

Sham-20050314110007

To: Julie L. Sigall
Associate Register for Policy & International Affairs

Date: 03/14/2005

From: Sham

Comment:

Where orphan works are used, the user should, as a courtesy, make it easy for any copyright holder (if any exists) to see that their work was used. My main concern is that there are many works that become orphaned not because copyright has lapsed, but because copyright has actually reverted back to the original content producer (or their estate) without their knowledge, or because the copyright has moved to a next of kin. I'm particularly thinking of

Authors or co-authors who are unaware that a book has reverted back to them because the publisher no longer exists.
Relatives of a deceased copyright holder who do not know that they now own rights to copyright material
Works that have become orphaned through repeated dissemination (particularly internet based content)

A user of 'orphan copyright content' should therefore

1. Clearly identify all orphan works used.
2. Where the copyright is no longer known, but the name of an entity that used to hold copyright is, that last known entity should be stated.

both of the above would help the current rightful copyright holder (if they exist) to identify the work as theirs. 1 allows them to identify the work as being classed in the USA as 'not copyrighted', and 2 allows them to confirm a copyright trail leading back to themselves.

Regards

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