

Re: Orphan Works and Mass Digitization
(FR Doc. 2012-25932; Copyright Office Docket Number 2012-12)

Dear Ms. Pallante:

I endorse the comments submitted to the Copyright Office by the National Writers Union.

As a working writer, I oppose any "orphan works" legislation that permits the use of my work without my knowledge or permission merely because someone claims that he or she was unable to identify or locate me or any person or entity that he or she thought held certain rights to my work.

Any such legislation would violate my economic and moral rights. For writers outside the United States, such a law would violate rights guaranteed by the Berne Convention and other treaties.

I am especially concerned that proposals for "orphan works" legislation fail to take into consideration the realities of working writers' lives and the difficulties we face in enforcing our rights so that we can earn a living from our writing. Work to which I hold some or all rights could be deemed "orphaned," despite the fact that I am still attempting to earn money from it, possibly in ways that are not reflected in publishers' or libraries' records. Copies of my work made available under an "orphan works" law—especially those made available for free by a noncommercial entity—would unfairly compete with and destroy the value of my rights.

Before the Copyright Office or Congress considers any "orphan works" legislation, I urge you to hold hearings to learn from writers and other creators about how such a law would affect us. No "orphan works" legislation should be considered unless it respects the rights of creators.

Sincerely,

David Elwell