Science Fiction and Fantasy Writers of America, Inc.

Damon Knight, Founder, 1922–2002

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RE: Orphan Works Study (70 FR 3739)

In response to the Copyright Office's call for comments on Jan. 26, 2005, seeking ways to handle the "orphan copyright problem" regarding works where the owners can't readily be located, Science Fiction and Fantasy Writers of America, Inc. (SFWA) formed a committee and called for comments from the SFWA membership regarding their experiences with orphaned works.

SFWA members sent a number of anecdotes (presented in Appendix A), all but one expressing the difficulty (and in economic terms, impracticality) of tracking down authors of older works in order to reprint them. The committee has been working on ideas to alleviate the problem, and hereby submits our recommendations.

Summary of the problem:

Since works are given copyright protection the moment they are written, there is no ready way to find authors to seek their permission to republish material, and the penalties for infringement are high, there is a lot of material that cannot be republished because the authors are essentially unlocatable. That is, the cost to locate them, if they can even be located, is often too high to justify the use of the work. Factoring in the 95 years / Life+70 years duration of copyright, a large amount of work is likely to be unrepublishable for over a hundred years and possibly lost altogether.

There have been a number of examples submitted from editors how this has prevented them from keeping important older work in print. Author Spider Robinson noted that much of science fiction's pulp magazine heritage could be lost because by the time copyrights expire, the physical magazine issues may no longer exist. (Some have been archived on microfilm, but not all, and the microfilm copies are of dubious quality.) Examples of losing track of authors after less than a decade were given, demonstrating the likelihood that obscure older works are even more difficult to republish. This includes not just short stories, novels, poetry, etc., but web pages, public newsgroup postings, etc.

Approach:

SFWA's Orphan Copyright Committee has analyzed this problem from all angles: authors, authors' heirs and estates, editors and publishers, readers, and society in general. The members of the committee span the range from highly protective of copyrights to highly liberal. The members are: Dr. Andrew Burt (Chair; author and Vice President, SFWA), Dr. Catherine Asaro (author and President, SFWA), Michael Capobianco (author and former President, SFWA), Eric Flint (author and Editor, Baen Publishing), Sean P. Fodera (author and President, The Fodera Rights Agency), Martin Harry Greenberg (author, and editor/publisher of hundreds of anthologies), Charlie Petit (intellectual property attorney), and Charlie

Stross (author). Despite the polarity of views, the committee arrived at the consensus thoughts below.

The compromise consensus presented here may certainly be imperfect -- some authors resolutely oppose any diminishment of legal control over their work whatsoever, while others are as resolute that copyrights are already too restrictive -- but hopefully the recommendations below will be generally acceptable. The ideas herein are a blend of many other solutions, including the existing compulsory licensing system for music, the Canadian royalty system for orphaned works, the Authors Coalition's author registry, and the Authors' Licensing & Collecting Society in the UK. While no solution is likely to be perfect, the proposals below are felt to comprise a feasible solution to the problem and dramatic improvement over the current situation.

PROPOSALS:

SFWA recommends the following:

1. THE COPYRIGHT OFFICE (OR AN ENTITY IT DESIGNATES) SHOULD MAINTAIN AN OFFICIAL AUTHOR INFORMATION DIRECTORY CONTAINING AUTHOR CONTACT INFORMATION AND INFORMATION ABOUT THEIR WORKS, TO MAKE FINDING AUTHORS EASIER.

*** See extensive notes below.

2. TITLE 17 SHOULD BE AMENDED TO ADOPT THE FOLLOWING PROCESS FOR PROVING A WORK IS AN ORPHAN AND ALLOWING ITS LIMITED USE.

To prove a work is an orphan and republish it, a publisher would have to:

a) Conduct a search, especially of the Copyright Office's records and other easily obtained records of relevance, such as contacting known publishers of the work. The Copyright Office would establish the guidelines for what constitutes sufficient search and rule on the sufficiency of each specific search. The publisher would take reasonable measures to contact the copyright owner using the information located (if any), per guidelines on sufficiency of contact attempts established by the Copyright Office.

b) After a diligent search has provably failed to locate the copyright owner, as the step of last resort, the publisher would publish notice of their intent to use the work; this notice would be published on a Copyright Office web site for public notices and on paper, for (e.g.) six months.

c) If the copyright owner does not come forward during the six months notice period, the publisher would then pay into an escrow fund an amount of statutory compensation (as determined by the Copyright Office, but based on industry standard rates for similar work).

