

# ORPHAN WORKS COMMENT

Carrie Devorah

CCIA, MPI, DRS, profiler, BSIS

562 688 2883

[carriedev@gmail.com](mailto:carriedev@gmail.com)

COMMENTS ARE DUE FEB 4 2013

PDF (6 MB max) Name of submitter appears on the form and face of the comments

[www.copyright.gov/orphan/comment-submission](http://www.copyright.gov/orphan/comment-submission)

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Carrie Devorah

562 688 2883

[carriedev@gmail.com](mailto:carriedev@gmail.com)

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## ORPHAN WORKS COMMENT:

Vanity Fair published the article “Prancing On A Volcano,” February 2013. An enlarged page banner in the article reads, “Today’s scale of transformation is at times almost invisible. But there hasn’t been anything like it in centuries.”

I agree.

The Vanity Fair article continues with another enlarged banner title, “Not in 500 years has the world seen such revolutionary change as it is now witnessing: the Internet, genetic engineering, mass migration, climate change, worldwide economic dislocation, a new global elite and more. Yet our leaders don’t seem to take any of it seriously.”

I agree even more.

It doesn’t seem to me that legislators take Copyright protection of Literary and Artistic works seriously enough. The conversation on Orphaned Works has gone on for how many years now in Congress without conclusive action. The Copyright office is still asking, in 2013, if there are ‘additional legislative, regulatory or voluntary solutions to be considered at this time that might be relevant to a resolution of the Orphan Works problem.’ The Copyright Office, also, wants ‘to know what has changed for Orphan Works in the legal and business environment during the past few years’ after all this time?

It isn’t rocket science to answer what has changed in the legal and business environment during the past few years. A LOT. It is a no brainer to see what has changed the global environment.

The Internet.

Technology AND the permeating sentiment in politics, in social technological networking and on the Internet have changed a Brick World of one image abuse, at a time, to our current Click Culture mindset of ‘what is yours is mine and I don’t need to give you a dime for its use.’

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I was a photographer for well over a decade and an illustrator, since a few decades back. I was one of the earliest members in the Licensing Industry. I am here to make the same point to you that the music industry made with their parade of legendary, celebrity witnesses on the issue of other people file sharing artists' music without payment ie Napster, a point that for some reason, hasn't been made or stressed to you as to the cost of loss of livelihood to people like me, my agency, my peers and their agencies. We are the people that crawl around on the floor in the wells of your hearing rooms, legislators, recording history as you adjudicate issues that impact our lives, such as Orphan Works.

I am making my point to you as a 2D, two dimensional artist, what is mine is mine. Your job is to keep the hands of File Sharers off my 2D artistic works. Myspace, who fell off the Internet grid when the Internet was eclipsed by Facebook, is back up and running as a new entity headed by royalty earning celebrity figurehead, musical artist Justin Timberlake, JT. JT's Myspace is reportedly using unlicensed songs from license agreements that Myspace let lapse a year earlier, avoiding in paying royalties to those musical artists. Kim Dotcom was charged with knowingly profiting, willingly sharing and illegally exchanging pirated copyright-protected material as part of the Megaupload business model. Kim encouraged people to upload music hence violating artist's copyrights by unauthorized used. Like most, unauthorized users of copyrighted material, Dot.com operated on the 'I will get away with it until I get caught' mindset. The Feds did claim jurisdiction over Dotcom but Kim is back in civilian life. Kim announced he created "Mega," his new cloud-based venture, claiming his new site is legal with files that will be harder to access due to stricter encryptions hence making it more difficult for Literary and Artistic work creators to know what of their Literary or Artistic works have been pirated and orphaned.

Paraphrasing, my friend Rodney Dangerfield, as a 2D image creator, I don't get no respect from your office and the Feds, when it comes to my image protection. Search my name on line, there are over 4130 image results on Microsoft BING alone, many of which are works that were marked with my name and my agency's name but have been Orphaned through intentional diabolical, unauthorized use of my Literary and Artistic works by search engines, databots, webcrawlers and the like removing mine and my agency's credit off the photo. <http://www.bing.com/images/search?q=carrie+devorah+&FORM=HDRSC2>

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The act of taking what belongs to someone else isn't a new. It is an age old issue that goes back to the days of the Bible except today, stealing has been upscaled to a new buzzword called pirating. Pirating of two dimensional, 2D, images appears to have become big business hence acceptable.

I read the argument some put forth that Orphan Works are beneficial to our national heritage. No. Our national heritage is founded on the Ten Commandments, one of which is Thou Shalt Not Steal. Why should stealing from my industry- photographic/ illustrative 2D image creators – not be criminalized too? Why isn't stealing my photographs, my illustrations, my 'employees,' my intellectual property, my royalties, my income and my children's inheritance, not considered "tampering with the technical architecture of the internet," something the Feds should look into, also? The Feds look into pirating of COACH purses, bogus perfume, UGGS and Victoria Secret lingerie. What aren't the Feds looking into the pirating of my photographs, my stories, my artwork? Is it a matter of how you evaluate my worth. It shouldn't be. Theft is theft. Piracy is piracy.

Rupert Murdoch calls it "plain Thievery."

I agree with Rupert Murdoch. I disagree with the White House. The White House says, "Any provision covering internet intermediaries such as online advertising networks, payment processors, or search engines must be transparent and designed to prevent overly broad private rights of action that could encourage unjustified litigation that could discourage startup businesses and innovative firms from growing." I am an innovator of business. My designs and photographs contribute to employing people. I am an entrepreneur. I am discouraged from growing by the co-operative malfeasance between the Search Engines who work for themselves and the Copyright Office, I thought worked for We The People.

Orphan Works are not a new concept. The caveman drawings in the Cave of Altamira near Santander Spain, the Sistine Chapel of cave painting, have been reproduced countless times, made into product or used for reference material such as appear on Wikipedia [http://en.wikipedia.org/wiki/cave\\_painting](http://en.wikipedia.org/wiki/cave_painting) Caveman drawings are presumed to be Orphan Works. Are they really Orphan Works? For all we know, in these days of genealogical online research through file sharing sites like ancestry.com, cavemen art might be drawn by an ancestor of someone reading my comment, someone yet to come along and claim

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ownership to the cave paintings or someone yet to be created. Coincidental to my writing my Comment on Orphan Works, Harvard geneticist George Church, a proponent of synthetic biology, is advertising for an adventurous woman to carry the embryo created from Neanderthal DNA extraction.

<http://www.examiner.com/article/neanderthal-surrogate-wanted-accepting-adventurous-female-applicants>

The notion of a hand grab from a time back in history might sound outlandish to Americans celebrating a 200 year young country but not implausible to people who trace lineage back to the first Pilgrims, the Mayflower, the Sons or Daughters of the American Revolution or to Europeans who trace their families back centuries to the Knights of Templar. It would not be inconceivable to a Frenchman or woman who trace their lineage back to the threads of Jesus and Davidic times, to reconnect with a family heirloom or treasure that was lost overtime but found, eventually, in a museum or at an art auction or even at a yard sale as was the case recently with a 16<sup>th</sup> Century piece of art found in Indiana or the 65 glass plates valued at \$200 million that Rick Norsigian bought for \$45 at a Fresno California garage sale. The painting and the glass plates were Orphan Works, by definition of this Copyright Office, until the painting was confirmed to be painted by Francois Quesnel of the 1573 French court and the glass plates were confirmed as Ansel Adams artworks. The NOLA article said addressing the value of the artwork said if it “has active buyers who are descendants, the value could be increased.” The artwork should belong to the descendants Quesnel. The glass plates should have been returned to Ansel Adams heirs, his children Michael and Anne, or his grandchildren or to the The Ansel Adams Publishing Rights Trust.

