



American Society of Illustrators Partnership

Reply Comment, American Society of Illustrators Partnership
Notice of Inquiry, US Copyright Office, Library of Congress
Copyright Protection for Certain Visual Works (80fr23054)



GUILD OF
NATURAL
SCIENCE
ILLUSTRATORS



September 22, 2015



Maria Pallante
Register of Copyrights
U.S. Copyright Office
101 Independence Ave. S.E.
Washington, DC 20559-6000

RE: Notice of Inquiry, US Copyright Office, Library of Congress
Copyright Protection for Certain Visual Works (80fr23054)

Reply Comment of the American Society of Illustrators Partnership

The responses to the Visual Arts Notice of Inquiry demonstrate that artists overwhelmingly oppose orphan works legislation. Although the Copyright Office invited us to express our opinions about current copyright law (and most did), nearly all respondents also expressed their concerns over the potential return of an orphan works bill that would reverse the principle of copyright law and degrade the exclusive right of authorship to a non-exclusive right. Of course, it should not be surprising that so many have chosen to comment on this subject. Nearly two months before the deadline for submissions, the Copyright Office had already sent draft legislation to Congress proposing a new copyright law based on the 2008 Shawn Bentley Orphan Works Act.*

The Artists Rights Society spoke for nearly all of us when it wrote that the proposed legislation would “would destroy the legitimate market for the artist’s work, and nullify the protections afforded by the Copyright Act.” (1) And we agree with our colleagues at the Illustrators Partnership that because an author’s exclusive right to his or her work is guaranteed by Article 1, Section 8 of the Constitution, it cannot be nullified except by a Constitutional amendment. (2) In these reply comments we hope to comment further on that point.

* In the June 2015 Report, the Copyright Office states that the Senate passed the Shawn Bentley Act by unanimous consent. In fact, it was done by a legislative maneuver called “hotlining,” that effectively bypassed Senate consideration.

According to *Roll Call*, Sept 17, 2007: “The practice has led to complaints from Members and watchdog groups alike that lawmakers are essentially signing off on legislation neither they nor their staff have ever read... In order for a bill to be hotlined, the Senate Majority Leader and Minority Leader must agree to pass it by unanimous consent, without a roll-call vote. The two leaders then inform Members of this agreement using special hotlines installed in each office and give Members a specified amount of time to object – in some cases as little as 15 minutes. If no objection is registered, the bill is passed.” http://www.rollcall.com/issues/53_27/-20011-1.html

The Shawn Bentley Act was hotlined twice during the summer of 2008, but both times Senators objected. On September 26, 2008, the bill was hotlined again, this time during early evening hours. With most Senate offices closed, even the legislative aides artists we were able reach by phone said they lacked the time to read it, and so the bill was passed by what Senate protocols are allowed to call “unanimous consent.” <http://ipaorphanworks.blogspot.com/2008/09/orphan-works-devils-own-day.html>

- Illustrators’ Partnership of America
- Association of Medical Illustrators
- American Society of Architectural Illustrators
- National Cartoonists Society
- Guild of Natural Science Illustrators
- San Francisco Society of Illustrators
- Pittsburgh Society of Illustrators
- American Society of Aviation Artists
- Society of Illustrators of San Diego
- Society of Illustrators of Los Angeles
- Illustrators Club of Washington DC,
Maryland and Virginia
- Association of American Editorial Cartoonists
- Illustrators-at-Large (nonaffiliated)

•
– Board of Directors –

- Brad Holland
- Cynthia Turner
- Dena Matthews
- Frank M. Costantino
- C. F. Payne
- Dolores R. Santoliquido
- Michel Bohbot
- Ilene Winn-Lederer
- Keith Ferris
- Ken Joudrey
- Joe Cepeda
- Joe Azar
- Nick Anderson
- Donald Kilpatrick

•
www.asip-repro.org
9 Foster Place
Pleasantville, NY 10570

•

The Response

First, let's note that the *initial* response to this Notice of Inquiry is between three to ten times greater than the *total* response to the 2005 Study on which orphan works legislation was based. In its House testimony of March 13, 2008, the Copyright Office stated that it had received "more than 850 written comments" to its 2005 Orphan Works Study. (3) The Copyright Office called this an "overwhelming response," and said it justified the legislation it proposed to Congress. (4) Yet the current Visual Arts Inquiry has already drawn more than 2,500 letters – a number that does not yet include reply comments – and the vast majority are firmly opposed to the legislation.

