

10235, Washington, DC 20503, 202–395–7316 (this is not a toll free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Agency:* Employment and Training Administration (ETA).

*Type of Review:* Extension of a currently approved collection.

*Title:* Attestation by Employers Using Crewmembers for Longshore Activities at Locations in the State of Alaska.

*OMB Number:* 1205–0352.

*Frequency:* On occasion.

*Affected Public:* Business or other for-profit.

*Type of Response:* Recordkeeping.

*Number of Respondents:* 100.

*Annual Responses:* 100.

*Average Response Time:* 3 hours.

*Total Annual Burden Hours:* 300.

*Total Annualized Capital/Startup Costs:* \$0.

*Total Annual Costs (Operating/Maintaining Systems or Purchasing Services):* \$0.

*Description:* The information provided on this form by employers seeking to use alien crewmembers to perform longshore activities in the State of Alaska will permit the Department to meet Federal responsibilities for program administration, management and oversight.

**Ira L. Mills,**

*Departmental Clearance Officer/Team Leader.*

[FR Doc. 05–13321 Filed 7–6–05; 8:45 am]

**BILLING CODE 4510–30–P**

## LIBRARY OF CONGRESS

### Copyright Office

#### Orphan Works

**AGENCY:** Copyright Office, Library of Congress

**ACTION:** Notice of public roundtables.

**SUMMARY:** The Copyright Office announces public roundtable discussions regarding “orphan works,” i.e., copyrighted works whose owners are difficult or even impossible to identify or locate. The Office seeks to address whether there are compelling concerns that merit a legislative, regulatory or other solution, and what type of solution could effectively address these concerns without conflicting with the legitimate interests of authors and right holders. The Office solicited and received written comments on these issues pursuant to a Notice of Inquiry issued earlier this year. See Notice of Inquiry, 70 FR 3739 (Jan. 26, 2005). The Office will now hold roundtable discussions to further address the issues raised and solutions proposed in the written comments.

**DATES:** The public roundtable will first be held in Washington, D.C. on Tuesday, July 26, 2005, from 9:00 a.m. to 5:00 p.m. E.D.T., and on Wednesday, July 27, 2005, from 9:00 a.m. to 5:00 p.m. E.D.T. An additional roundtable will be held in Berkeley, California on Tuesday, August 2, 2005, from 9:00 a.m. to 5:00 p.m. P.D.T. Requests to participate in the roundtables must be received by the Copyright Office by 5:00 p.m. E.D.T. on July 15, 2005.

**ADDRESSES:** The roundtable in Washington, D.C. will be held in the Russell Senate Office Building, Room 188, Washington, D.C. 20510, on July 26, 2005, and in the Rayburn House Office Building, Room 2237, Washington, D.C., 20515, on July 27, 2005. The public roundtable in Berkeley, California will be held at the Boalt Hall School of Law, University of California – Berkeley, Berkeley, California 94720. Details on the precise location in Berkeley, California will be provided in advance of the meeting on the Copyright Office website, <http://www.copyright.gov>.

**FOR FURTHER INFORMATION CONTACT:** Oliver Metzger, Attorney-Advisor, Office of Policy & International Affairs, Email: [omet@loc.gov](mailto:omet@loc.gov); Telephone (202) 707–8350; Fax (202) 707–8366.

#### **SUPPLEMENTARY INFORMATION: Procedure for Submitting Requests to Participate**

The roundtable discussions will be open to the public. However, persons

wishing to participate in the discussions must submit a written request to the Copyright Office. The request to participate must include the following information: (1) the name of the person desiring to participate; (2) the organization(s) represented by that person, if any; (3) contact information (address, telephone, telefax, and e-mail); and (4) a one-page summary of the specific issues the participant (or his or her organization) wishes to address.