[http://www.nola.com/homegarden/index.ssf/2011/02/16th-century\\_oil\\_painting\\_foun.html](http://www.nola.com/homegarden/index.ssf/2011/02/16th-century_oil_painting_foun.html)

With the continuing technological evolution of genealogical searches bringing families on foreign shores together, the idea that the United States Copyright Office is deliberating easing Copyright ownership authentication by deciding a Literary or Artwork piece can be determined an Orphan Work without requiring certification, through a real time investigation performed by a professional investigator, is a legal Sword of Damocles hanging over entities or persons using “Orphan Works” without authorization. It appears, by seeking to establish guidelines for Orphan Work use, the Copyright Office is trying to placate constituents intent on using the Literary or Artistic work for personal or commercial purpose. In doing so,

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Copyright Office is putting people at risk for potential litigations that may end up with huge awards payouts from people who may be accused of personal property theft or accused of using artworks and relics without authorization. The unauthorized user may get sued and sued big time.

All artworks and sculptures, including artworks and sculptures filling museums around our Nation's capitol, started with an artist, someone, somewhere. Orphan Works, historically, were artifacts and relics brought back as spoils of war that found their way into museums under the label of 'archeology'. The Egyptian Rosetta Stone, the key to unlocking Ancient Egypt's hieroglyphic language, made its way into the British Museum. The Greek Nike, Victory, of Samothrace, made its way into the Louvre collection in France.

Some countries are currently requesting repatriation of relics and artifacts stolen from their land. Repatriation, the act of giving back something laid claim to in war, that did not belong to them, is sort of like the Orphan Works conversation here, it appears the Copyright Office is trying to legislate for monetization which would end up increasing the worth of the profitable US Copyright Office. Other countries are doing the right thing, returning the relics, antiquities and art when asked for them possibly to avoid litigation or the appearance of impropriety. Italy gave back the obelisk taken from Ethiopia before World War II. Other countries and their museums don't want to give back to the requesting country the stolen items. The British and other museums in London, Paris and New York argue that keeping relics in their possession promotes scientific research on the objects and encourages millions of visitors tourism, annually. The countries relics were removed from argue it is important museums of the relics origin themselves have the objects reflecting their cultural heritage and national history, not foreign museums.

The Library of Congress has the only surviving copy of Martin Waldseemullers world map also known as America's Birth Certificate. Waldseemuller drew on this map, Columbus' discovery of the lands named "America," a new and separate continent based on data Amerigo Vespucci gathered on his voyage to the New World. Waldeemuller cannot be contacted. He lived in the 16<sup>th</sup> Century. Throughout the centuries, Waldeemuller's map was bought and sold multiple times. Cartographer Johannes Schöner, a German globe maker, bought the map as did, eventually, the family of Prince Waldburg-Wolfegg. The Prince's family acquired Schöner's portfolio of maps, keeping the cartography in their German

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Baden-Württemberg castle where it remained until 1901 where Jesuit priest Josef Fischer found Schoner's maps. A few years back, the Prince, accompanied by his son, came in person to donate Waldseemuller's America map to the Library of Congress. With a stretch of definition of "Orphan Work," 'a copyrighted work for which the copyright owner cannot be contacted' has potential culpability here in that a descendant of Waldseemuller could conceivably pop up claiming lineage to the map maker and allege theft of the historical treasure.

Inconceivable for the scenario to happen? Not at all in an ancestry.com world that brings genealogy to a descendant's fingertips on a PC or iPad at home, in a library or in our DNA duplicating world.

The same rationale to entertaining the acceptance of the concept of Orphan Work in the Copyright world can be applied to other historical documents, such as the Bliss copy of the Gettysburg address in the White House. The Bliss copy was sold by Alexander Bliss to Oscar Cintas a former Cuban ambassador to America. Cintas left the document to the people of the United States. The Gettysburg address is the few words President Abraham Lincoln spoke after being invited by attorney David Wills to speak at Gettysburg. The Bliss copy, the only signed copy of the Gettysburg address, was given by President Lincoln to a friend long after Lincoln delivered his Gettysburg Address speech. Much like the America Map, the Bliss copy has been bought and sold and reproduced so many times. It has become part of American commerce itself. Reproductions of the Gettysburg Address are sold all over DC in gift shops, museum stores and pop up inaugural souvenir sites. The value of the royalties a genealogically traced descendant owner could claim if instituting their claim to the work their original along with rights to its reproduction alleging it was stolen or taken or squandered away in the middle of the night from their family? Immeasurable.

More contemporary and geographically closer, here in DC, to be included, in the conversation of Orphan works, is the example within the USHM, the United States Holocaust Museum. A tourist walks into the museum. Eventually, the tourist walks under an entry way filled with photographs of people, nameless humans stripped of their dignity by their Nazi torturers who replaced their identities with ink blue tattoo numbers permanent in their skin. Those death camp inmates, survived by unidentified photographs affixed to the walls and ceiling of this entry way, have become Orphaned Works. The USHM offers each Museum visitor a passport with the name and story of one person murdered during the Holocaust. While linking Passports of Dead to people touring the museum is a cute marketing ploy, the dead's photographs are Orphan Works, leaving the

pictured, the people in the passport photo, unknown until someone, perchance, recognizes them decorating the Holocaust museum entry. In some ways, the murdered portrayed on the USHM wall, are similar in concept to photos of nameless people in period clothes, or such, found in an antique shop, a yard sale or a photo album from the days when there were photograph albums. People buy and sell on the Internet, on Ebay, images that artisans use in Etsy projects, appear in books, documentaries, the list goes on. What gives anyone the right to replicate, commercialize or put the photos of the Holocaust murdered in a Museum entry without permission especially if there is no way permission can be found. [www.ebay.com/sch/i.html?\\_nkw=vintage+black+and+white+pictures](http://www.ebay.com/sch/i.html?_nkw=vintage+black+and+white+pictures)

The question with images from history- artworks, the Waldseemuller map, the Bliss copy of the Gettysburg address, and dead in photographs- is who owns the right to reproduce these respective Intellectual properties. The copyright owner may be dead and gone. As pointed out earlier, the excuse the creator cannot be found, does not bear weight in these days of increasingly sophisticated genealogical searching tools. There is every possibility someone may pop up declaring 'that person in that photo belongs to me' or 'that is my family.'

People, like countries, are requesting their stolen "Orphaned Works" be returned.

The Vienna's Jewish Museum is looking to return hundreds of looted books and artworks the Nazis stole from a Bernhard Altman. Some of Altman's collection ended up being sold to private parties by the Austrian auction house Dorotheum. Other of Altmann's items ended up at the Vienna Jewish Museum. Museum director, Daniel Spera said "Anything that was acquired illegally ought to be returned. There will not be a hint of hesitation."

The Nazis set up headquarters to operate from in cities they occupied from where they systematically scouted out houses filled with art collections. In 1939, during the occupation of Czechoslovakia, the Nazis took over the home of the Arthur Feldmann family. Feldmann's home was filled with priceless art. The Nazis tortured and killed Feldmann. Mrs. Feldmann died in Auschwitz. Sotheby's came in possession of Feldmann's collection, putting it up for auction. Pieces of Feldmann's collection ended up in the British Museum. Seventy plus years later, 2002, in the Feldmann heirs brought claim against the British Museum.

The British Museum trustees decided the Feldmann heirs claim represented a "unique moral claim which they wish to meet." The Felmann's personal items did not belong to the Museum. It was a no brainer to the British Museum. The collection wasn't the British Museum's to keep, a philosophy supported by the Washington Conference Principles, an international effort, that emerged to locate rightful owners or heirs of artworks looted by the Nazis. The Museum gave the

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[carriedev@gmail.com](mailto:carriedev@gmail.com)

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Feldmann art collection back. Forty countries signed on declaring their intention to make it easier to return art stolen during the Nazi era.

