

402 Lincoln Avenue
Takoma Park, MD 20912
May 5, 2014

Maria Pallante, Register of Copyright
U.S. Copyright Office
Library of Congress

Re: Orphan Works and Mass Digitization
(FR Doc. 2014-02830; Copyright Office Docket Number 2012-12)

Dear Ms. Pallante:

I am a longtime member of the National Writers Union and a professional writer, wishing to endorse comments submitted by the NWU to the Copyright Office. I oppose any "orphan works" legislation or any interpretation of "fair use" that permits use of my work without my permission or restricts my remedies for copyright infringement if someone claims he or she could not identify or locate me or any person or entity thought to hold certain rights to my work.

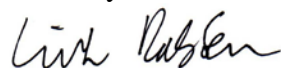
Proposals for "orphan works" legislation and expanded interpretations of "fair use" fail to consider ways we writers earn our living. Under the Berne Convention, an exception to copyright for "fair use" or other use of "orphan works" is permitted only if it "does not conflict with normal exploitation" of the work. But apparently the U.S. Copyright Office has never conducted research on the market for works whose original printed editions have gone out of print and might be deemed "orphaned." Nor has it asked writers about new norms of commercial exploitation of our out-of-print works, especially via self-publication and digital publication.

I am especially worried that printed works of mine that have gone out of print could be stolen with impunity by someone who claimed that he or she could not locate or identify me.

"Orphan works" legislation or "fair use" cannot properly be evaluated without understanding writers' new business models. Writers themselves are the experts on these models. If work to which I hold some or all rights is deemed "orphaned" because it is not in publishers' or libraries' records, despite the fact that I may be earning money from it, a so-called "orphan work" based on my earlier publication would unfairly compete with and destroy the value of my rights.

Before the Copyright Office or Congress considers any "orphan works" or "fair use" legislation, I request that you hold hearings to learn from writers and other creators about how we are currently exploiting our rights to our work and how such legislation could affect us. No "orphan works" legislation should be considered unless it respects the rights of creators.

Sincerely,



Linda Rabben PhD