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To: Julie L. Sigall
Associate Register for Policy & International Affairs

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From: Alexander Liberman

Comment:

This may be a pointless idea in the day and age of frivolous lawsuits, but what about establishing a nominal percentage of revenue (say .5-1% of the net) made through the use of Orphan Works, to be held in escrow by the party using said material until such time as the author is found, the company dissolves, or the life expectancy of the author has passed (say 60 years). Provided that it is expressly stipulated that there are no survivorship rights to the money, the worst that an author whose work is being used can do is sue for a larger share of the profits, which is pretty much all that they can do right now. Also uses for education, research, or not-for-profit, should not be held responsible in the same manner, and the question of licensing should only be decided in the event that the author is found, and decides to press the issue at own expense. Another possibility for the not-for-profit sector is to have a fixed "penalty" for which the organization is only responsible in case the author is found (say \$500-\$10,000).