

To:
Jule L. Sigall
Associate Registrar for Policy and International Affairs

From:
Richard Niederberg
Principal Designer and Legal Counsel (1970-present)
Los Angeles Designers' Theatre

My Background:
{1} 35 years of Designing Theatrical Shows and the Theatres that house them; {2} 35 years of writing and co-writing Stageplays, many that were produced; and {3} 23 years as an Entertainment Lawyer specializing in Intellectual Property issues.

Body of Reply Comments:

"The California Resale Royalty Act provides for the depositing of the statutory Royalty payment with the California Arts Commission when the creator of a work cannot be located. This mechanism could be adopted by the Library of Congress to resolve those issues and concerns brought up during the original 'Orphan Works' comment period, by assuring that there is NO financial advantage to someone who is not sufficiently diligent in their attempt(s) to locate the Copyright holder. A compulsory Licensing scheme could be established to determine how much money would be required to be deposited with the Library of Congress to obtain a limited license to exploit protected works, and this fee schedule would then be published in the Federal Register. These funds could be collected and administered by an independent Board in a manner that is consistent with the well tested procedures utilized by the current Compulsory Licensing Board for sound recordings. All funds left unclaimed by the!

holder of the Copyright would escheat to the Library of Congress upon the expiration of the Copyright. The notice requirement could be consistent with the way the IRS gives notice of unclaimed tax refunds. The Librarian of Congress or his/her Delegate would be the appropriate recipient of these funds and the authority to grant these limited licenses as a fiduciary, just as the Secretary of State of a particular State, such as California, is the proper recipient of Service of Process in a lawsuit, if the real party in interest fails to designate a person or entity that that can be served, such as a foreign corporation."

(End of Reply)

