Orphan Works: A Look at the Issue from Varying Perspectives

Edward W. Colleran
Copyright Clearance Center, ecolleran@copyright.com

Follow this and additional works at: http://docs.lib.purdue.edu/atg
Part of the Library and Information Science Commons

Recommended Citation
DOI: https://doi.org/10.7771/2380-176X.5318

This document has been made available through Purdue e-Pubs, a service of the Purdue University Libraries. Please contact epubs@purdue.edu for additional information.
Orphan Works: A Look at the Issue from Varying Perspectives

by Edward W. Colleran (Senior Director, Rightsholder Relations, Copyright Clearance Center, 222 Rosewood Drive Danvers, MA 01923) <ecolleran@copyright.com>

One of the most vexing copyright issues facing librarians and other content users who respect copyright is identifying and then finding rightsholders for photographs, articles and other works in order to get permission to use them and pay the associated royalties. When the rightsholder search comes to a dead-end, you’ve got an “orphan work.” From a moral perspective, the orphan works challenge is a little like shopping at a store when the cashier has left his post: You want to pay for your goods, but no one’s there to accept your money.

In the following pages you’ll read articles on orphan works reflecting the different perspectives of content creators and users. From the user perspective, we have an article from Karen Oye, Head of Customer Services at Case Western Reserve University. She works in a demanding environment serving nearly 10,000 students, 75 percent of whom are at the graduate level where library staff devote significant staff resources to identifying rightsholders and securing permissions.

Karen discusses the orphan works pressures faced by information professionals and the various approaches taken by different organizations, such as the Library of Congress (of which the Copyright Office is a part), to help address the problem. “But if you are an archivist trying to find the original photographer from a 1940s image,” she writes, “or an author trying to locate an architect from a now-defunct firm so you can use a measured drawing, or an author trying to locate another author without benefit of any publisher’s trail, you may never reach your desired result. More than likely, driven by fear of a later infringement claim, or the daunting task of detective work and high research fees, you’ll give up entirely on your quest.”

If Rumors Were Horses

It’s the new year and we are amazed at all that has been happening while Santa was working!

Wow! Talk about landing on your feet! Bob (Robert E.) (“drdata”) Molyneux has joined Equinox Software, Inc., the Evergreen Experts, as Vice President for Business Development. Bob will direct corporate planning and developing strategic partnerships. Bob has an MSLS from Western Reserve University and a PhD from the University of North Carolina-Chapel Hill. He has worked in libraries, taught in three library schools, and made contributions to the library literature in data compilation and analysis and in information technology. He is working on a second edition to his textbook, The Internet Under the Hood, where he plans to expand the coverage of open source applications to capture the exciting capabilities that open source promises for the library community. “I am extremely pleased to welcome Bob to the Equinox family. He brings a unique blend of real-world experience, practical knowledge, and extensive education to the table,” said Brad LaJeunesse, President of Equinox. Bob can be reached by phone at 1-877-OPEN-ILS (673-6457) or by email at <bob@esilibrary.com>. www.esilibrary.com

Matt Dunie is leaving his role as president of CSA then ProQuest, after twelve years. Dunie was president of Bethesda, Maryland based CSA at the time of its merger with ProQuest Information and Learning earlier this year. Dunie will remain an integral contributor to Cambridge Information Group (CIG), parent of ProQuest. He will join its Advisory Board and will serve on the RefWorks Management Board beginning January 1, 2008. He will also lead various special projects for ProQuest and other CIG companies.

His new role will allow him to spend more time with his wife, Elaine, and their three young children. Andy Snyder is President of Cambridge Information Group. Marty

continued on page 6

What To Look For In This Issue:
And They Were There — Reports from the 2007 Charleston Conference .......................... 33
Database Trials.................................................. 65
Why Is Private Equity Interested In Publishing?.......................................................... 69
Enhancing the OPAC through LibraryThing......................................................... 72
The Wiki of Acq.................................................. 78
Pop-up and Moveable Books................. 82
What’s So Free About Freelancing?................... 84
Interviews
Jonathan Dahl............................................. 32
Dr. Mehdi Khosrow-Pour ...................... 34
Profiles Encouraged
Edward Colleran.................................. 16
Karen Oye.............................................. 20
Eugene Mopsik...................................... 24
Dan Duncan........................................ 28
Orphan Works — Bringing the Past Into the Present?

by Karen Oye (Head of Customers Services, Kelvin Smith Library, Case Western Reserve University) <kao3@po.cwru.edu>

It’s probably easier to adopt a human orphan than it is to determine whether or not you can find one—an orphan work, that is. At least the adoption process, although fraught with its own uncertainties, attorneys, filings, and lengthy processes, has a proscribed workflow and the expectation of a predictable result. But if you are an archivist trying to find the original photographer from a 1940s image, or an author trying to locate an architect from a now-defunct firm so you can use a measured drawing, or an author trying to locate another author without benefit of any publisher’s trail, you may never reach your desired result. More than likely, driven by fear of a later infringement claim, or the daunting task of detective work and high research fees, you’ll give up entirely on your quest. If you do pursue it, you’re likely to find more questions than answers. Welcome to copyright reform efforts.

A recent review of 2006 legislative efforts and responses may lead you to a surprising position on the topic of reform, and of orphan works. With the Library of Congress Copyright Office’s Strategic Plan to address issues of technology, practice, and legislation for access and preservation of materials, the Section 108 Study Group, plus 2005 legislation for orphan works, you’ll find many comments, controversies, and opinions.

The term “orphan works” is often unclear, even to information professionals. We know copyrights are protected for defined terms of...