The views of Daniel Spera, the British museum trustees and signators to the Washington Conference Principles are not the moral compass of today's Free Internet proponents. Free Internet proponents believe someone else's Intellectual property, literary and artistic works, online is for the taking, without asking, without paying, without returning- without morality. Legislators backed down on SOPA and SIPA, due to the Internet blackout blackmail for a-day-without-Internet. The legislators, having backed down from a protest launched by people who advocate stealing from fellow Americans, has me wondering about the Congressmen and Senators legislative morality? Are the legislators, by backing down then saying it is ok to steal from me? From people like me? From people who want to be creative entrepreneurs like me?

I don't think it should be so.

Van Gogh died penniless as had other artists like him. Their art and name live, and profit, long after their death. In the example of Vincent Van Gogh, his brand is making a fortune for others who are not related to him, people who stole Van Gogh's Intellectual Property. Van Gogh's art is reproduced by many. One company, licensing the Van Gogh name, is staking their claim on Van Gogh as an investment brand [www.brand-names.com](http://www.brand-names.com). Brand-names.com site says "The fact is when the artist was living during the 19th century; he never sold a single painting. He remained a starving artist and never knew the popularity and the worth that his work has today.... Investing in brands name such as Van Gogh." Legislating Orphan Works to be marketably acceptable is approval for Internet pirates, bullies and thieves to continue to steal my literary and artistic works hence stealing my livelihood and the inheritance I leave to my children. Is that your intention?

Registering literary and artistic artworks does not come cheap. An Intellectual Property owner can spend a lot of money registering each single image or collection they create. Registration of copyrights, in America, may be expedited for the purpose of litigation. To begin with, there is the expense from Mandatory Deposit. Section 407 of the Copyright Act (Title 17, US Code) subjects all works published in the United states to a mandatory deposit requirement "owner of copyright or the exculsive right of publication" in a work published in the United

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States must deposit the required number of copies in the Copyright Office within three months of the date of publication.... defined as “distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership or by rental, lease or lending.” Not sure how the kool aid got drunk on this one but the Copyright office is who profits from registering Literary or Artistic works. What is then the definition and jurisdiction of something posted online?

In the real world, there is no value, in and unto itself, in an image being registered for copyright with the Library of Congress. The owner of the literary or artistic work owner must find legal representation in order for them to defend their Copyright. There is no guarantee they will find a lawyer eager to take on their case. Lawyers evaluate cases based on invested time vs expected return. An infringed copyright owner may have a valid claim to unauthorized use of their copyright. That said, if a lawyer doesn't see dollars, the copyright owner will not find legal redress.

So you see, talk of Orphans Works isn't new conversation, at all, just an age old concept repackaged to present unauthorized use of other people's Literary and Artistic works as being acceptable and as another potential source of income for, what hear tell, is the only profitable agency in the United States government.

Stealing property that belongs to someone else is not acceptable. Taking what belongs to others flies in the face of America's founding principles. Stealing what belongs to me will never be acceptable.

Every image, every sketch, every traceoff, every photo I create belongs to me. These are MY employees. IF someone wants to use my artistic works, it is under my terms, under my license. My grandfather used to say 'why buy the milk when the cow gives it away for free.' With online thievery ramping up stealing literary and artistic works, almost no one is buying the 'milk.' Thieves are stealing Intellectual Property, one file share upload at a time, collecting then removing removing the Intellectual Proptery from websites, from a search engines, from Site A who stole the IP from Site B who stole it from Site C- an exponential disaster waiting to happen.

Filmmakers, archivists, writers, musicians, and broadcasters do and have taken advantage of “Orphan Works” broad brush stroke, too, alleging copyright owners cannot be identified and located. Half hearted searches are performed in the

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'looking' for the copyright holder. Nowadays, many of the 'looking for copyright holder' searches are limited to the convenience of home or public computer online searching only without the interested party looking in books, travelling or other. Libraries and museums, as go-to research places have fallen victim to disuse since the always accessible mobile Internet as a quick-fix for research. An Internet only search is not Due Diligence when looking for a Copyright Holder. The Internet is only one of many tools that can be used to search with. The filmmakers, archivists, writers, musicians, and broadcasters argue they have the right to incorporate period material in to their contemporary works. Libraries, education institutions and museums argue they, too, have the right to digitize old books, recordings, film, manuscripts, art and photos claiming these items are for the good of the public. Period film footage, photographs, soundrecordings show up in WETA and PBS programming. Maybe, but one does not steal to justify an end.

FED EX/XEROX Copy Centers post advisory warnings alongside of their registers, warning people making copies that FED EX/XEROX does not allow copyrighted material to be xeroxed. That is what the sign says, at least. CVS offers photo retouching services, image copying services as part of their photo center menu. CVS should be concerned over with retouching photos <http://www.cvsphoto.com/restore-photos> in that CVS is selling a service that alters the copyright owner's work. Photo kiosks through which people self select, print etc. are at risk in unauthorized use of copyrighted material- making copies, etc- as are their online rivals such as Shutterfly [www.shutterflyinc.com](http://www.shutterflyinc.com) . The list goes on and on. Shutterfly Terms of Service are found at [www.shutterflyinc.com/terms](http://www.shutterflyinc.com/terms) .

There never really was a real way to oversee or regulate how copyrighted materials were handled once they leave their creators hands before the birth of the Internet. In these days of the Internet, trying to create new revenue streams off Copyright issues, such as the Copyright office is attempting to do with Orphan Works, is nebulous. Hot bed issues are pouring forth faster than the rate magma flows from a volcano. Regulation is so far behind the Internet inventive stream, maybe the only solution is acknowledging the the Copyright Office not try to play catch up, in a veiled effort to 'be cool', and just admit since, the Internet cannot be caught up with, that the rule to stand by is the tried and true Old Glory standard, the Berne Convention. Simplify. Don't complicate. The Berne Convention designates the moment an artist's work birth's hands it is copyrighted. End of story.

Fair Use is the claim often argued in self serving arguments. I had the incident of a legislator I demanded remove my God In The Temples Of Government [www.godinthetemplesofgovernment.com](http://www.godinthetemplesofgovernment.com) images from his website. His counsel

argued Fair Use. I argued fair invoice. The legislator knew better than to take an author's artistic works without authorization after all he espoused being a man of Faith, a supporter of the Ten Commandments. The legislator's counsel learned I knew better, too, as was with another politico, too.

[http://www.abajournal.com/news/article/newt\\_suit\\_says\\_gingrich\\_book\\_used\\_religious\\_art\\_pix\\_without\\_permission/](http://www.abajournal.com/news/article/newt_suit_says_gingrich_book_used_religious_art_pix_without_permission/)

Fair Use is not the right to publish a copyright holder's Literary or Artistic work full image or thumbnail size work, claiming the work will be used for education or non-profit purposes, an unauthorized use excuse I am told too often, by people, upset I request to remove my images, used without authorization from the offenders blog or website even book. In the case of <http://www.thinking-catholic-strategic-center.com/church-and-state-in-art.html> , the site host expressed his displeasure against me on his site writing,

"Photo taken down; see comments below. Carrie Devorah doesn't want you to see this copyrighted picture unless she can make a whole lot of money off of it. Isn't that sweet of her? If you have a suitable photo for this spot that was not taken by Carrie Devorah, please let me know"

and

"Whatever you do, make sure any images you send are not in any way linked to one Carrie Devorah, because we don't want her to get her panties in a wad and get back on her broom again. Regards, Vic."

Let me clarify for you, that rude comment posted "on his site" is publicly seen. So as you see, a copyright owner standing up for their right, is open to slander from someone displeased with being told they used a copyrighted images without authorization. I had registered my God In The Temples of Government collection with the Copyright Office. The Copyright system did not protect me from online slander.

Some people seek to mitigate Fair Use is claimed to Fair Use of a Literary or Artistic work is "a portion," limiting how much of the literary or artistic work can be copied of my artwork or photographic image. Fair Use, the legal doctrine states 'portions of copyrighted materials may be used without permission of the copyright owner provided the use is fair and reasonable, does not substantially impair the value of the materials, and does not curtail the profits reasonably expected by the owner.' Fair Use does not allow the use of thousands of my images appearing in Google, Microsoft, Yahoo search engines without my license or authorization appearing in a gallery format, are made in to Orphan Works when the Search Engine places my images in to their gallery, first stripping my images of my name and my agencies name and the name of the paying customer in whose site or page my photo was licensed to appear.

