

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

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

Dear Ms. Pallante:

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

As someone who has represented working writers for ten years, I oppose any "orphan works" legislation that permits use of their work without their knowledge or permission merely because someone claims they were unable to identify or locate the author or any person or entity that they thought held certain rights to the work.

Any such legislation would violate the economic and moral rights of authors and undermine the reason for copyright law.

I am especially concerned that proposals for "orphan works" legislation fail to take into consideration the realities of working writers' lives and the difficulties they already face in enforcing their rights and earning a living from their writing. I believe that work to which an author holds some or all rights could be deemed "orphaned," despite the fact that the writer is still attempting to earn money from it, including in ways that are not reflected in publishers' or libraries' records. Copies of authors' 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 the author's 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 them. No "orphan works" legislation should be considered unless it respects the rights of creators.

Sincerely,

Ann F. Hoffman