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Regarding so-called "Orphan" works and the difficulties faced by creators and users, has an audit ever been conducted in the copyright office to convey the breadth of a situation in which there's been a steady decline of good recordkeeping over the years? The focus of the copyright office is claims, not auditing. This is unfortunate--corporations and institutions who have compliance departments can easily take the view that they hold the authority on their records, whether they've been good about keeping them or not, and in this climate I'd hate to see an artist or a user limited to making claims, which is what both approaches (the "Case-by-Case" and "Formal") appear to offer as a solution.

Another difficulty for creators and users would be if the copyright office tackled the problem of "Orphan" works by making the public responsible for reading a registry which has no benchmark in actuality (i.e. a registry of works whose ownership is up to question). The SEC's regulations and the Patriot Act are examples of government taking the position that they can't legislate what big companies do, so they'll make the public more responsible for reading hedge clauses. Somewhere there has to be an understanding that the archivist's role, served so well in places like the Library of Congress, could also serve our culture well in companies and institutions. One or two functionaries within a company or institution who serve only to review its archives, media libraries, etc., and who report their findings to some central auspices somewhere (government?), might be a more location-centric answer to the overall problem of "Orphan" works.

Regarding the effect of a work being designated "Orphaned," there are some cases where I can see this having a positive effect. I have worked as a freelance picture researcher for The Chemical Heritage Foundation in Philadelphia since 1997, and in that time I have encountered: 1) a woman scientist whose picture we couldn't scan from a publication and use it to preserve her record in making scientific innovations, since its publisher, a corporation, didn't know whether they owned the picture or not; and 2) a Black scientist whose picture working in a laboratory as a very young man--which would serve as a marvelous example for many young Americans if we could post it on a website about his life and work!--can't be used because a university and a non-profit claim with authority that they don't own it. The university--who is credited many places as owning the image--claims that it doesn't. They claim it is owned by a non-profit, who claims they got the image from them!