



post office box 6100  
albany ca 94706 usa  
voice 510 526 0800  
fax 510 526 2800  
[david@davidsanger.com](mailto:david@davidsanger.com)  
[www.davidsanger.com](http://www.davidsanger.com)

U.S. Copyright Office  
101 Independence Ave. S.E.  
Washington, D.C. 20559-6000

Feb 4, 2013

RE: Orphan Works Comment Request

Since the introduction of the Orphans Works Act of 2006 professional photographers have been concerned about possible adverse consequences of proposals to resolve the issues relating to use of orphan works. I was one of the participants in conversations with the House and the Copyright Office at that time, as a Board Member of the Stock Artists Alliance, but in these comments I am speaking strictly as an individual professional photographer

The prime concern of most contemporary professional photographers is that their own images currently marketed for commercial or editorial use might fall into the category of orphan works because a prospective user cannot or will not track down the copyright owner to obtain a legitimate license.

Several steps could be taken to minimize such situations.

First and foremost, there must be a way to differentiate images of potential commercial use from the billions of images online that the copyright holders have no intention of ever exploiting. Facebook users, for example, upload 300 million images every day. A searchable, easy to use, free or low cost, registry where professional or amateur photographers could bulk upload their images would at least cover contemporary images. Knowledge that, if any of their images are found online, there is a straightforward way to find and contact the copyright holder and license the image, would go a long way to ameliorate photographer concerns.

To the degree to which such a registry might require visitation of the Berne Convention ban on formalities and the TRIPS three-step test, these international agreements should be reevaluated in concert with other signatories.

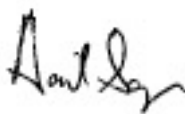
Second, the existing body of works currently registered including all copyright deposits will need to be scanned and included so that the entire Copyright Registry is searchable.

Third, guidelines for a "reasonably diligent search" must be stringent enough to thoroughly dissuade perfunctory or bad-faith searches, or efforts by corporate

enterprises to bulk license orphan works. I fully support the involvement of professional photography and industry associations in developing robust search guidelines.

Hopefully with the inclusion of adequate protections like these the interests and copyrights of contemporary professional photographers can be better protected.

Sincerely,

A handwritten signature in black ink, appearing to read "David Sanger". The signature is written in a cursive, slightly slanted style.

David Sanger