Having searched, published public notice, and paid the "going rate" into an escrow fund, the publisher may use the work.

*** See extensive notes below.

3. FUND RECOMMENDATIONS #1 AND #2 IN WAYS NOT BURDENSOME TO AUTHORS.

Since the above should not prove costly, it should be funded via means that are sufficient to cover costs, but not burdensome on authors. Collection up front was found most desirable, by a small increase in registration fees; if this should prove insufficient, the Copyright Office should charge publishers a small

fee to make requests to use orphan works, and/or take a small percentage from escrow funds (where a two-tiered rate for registered vs. unregistered works might be considered). Regardless, authors should not have to pay a fee to change their address in the Author Information Directory.

4. TITLE 17 SHOULD BE AMENDED TO INCLUDE A NEW REMEDY FOR INFRINGEMENT.

Title 17 should be amended to include an additional remedy for infringement (i.e., work that is republished without the publisher following the procedure of recommendation #2), as follows: That the copyright owner be entitled to three times the baseline statutory compensation they would have received if the publisher had followed recommendation #2. This encourages publishers to try to find authors, or use the new process, instead of simply using the work and hoping they won't be caught. This is intended to apply to both registered and unregistered work, thus increasing the penalties for infringement of unregistered work in particular. This remedy is in addition to, not in place of, other remedies available under Title 17.

5. THE COPYRIGHT OFFICE SHOULD COMPUTERIZE AND SIMPLIFY THE EXISTING "GROUP REGISTRATION" CONCEPT, TO MORE EASILY ALLOW REGISTERING ITEMS IN BULK.

This would thus allow easily including one's web pages, newsgroup postings, chat room posts, and so forth, that one might want to register. Authors should also be able to register a description of the kinds of work they do, e.g., "Dr. Andrew Burt, P.O. Box....: author of short and long works in the areas of science fiction, writing advice, editorials, computer science" to assist in differentiating authors with the same name and in locating authors of unregistered works.

6. THE COPYRIGHT OFFICE SHOULD CLARIFY AND SIMPLIFY THE PROCEDURE FOR REGISTERING FREELANCE CONTRIBUTIONS TO PERIODICALS.

The records maintained by the Register of Copyright are, or at least should be, the first reference when one is seeking to discover who controls the copyright to work that is in copyright. Unfortunately, the current system of registration for works published in periodicals makes this inordinately difficult, and quite frequently impossible.

Periodicals are registered at the copyright office on Form SE, not Form TX as is used otherwise for textual works. That registration suffices only for the publishers' compilation copyright (and in materials for which the publisher actually owns the copyright). Freelance contributions to periodicals are not treated as registered when the periodical publisher submits a Form SE.[1] In turn, this makes finding the copyright holder of those individual pieces much more difficult later, particularly if the publisher of the periodical in which the piece was first published goes out of business, either through bankruptcy or in the regular course of business (including merger or acquisition).

For example, tracking down the author of a short story first published in the 1940s or 1950s to obtain permission to republish that story in an anthology can be inordinately difficult. Under the 1909 Act's "copyright indivisibility" doctrine, periodicals ordinarily claimed (and registered) the copyrights in each piece appearing in that periodical, even when those pieces had been contributed by freelance writers. Typical publishing contracts returned to the copyright to the writer several months after first publication. However, those returns of copyright were seldom registered with the copyright office. Particularly for authors who were not especially prolific, this transfer frequently blocks research on the chain of title.

Although correcting records from older publications may well be beyond the ability of the Copyright Office, the Copyright Office has the authority and ability to limit or eliminate this particular problem for works being published today and in the future. We propose two changes to registration procedures for

periodicals and contributions to periodicals that will help alleviate this loss of data.

- First, Form SE should be revised to require inclusion of a detailed table of contents for each issue registered on that particular application, specifically including the conformed title and author name for each piece appearing in each issue that is not a work made for hire. Because some periodicals continue to initially claim copyright in a freelance contributions with a contractual promise to return at that copyright to the author at a later date, only works made for hire should be excluded from this table of contents. Excluding other works in which copyright was transferred to the periodical will only result in the same problem as it exists today.
- Second, the copyright office should strongly consider revising Form GR/CP and related procedures to encourage authors to choose to register freelance works that have previously appeared in periodicals. This should include treating materials properly registered on Form GR/CP as relating back to the original date of publication for a period of 1 year, not just 90 days. The form should also require inclusion of graphical references for each work included in that particular group registration.

