

Where does copyright come in?

During our class on Tuesday, I was reminded of an article I had read a couple of years ago that seemed relevant to our discussion. I'm not sure if [this](#) is the exact article, but it provides all the background.

It discusses the legal battle that has been occurring between the Israel National Library and the two daughters of Esther Hoffman over the ownership of a series of papers, including unpublished manuscripts, journals, and letters of Franz Kafka, the noted 20th century writer. When Kafka died in 1924, he entrusted all of his work to his close friend Max Brod, making him promise that he'd burn all of his unpublished, unfinished work after he passed. Brod escaped Prague, where he and Kafka had lived, when the Nazis invaded and fled to Tel Aviv, Israel with the papers. Here, he broke the promise to his close friend and kept the work, publishing several of the novels and giving the rest of the work to his secretary, Esther Hoffman. When Hoffman died a few years ago, she passed the papers on to her two daughters.

The Israeli National Library intervened when the daughters attempted to sell some of the work. The Israeli National Library claims that the works represent a large part of their culture and heritage, much of which was lost during the Holocaust, and that it is essential that the works are revealed and stored in Israel. Currently, the works are being kept in private safety deposit boxes in Tel Aviv and Zurich, Switzerland. The daughters are arguing that they are their legal possessions and they should personally choose what they do with the manuscripts. An offer from Germany's literary archive to purchase the manuscripts has added further tension, uncovering negative feelings that Israel still holds for them from World War 2.

While the work has been examined since by select experts since the beginning of the trial, mentioned [here](#), the works are still unavailable to the greater public.

What I found interesting was that if the works were published, and copyright followed specifically, that the author's rights to their work expires after 70 years, then the manuscripts would already be public domain. In this case though, they are unpublished - meaning that copyright can not be applied to them. None of the articles I found on the subject made any mention of "hypothetical" copyright swaying the judge's position on the matter.

How do you feel about copyright in regard to unpublished works? Should they remain the sole property of those in their possession, or do those people have the right to pass them on to the public? Does Israel have any right to demand that the Hoffman sisters hand over the works to them, or should they be free to do with them whatever they want? Also, how should copyright be handled with works published after the original author has already died?