historians and researchers on an elaborate web version of the diary intended for publication once the copyright expires. The research is still progressing with a historical and textual analysis of her writing, including deletions, corrections and stains.

"We haven't decided yet when or how the results will be published," said Maatje Mostart, a spokeswoman for the Anne Frank House. "Any publishing will always be done within the legal frameworks." She added pointedly that neither "Otto Frank nor any other person is co-author."

One of Anne's own astute diary entries seemed to anticipate the disputes: "Why do grown-ups quarrel so easily?"

Anne was 15 when she died at Bergen-Belsen. She had been arrested after someone alerted the authorities that the family had been hiding in the secret annex of a pectin factory on the Prinsengracht, or Prince's Canal. Otto Frank was the family's only survivor.

After arranging for her diary and notebooks to be published, he tried to secure Anne's legacy. In 1960, he and the City of Amsterdam helped save the building where the family had hidden. (It became the Anne Frank House.)

Three years later, he set up the foundation in Switzerland to collect the diary's royalties and distribute them to charities such as Unicef, children's education projects and a medical fund that today supports about 50 gentiles who saved Jews during the war. He left her actual diaries and notebooks to the Dutch state.

"Effectively, Otto split up the legacy of his daughter, which one could say has created a bit of a nice mess ever since," said Gerben Zaagsma, a historian of modern Jewish history at the University of Göttingen in Germany who is working on a scholarly edition of the diary backed by the foundation and Germany's culture ministry.

The foundation does not publish yearly reports about its finances. But in recent years, it said it had donated about \$1.5 million annually to hundreds of charitable organizations.

"The longer they can claim copyright protection, the longer they can ask money for publication of the works," said Stef van Gompel, a professor at the University of Amsterdam who specializes in copyright law.

Six years ago, the foundation asked legal experts in various countries for advice on its copyright, according to Yves Kugelmann, a member of the foundation's board. They concluded, he said, that Otto "created a new work" because of his role of editing, merging and trimming entries from her diary and notebooks and reshaping them into "kind of a collage" meriting its own copyright.

Merely declaring Otto the "co-author" on copyright filings extends the copyright, legal experts said, though such a stand could be tested in the courts. Readers would not see any changes on the books themselves, foundation officials said.

The foundation's officials said that their aim is to "make sure that Anne Frank stays Anne," Mr. Kugelmann said, by maintaining control and avoiding inappropriate exploitation of the work. "When she died, she was a young girl who was not even 16. We are protecting her. That is our task."

Critics, he said, are wrongly looking at the intended change as a financial matter. "It is not about the money," he said.

But Mr. van Gompel, the copyright lawyer, said extending the copyright runs counter to the intention of the laws.

"There is a good reason that copyrights are limited, so that people can freely use" written materials, he said. "It doesn't mean that they need to be protected for all eternity."

Copyright protections vary from country to country. The classic novella "The Little Prince" fell into the public domain this year in much of the world but remains under copyright in France because of an exception that grants a 30-year extension to authors who died during military service in World War I and II.

Some critics of the foundation have already tested its resolve by posting bootleg copies of the diary online.

Olivier Ertzscheid, a lecturer in communications and researcher at the University of Nantes, received a warning letter this month from a French publisher of the diary after he started circulating a copy online in protest. He removed it, but he and a French politician, Isabelle Attard, said they were waiting to see what happens in January before pressing forward with a plan to encourage publication of the original manuscript more widely online.

"The best protection of the work is to bring it in the public domain, because its audience will grow even more," said Ms. Attard, who noted that her own Jewish relatives were hidden or deported during the German occupation in France. "What is happening now is a bluff and pure intimidation."

The foundation insists that by issuing an early warning of its intent to extend the copyright, it is acting ethically to prevent publishers from pursuing a course that might be unproductive and costly.

But if the foundation succeeds, publishers may wind up waiting even longer than the 70 years allowed after Otto Frank's death.

A second editor, Mirjam Pressler, revised, edited and added 25 percent more material from Anne Frank's diary for what was called a "definitive edition" in 1991. She qualified for a copyright for her creative work, and the rights were transferred to the foundation, said its lawyer, Kamiel Koelman.

She is still living, he added, giving them copyright ownership from the date of her future death for at least another 70 years.

Questions to answer:

1. Define: prologue, annex, copyright, royalties, specialize, intellectual property.
2. How would people regard Anne Frank's diary differently if they thought her father was genuinely a co-author?
3. What is the Anne Frank Fonds claiming about Otto Frank's role?
4. Why does Agnes Tricoire say "If you follow their arguments, it means that they have lied for years about the fact that it was only written by Anne Frank." Is he right? Why or why not?
5. Why did Otto Frank cut some entries from Anne's diaries?
6. Why are there copyrights? Why do they ever end? Does it make sense for them to continue 70 years after the author's death, as in Europe? Why or why not?
7. How did Otto Frank split up the legacy of his daughter, according to Gerben Zaagsma?
8. What do you think about Yves Kugelmann's argument that the foundation is protecting Anne Frank against exploitation of her work?