

To: US Copyright Office

FROM: Scott S. Lawton

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RE: Orphan Works

Orphan works pose a major problem that should be addressed promptly. For example, I'm starting a new business to turn old picturebooks into bilingual videos for children. There are few products that support children in learning a second language (and barely a handful outside of Spanish-language products). In order to serve a small market with products that are affordable, I must keep costs low. Classic picturebooks are an ideal source. I can focus my efforts on adding value with new languages and new media, and in the process bring forgotten treasures to the attention of a new generation.

However, it's often difficult to find out whether an old book is still covered by copyright. And, if it is, to locate the author (or, more likely, their descendants or other current owner). If the author wasn't famous, it's even difficult to determine the birth and death dates reliably. And, many old books have no author specified, and a publisher that is long out of business (but whose copyright could have survived in a chain of succession that is very hard to trace). All of these issues raise the time, cost and uncertainty (i.e. potential legal risk) of taking advantage of material that could once again be appreciated by the public.

I think the solution is very simple. Bring back an inexpensive renewal requirement (e.g. per H.R. 2601). This approach lets each copyright owner take full advantage of whatever duration the law allows. And, it frees up the vast amount of material that is forgotten or abandoned. It's almost a "free lunch" answer: a huge benefit at very little cost.

Whether or not that solution is adopted, it would also be helpful if copyrighted material could be used prior to expiration (including prior to any new renewal date) as long as the new user has made a reasonable effort to contact the copyright owner (e.g. as outlined by Mike Godwin of Public Knowledge). For example, I think that most authors of out-of-print picturebooks would be thrilled that their creation is again enjoyed by children. Likewise for the descendants of these authors. However, if the author or descendants can't be found, the potential legal liability (whether for large monetary damages or an injunction against further distribution) is a strong deterrent to use.

Either or both of these measures would help me increase the quality and diversity of bilingual content that is available, and further the aims of copyright law to "promote the dissemination of works by creating incentives for their creation and dissemination to the public."

Thank you for the opportunity to comment.

Scott S. Lawton