The one-page summary must also identify in which of the four general roundtable topic areas the person would most like to participate in order of preference, along with the corresponding date, time and location (see below for detail). Space and time constraints may require us to limit participation in one or more of the topic areas, and there is a chance that not all requests to participate will be granted. Identification of the desired topic areas in order of preference will help the Office to ensure that participants will be heard in the area(s) of interest most critical to them. In addition, any person requesting participation in the roundtable who did not file a written initial or reply comment in response to the Notice of Inquiry published on January 26, 2005, 70 FR 3739 (January 26, 2005), must provide his or her statement of interest in this proceeding in his or her one-page summary. The Office will notify each participant in advance of his or her designated topic area(s), and the corresponding time(s) and location(s).

Note also for those who wish to attend but not participate in the roundtables that space is limited. Seats will be available on a first-come, first-served basis. However, all discussions will be transcribed, and transcripts subsequently made available on the Copyright Office website.

Requests to participate may be submitted to the Office by e-mail (preferred), by commercial courier, or by hand delivery by a private party (submission by overnight service or regular mail will not be effective) as follows:

1. If by e-mail (preferred): Send to [orphanworks@loc.gov](mailto:orphanworks@loc.gov) a message containing the information required above. The one-page summary of issues may be included in the text of the message, or may be sent as a MIME attachment. If sent as a MIME attachment, the summary must be in a single file in either: (1) Adobe Portable Document File (PDF) format; (2) Microsoft Word 2000 or earlier; (3) WordPerfect 9.0 or earlier; (4) Rich Text File (RTF) format; or (5) ASCII text file format.

2. If by commercial, non-government courier or messenger: Address to Jule L. Sigall, Associate Register for Policy & International Affairs, U.S. Copyright Office, Room LM-403, James Madison Memorial Building, 101 Independence Avenue, SE, Washington, DC 20559-6000, and deliver to the Congressional Courier Acceptance Site (CCAS), 2nd and D Streets, NE, Washington, DC between 8:30 a.m. and 4:00 p.m., a cover letter with the information required above, and include three copies of the one-page summary of issues. (Note: the Copyright Office will consider the date of receipt at CCAS as the date of receipt in the Copyright Office.)

3. If by hand delivery by a private party: Address to Jule L. Sigall, Associate Register for Policy & International Affairs, U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE, Washington, DC 20559-6000, and deliver to Room LM-401 of the James Madison Memorial Building, a cover letter with the information required above, and include three copies of the one-page summary of issues.

### Background

On January 26, 2005, the Copyright Office published a Notice of Inquiry in the Federal Register, 70 FR 3739 (Jan. 26, 2005), announcing its study of issues surrounding "orphan works," *i.e.*, copyrighted works whose owners are difficult or even impossible to identify or locate. The study is a response to concerns that difficulty in identifying and/or locating copyright owners can create difficulties in obtaining permission for subsequent creators and users to use works in socially productive ways, such as by incorporating these works in new creative efforts, or by making them available to the public. Specifically the Office seeks to address whether the problems identified in the comments merit a solution, and what type of solution could effectively address these problems without conflicting with the legitimate interests of authors and right holders.

The original Notice of Inquiry invited the public to submit written comments. Initial Comments were first submitted to the Office during a 60-day period following issuance of the Notice of Inquiry. Reply Comments were then submitted during an additional 45-day period. The Office received approximately 850 unique comments during these periods, all of which have been posted on the Copyright Office website (<http://www.copyright.gov/orphan>).

The Copyright Office has reviewed the Initial and Reply Comments and seeks further information and discussion on several issues raised by the Notice and this study. To help guide the discussion, the following Provisional Agenda will be followed in both the Washington, DC and Berkeley, CA roundtables:

#### *Topic 1: Identification of Orphan Works*

Washington, DC: Tuesday, July 26, morning session

Berkeley, CA: Tuesday, August 2, morning session

The Notice of Inquiry invited comments on how the term "orphan work" should be defined, or how orphan works might be designated. It suggested two general approaches: (1) an "ad hoc" or case-by-case approach, setting forth basic parameters of what might constitute a sufficient search under the circumstances; and (2) a formal approach incorporating a registry or registries in various forms and with various effects. The Notice of Inquiry also invited comment on other threshold issues, such as whether certain works should be categorically excluded from designation as "orphan works" because of age, publication status, etc. While many comments addressed these issues in detail, the Copyright Office seeks further discussion on the following issues within this general area of concern:

- a. The "due diligence"/"reasonable efforts" search approach and standard.
- b. The role of registries of copyright ownership information and/or uses of purported orphan works.
- c. Inclusion or exclusion of unpublished works.
- d. Other threshold requirements, such as age of works, types of works, types of users, types of uses.

