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March 23, 2005

Jule L. Sigall
Associate Register for Policy & International Affairs
U.S. Copyright Office
Copyright GC / I&R
P.O. Box 70400, Southwest Station
Washington, DC 20024

Dear Ms. Sigall:

I want to briefly address my own experience as a documentary artist confronting and trying to use or present ‘orphan works.’ Since documentarians are often drawn to ‘vernacular’ media expressions—photographs, film, and audio recordings—we often discover very important work in which the intellectual property ownership is either unclear or unknown.

I’ll briefly review a couple of examples to attempt to shed some light on this complex issue and to offer suggestions for some practical approaches. Documentary fieldworkers often conduct oral history interviews and in doing so ask for other kinds of documentary expression a family may have in their possession. In these cases, we often look to family photographs, images made by a range of photographers (who are often the only known copyright holder of a given image) who are unknown and unreachable. The goal of this research might be to understand the role of the family photograph in contemporary culture or it might be to fully explore how a photograph of a person helps locate them in the context of their time and place. For instance, during our critically acclaimed “Behind the Veil Oral History Project” which looked at the memories of African Americans of the Jim Crow South, we collected family photographs. Hardly ever did we know who the photographer was or gain releases or rights from the photographer. However, the images offer a depth of historical understanding not only important to a CDS project, but also important to the historical memory of all Americans. This kind of documentary evidence, vernacular and at times one-of-a-kind, needs to be accessible to a broad public.

Let me briefly recount a very different example. In the early 1980s I met a deaf woman, Maggie Lee Sayre, who had photographed her family’s life on the Ohio and Tennessee Rivers. She had a remarkable stash of images with her in a Decatur County, Tennessee nursing home. Without question, Maggie Lee Sayre’s images—some 500 of them—are the most compelling and comprehensive document of southern American river life anywhere. With photographs stretching from the late 1930s to the 1970s, it was always clear who took the images and who owned the copyright. After years of collaboration and research, she agreed to donate her images to a public university archive, we published and registered many of them, and the end result is that it is very clear who the author of this work is while at the same time the work is accessible to the public. This result came about because of ethical field research and is one important way to try to establish both authorship and long-term

stewardship and accessibility for important creative works. Nothing, I believe, will do as much to solve these complex problems as research and successful attempts to move ‘orphan’ works into public collections that control—and perhaps limit—commercial exploitation while also facilitating educational access. Without moving these works into archives we are unable to preserve them for the future and we are unable to insure their proper and legitimate use. I hope this is helpful and would be glad to talk in more detail about the complexity of these important issues.

Sincerely,

Tom Rankin
Director of the Center for Documentary Studies
Associate Professor of the Practice of Art and Documentary Studies