Microsoft BING's Image Gallery

<http://www.bing.com/images/search?q=carrie+devorah+bing&FORM=HDRSC2>

YAHOO's Image Gallery

[http://images.search.yahoo.com/search/images;\\_ylt=AtL4IDIsWDo2XnBPJ7RU.2ybvZx4?p=carrie+devorah&toggle=1&cop=mss&ei=UTF-8&fr=yfp-t-701](http://images.search.yahoo.com/search/images;_ylt=AtL4IDIsWDo2XnBPJ7RU.2ybvZx4?p=carrie+devorah&toggle=1&cop=mss&ei=UTF-8&fr=yfp-t-701)

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My pirated images appearing in Search Engine galleries are re-shared at usable sizes- thumbnail, half up or full reproducible size- without payment to me or my agency. Unauthorized use of my images steals my children's inheritance.

The Copyright Office published this statement "for good faith users, orphan works are a frustration, a liability risk and a major cause of gridlock in the digital marketplace." I disagree. The days of good faith users has been decimated by the Internet. Orphan Works is appearing to be orchestrated by the Search Engine giants and proponents of Free Internet. The claim of Fair Use is abused. Lawyers and regulators must hit the Refresh Button on their understanding of Fair Use by reading its definition, again and again until they get it, rather than allowing copyright violators to hide behind a claim of Fair Use as a way to escape legal action for unauthorized copyright use.

I don't care about gridlock in the digital marketplace. I care about gridlock in my wallet. I do care that my Intellectual Property lives on, eternally, without authorization in data centers such as Google's, even when I request my IP be removed from unauthorized use by others.

<http://www.google.com/about/datacenters/gallery/#/> Is my Intellectual Property, my Literary and Artistic works, safe on the Search Engine servers? You tell me. Google released a video showing the steps in their process of how data comes to then is preserved in Google's servers. "When a drive breaks, it's this guy's job to destroy all data on it." <http://www.businessinsider.com/where-google-keeps-your-email-and-youtube-videos-2013-1#when-a-drive-breaks-its-this-guys-job-to-destroy-all-the-data-on-it-13> Think Bradley Manning. Think Jonathan Pollard. Think Julian Assange. Think Anonymous. Google's Unauthorized use of my images has my Intellectual Property. Think potential theft from Google servers.

Google did the Unauthorized Use First approach with books too. Google Inc. had the idea books in libraries should be free to everyone. Google began copying books on library shelves, without authorization. Google Inc. called their project

Google Books, Google Book Search, Googles Library Project and Google Print. Google Inc., using optical character recognition to search books and magazines, scanned then converted print books and magazines into data now stored in Google's digital database. Self publishers and e-publishers, are now joined in the battle to defend their literary and artistic works. Google is still in dispute with publishers and authors over published works Google pirated.

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The word "pirated" is heard mostly in conjunction with movies and music. It is a word that should be used with copyrighted images too. Copyrighted images are trafficked, pirated across borders, both domestically and internationally, interstate and intra-state. Online search engines make it easier for literary and artistic works to be stolen faster undetected. I locate unauthorized uses of my images when I do online searches of my name. A search of my name on Microsoft's BING (referenced above) turned up, last search, about 4,130 images. The search results turning up are mostly domestic results of my name, more local than foreign uses. AI design, artificial intelligence uses algorithms producing search results that synchronize with prior searches, my location, North America, and other data making it far more difficult, if not impossible, for me to see search results of unauthorized copyright used in other countries let alone locate use of my photos countries that practice censorship. I won't be able to see commercial and personal use of my literary and artistic works once my Intellectual property has been used offline. Intellectual property, literary and artistic works are showing up in commerce decorating T-shirts, poster cards or similar uses, without the IP owner able to control these online to off line thefts. Intellectual property converted into product after stolen off the internet coming in to the country through a port of entry runs a good chance of not being caught. There are too many ports without enough enforcement to cover the access points. The counterfeit or pirated goods they are most likely to stop, isn't a Carrie. It's a pirated "Coach" accessory.

It is important to understand that individual countries have their own search engines I don't have access too. Countries do censor, making it challenging access for foreign searchers and/or Literary and Artistic work copyright owners to vet if their Literary and Artistic work are being used in China, credited or as Orphan Works. It is well known that China censors.

[http://topics.nytimes.com/topics/news/international/countriesandterritories/china/internet\\_censorship/index.html](http://topics.nytimes.com/topics/news/international/countriesandterritories/china/internet_censorship/index.html) Baidu is a Chinese search engine. Vietnam has

www.vietpark.com. South Africa has [www.ananzi.co.za](http://www.ananzi.co.za) and Taiwan amongst others  
[www.dreamsubmit.net/series/Series\\_list\\_regional\\_taiwan1.html](http://www.dreamsubmit.net/series/Series_list_regional_taiwan1.html) The Intellectual Property owner may never learn who is using their IP or to calculate how much profit the pirates made off unauthorized use of copyrighted literary and artistic works turned “Orphan Works,” behind these curtains.

#### ORPHAN WORKS COMMENT

Carrie Devorah

562 688 2883

[carriedev@gmail.com](mailto:carriedev@gmail.com)

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The original Orphan Works are artifacts and relics. The percentage of stolen artifacts and relics is a drop in the bucket compared to the tsunami of 2D images stolen every nanosecond as Internet and technology advance at warp speed pushed by a generation of social networking entrepreneurs who invent ignoring regulatory laws let alone respecting other people’s ownership of ideas, literary and artistic works. 2.5 quintillion bytes of data are created everyday. “Every day, we create 2.5 quintillion bytes of data — so much that 90% of the data in the world today has been created in the last two years alone. This data comes from everywhere: sensors used to gather climate information, posts to social media sites, digital pictures and videos, purchase transaction records, and cell phone GPS signals to name a few. This data is big data.” <http://www-01.ibm.com/software/data/bigdata/>

Copyrighted images are being stolen from our computers at an exponential speed that was unpredictable a few years back. IBM posts to its big data page this alert “Velocity: Sometimes 2 minutes is too late. For time-sensitive processes such as catching fraud big data must be used as it streams into your enterprise in order to maximize its value. Scrutinize 5 million trade events created each day to identify potential fraud. Analyze 500 million daily call detail records in real-time to predict customer churn faster.”

Congressional members have been meeting with the Technology reps for years now. Either you, Congress, knew this data or the Technology leaders you rely on didn’t tell you and you Congress did not do your Due Diligence to not trust the Wolves in Sheep’s clothing. Who is doing the searching for you? Its not rocket science. I found this data in two seconds of searching.

Hyperlinks used to lead a viewer to Intellectual property housed on a website. Search engines like Google, Bing, Yahoo access our postings by using webcrawlers and databots to enter our websites where we thought our

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562 688 2883

[carriedev@gmail.com](mailto:carriedev@gmail.com)

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Intellectual Property was safe. Did you ever really believe the online tech in Malaysia who says, while he is in your computer making a software repair, that he is only go into that “one” program and wont look anywhere else? I have a bridge-to-nowhere to sell you, if you do.

Websites are entered without a site owner or host or Intellectual Property owner knowing. Do you really believe your passwords won't be compromised? IBM's pitch line, SOMETIMES TWO MINUTES IS TOO LATE, is chilling. You will never be able to help me oversee the piracy rate of my images being stolen. You need to go back to Square One and enforce the Berne Convention.

