

Before the  
UNITED STATES COPYRIGHT OFFICE  
LIBRARY OF CONGRESS  
Washington, D.C.

In the Matter of )  
Orphan Works )  
Notice of Inquiry )  
)

Comments of BookFinder.com / 13th Generation Media

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## **Introduction**

BookFinder.com is a popular ecommerce marketplace used by book shoppers to find and buy books online. By our most conservative estimates, around 30,000 users attempted to purchase over 13,000 different orphan works using our service in the last year. Those numbers may be well be 10 times higher. And though some succeed in finding copies, none were able to use the major commercial databases searched by BookFinder.com to locate the books' publishers. They – and publishers who might like to supply their demand – are therefore unable to negotiate additional printings, or establish any certainty regarding future commercial availability or use of the work. Below, we provide a more detailed account of this problem, including data gathered from BookFinder.com's databases.

## **About BookFinder.com**

BookFinder.com searches the inventories of tens of thousands of booksellers, connecting book shoppers to over 70 million new, used, rare, and out of print books for sale. The free service has been online for eight years. It is recommended heavily by Internet users (Yahoo! reports 115,000 incoming links), is cited heavily in the press (500 press mentions to date), and is used and recommended widely both by lay readers and book search professionals. The website has been designated one of MSNBC's "Online Shopping Top 10," *Forbes*' "Best of the Web," Yahoo! Internet Life's "50 Most Incredibly Useful Sites Online," and *USA Today*'s "Top Hot Sites"; *Entertainment Weekly* called it "more amazing than even Amazon.com." BookFinder.com is also the only commercial book service that is linked from the Library of Congress Research and Reference web site.<sup>1</sup>

## **Interest in Proceeding**

Our users regularly try to purchase orphaned and other out-of-print books through BookFinder.com. Often they are able to find what they're looking for through the used book market, but sometimes, unfortunately, not even a single used copy is available in the inventories of tens of thousands of used book dealers. We want to increase our users' access to the books they seek.

## **Method**

Since its introduction, the ISBN system has made it easier to manage bibliographic data in electronic databases. The ISBN system has also made it much more straightforward to buy, sell, and catalog books published after its adoption. But while in principle the advent of ISBN should make it straightforward to identify the publisher of any particular title, in practice some published books continue to be orphaned to this day. Neither the issuers of ISBNs nor the compilers of bibliographic databases like Books In Print and

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<sup>1</sup> See <<http://www.loc.gov/rr/res-faq.html#25>> (visited March 25, 2005).

Muze are able to identify the successors of various defunct, short-lived, or small publishers who have issued books in compliance with the ISBN system. In many cases, ISBN agencies issue only a handful of ISBNs to a small press, which may publish only a single title before ceasing operations. Some publishers are unincorporated associations or sole proprietorships.

BookFinder.com uses the Muze commercial bibliographic database as part of the process of determining which book each user is searching for. The Muze database is of industry-standard quality and is regularly updated by professional researchers. Among other things, the Muze data indicate whether the publisher responsible for a book with a given ISBN is still contactable (and, if so, how to contact that publisher). As mentioned above, it is surprisingly common for publishers to be lost and unknown to the industry, usually because they are out of business and have no apparent successor.

We have tried to quantify the frequency with which our users look for books that are likely to be orphan works. Unfortunately, because of the limitations of commercially-available databases, we have no way of telling automatically whether works published prior to the adoption of the ISBN system are likely to be orphaned or not, even though such works are often more difficult to find and are significantly more likely to be orphaned. Therefore, we have omitted these works entirely from our discussion here.

We cross-referenced our records of ISBN searches on BookFinder.com made during 2004 with a licensed bibliographic data source. We selected ISBN searches for titles published by publishers that are formally categorized as “unable to locate” or “out of business,” *i.e.*, orphaned works.

We then checked on the availability of orphan works searched for on our site. Our search engine was unable to find a single secondhand copy for sale of 22 of the 100 most sought after orphan work ISBNs in our data set – even though we’re scanning virtually the entire inventory of American booksellers who sell books online. Another 19 of the 100 most sought after orphan work ISBNs are available, but cost somewhere between \$100 and \$1000 per copy, due to the scarcity of secondhand editions for sale. Our analysis suggests that a significant proportion of orphan works of interest to the public are not available to the public at any price, and about an equally large proportion remains functionally inaccessible to most book shoppers.

## **Findings**

Using the information from the Muze database, we consulted our records from the past year to try to establish a defensible lower bound on the number of attempts to locate books whose publishers are now uncontactable by the book industry.

In 2004, there were at least 29,502 attempts on BookFinder.com to find 13,406 different ISBN-bearing works from such uncontactable publishers. These numbers are based on our most conservative analysis; the actual number of attempts to purchase orphan works

is likely between ten and twenty times higher. In most of these cases, no used or new copies of the work were available for sale.

### **Conclusion**

As a business working to connect book shoppers with the books they want to buy, we would like to ensure that our customers can have some reasonable chance to access orphaned books. We hope the Copyright Office will take the needs of academics, librarians, and everyday readers into account as it considers the issue.

Respectfully submitted,

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