#### *Topic 2: Consequences of an "Orphan Works" Designation*

Washington, DC: Tuesday, July 26, afternoon session

Berkeley, CA: Tuesday, August 2, afternoon session

Assuming that a work is identified or designated as an orphan work, a wide range of legal consequences may potentially result. The Notice of Inquiry summarized some of these consequences, while others were suggested and addressed in the written comments. These consequences vary in nature and degree, from limitations on the remedies available to a reappearing owner, to the payment of a mandatory fee by the user in a variety of forms, to a statutory exemption explicitly authorizing various uses, to termination of all rights in the work through entry

into the public domain. The Copyright Office seeks further information on the following issues within this topic area:

- a. The "limitations on remedies" approach.
- b. The exemption and public domain approaches.
- c. Payment of fees or escrow by the user.
- d. Other conditions/obligations on the user (e.g. time limits, notice, registration).
- e. Reliance (or "piggybacking") on previous searches by subsequent users.

#### *Topic 3: Reclaiming Orphan Works*

Washington, DC: Wednesday, July 27, morning session

Berkeley, CA: Tuesday, August 2, afternoon session

Once a work has been designated an orphan work, resulting in any of a number of potential legal consequences, a formerly unidentified or missing copyright owner may reappear and attempt to assert rights in the work. This assertion of rights might occur during any number of stages in the process of exploiting of the work, and after a user may have incurred costs in reliance on the continuing unavailability of the original owner. The assertion of rights may also occur in a variety of forms, from informal communication between the original owner and user, to formal litigation over rights in the work. The Copyright Office seeks further discussion of the following issues within this topic area:

- a. The consequences of owner reappearance for uses in the process of being prepared for exploitation (whether derivative uses or other uses in preparation), and for ongoing exploitations.
- b. The burden of proof in litigation, on issues such as the reasonableness of a user's search.
- c. Statutory damages and attorneys fees.
- d. Rights in derivative works based on an orphan work.

#### *Topic 4: International Issues*

Washington, DC: Wednesday, July 27, afternoon session

Berkeley, CA: Tuesday, August 2, afternoon session

The Notice of Inquiry specifically asked how any proposed solution to orphan works problems might be reconciled with existing international obligations regarding copyright. These obligations include the prohibition against formalities in the Berne Convention, as well as limitations on the nature of exceptions imposed by the TRIPS Agreement. Several comments addressed these questions specifically,

but also raised other concerns when the international dimensions of orphan works problems are considered. The Copyright Office seeks further information on the following issues within this topic area:

- a. Compliance of various alternatives with the Berne Convention prohibition against formalities.
- b. Compliance of various alternatives with TRIPS/Berne "three-step" test for limitations or exceptions.
- c. Exclusion of foreign works from the orphan work definition.
- d. Gathering information on experience in other countries with orphan works issues.

The roundtable might also take up other issues not encompassed by the above agenda if time permits.

Dated: June 30, 2005

**Marybeth Peters,**

*Register of Copyrights.*

[FR Doc. 05-13355 Filed 7-6-05; 8:45 am]

BILLING CODE 1410-30-S

## LIBRARY OF CONGRESS

### Copyright Office

[Docket No. RM 2005-7]

#### Satellite Home Viewer Extension and Reauthorization Act of 2004

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Notice of inquiry.

**SUMMARY:** The Copyright Office of the Library of Congress is requesting information for the preparation of the first report to the Congress required by the Satellite Home Viewer Extension and Reauthorization Act of 2004.