Italian artists Eva and Franco Mattes stole thousands of photographs from people's hard drives after stumbling on a file sharing program that misconfigured their profiles. The Mattes said they figured the program out by accident. What they said and did were different by legal definition. The Mattes said they are not hackers. The Mattes did copy contents of about 100 people's hard drives, downloading pictures, videos, and music they then arranged into a slide show they presented at an art gallery. “Stolen Photographs” showed stuff safely presumed Not For Public Consumption- people's smiling friends, grinning lovers, lazy pets, unmade beds, women squeezing their breasts for the camera. Mattes said back in 1995, they scouting targets, often taking before-and-after photographs or filming themselves stealing the material they called " relics." “Stolen Photographs” show curator, Barbara Rodriguez Munoz, said “the art-minded crime spree is intended to raise questions about what's private, what's public, and what makes art " art.” <http://news.yahoo.com/stolen-digital-photographs-display-london-144802090.html> And what makes voyeurism/invasion of privacy/stalking/theft a crime gets swept under the table.

The Copyright Office requires due diligence be done to search for Orphan Works owners. As discussed earlier, due diligence is open to interpretation if not spelled out explicitly. Premise of presumption of Orphan Law that people finding images make effort to find owners to determine if an image is orphaned is flawed. Most won't. The Mattes did due diligence to know the IP in their show “Stolen Photographs.” The photos on the Mattes were not Orphaned Works. The artworks were stolen. The presumption that an owner might trip, that across use of their image is flawed. Most don't. It was a fluke the family photograph in Europe was seen by a friend, traveling, who recognized them otherwise their personal family moment might never have been caught. The fact is people are more willing to stand for days to be first on line for the first new Apple iphone or

ORPHAN WORKS COMMENT

Carrie Devorah  
562 688 2883  
[carriedev@gmail.com](mailto:carriedev@gmail.com)  
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for the newest release of NIKE sneakers, than they are willing to research to be sure the literary or artistic work is an Orphan Work. People want answers Fast and Furious.

AI, artificial intelligence, creating human to trans-human level intelligence in machines, minimizes a person alleging they could not figure the literary or artistic work's owner. Some online search results produce millions of online results. There alone are millions of opportunities to locate an IP's owner, sitting there, going through the links one by one. AI, artificial intelligence is what pops ads up at the top of web pages we are viewing, showing us items we recently searched for on 'cars.com' or 'marthastewart.com.' Click off one ad, it tells you, the click may remove them but not others waiting to stalk the internet users habits. Just when a literary or artistic work owner thinks Intellectual Property unauthorized use can't get worse, FACEBOOK announces it is integrating BING into its graph search, integrating more results from users Facebook friends along with Twitter, Foursquare, Quora, Klout, and Google Plus next to the main search results if users connect their Facebook accounts to BING.

BING announced it is "expanding beyond likes, photos, and profile information to include status updates, shared links, and comments..." Graph will rely on profile content to fuel more comprehensive search returns results. Graph search may violate the privacy of users who relied on that feature the ability for users to opt out of appearing in search results on the site. Facebook removed the feature. Sites like Gigaom initiate tracking, as I understand it, the second someone knowingly or accidentally enters their site, for example to read more about Gigaom's Privacy Policy. Frightening is Gigaom's disclosure that User PII, Personal Identifying Information transfers if Gigaom is acquired by a Third Party who may "collect, use or disclose information." <http://gigaom.com/privacy-policy/>

It is nearly impossible to track an unauthorized user of Literary and Artistic Work who is claiming a Literary and Artistic Work is an Orphan Work. Copyright thieves and pirates successfully bury their identity and location behind layers of the Internet. It takes time and patience and sometimes a lot of money to possibly find out the thief is in Russia, or right next door. Reddit co-founder, Alan Swartz made "20 million pages of federal court documents available for free before the government shut him down." The copies of the documents stored at MIT, Massachusetts Institute of Technology, were sold for 10 cents a page. Swartz was the founder of Demand Progress. Demand Progress campaigned against

ORPHAN WORKS COMMENT  
Carrie Devorah

562 688 2883

[carriedev@gmail.com](mailto:carriedev@gmail.com)

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Web censorship, espousing 'free web content for all.' Swartz downloaded 4.8 million papers from JSTOR, Journal Storage, a "digital library of scholarly articles." <http://www.alan.com/2013/01/13/reddit-co-founder-hangs-himself/>  
<http://www.sfgate.com/technology/businessinsider/article/MIT-Is-Investigating-Its-Role-In-Aaron-Swartz-s-4190685.php#ixzz2JO1FHwE7>

A Literary and Artistic work pirate will not always be found. The Literary or Artistic work owner with diligence and an expenditure of time may be lucky to locate a contact email or land address for the unauthorized copyright, by searching online in multiple Search Engine or through "Who Is", a lookup for "domain name search, domain name registration, available domain names, domain whois database information." <http://www.whois.com/>. Sometimes, the search engines or site host, responding to Notices of Copyright Violation, will remove the offending Copyright pirated posting of the Literary or Artistic work. Reporting the Copyright violation to Search Engines is complicated for the Copyright owner because the Search Engines do not publish call centers or phone numbers to contact for immediate relief nor do they publish their brick addresses.

Google does not tell the owner of the Literary or Artistic work, tracking their IP theft, that Google forwards the Letter of Notice of Unauthorized Use on to Chilling Effects, "A joint project of the Electronic Frontier Foundation and Harvard, Stanford, Berkeley, University of San Francisco, University of Maine, George Washington School of Law, and Santa Clara University School of Law clinics." <http://chillingeffects.org/> self describes "Have you received a letter asking you to remove information from a Web site or to stop engaging in an activity....If so, this site is for you.... Chilling Effects aims to help you understand the protections that the First Amendment and intellectual property laws give to your online activities.... Chilling Effects encourages respect for intellectual property law, while frowning on its misuse to "chill" legitimate activity. ... We are gathering a searchable database of Cease and Desist notices sent to Internet users like you. We invite you to input Cease and Desist letters that you've received into our database, to document the chill... Once the notice is in our database, clinical law students will be able to annotate it with questions and answers." My takedown letter to requesting my photo of George Bush be taken down off the Internet appeared on Chilling Effects without prior notice to me. The photo was not an Orphan Work. The photo is stripped of my name and my agency's name.  
<https://www.chillingeffects.org/notice.cgi?NoticeID=54031&print=yes>

ORPHAN WORKS COMMENT

Carrie Devorah  
562 688 2883  
[carriedev@gmail.com](mailto:carriedev@gmail.com)  
© Carrie Devorah

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Unauthorized use of photographs of people appearing without permission online is another growing category of Orphan Works. The Mattes use of photos was to create an art show. Some people use images to perpetrate a hoax as is the case of with the Torrance, California, woman rocketshipped in to a media mess when her photo was caught up in the Internet dating site hoax perpetrated on the football player, Manti Te'o. "Lennay Kekua", Te'o's 'girlfriend' was posted on line by a man punking Te'o with the unsuspecting woman's photo. Online investigative magazine Deadspin, did due diligence to locate "Lennay Kekua." "Lennay Kekua" was a fake online persona. Social networking sites- Facebook, Twitter, etc.- ringtones, mobile product- are cluttered with so many unauthorized uses of images of people, some famous, some not. Owners of Orphan Works can be found if someone wants to locate them even on Twitter. Twitter resorted to labeling REAL name/image owners suggested friendship with a now identifiable little blue box, checked, to indicate, this is the real person not a poser. Politicians photos are regularly removed from websites and news stories then reposted in to rude stories, or with the photos altered with ridiculing statements or imagery – dunce caps, clown paint, compromising shots, etc.

Orphan Works are also created from images harvested by internet crawlers. The mission of the Internet crawler it is to bring back images that are bundled then sold, both domestically and internationally, for example for use in online dating websites. One such case, involves a uniformed soldier in a photo found posted on dating websites PlentyofFish.com and True.com under the photo banner, "Military Man Searching for Love." The man in the photo, Army lieutenant Peter Burks, wasn't looking for love. Peter was survived by a grieving fiancé. Burks photo was taken days before being killed in Baghdad Iraq in 2007 according to a lawsuit filed by his parents. Peter's photo was stolen off a website, the "Unsung Hero Fund," set up in his memory to provide supplies to troops in war zones, then used without Peter's name on the dating site where a friend spotted Peter. Peter's parents have control over his image. Burks' parents never authorized his photos be used to endorse these dating sites. The Burks' attorney filed for financial damages.

