

**Before the
COPYRIGHT OFFICE
LIBRARY OF CONGRESS
Washington, D.C.**

In the Matter of)	
)	
Orphan Works and Mass Digitization)	Docket No. 2012-12
)	

**REPLY COMMENTS OF THE NATIONAL MUSIC PUBLISHERS’
ASSOCIATION, INC., AND THE HARRY FOX AGENCY, INC.
IN RESPONSE TO OCTOBER 22, 2012 NOTICE OF INQUIRY**

National Music Publishers’ Association (“NMPA”), the principal trade association representing the interests of music publishers in the United States, and the Harry Fox Agency (“HFA”), NMPA’s wholly owned subsidiary, appreciate the opportunity to offer reply comments on the Copyright Office’s inquiry into the issue of orphan works and mass digitization.

NMPA works to protect the interests of the music publishers and songwriters and has served as the leading voice of the American publishing industry in Congress and the courts. With over 2,800 members, NMPA represents both large and small music publishing firms throughout the United States. HFA provides licensing and administrative services to over 46,000 music publishing clients that, in turn, control over four million copyrighted musical works. On behalf of its affiliated publishers, HFA issues licenses for the use of music in both physical and digital formats, and collects and distributes royalties due pursuant to those licenses.

Initially, NMPA and HFA reiterate their point raised in the initial round of comments on orphan works that musical works are inappropriate subject matter for

orphan works legislation. As stressed in these initial comments, the problem of orphan musical works is minimal because there is already a statutory framework in place to ensure that musical works, including those whose owners allegedly cannot be found, are available for use by the public. Further, the music industry has independently developed its own extremely thorough databases to identify songwriters and publishers that are easily accessible to the public and continues to be committed to creating a comprehensive international database of musical works and their owners. Therefore, potential subsequent users have ample tools with which to identify and locate copyright owners, making an orphan works system unnecessary when applied to musical works.

Further, on most of the issues raised by the Notice of Inquiry (“NOI”), NMPA and HFA are in agreement with the reply comments of the Copyright Alliance, who have already underscored several important arguments. Specifically, NMPA and HFA strongly agree that using the discussion of orphan works to suggest broad reforms in copyright law that would reduce copyright terms or eliminate statutory damages is inappropriate. Additionally, NMPA and HFA concur that any reinstatement of formalities to receive copyright protection would violate the United States’ obligations under the Berne Convention and would also primarily harm individuals and small business that do not have the resources to comply with such formalities. NMPA and HFA also share the Copyright Alliance’s concern over the suggestion that the fair use doctrine is sufficiently broad to encompass the majority of orphan works and/or mass digitization uses contemplated by some users. Further, NMPA and HFA would emphasize that fair use is not a tool for corporate theft to strip away at copyright owners’ rights.

NMPA and HFA appreciate the opportunity to provide comments on these issues and looks forward to the opportunity to continue their involvement as the Copyright Office addresses the issues of orphan works and mass digitization.

Dated: March 6, 2013

Respectfully submitted,



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