[1] Morris v. Business Concepts, Inc., 259 F.3d 65 (2d Cir. 2001), later dec., 283 F.3d 502 (2d Cir. 2002).

7. THE COPYRIGHT OFFICE SHOULD PROVIDE EXPLICIT GUIDANCE TO COPYRIGHT HOLDERS ON ENSURING SUCCESSION OF COPYRIGHT INTERESTS.

As difficult as it can be to find the owner of a copyright when the original registrant still holds the copyright, finding the owner when that copyright has changed hands is much more complex. Sometimes these transactions are voluntary or by devise (such as a will), and are later recorded at the Copyright Office. All too often, they are not. The Copyright Office should establish regulations and public-outreach efforts in four particularly problematic areas.

- Although the Act specifies how renewal rights and termination rights descend,[2] it rightly does not specify descent of copyrights themselves. Instead, the Act allows for free transfer of copyrights, including by devise (or, presumably, intestate succession).[3] However, the Copyright Office's silence on the issue often leaves copyright owners uninformed, particularly for pseudonymous and anonymous works. The Copyright Office should draft a suggested clause for including in wills, and send a copy of that clause with each certificate of registration for copyrights claimed by a natural person. This will encourage authors to explicitly allow for copyrights in their wills, which in turn will make establishing ownership of a copyright by persons who wish to reuse materials considerably easier.
- Publishing, both in print and otherwise, is an extremely hazardous business. The median life of a publisher is under five years, and even extremely large publishers and other corporate owners of copyrights suffer financial reverses that force bankruptcy. The Bankruptcy Code is not very explicit in the succession of intellectual property itself, as opposed to intellectual property licenses (which are merely executory contracts).[4] All too often, particularly with smaller businesses, copyrights are not explicitly scheduled as assets in bankruptcy and/or disposed of in the final decree. This is a significant cause of copyright orphans, particularly for works made for hire, nontextual works, and short textual works. Because copyright is a specific type of asset that is subject to special, and indeed Constitutional, attention exclusively under federal law, the Copyright Office should act to fill this gap.[5] The Copyright Office should fill this gap through an interpretive rulemaking under the Administrative Procedures Act.[6] Rather than interfere in the bankruptcy process itself, such an interpretation should establish what happens to a copyright when the owner of that copyright has gone through bankruptcy, but the copyright has not been scheduled or explicitly disposed of by the final decree.[7] The objective here is to provide a clear default rule that can be easily interpreted just by comparison to the bankruptcy schedules and decree. If the debtor (or, for that matter, its creditors) desire an outcome different from the default

condition, all they need to is explicitly provide for that outcome in the schedules and decree--just as an individual author could so provide in a will.[7] We believe that this default condition, consistent with the concepts behind the Visual Artists' Rights Act, should return works made for hire to their creators unless those works are explicitly disposed of in bankruptcy.[8]

- Many smaller businesses, however, do not go through bankruptcy upon dissolution. They may be sole proprietorships; they may be partnerships; they may be corporations or other limited-liability business entities. Some of them simply close down in an organized manner, but many others lose their rights to continue as business entities through neglect or abandonment, such as failure to pay annual state fees. Filling this gap is even more important than filling the gap created by bankruptcies, because such dissolutions ordinarily do not create any public record of what happens to the assets of the defunct business. Fortunately, as the rationales would be virtually identical to those for bankruptcy, this instance could be covered in the same rulemaking procedure, and same rule, as for bankruptcy. The rationale for returning works for hire to their creators, though, is even stronger in the event of a nonbankruptcy business dissolution.
- Finally, many publishing enterprises change control. This ranges from a simple change of ownership (possibly including a change in name) to mergers and acquisitions. This presents similar difficulties to bankruptcy and dissolution, with the added twist that--unlike bankruptcy or dissolution--someone actually does own the copyrights in question. Again, the same rulemaking and rule could provide for a clear chain of ownership for copyrights, although in this instance the rationale for returning works made for hire to their creators is admittedly somewhat weaker.

[2] 17 U.S.C. § 304(a)(1)(C); 17 U.S.C. §§ 203, 304(c).