Peter Burk's parents filed suit over unauthorized use of the one photo of their son used on the dating websites. Peter being a hero, makes the case more attractive to counsel. Lawyers don't take, as quickly, cases like that of the American family

ORPHAN WORKS COMMENT  
Carrie Devorah  
562 688 2883

[carriedev@gmail.com](mailto:carriedev@gmail.com)

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whose photo was used without their knowledge on a high end grocery storefront ad in the Czech Republic <http://www.ebaumsworld.com/video/watch/80662605/> Fighting the case would be too expensive for the potential outcome judgment that might never be collected, being in a foreign country.

Norman Zada, publisher of Perfect 10, an adult magazine of real women without cosmetic surgery filed suit against Google Inc. for contributory copyright infringement “through the search engine displaying thumbnails of Perfect 10 images hosted at unauthorized third-party sites.” Zada’s other suits included Cybernet Ventures, an adult verification system, Visa and Mastercard, Zada alleged benefited from fees “charged to access unauthorized material at third party pay sites.” [http://en.wikipedia.org/wiki/Norm\\_Zada](http://en.wikipedia.org/wiki/Norm_Zada)

The news industry is starting to fight back installing pay walls for organizations or for customers. There is no word if AP, Associated Press took action against former Speaker of the House Pelosi altering an AP photo by adding in to the Women of Congress picture, missing members. There is no word if Paris Hilton or Hasbro took steps against the former Speaker for her use of Paris’ and Hasbro’s Monopoly Man images in a Press Release from Pelosi’s office. The images were used without attribution. BING IMAGES has multiples of the Monopoly Man in BING’s online gallery. Makers of the original Monopoly, Hasbro, do challenge unauthorized use of their copyright. Hasbro sued Ghettopoly creator, David Chang, alleging trademark and copyright violation. Perez Hilton <http://www.bloggersblog.com/blog.1120063> was pursued by photo agencies who unified to sue Hilton for unauthorized use of their photographers photos. Perez Hilton eventually paid for his unauthorized use of artistic works transgressions. Hilton, then turned around creating, ironically, an aggressive CONDITIONS OF USE to protect literary and artistic works appearing on his website. [www.perezhilton.com/conditions-of-use](http://www.perezhilton.com/conditions-of-use)  
<http://www.bing.com/search?q=perez+hilton&src=IE-SearchBox&FORM=IE8SRC> <http://perezhilton.com/conditions-of-use/>

Technology is hundreds of steps ahead of IP owners. Two dimensional Intellectual property - stories, photos, recordings, art- are removed from websites by data crawlers, given to bundlers, some locally located, some overseas, few with brick addresses or phone numbers or other ways to track the thieves down and hold them accountable for IP theft. Technology continues to advance

ORPHAN WORKS COMMENT

Carrie Devorah

562 688 2883

[carriedev@gmail.com](mailto:carriedev@gmail.com)

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programming for ways to enter websites without authorization to remove, not only the Intellectual property but to scrub identifiable copyright markings off the literary or artistic work, making the literary or artistic piece in to an Orphan Work faster than owners can keep up.

Databots have created a tsunami of IP theft. Databots crawl behind the scenes, invisible, gathering up the Intellectual Property they were sent to bring back to their 'masters.' Search engines Bing, Yahoo and Google traffic stolen Intellectual property, hosting galleries filled with unauthorized images taken from the Internet, without permission of the IP owner. Databots can be considered the Technological version of Human Trafficking. People, their photos and intellectual property, are bought and sold and bundled on the Internet. The search engines, then put the Intellectual Property, without authorization, into public domain where the literary or artistic works- ranging from handbooks on How To Make A Bomb to my photos - are posted for public access, unable to be erased.

My identifiable or credit as a news photographer are being scrubbed from my photos. My copyright notice © Carrie Devorah and/or Carrie Devorah/ [ \_\_\_\_\_ ], (the name of my agency,) are removed by Search Engines who provide my literary and artistic works, without my permission or without a signed license agreement of ability to use my particular photo(s.) to unauthorized users. Believe it or not, my stolen defaced images, are being offered up in the galleries of search engine giants Microsoft, Yahoo and Google, to name a few. Unauthorized uses come to light when I come across the compromised Intellectual property. Search Engine galleries are a veritable One Stop Shop for me to locate authorization abuse. I have begun defacing images I currently post to the internet, printing the disclaimer "IMAGE USE ONLY UNDER LICENSE © against the violator for knowingly stealing Intellectual Property with clearly marked TOS, Terms of Service. Guess what. My marked Protected Image photos show up in the Search Engine galleries!

What is the difference between what a hacker does and what search engines Google and Microsoft and Yahoo are doing. It is so much easier to steal off the Internet than from inside a store. Digital plundering and shoplifting largely go unpunished. Both hackers and Search Engines enter personal websites and blogs, removing data they profit from. Do we really believe when overseas computer techs telling us they go into our computers and ONLY look at the

ORPHAN WORKS COMMENT

Carrie Devorah

562 688 2883

[carriedev@gmail.com](mailto:carriedev@gmail.com)

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computer guts for the purpose of addressing a software issue. Well, if you do I have a bridge you might consider.

Google and Microsoft and Yahoo are disseminating. without authorization, my industry's Intellectual Property files with others who do not have authorization to use my Literary and Artistic artworks. Dotcom went to jail for files sharing. Google, Microsoft and Yahoo don't go to jail for doing the same. They don't pay fines. They allege Fair Use. What they are doing is Unfair Use.

I am going to show you how a copyrighted image, literary or artistic work becomes an Orphan Work so you are clear how an Orphan Work is being created at a speed that cannot keep up with. Google, Microsoft, Yahoo send out AI, artificial intelligence, their scouts to find art collections, in a similar fashion to how the Nazi's sent spies scouting art collections to plunder. Images are pulled off Internet pages. Anything on the photo, indicating ownership- name, copyright notice, whatever was written on the IP are erased. The Intellectual property is posted in to Search Engine galleries, without authorization, usually. I have taken to defacing my images with © Carrie Devorah across my image face. I include the words "Use Under License Only" or some variation thereof.

#### STEP 1

Go to [www.google.com](http://www.google.com)

#### STEP 2

Click IMAGES near the upper tool bar

#### ORPHAN WORKS COMMENT

Carrie Devorah

562 688 2883

[carriedev@gmail.com](mailto:carriedev@gmail.com)

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#### STEP 3

Click a 'thumbnail'. A thumbnail is the small 'thumb size' images horizontally and vertically across and down the Internet page.

#### STEP 4

Put the cursor (the little hand icon) on the image you select. Left CLICK then drag the image off the web page to your desktop. You have now just violated my copyright and owe me money for unauthorized use of my image protected under the Berne Convention. If you noticed, between the left CLICK and drag, a small

box popped up indicating the site my photo appeared on and was removed from to appear as an Unidentified image in the Bing, Yahoo or Google gallery.

### STEP 5

Click my image that now sits on your desktop. The information identifying my photo as belonging to me has been removed. In the case of my David Petraeus photo, my details and my agency's details have been replaced with "345DD59892C0DDBCBDAC1696B689\_h231\_w308\_m5\_clJtLUppu[1]" My photo of David Petraeus, a hot ticket item when his affair was revealed, is officially an Orphan Work. I am here. The photo of David is mine. My photo is not Orphaned. My photo has been kidnapped. It has been trafficked across state lines and internationally. Once upon a time, similar behaviours performed across phone lines, I believe was answerable under the RICO act. What is this theft going to be answerable under on Google Fibers? <https://fiber.google.com/about> Or didn't Google tell you this Copyright Intervention was coming down their pipelines in Congress' annual meeting with legislators.