Moreover, let's recall that of the 850 letters received 10 years ago, the Copyright Office had to discount more than 600 of them because they did not reflect an "orphan works situation." (5) That means that orphan works legislation has never been predicated on more than 215 *total* comments. (6) Comparing that number to the current outpouring – a ratio of more than 10:1 – we have to conclude, in the words of David Rhodes, President of the School of Visual Arts, that "[t]he Copyright Office's own paucity of data should lead one to conclude that 'Orphan Works' are not a problem." (7)

Moreover, since 2008, libraries and archives have gone on record to state that recent court decisions have "diminished the need for orphan works legislation." (8) Therefore the orphan works campaign now boils down to the desire by some commercial entities and the legal scholars associated with them to abridge the exclusive right of authorship "secured" by Article 1, Section 8 of the Constitution.

Constitutional Issues

Visual artists may not be legal scholars, but neither were 20 of the 55 delegates to the 1787 Constitutional Convention. (9) Many of the framers were businessmen and merchants, which may explain why the Constitution contains a provision guaranteeing copyright as a private property right. For similar reasons, it should not be surprising then that so many visual artists, the smallest of small business owners, should express their concern that orphan works legislation would undermine that Constitutional provision. Here are just five examples from the current responses:

Association of Medical Illustrators: "The threat to copyright is that it is losing its legitimacy which is based on protecting...the exclusive rights promised by the founders in Article 1, Section 8 of the Constitution..." (10)

Medical Illustrator William Westwood: "Now proposals are being made to further undermine the concept of 'exclusive' copyright ownership by creators through notions that 'potential users' have 'rights' to make use of copyrighted images on par with those of actual creators and copyright." (11)

New Yorker Cartoonist Pat Byrnes: "The Orphan Works Legislation Discussion Draft contemplated in the Report by the Copyright Office violates

every fundamental of international rights treaties and tenets of our own Constitution...Making something published yesterday eligible for orphan status is a veritable abolishment of Copyright altogether.” (12)

Artist Taina Litwak: “The Mass Digitization proposal makes a mockery of the Constitution, the free market, and rights of ownership. PLEASE know that MANY creative people ARE paying attention and are DEEPLY DISTURBED.” (Emphasis in the original.) (13)

Medical Illustrator Teri McDermott: “The Copyright Act was the first article passed in the US Constitution. It was that important.” (14)

Article 1, Section 8

The Constitution’s Copyright Clause states that Congress shall have the power “[t]o promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.” (15)

But giving Congress the power to “secure” those rights does not give it the power to abolish them via statute law. To the contrary, it accepts the existence of an author’s exclusive rights as a given.

In fact, the comments submitted by Rutgers University Libraries go further:

“Art and culture is compromised when creators are unable to benefit from their own works because economic gains accrue instead to third parties directly through infringement and indirectly through other forms of third-party monetization...This is not fair, and it is not what copyright, which is recognized as a human right under Article 27 of the United Nations *Universal Declaration of Human Rights*, was intended to achieve.” (Emphasis added.) (16)

The Universal Declaration of Human Rights, Article 27.2: “Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.” (17)

Reversing Copyright Law

Since 2008, the Illustrators Partnership has repeatedly argued that the Orphan Works Act would nullify an author’s exclusive rights because it would invert the default premise of copyright law:

“[I]ts logic reverses copyright law. It presumes that the public is entitled to use your work as a *primary right* and that it’s your obligation to make your work available. If this bill passes, in the United States, copyright will no longer be the exclusive right of the copyright holder.” (Italics in the original.) (18)

A year later, Marybeth Peters, then Register of the Copyright Office made a similar point about the Google Book Search Settlement when she stated the Office's opposition to it in Congressional testimony:

"The [Google] settlement...could affect the exclusive rights of millions of copyright owners, in the United States and abroad, with respect to their abilities to control new products and new markets...In summary, the out-of-print default rules would allow Google *to operate under reverse principles of copyright law.*" (Italics added.) (19)

In 2011 the Google settlement was thrown out of court on various grounds, including copyright infringement, antitrust and international law concerns, privacy issues and others. Judge Denny Chin ruled that neither party had the right to enter into an agreement that carved up the exclusive rights of the world's authors.

