

Maria Pallante, Register of Copyright
U.S. Copyright Office
Library of Congress

Re: Orphan Works and Mass Digitization
(FR Doc. 2012-25932; Copyright Office Docket Number 2012-12)

Dear Ms. Pallante:

I do not want to become the “red headed step child” of the publishing companies.

Where are the writer’s foster parents in the cultural village that we are all part of?

This writer does not want to be an orphan, that is I do not want my writing and that of other writers I know to be ripped off, stolen and sold for the profit of already rich corporate entities.

If the very limited provisions of “orphan works” legislation are enacted as written, a new form of child abuse is being created in the USA. As a working writer, I oppose any "orphan works" legislation that permits use of my work without my knowledge or permission merely because someone claims they were unable to identify or locate any person or me or entity that they thought held certain rights to my work.

Where is the legislation that would force large corporations or even small ones or companies, even individuals, that establishes rigorous standards to show that they exercised due diligence in searching for the creators of literature and writing that they wish to profit from? Where is an accessible small claim like process that would allow low-income folks like me to seek redress of grievances for violation of my rights to the benefit of the work I have done?

I am especially concerned that proposals for "orphan works" legislation fail to take into consideration the realities of working writers' lives and the difficulties we face in enforcing our rights so that we can earn a living from our writing. I believe that work to which I hold some or all rights could be deemed "orphaned," despite the fact that I am still attempting to earn money from it, including in ways that are not reflected in publishers' or libraries' records.

Any such legislation would violate my economic and moral rights. For writers outside the USA, such a law would violate rights guaranteed by the

Berne Convention and other treaties.

Copies of my work made available under an "orphan works" law - especially those made available for free by a noncommercial entity - would unfairly compete with and destroy the value of my rights.

I urge you to consider the comments submitted to the Copyright Office by the National Writers Union. I would like the Copyright Office and/or Congress, before it considers any "orphan works" legislation to hold hearings to learn from writers and other creators about how such a law would affect us. No "orphan works" legislation should be considered unless it respects the rights of creators.

Sincerely,

Eugene Pepi
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Civil Rights Co-Chair, National Writers Union
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