[3] 17 U.S.C. § 201(d)(1); De Sylva v. Ballentine, 351 U.S. 570 (1956) (deferring to state law in defining who is a "child" on the grounds that succession of interest is a matter primarily of state law).

[4] 11 U.S.C. § 365; cf. 11 U.S.C. § 541.

[5] 17 U.S.C. § 301 (federal preemption of copyright); 28 U.S.C. § 1338(a) (exclusive federal-court jurisdiction over copyright claims); U.S. Const., Art. I, § 8, cl. 8.

[6] 5 U.S.C. § 501 et seq.

[7] 17 U.S.C. § 201(e) does not prevent this. By its own terms, § 201(e) applies only to "individual authors." Further, this would not enact a transfer; it would only clarify to whom a transfer per force had been made when not otherwise specified.

[8] 17 U.S.C. § 106A.

NOTES

Notes on the Author Information Directory:

- Registering with the directory would not be mandatory, but would be beneficial.
- Authors should be assigned an ID, with some ability to thereafter assign IDs to works (authorID.opus# or suchlike, with provision for collaborations).
- To sign into the directory, authors would log in via a web page, supply their name and contact information, and be assigned a unique author ID#. To register a work, the author would log in to a web page, supply their author ID# and password, the title of the work, and any optional information that may be useful; the work would be registered and the author would receive an ID# for the work.

- Authors should be able to register at least the first 100 words of each work, and, desirably, when Copyright Office technology permits, full texts of their works in electronic format, to enable searches on phrases within the text. (That is, one's publisher could upload to them a novel in electronic format, so that if someone wants to find you but can't remember the author or title, they could search on keywords and phrases to find it, a la Google. Of course this would not display the full text; only a small amount of context, and in a manner that prevents piracy.) (Clearly authors would have to ensure this does not violate any electronic publication contracts, Such a search facility should ensure searchers cannot extract the full text of a work, which may alleviate the concern with regard to electronic rights.)
- The database would be searchable by the public for purposes of demonstrating the orphan status of a work and locating authors in general to seek permissions.
- Authors will be linked to all individual works of theirs they register.
- Registering oneself in this database should be free or nearly so.
- To deter fraud, there should be an option for authors who want to submit notarized registration forms or enter digital signature information into the directory of authors. What kind of authorization was used (if any) would not be public knowledge, so that anyone trying to fraudulently alter the record would be more likely discovered, and deterred because they wouldn't know what kind of authorization would be required. If digital signatures are allowed (such as PGP or X.509 certificates), there should be no requirement as to what kind; authors should be allowed to enter information for any kind of digital signature.
- When publishers avail themselves of the privileges from recommendation #2, they would also enter the author and what's known into this directory (marked as a 3rd party, unconfirmed entry) to facilitate searches by others.
- The Copyright Office should seed this directory with the information it has now, marking contact addresses of the date of the entry (thereby alerting database users that an address entry from, say, 1960 for J.R.R. Tolkien is likely no longer valid, since the author is deceased).
- Current contact information may include contact information for an author's designated agent. The only need for filing change-of-address records would in that case be when an agent moves their office. Authors otherwise would submit a change of address form, such as they would to their credit cards, etc. (For unagented authors, it's likely that organizations would be established where authors could register their contact information and have this organization act as their public contact, to maintain privacy for authors.) For works made for hire, the title/text would be linked to the name identified as the author of the work as well as the actual employer, if different, and designated as work made for hire, with contact information pointing to the proper rightsholder.
- As previously noted, authors should be able to enter a general description of the kind of work they create, to facilitate publishers searching for authors of unregistered work.
- Authors with pseudonyms would register each separately. (Presumably the contact information would be either for their agent or using a service as described above to keep their real contact information private.)
- Authors who change names and wish their old and new names to be linked would be so linked.

Notes on the Search/Notify/Escrow process:

- The author/heirs of textual works can collect the escrowed funds if they show up later, but can't sue the publisher for publishing.