"A copyright owner's right to exclude others from using his property is fundamental and beyond dispute," [he wrote]. "[I]t is incongruous with the purpose of the copyright laws to place the onus on copyright owners to come forward to protect their rights when Google copied their works without first seeking their permission." (Emphasis added.) (20)

Substitute the words "good faith infringer" for "Google" in that ruling and you'll see how the proposed orphan works legislation "is incongruous with the purpose of the copyright laws."

The Orphan Works Act of 2008 and the Google Book Settlement were alike in that both would have created an opt-out business model that legalized widespread commercial infringement and required authors to take specific steps to "reclaim" their private property *after* it had already been appropriated by others.

Yet of the two, the Orphan Works Act presents the more egregious business model. The victims of Google's book infringements would at least know the identity of their infringer: Google. By contrast, infringements under the Orphan Works Act could occur anytime, anywhere and be committed by anyone.

"Instead of giving preference to the legal rights of the creators of works, the [Orphan Works Act] is openly biased in favor of infringers—people who willfully break the law." (21)

But of course if Congress were to pass legislation allowing infringers "to operate under reverse principles of copyright law," then what is currently illegal would become legal.

Making the Illegal Legal

At the 2014 Copyright Office Roundtables, Professor Ariel Katz of the Law Faculty of the University of Toronto proposed a hypothetical "business model." In it, he said "a few

authors” might get together to “create a licensing scheme,” and in addition to licensing their own work, license the work “of anyone else, even if they have never authorized us to act on their behalf.” Being good guys, he said, they would of course charge fees for licensing other peoples’ work and would even pay the “unknown” authors if they should ever turn up. But then rounding to his point, he added: “I don’t think that is legal. Right?” (22)

The Copyright Office response was immediate: “I think it would have to be legislation, probably, that would make the difference that would legalize it but others might have a different opinion.” (23)

The view that Congress can legalize illegal infringement is once again at the heart of the draft legislation the Copyright Office has proposed to Congress. In its *2015 Report on Orphan Works and Mass Digitization*, the Office cites two authorities to justify their recommendations. (24)

In rejecting the Google Book Settlement, Judge Chin wrote that “foreign countries, authors, and publishers have asserted that the [settlement] would violate international law. For this reason as well, the matter is better left for Congress.” (25)

And: “the Supreme Court has held that ‘it is generally for Congress, not the courts, to decide how best to pursue the Copyright Clause’s objectives.’” (26)

We agree with both comments. Yet we find no reason to interpret either as a call for Congress to reverse the principles of copyright law. It is simply Civics 101 to state that the separation of powers requires that laws be written, or rewritten, by the legislative branch and not by the courts.

Congress may indeed have the power to legalize illegal acts – but not to nullify a Constitutional right via statute law. If, as Judge Chin wrote “[a] copyright owner’s right to exclude others from using his property is *fundamental and beyond dispute*,” then legalizing the widespread commercial infringement of every citizen’s exclusive right to control the work he or she creates would involve the nullification of a “fundamental” Constitutional right. And to do that legally, Congress and/or the state legislatures must act in concert to pass a Constitutional amendment. It cannot be a business-as-usual law.

Breaching the Sanctity of Contracts

The logic behind the Constitution’s Copyright Clause should be self-evident: no individual can enter into any agreement to sell or license property – or dispose of it in any other fashion – unless he or she owns the property.

