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

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From: Chris Karr

Comment:

I am investigating the status of the H.P. Lovecraft copyrights. I am finding that it is far too difficult for a number of reasons:

1. Poor public record keeping with respect to renewals makes it impossible to determine whether Lovecraft's works fell into the public domain in the 1950's and 1960's.
2. In the sale of rights from "Weird Tales" to Arkham House in the 1940's, it's unclear which rights "Weird Tales" were legally able to transfer to Arkham House. The original contracts have been lost and the terms lost with it.
3. There is no incentive for Arkham House to produce any proof that they own the copyrights to Lovecraft's work. At the moment, they benefit from the confusion about the actual status of the rights. If they do own the rights, it's better to ask for licensing fees after a work has been published, and if they don't own the rights, it produces a chilling effect for those wishing to republish and build upon Lovecraft's works.
4. Given that taxpayer money is used to grant and enforce copyrights under federal law, taxpayers should be able to discover exactly what their taxes are protecting.

This is an orphan works problem because it's likely impossible to determine whether there is a copyright holder or not. If there is a copyright holder, is it Arkham House, or the descendants of Lovecraft? Some sort of national registry of copyrighted works would go a long way towards fixing this problem