

Copyright Board
Canada



Commission du droit d'auteur
Canada

[TRANSLATION]

Ottawa, January 7, 2019

File : 2018-UO/TI-20 – Bibliothèque québécoise inc.

Ms. Labonté:

The Copyright Board has reviewed your licence application filed on July 18, 2018 and has determined, for the following reasons, that a licence cannot be issued as no licence is required for the reproduction of the photograph subject to your application:

1. The photograph by Andrée Mailler was taken between 1944 and 1945;
2. The term of protection afforded to photographs at that time was 50 years from the making of the original negative from which the photograph was directly or indirectly derived (RS 1927, c. C-32, s. 9);
3. The term of protection afforded to photographs between 1994 and 1995 was still 50 years from the making of the original negative, as such there was no extension of the term of protection applicable to the photographs (North American Free Trade Agreement Implementation Act, S.C. 1993, c. 44, s. 60(1));
4. The photograph became part of the public domain on January 1, 1996 at the latest.

In light of this information, the Board cannot consider your licence request further. The issue is not one of discretionary power: the Board does not have competence to issue a licence in this case, as it cannot issue licences for the use of works in the public domain.

Sincerely Yours,

A handwritten signature in black ink, appearing to read 'Gilles McDougall'.

Gilles McDougall
Secretary General