To make the public part owner of every citizen’s intellectual property – which is effectively what the proposed orphan works legislation would do – would make all contracts regarding

the disposition of that property essentially meaningless. People who make their livings licensing their work instinctively understand this:

Pat Byrnes: “My objections to the proposed Orphan Works Act of 20__ include... the preemption of artists’ rights to exercise exclusive control over their works and the impediments that [it] creates for them to enter into exclusive contracts...” (27)

Medical Illustrator Cynthia Turner (p.3): “My work in these markets is *always* conducted under non-disclosure agreements and under an exclusive license. The nature of the use, the market, the media and collateral use, the worldwide geographic territories, and the length of duration are all carefully enumerated and defined in my client licenses.” (28)

Brad Holland/The Illustrators Partnership: “Orphan works infringements would nullify millions of private business contracts between authors and the clients they’ve licensed work to. This would not only cause economic harm to the authors, but to their clients as well.” (29)

Sanctity of Contract is “a general idea that once parties duly enter into a contract, they must honor their obligations under that contract.” (30) But what if both parties to a contract DO honor their contractual obligations, yet find the terms of the agreement impaired by third parties? If the third parties are individuals or business entities, it’s called tortious interference, and under the law there’s a remedy for that. (31) But what if the interfering party is the US government?

Aviation Artist Keith Ferris: ”There are many contractual arrangements in place across the art industry in danger of being negated by government action. Entire business models are in jeopardy.” (32)

Brad Holland/The Illustrators Partnership: “[I]n effect, the government would appear to be proposing a grant of blanket amnesty in advance to any infringer who interferes with the contractual or business relationships of millions of authors, small business owners and private parties, so long as the infringer believes he or she is acting in “good faith.” Legislative immunity may exempt lawmakers from lawsuits for tortious interference. But by what right can they permit members of the public to interfere en masse with the contractual business affairs of each other on the slender premise that certain infringers may be ignorant of the economic or personal harm they’re causing to strangers?” (33)

In explaining exclusive rights to young artists, we often refer to an author’s copyright as a pie. The artist can sell the whole pie to a client for a substantial fee, or license slices to different clients and price the fees accordingly.

Keith Ferris: “Since copyrights are infinitely divisible, one’s inventory of copyrights is as good as a bank account and amounts to very valuable personal property. The advent of the internet with its rapid communication ability has actually greatly increased the value of our personal inventory of copyrights. Any effort to allow third parties to exploit these rights other than through exercise of the artist’s exclusive right to do so would be theft of his/her personal property, resulting in the stealing of money belonging to the artist. It is important for the successful business of art that we voluntarily control all uses of our art.” (34)

It’s important that rightsholders control these uses because without the ability to withhold rights not paid for – in other words, without an exclusive right to sell or license the property – there can be no rational pricing structure. And under an orphan works regime, that is exactly what the government would be creating. Entering into contracts of any kind would then become a crapshoot because no artist could ever again guarantee any client that rights licensed to that client haven’t been (or won’t be) infringed by someone, sometime, somewhere in the world.

Creating Uncertainty Through Legislation

The Copyright Office’s *2015 Report* is full of citations from legal scholars about the need for certainty among users. Yet it is the *current* copyright system that provides certainty in the markets. *Where creators exercise exclusive control over their rights and enter into voluntary agreements with known clients there is certainty all around.* All parties understand the terms they’ve agreed to and with whom; therefore both parties are in a position to monitor mutual compliance.

By contrast, a reckless orphan works law would inflict massive and perpetual chaos in those markets. For the sake of guaranteeing certainty to infringers in the secondary rights market, the law would make it impossible for either creators or their clients in the primary markets to know who, where or on what terms any particular work is, has been or will be used.

Brad Holland/The Illustrators Partnership: “How many private parties will end up suing each other for breach of contract in hopes of making the other party pay for their loss simply because the government itself had passed a private property law breaching their contracts?” (35)

The most likely scenario would be for clients to sue artists alleging lack of due diligence in monitoring their rights. They might sue artists for failing to register work, even work produced under the 1976 Copyright Act (which did not require registration). Or they might sue us for failing to monitor the world’s publications, websites and orphaned work registries (an impossible task) for evidence that the works they’ve licensed have not been infringed.