- Any payments into the escrow fund by a publisher should be legally published, serving as notice to the copyright holder that funds are available to them in escrow.
- If nobody shows up to collect, after (say) ten years, the funds go to the same place foreign reproductive rights payments go, e.g., to the Author's Coalition.
- The rights obtained from this process would only be for a period of five years, after which the publisher would repeat the process for future/continued use.
- Rights obtained should be specified, that is, to publish a certain kind of edition -- not a blanket use of all rights.
- Rights obtained this way only apply to the publisher who obtains them, not any other publisher. (Other publishers may follow the same process.)
- Rights obtained in this manner should be limited to common uses, primarily quoting, republishing in print, audio-book editions, educational/nonprofit use. Film rights, or other derivatives should not be covered, and should require actually locating the owner and negotiating (i.e., this is much more expensive and harder, but befitting the expected rewards of a film, etc.).
- Publishers may request exclusive rights, at a higher royalty rate (decently high, to encourage them to look pretty hard to find the owner), or non-exclusive rights at the baseline royalty rate. Exclusivity would only apply to other publishers following this same path (i.e., not to publishers the rightful owner contacts, since the rightful owner doesn't know about this, or they would have come forward during the notice period or before) -- that is, if two publishers both request exclusive rights, the first one wins. If the first publisher's request is for non-exclusive rights, clearly a later request can't be for exclusivity. If the actual author finds out about the publication after the fact, they could collect the payments, and could still negotiate with any publisher who might be interested.
- The statutory amount will be determined by the Copyright Office based on a "baseline" industry standard rate for each kind of work, which may include both up-front advances and ongoing royalties. This would be done in consultation with publishers and authors' trade groups. The baseline statutory rate should also have a minimum dollar amount, to preclude someone from giving the work away free and paying a percentage of "nothing." This should be based on the industry average for the format published in, e.g. average retail price of a hardback, paperback, etc. The purpose is to encourage locating the author but allow fair payment when finding the author is very difficult; thus, industry average values should suffice to determine these baselines.
- If ownership of a work is unclear because there are multiple contacts of the same name as the author of the work in question, either the publisher must locate the true author (as done now) or all contactable authors must be contacted (per procedures established by the Copyright Office), and all must either deny being the author or be uncontactable in order for the publisher to proceed via this path.
- The escrow holder must have open and examinable books. It also should be an organization not subject to bankruptcy (which could override escrow rules). E.g., the Copyright Office.
- In case of error (contact info present but didn't turn up in a certified search), the owner may notify publisher, and publisher may continue with already published work for the duration of the current five year period, but further printings etc. follow traditional rules.
- Works republished via this avenue should be republished unedited for style or content.

Various scenarios and how they'd work:

- If an author is registered in the database, a publisher would locate them quickly via the directory

and negotiate with them.

- If an author is neither registered as an entity nor has their work registered, and their work is republished without their knowledge via the process outlined (with funds escrowed, etc.), they may collect the escrowed funds, but not prohibit publication or seek greater damages or criminal charges (for the duration of the current five-year period the publisher obtained). From the point of collection onward, the author directly receives future statutory payments from the publisher. (Unless they become impossible to contact, in which case the royalties revert back to the escrow fund.) After the five year window (or during it, with respect to other publishers), if they are now registered, the full remedies available for infringement of registered works would be available.
- Regardless of registration status, if an author's work is published without the publisher having provably performed a search or having paid the statutory royalties into escrow, the author shall be entitled to current remedies, plus a new remedy of three times the baseline statutory royalties the author would have been entitled to if the publisher had performed the search & escrow (for both past and future royalties). (Thus increasing the remedies, especially for unregistered work.)
- If a work is registered and current contact information is maintained with the Copyright Office, then the owner is entitled to the same kind of remedies as today: injunction, impounding, actual damages/profits, statutory damages, legal fees, criminal charges, etc.

Appendix A. - Anecdotes

One of the big problems is the rights of someone who created a work that's long out of print. There's often an assumption these people or their heirs aren't alive. Merritt's daughter, for example, was completely unaware that his work -- most of which was created early in the 20th century but tweaked so often its copyrights ran much later than would be expected -- was still of any value at all. Ill, she needed money. Hope Mirrlees was alive when Lin Carter reprinted Lud-in-the-Mist, believing that author was dead, and although she lived eight years after the book was reissued, she may never have known. Originally wealthy in the twenties when her book was published, it is said she needed funds badly toward the end of her life. What sound like small sums by today's standards can matter to the people whose rights are involved.

As for defending your work, many magazines that used to register it for you, don't. Someone might check, but last I heard Asimov's, Etc. was no longer registering works for their authors. If your works happen to be short, registering them one by one can cost astronomical fees. Waiting and assembling them into a collection as is allowed, means it is harder to defend your rights. Poems, which make such convenient filler, are especially difficult to defend.