The conversation of commercial versus non commercial or non profit use of Orphan works is moot. An image belongs to its creator. End of conversation. All rights to the image belong to its creator unless parceled out under terms of a license agreement. Not the other way around. No. It is not an issue of use first then pay as happened with Boston graffiti artist Shepherd Fairey's iconic Obama "Hope" poster.

Pop culture artist, Shepherd Fairey, famous for his Obama HOPE painting, inauguration 2008, said his painting was copied from an image of Senator Obama, Fairey found on BING's Image Gallery.

<http://www.bing.com/search?q=shepherd+fairey&src=IE-SearchBox&FORM=IE8SRC> The photo of Obama Fairey used, for the painting reference, was taken at the National Press Club, by AP for-hire photographer Manny Garcia. AP said it owned the copyright to the photograph, sued, seeking credit and compensation. Associated Press Terms of Use state "All Rights Reserved. This material may not be published, broadcast, rewritten or redistributed....." Former speaker of the House Nancy Pelosi's digitally altered absent congresswomen into AP's photo of Women of Congress.

<http://www.ap.org/products-services/new-media> Paul Colford, AP's media relations contact had made this statement when addressing Shepherd Fairey's use of an AP photo for his Obama 'Hope' poster, "AP safeguards its assets...." Former Speaker Pelosi had used images of Paris Hilton and Milton Bradley to illustrate wealthy in a press release. Paris Hilton's photographer was not credited. Hasbro was not named as owner of the Monopoly Millionaire. None of these images were Orphan Works.

ORPHAN WORKS COMMENT

Carrie Devorah

562 688 2883

[carriedev@gmail.com](mailto:carriedev@gmail.com)

Newspapers are taking their stand, charging websites that link to its articles. The NNI, National Newspapers of Ireland said “the display and transmission of links does constitute an infringement of copyright under current Irish law.” [www.france24.com/en/prints/5381923?print=now](http://www.france24.com/en/prints/5381923?print=now) Other publications have set up paywalls.

The greatest problem facing the creative community is a generation that believes the Internet should be free- what is yours is mine. Google, Yahoo, Microsoft’s IMAGES and BING further facilitate literary or artistic works being published without copyright notices or credit or authorship. Google, Creative Commons and University Libraries want to give away what isn’t theirs from their forum, profiting from other people’s free stuff, at the same time. The argument of Safe Harbor is put forth. Safe Harbor offers protections for museums, archives, universities, and other users acting for cultural or educational purposes. Nothing precludes BING IMAGES from calling itself a library or a museum or a gallery or prevents a private individual, who collects movies they have downloaded from calling themselves a library. After all, if bloggers, nowadays, can call themselves media then a Search Engine harvesting Intellectual Property of literary and artistic work will be bold enough to call itself a library.

When I read the Congressional Committee has been briefed, for years, by technological companies, my thought was the Copyright Office and Congressional committee are too aware of technological turbulence ahead for image owners along with continuing projected loss of control over their literary and artistic works. After all, at the Congressional Committee meeting, the technological companies have been “highlighting, image recognition, fingerprinting, watermarking, audio recognition, and/or licensing features and discussed their efforts to develop business models and standards including database control, security, population fees and allocation of user fees or subscriptions,” co-joined with the ‘let’s publish everyone’s ideas for public access’ could make the Copyright Office, complicit in trying to steal copyright ownership from copyright owners who did not pay the US government a fee for the IP to be part of a public database.

There is less of an excuse today than ever before for anyone to claim a copyrighted work is an Orphan Work. By definition, an Orphan Work is a Copyrighted work “whose owner is impossible to identify or contact to request permission from the copyright owner to use.” Public libraries are complaining

ORPHAN WORKS COMMENT

Carrie Devorah  
562 688 2883

[carriedev@gmail.com](mailto:carriedev@gmail.com)

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they cannot digitally distribute orphaned books without risking being fined up to \$150,000 if the owner of the literary or artistic work were to come forward. Sites like ancestry.com have exponentially expanded opportunities to locate heirs or potential heirs to literary and artistic works. Some genealogical hobbyists trace their families as far back as to the days of the Knights of Templar. Some in France, trace their lines through the Davidica thread connecting them to Jesus. A headline ran in Drudge the other day, citing a woman is being sought to carry a Neanderthal cave man baby. Remember the cave man drawings, I wrote about at the beginning of my comment? If DNA can link that baby to that art.... There are tools for Image Recognition. There are also a boatload of lawyers who will be jumping on board that runaway train.

Google Labs ballsily promotes uses of Google Goggles for getting more information on “landmarks, album covers, books, works of art and restaurants.” <http://www.google.com/mobile/goggles/#landmark> Google Goggles is a program that copies images, albeit without authorization of the copyright holder, in order to search and locate where the image/item came from. Google’s security released the statement, “Using our Services does not give you ownership of any intellectual property rights in our Services or the content you access. You may not use content from our Services unless you obtain permission from its owner or are otherwise permitted by law.” philosophy is “As a provider of software and services for many users, advertisers and publishers on the Internet, we recognize how important it is to help protect your privacy and security. We understand that secure products are instrumental in maintaining the trust you place in us and strive to create innovative products that both serve your needs and operate in your best interest.” <http://www.google.com/intl/en-US/policies/terms/> Google’s caveat is “But that does not necessarily mean that we review content, so please don’t assume that we do.”

Google’s website say “The revenue we generate is derived from offering search technology to companies and from the sale of advertising displayed on our site and on other sites across the web. Hundreds of thousands of advertisers worldwide use AdWords to promote their products; hundreds of thousands of publishers take advantage of our AdSense program to deliver ads relevant to their site content. To ensure that we’re ultimately serving all our users (whether they are advertisers or not), we have a set of guiding principles for our advertising programs and practices...” Google is a business. Owners of literary and artistic works are in business, too.

ORPHAN WORKS COMMENT  
Carrie Devorah

562 688 2883

[carriedev@gmail.com](mailto:carriedev@gmail.com)

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Google, Bing and Yahoo are search engines trafficking other people's intellectual property without authorization. That the Copyright Office has proposed creating a similar searchable database in essence trafficking literary and artistic works entrusted to them for protection, is alarming. It is unconscionable to even entertain changing the Copyright playing field to remove the Copyright Office from being a depository fortress of Intellect .

In a matter of speaking, I am an Orphan Work. Pariah sites, like [mylife.com](http://mylife.com) and [123people.com](http://123people.com), exist from feeding off my Literary and Artistic works on the internet. Sites like these, sites that create Carrie Devorah pages consisting of my personal information and Literary and Artistic works, have created Third Party Teasers, such as, 'do you know Carrie Devorah,' soliciting people to sign up for access and membership for their profit of (1) access and (2) advertising. I was not contacted for permission to participate nor asked permission for my data or Intellectual Properties to be used. The process of removing the abusing sites is extensive. For every such site taken down, another site pops up. The raping of our privacy is unfathomable.

The Congressional Committee office briefings, conducted by technological companies, goes back long enough to expect technological companies informed the Congressional Committee that sending literary works and artistic images through the Internet violates Copyright Law, in that every image filed electronically through the internet is copied then archived in the Search engine files where it is kept, responsive to subpoenas, possible to be hacked and/or be compromised. Copying of a literary and artistic work without permission of the owner is unauthorized use of a copyright. The Republican Study Committee paper pulled from the Internet sheds insight into their failed overview of Copyright issues especially as the issue apply to literary and artistic works including photography. <http://futureofmusic.org/blog/2012/11/19/republican-study-committee-issues-and-retracts-copyright-reform-brief>

Naomi Korn, author of the UK JISC Collections Trust study, "In from the Cold: An assessment of the scope of 'Orphan Works'", <http://www.jisc.ac.uk/news/stories/2009/06/podcast81infromthecold.aspx> , speaking for the JISC and The Collections Trust says "Many orphan works, like documentary photographs and sound recordings are of low commercial value but of high cultural and historic importance." Korn expressed, "there is a need to effectively engage with the issues of potential for legislative change to improve policy alignment in collaboration with the Creative Industries." Korn fails to

ORPHAN WORKS COMMENT

Carrie Devorah

562 688 2883

[carriedev@gmail.com](mailto:carriedev@gmail.com)

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mention which creative industries policy alignment should improve collaboration with- the industries trying to preserve what is their copyright, or the industries trying to profit from them.