In the real world it will hardly matter that such lawsuits would be the result of government’s placing an impossible burden of diligence on artists as a condition of preserving their

Constitutional right of authorship. Such litigation would not need to be fair: the law will have made it legal. And anyone who thinks this won't happen isn't living in the world the rest of us have to live and work in.

To sum up the orphan works case for certainty: The Copyright Office seeks to provide certainty for the sub-class of “good faith” infringers in the secondary rights market by abolishing certainty for all creators and their clients in the primary rights market. If this is to be the new definition of how to “promote Science and useful arts,” then we reiterate that it would be a fundamental change to Constitutional law and must be done by Constitutional amendment.

Conclusion:

The responses to the Notice of Inquiry include more than two thousand statements from artists concerned that the proposed legislation would damage or even end their careers. To quote from just five:

Telaina M. Muir: “[R]equired registration would take up valuable time and money and make it virtually impossible for small based artists like myself to earn an income and protect my images.” (36)

Sara Jarret: “Currently, I only register works that I feel have a higher likelihood of being infringed, simply because I can not afford to register all of my works.” (37)

Scott Staton: “The time, expense and paperwork alone would be a full time job and would effectively end my creative working career.” (38)

Taina Litwak: “The process of limiting liability that you propose...means the END of the commercial illustration business made up of small independent authors.” (39)

The Artists Rights Society: “There is No Business Imperative for New Legislation: If Adopted, It Would Destroy the Market for the Work of Visual Artists.” (40)

On pages 50-51 of its *2015 Report on Orphan Works and Mass Digitization*, the Copyright Office states that it “takes [such] concerns seriously, but does not believe that they outweigh the benefits of comprehensive orphan works legislation...” (41)

But what benefits would those be to “outweigh” the damage to the lives, careers and reputations of rightsholders? And for whom would the “benefits” be benefits?

By acknowledging artists’ “concerns,” the Copyright Office has implicitly conceded that it is not rightsholders who should expect to benefit from the legislation they’ve proposed. So who

then? The answer can be found in the executive summary of the Copyright Office's original (2006) *Report on Orphan Works*:

“[I]f our recommendation [for legislation] resolves *users' concerns* in a satisfactory way, it will likely be a *comprehensive* solution to the orphan works situation.” (Italics added.) (42)

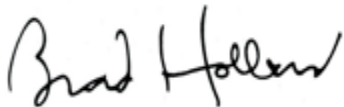
If it is the considered opinion of the Copyright Office that the fundamental premise of copyright law should be reversed; that the exclusive right of authorship should be degraded to a *non-exclusive* right; and that new rights should be created for users at the expense of authors, then that would be a fundamental change to the Constitution itself, and Article 5 of the Constitution “establishes the means for amending that document.”

“The process...is deliberately difficult...The advantages lie in the fact that the Constitution's provisions are not subject to change according to the whims of a particular moment.” (43)

We're well aware that currently there are some who believe that the purpose of copyright law should be to grant members of the public easy access to each other's intellectual property. But that is not what the Constitution says: rather the opposite. The Copyright Clause never mentions users' rights, and it does not provide a framework for creating such rights via routine legislation. There is a world of difference between giving Congress the power to set the terms of an author's exclusive right and abolishing that right altogether.

If, as Judge Chin has stated, an author's Constitutional right “to exclude others from using his property is fundamental and beyond dispute,” then we submit that those who *do* wish to dispute it and who wish to fundamentally change the Constitution must do so legally, in the manner prescribed by the Constitution,^{*} because currently the language of Article 1, Section 8 stands in their way.

Respectfully submitted,



Brad Holland

Co-Chair, American Society of Illustrators Partnership

* “As spelled out in Article V, the Constitution can be amended in one of two ways. First, amendment can take place by a vote of two-thirds of both the House of Representatives and the Senate followed by a ratification of three-fourths of the various state legislatures (ratification by thirty-eight states would be required to ratify an amendment today). This first method of amendment is the only one used to date. Second, the Constitution might be amended by a Convention called for this purpose by two-thirds of the state legislatures, if the Convention's proposed amendments are later ratified by three-fourths of the state legislatures.”

