

From: "Douglas W. Jones"
To: <orphanworks@loc.gov>
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Subject: Comment on Orphan Works

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I am writing in response to your request for public comment on the issues raised by copyrighted works whose owners are difficult or impossible to locate. I should note that my institutional affiliation listed below is for identification purposes only; I am not writing as a representative of the University of Iowa.

In the field of computing, many corporate authors that were once very important sources of innovation no longer exist. While the computers of the 1960s were physically large and slow, by today's standards, many of them contained innovations that were very important. I have worked to preserve some of the documentation from these early machines, and in doing so, I have had significant difficulty obtaining copyright clearance.

Here is a specific example. The Digital Equipment Corporation PDP-8 computer, introduced in 1965, was the first computer to be sold for under \$20,000, and later models of this machine were the first computers ever to be sold on a retail cash-and-carry basis. In working to preserve documentation from this machine, I wanted permission to reprint technical documentation.

This was at a time when Digital Equipment Corporation still existed, but when the PDP-8 computer had long been discontinued. It took me over a year to track down a person who could give me the necessary permission. Since then, the company was acquired by Compaq, and Compaq then merged with Hewlett Packard. Today, I have no idea where I would even begin my search for permission to make such copies.

The situation with other vendors is even more difficult. At least, we can trace the chain of corporate acquisition of the remains of Digital Equipment Corporation. The problem is far more difficult with some of the hot little companies that lived shorter lives and disappeared far more completely.

I strongly believe that copyright law must be modified to free up the rights on documentation for discontinued products. My strong suspicion is that, whether such products are old cars, old computers, or old washing machines, once the vendor discontinues support for the product, the copyright restrictions on the associated documentation supporting that product should be loosened.

Many of the documents that interest me would be classified as ephemera by librarians, such things as sales and marketing flyers, owner's manuals, maintenance manuals, and instructional materials. These can be key tools for understanding the emergence, spread and eventual decline in a product, so they have great value to historians of technology, but the preservation of these documents, as they age, will eventually require copying that is of questionable legality under current law. Furthermore, to make these documents available to scholars at large, they should be scanned and put on the web, but again, current law makes this difficult.

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