Senator Harry Reid stressed 'counterfeiting and piracy are serious problems that hurt major industries, including the movie industry, which supports 2.2 million jobs alone.' Lets get real about piracy. It is theft. Piracy is a one size fits all problem legislators don't see that way because legislators are too busy parsing the copyright law in an effort to accommodate constituents in music, broadcast, dance, art or photography. Theft or Piracy in the movie industry cost over 370,000 jobs a year. Piracy in the music industry cost over \$1.6 billion. Takedown operations do result in criminal charges. Selling stolen videos is a misdemeanor for blockbuster movies released to the street. What is the misdemeanor for stealing my photos? Where are the Feds when thousands of uses of my photos are all over the internet? Where are the Feds when fellow published news photographer Senator Patrick Leahy's photos are removed from authorized used then distributed all over the Internet by unauthorized users and displayed without authorization in Search Engine giants Microsoft BING, Yahoo and Google Galleries? Better question, is their unauthorized use of a Senator's property answerable to a higher charge? That said, when it all comes down to it is my naked lens or my visionary literary and artistic works any less valuable than Pat my colleagues?

I am not a major billion dollar industry. I am just an independent former news photographer who covered the White House and the Hill who was one of the earlier members in art merchandising who knows the value of one photograph, the value of one piece of art or one story. I can look you in the eye and tell you emphatically my experience with unauthorized use of my photos disguised to look as Orphan Works. The theft of my Intellectual Property, my images, prevents me from earning an income from my photos. Loss of profits from photos stolen and used without authority, domestically and internationally is hurting my industry's agents and agencies hurting their ability to make livings, too. The defense and pursuit of unauthorized use of images, for them, let alone for me, is costly, overwhelming and daunting.

ORPHAN WORKS COMMENT

Carrie Devorah

562 688 2883

[carriedev@gmail.com](mailto:carriedev@gmail.com)

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My literary and artistic works used to make money for me. Not anymore. The heinousness of the search engines is their warning Internet users not to violate their sites Copyright policy <http://www.google.com/policies/privacy/> all the while violating my literary and artistic works with unauthorized use. Googles transparency report is showing an Exponential Increase of URLS requesting to be removed per week from Searches.

[http://www.weeklystandard.com/blogs/google-complies-government-requests-user-data-88-time\\_697551.html](http://www.weeklystandard.com/blogs/google-complies-government-requests-user-data-88-time_697551.html)

My images are my employees. My images work for me. Each time they get used, I get paid. Each time my photo was used without my authorization, I did not get paid. Every image of mine put into a BING or GOOGLE or YAHOO gallery is an image that had no more ability to perform and earn money for me. The BING or GOOGLE or YAHOO galleries give my photos away for free. The value of an author of a copyright as perceived- by attorneys, regulators and policy wonks. In your eyes, a photo, by me, isn't perceived as being as valued as a photo taken by Annie Leibovitz. Why not? Annie told me I had her dream opportunity, photographing South Lawn White House departures and arrivals. My history of in commerce speaks for itself but on first blush- Annie's name has "show time" value. To me, my photos are as valuable as Annie Leibovitz's. My photos are worker bees.

Stop parsing an already too small size pie. Rather than teaching people it is ok to steal by degrees or with government oversight, maybe we ought to go back to our founding principles, the ten... Thou Shalt Not Steal and teach people to innovate, be respectful of what others do. Challenge them to do better. The Founding Fathers taught us, we must, as a country have principles to build with that it is our job to teach the next generation that greed is criminal. Ideas are the foundation upon which our economy is based. As for the idea of implementing or legislating or regulating this notion called Orphan Works? What really is Orphan Works other than a license to steal.

The Copyright Office hasn't acknowledged the reality of pursuing Copyright ownership abuse lies in the ability to secure representation for litigation. Attorneys don't take on cases of photographers from Kalamazoo whose photo was used without permission, for example, on a cookie tin. The lawyers tell compromised copyright owners, it will be challenging to expect any lawyer to take

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562 688 2883

[carriedev@gmail.com](mailto:carriedev@gmail.com)

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on such a case with so little expected return, the case would involve too much work, and specialty, for so little projected financial return.

It is my opinion the Copyright Office has lost sight of its mission which, on government time is to protect not profit, as with the case of Orphan Works, profit even more as cash cow agency. There are countless people who have paid into the dream of Copyright protection. What good is protection if you don't give us a simplified legal redress that doesn't get pushed up into a big expense needing experts and so on. It is simple. Did you take this photo? Yes. Can you prove it? Yes? Is that your name in the news paper under the photo? Yes. You- same questions. No? A license agreement? Emails? Anything? No! Pay the lady!

It is not up to the Copyright Office to decide who benefits from the use of footage, manuscripts, images, sound recording by persons other than its creator. You need to do your job and protect owners of literary and artistic works whether they pay for a filed copyright or not. Your job is to tell the public, the Copyright Office is the protector of literary and artistic works, and that it is not kosher to use OTHER PEOPLES LITERARY AND ARTISTIC WORKS WITHOUT AUTHORISATION. The role of the Copyright Office is not to protect people from being accused of stealing if they take something that is not theirs. The role of the copyright office is NOT to facilitate groups like Wikileaks, Anonymous and revenge hackers who remove, in their cases, sensitive documents they then release to the public- as copyrighted or Orphaned Works. The Copyright office's role in Copyright oversight, is to protect creative expression, to protect owners images so do your job. Stop worrying how to profit with thieves.

Attempting to protect IP today is a losing venture. The honor system failed affirming there is no honor amongst thieves. The Internet has become a license to steal, I mean pirate. I am not collecting royalty income from unauthorized use of my literary and artistic works stolen by and through search engines. Although theft of literary and artistic works most probably eclipses piracy in the movie industry, there appears to be a standard that it is ok to steal photos and sketches, art and stories from entrepreneurs like me. Here and now, I am letting you the Copyright Office know, you do NOT have my permission to put online any of my images I entrusted to you the United States Copyright Office and the United States government. "Copyright law" as the office posted online may be "the engine of free expression in our society and a major building block of the U.S. economy" but you do not have the right to do anything with my images.

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562 688 2883

[carriedev@gmail.com](mailto:carriedev@gmail.com)

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“KEEP YOUR HANDS OFF MY COPYRIGHT!!!”

<http://www.copyright.gov/about.html>

Years ago I heard JC Watts tell the story of his father rocking his rocking chair, on the house porch, watching JC and his college friends. After listening for a while, JC’s dad stopped rocking his chair. JC and his friends wondered if Dad was ok. Dad said he wasn’t sure because he was wondering, after what he was listening in on, how college could have made JC and his friends so stupid, unlearning their common sense.

I read through the history of Orphan Works and the Copyright Office and I have to wonder the same. Whatever happened to your common sense. Whatever happened to your upholding Copyright law by not diluting it with Orphan Works. My redress is simple. My comment posted here inspired me to use my IP, my filed Comment, as a starting point for a book I am calling KEEP YOUR HANDS OFF MY COPYRIGHT!!! With all the abuse of the Internet, it does offer opportunity through sites like KICKSTARTER where I am Crowd Funding my project. My goal is not to change the world. My goal is to provide for my world, for my descendants, my sons and their sons and their sons and so forth, for my generations to come.

Thank you

Carrie Devorah

CCIA, MPI, DRS, Profiler, former BA-BSIS