<http://law2.umkc.edu/faculty/projects/ftrials/conlaw/articleV.htm>



9 Foster Place • Pleasantville, NY 10570 • www.asip-repro.org

Cynthia Turner

Co-Chair, American Society of Illustrators Partnership

Frank M. Costantino, ASAI, FSAI, JARA

1st Vice-President

Representative for American Society of Architectural Illustrators (ASAI)

Michel Bohbot

Treasurer

Representative for San Francisco Society of Illustrators (SFSI)

Dolores R. Santoliquido

Secretary

Representative for Guild of Natural Science Illustrators (GNSI)

Joe Azar, Esq.

Director

Representative for Illustrators Club of Washington DC, MD, VA (IC)

Dena Matthews

Director

Representative for Association of Medical Illustrators (AMI)

Ilene Winn-Lederer

Director

Representative for Pittsburgh Society of Illustrators (PSI)

Ken Joudrey

Director

Representative for Society of Illustrators San Diego (SISD)

C.F. Payne

Director

Representative for the National Cartoonists Society (NCS)

Nick Anderson

Director

Representative for the Association of American Editorial Cartoonists (AAEC)

Keith Ferris

Director

Representative for the American Society of Aviation Artists (ASAA)

Joe Cepeda

Director
Society of Illustrators Los Angeles (SILA)

Don Kilpatrick

Director
Unaffiliated Illustrators at Large

Footnotes

1. Comments of the Artists Rights Society (ARS), p. 10, Response to Notice of Inquiry, Library of Congress U.S. Copyright Office [Docket No. 2015-01]
2. Comments of Brad Holland/The Illustrators Partnership of America, Response to Notice of Inquiry, July 17, 2015, p.1.
3. Register's testimony on the "Orphan Works Problem and Proposed Legislation" before the Subcommittee on Courts, the Internet, and Intellectual Property; Committee on the Judiciary; United States House of Representatives March 13, 2008 <http://www.copyright.gov/video/testimony-3-13-08.html>
4. *Report on Orphan Works, A Report of the Register of Copyrights*, January 2006, United States Copyright Office. <http://www.copyright.gov/orphan/orphan-report.pdf>
5. Ibid
6. The exact numbers were 721 initial comments and 146 reply comments, a total of 867. But on page 21 of the *Report on Orphan Works*, the Copyright Office acknowledged that only "about 24% of all comments" "provided enough information about a specific situation for us to conclude that it presented an orphan works situation." Twenty four percent of 867 letters equals 215. The other comments were considered either vague or "not in fact an orphan works situation." *Report on Orphan Works, A Report of the Register of Copyrights*, January 2006, United States Copyright Office, pp.17-21. <http://www.copyright.gov/orphan/orphan-report.pdf>
7. David Rhodes, President, School of Visual Arts, U.S. Small Business Administration Roundtable on Orphan Works Legislation, August 8, 2008.
8. Comments of Jonathan Band, Library Copyright Alliance; and David Hansen, Digital Library Copyright Project, University of California, Berkley School of Law & Law Library, University of North Carolina School of Law; Transcript of the Orphan Works and Mass Digitization Roundtables; Session 1: "The Need for Legislation in

