March 14th, 2005

Eric Hollander

Jule L. Sigall
U.S. Copyright Office
Copyright GC/I&R
P.O. Box 70400
Southwest Station
Washington DC 20024

Dear Mr. Sigall,

I am writing in response to the Notice of Inquiry published in the Federal Register regarding the copyright status of Orphan Works. As I understand it, the US is considering changing its policy so that an orphan work becomes public domain. I support this change, and I will explain why.

Copyright law creates a monopoly on the reproduction of a creative work for the copyright holder. It is generally held that monopolies are bad, but this monopoly is good because creating the monopoly encourages creation of new works. Creation of new works is a public good, to be encouraged.

However, protecting the monopoly status of works that have no commercial use does not encourage creation of new work. Such protection *discourages* new work because these old, abandoned works cannot be re-used as parts of new works.

To take an extreme example, imagine a book that was published in 1930, had a limited press run and went out of print. Imagine that the current copyright holder cannot be located. This book hasn't been printed or sold in 70 years and no one is interested in the copyright. It serves no public interest to maintain copyright status of this book. Maintaining such status means that authors today cannot use it, and it also means that the government might waste resources enforcing the copyright of that book, even when the copyright holder has disappeared and the rights to the book have no commercial value. Due to the copyright, it means that the book could not be put on the web for research use. Professors would be unable to get permission to include the work in their "readers". I can't see who is benefiting from any of this. I can see only downsides to continuing copyright protection of such a work.

Allowing the copyright of orphan works to lapse is in the best interests of the public, authors, copyright holders and the government.

Sincerely,

Eric Hollander

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