**DATES:** Comments are due no later than August 22, 2005. Reply comments are due no later than September 12, 2005.

**ADDRESSES:** If hand delivered by a private party, an original and five copies of a comment should be brought to Room LM-401 of the James Madison Memorial Building between 8:30 a.m. and 5 p.m. and the envelope should be addressed as follows: Office of the General Counsel, U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE, Washington, DC 20559-6000. If delivered by a commercial courier, an original and five copies of a comment must be delivered to the Congressional Courier Acceptance Site located at 2nd and D Streets, NE, between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Office of the General Counsel, Room LM-403, James Madison

Memorial Building, 101 Independence Avenue, SE, Washington, DC. If sent by mail (including overnight delivery using U.S. Postal Service Express Mail), an original and five copies of a comment should be addressed to U.S. Copyright Office, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024. Comments may not be delivered by means of overnight delivery services such as Federal Express, United Parcel Service, etc., due to delays in processing receipt of such deliveries.

**FOR FURTHER INFORMATION CONTACT:**

Tanya Sandros, Associate General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 707-8366.

**SUPPLEMENTARY INFORMATION:** On

December 8, 2004, the President signed the Satellite Home Viewer Extension and Reauthorization Act of 2004 ("SHVERA"), a part of the Consolidated Appropriations Act of 2005. Pub. L. No. 108-447. SHVERA extends for an additional five years the statutory license for satellite carriers retransmitting over-the-air television broadcast stations to their subscribers, as well as making a number of amendments to the existing section 119 of the Copyright Act. In addition to the extension and the amendments, SHVERA directs the Copyright Office to conduct two studies and report its findings to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate. One study, due by June 30, 2008, requires the Copyright Office to examine and compare the statutory licensing systems for the cable and satellite industries under sections 111, 119 and 122 of the Copyright Act and recommend any necessary legislative changes. The other study, due by December 31, 2005, requires the Office to examine select portions of the section 119 license and to determine what, if any, impact sections 119 and 122 have had on copyright owners whose programming is retransmitted by satellite carriers. That study is the subject of this Notice of Inquiry.

*The SHVERA Study*

Section 110 of SHVERA provides:

No later than December 31, 2005, the Register of Copyrights shall report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate the Register's findings and recommendations on the following:

- (1) The extent to which the unserved

household limitation for network stations contained in section 119 of title 17, United States Code, has operated efficiently and effectively and has forwarded the goal of title 17, United States Code, to protect copyright owners of over-the-air television programming, including what amendments, if any, are necessary to effectively identify the application of the limitation to individual households to receive secondary transmissions of primary digital transmissions of network stations.

- (2) The extent to which secondary transmissions of primary transmissions of network stations and superstations under section 119 of title 17, United States Code, harm copyright owners of broadcast programming throughout the United States and the effect, if any, of the statutory license under section 122 of title 17, United States Code, in reducing such harm.

Pub. L. No. 108-447, 118 Stat. 3394, 3408 (2004).

*Part One: The Unserved Household Limitation*

The statutory license set forth in section 119 of the Copyright Act enables satellite carriers to retransmit distant over-the-air television broadcast stations to their subscribers.<sup>1</sup> The license has a significant restriction, however, with respect to the retransmission of network television stations. Satellite carriers may only retransmit distant network stations to subscribers who reside in "unserved households." An "unserved household," with respect to a particular television network, is defined in the law as:

[A] household that—

- (A) cannot receive, through the use of a conventional, stationary, outdoor rooftop receiving antenna, an over-the-air signal of a primary network station affiliated with that network of Grade B intensity as defined by the Federal Communications Commission under section 73.683(a) of title 47 of the Code of Federal Regulations, as in effect on January 1, 1999;
- (B) is subject to a waiver that meets the standards of subsection (a)(14) whether or not the waiver was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004;
- (C) is a subscriber to whom subsection (e) applies;
- (D) is a subscriber to whom subsection (a)(12) applies; or
- (E) is a subscriber to whom the exemption under subsection (a)(2)(B)(iii) applies.

17 U.S.C. 119(d)(10).

<sup>1</sup> Section 122 of the Copyright Act permits satellite carriers to retransmit local over-the-air television broadcast stations to their subscribers. See 17 U.S.C. 122.