- Light of Recent Legal and Technological Developments”; March 10, 2014; quoted in Comments submitted by Brad Holland/The Illustrators Partnership of America, July 17, 2015, Footnotes pp. 6-7.
<http://www.copyright.gov/orphan/transcript/0310LOC.pdf>
9. http://www.archives.gov/exhibits/charters/constitution_q_and_a.html
 10. Comments of the Association of Medical Illustrators, Response to Notice of Inquiry, p.17.
 11. Comments of William Westwood, Response to Notice of Inquiry, p.3.
 12. Comments of Pat Byrnes, July 21, 2015, Response to Notice of Inquiry, p.19.
 13. Comments of Taina Litwak, July 22, 2015, Response to Notice of Inquiry, p.1.
 14. Comments of McDermott Medical Illustration, July 14, 2015, Response to Notice of Inquiry, p.2.
 15. <https://www.law.cornell.edu/constitution/articlei>
 16. Comments of Rutgers University Libraries in Response to Notice of Inquiry Concerning Certain Visual Works; Submitted July 23, 2015 p.1.
 17. The Universal Declaration of Human Rights
http://www.claiminghumanrights.org/udhr_article_27.html#at29
 18. From “Orphan Works: A Hobson’s Choice for Artists,” by Brad Holland, August 8 2008; Small Business Administration Roundtable: “How Will the Orphan Works Bills Economically Impact Small Entities?”
<http://ipaorphanworks.blogspot.co.uk/2008/09/orphan-works-legislation-by.html>
 19. Statement of Marybeth Peters, The Register of Copyrights before the Committee on the Judiciary United States House of Representatives, 111th Congress, 1st Session September 10, 2009. <http://www.copyright.gov/docs/regstat091009.html>
 20. <http://blawg.intellectual-property.it/2011/03/copyright/summary-of-the-google-book-settlement-ruling-in-judge-chins-words/>
 21. Comments of Pat Byrnes, July 21, 2015, Response to Notice of Inquiry, p.11.
 22. Comments by Ariel Katz, Faculty of Law, University of Toronto; Transcript of the Orphan Works and Mass Digitization Roundtables; Session 9: “The Structure and Mechanics of a Possible Extended Collective Licensing System in the United States,” March 11, 2014, pp. 220-221. <http://copyright.gov/orphan/transcript/0311LOC.pdf>

23. Comment by Karyn Temple Claggett, US Copyright Office; Transcript of the Orphan Works and Mass Digitization Roundtables; Session 9: “The Structure and Mechanics of a Possible Extended Collective Licensing System in the United States,” March 11, 2014, p. 221.
<http://copyright.gov/orphan/transcript/0311LOC.pdf>
24. *2015 Report on Orphan Works and Mass Digitization*, Report of the Register of Copyrights, June 2015, p. 44, Footnote 199.
25. Read all about IT ~ IP Developments From The Digital World, “Summary of the Google Books Settlement Ruling, in Judge Chin’s words,” Posted by Gareth Dickson March 27, 2011; <http://blawg.intellectual-property.it/2011/03/copyright/summary-of-the-google-book-settlement-ruling-in-judge-chins-words/>
26. *2015 Report on Orphan Works and Mass Digitization*. p. 44, Footnote 199.
27. Comments of Pat Byrnes, July 21, 2015, Response to Notice of Inquiry, pp. 1-2.
28. Comments of Cynthia Turner, Response to Notice of Inquiry, p.3.
29. Comments of Brad Holland/The Illustrators Partnership of America, Response to Notice of Inquiry, July 17, 2015, p.2.
30. https://www.law.cornell.edu/wex/sanctity_of_contract
31. “Tortious interference is a common law tort allowing a claim for damages against a defendant who wrongfully interferes with the plaintiff’s contractual or business relationships.” https://www.law.cornell.edu/wex/tortious_interference
32. Comments of Keith Ferris, Response to Notice of Inquiry, p.3.
33. Comments of Brad Holland/The Illustrators Partnership of America, Response to Notice of Inquiry, July 17, 2015, pp. 2-3.
34. Comments of Keith Ferris, Response to Notice of Inquiry, p.2.
35. Comments of Brad Holland/ The Illustrators Partnership of America, Response to Notice of Inquiry, July 17, 2015, p.2.
36. Comments of Telaina M. Muir, Response to Notice of Inquiry, July 21, 2015, p.2.
37. Comments of Sara Jarret, Response to Notice of Inquiry, July 19, 2015.
38. Comments of Scott Staton: Response to Notice of Inquiry, July 23, 2015, p.1.

39. Comments of Taina Litwak: Response to Notice of Inquiry, July 22, 2015, p.1.
40. Comments of Artists Rights Society (ARS), Response to Notice of Inquiry, p.10
41. *2015 Report on Orphan Works and Mass Digitization*, pp. 50-51.
42. Report on Orphan Works, A Report of the Register of Copyrights, January 2006, p.14. <http://www.copyright.gov/orphan/orphan-report-full.pdf>
43. <http://legal-dictionary.thefreedictionary.com/Brief+History+of+Constitutional+Amendments>