Just quickly, re 'orphaned' copyright works; I did come across this problem when trying to contact the translator of an old folk-poem about Fenoderee called "The Nimble Mower." The Internet trail led me to the Isle of Man. I emailed a Manx historian who had kindly publicised her email address on the Web, and without much hope, asked her if she knew anything about the translator. She replied that she knew of him but he'd died years ago and his estate was untraceable. I did not feel 'right' about including the poem in my book, as the translator's estate still, by law, held the copyright. But I had done my best to trace the owners and it was a shame the poem could not be re-published. If there could be some kind of provision made for these sorts of circumstances, I think everyone would benefit.

I'm afraid I don't have time to help much, but as a publisher (Wildside Press) dealing with a lot of reprints of classic works, I've been running into problems tracking down old-time authors or their estates. My

biggest problem is actually in the mystery field: Earl Derr Biggers (creator of Charlie Chan) whose estate has apparently disappeared with the dissolution of the Americal Play Company about 10 years ago. As a result, I have been unable to reprint any of his copyright-protected works in this country (although he has lapsed into the public domain in the U.K., Australia, and Canada).

I've had a great deal of experience in tracking families and individuals through records, and in finding current descendants of these families. The answer to the entire dilemma of present-day ownership of old copyrights could be handled in a variety of ways, but all require the investment of money to trace the chain of estate inheritance. Genealogists and private detectives have the skills and resources to locate the hidden estates of most individuals in the Western world. This would best be done through some clearing-house type of agency.

The problem is not so much finding ONE heir as finding them all, if that matters legally. In any event, if we allow any wiggle-room in the principle of transmission of ownership of literary properties, large corporations will almost always take advantage of such loopholes to state that no heir can be found. If it were left up to me as a writer, I would force the location an estate as a necessary prerequisite to republication or adaptation of an existing literary property. The standard should be no different than that imposed for the sale of "real property."

It will be a terrible waste if the stories from the pulp era vanish because of this issue.

While we want to preserve the forgotten gems and yes, even the dregs of our field, I still think that the rights of the individual writer should trump someone's desire to re-publish a story without the author's permission.

If someone wants profit from a story that is still in copyright, I think that getting the permission of the author is far more important than if or how much they are willing to pay for it. If there is an early work that, for any reason, a writer doesn't want re-published, then no one should be able to republish that during the period of copyright.

If profit isn't the motive . . . if someone just wants to act as a preservationist, then perhaps there could be a modification to copyright law that allows for not-for-profit, not-for-distribution preservation only activity.

My personal preference is to stand for the right of the individual writer or writer's heir to control his copyright. So many of our rights are eroding that I am in no hurry to add this to the list. I fear a slippery slope here.

Megan, you're alive and kicking and that makes all the difference in the world. There are scores of dead writers whose work is gone and forgotten because there is no one able to take responsibility for the rights. I bought a story from the estate of Richard Mckenna a few year's ago. The woman from whom I acquired the rights was his aged sister-in-law or someone like that. If that woman doesn't pass the rights on to someone else and let anyone know about it Richard McKenna's work will not be reprinted for what, another 30 years? Do you really think anyone will <u>remember</u> who he is then? They barely remember him now.

Gerald Kersh is another example. I spend two years trying to track down rights to no avail. Someone who is a Kersh aficionado tried for two year's before me. I finally was able to publish a couple of short stories by him via quasi legal means that protect my company from litigation. Kersh was a terrific writer and his stories deserve to be read.

That's why there is a problem.

What Ellen said about it sometimes being impossible to track down who owns rights to old material - I went through the same thing with a 1966 photo from National Geographic I wanted to use for a book dustjacket. No one knew what had happened to the photographer, and I could not uncover any relations.

And sometimes things do get picked up without permission. About 10 years ago,, I was flabbergasted to find a story of mine reprinted in a collector's compilation of stories from "Year's Best Horror Stories" I was leafing through in the Boskone huckster's room. When I contacted Karl Edward Wagner, he said he couldn't find me. I had moved since he reprinted the story in the annual, but I was still listed in the SFWA directory.

The goal here is to set up a system so authors can control the fate of their works. It should allow you to set up a list of works that are not to be reprinted, or to dead-end stuff published under pseudonyms so the psychedelic musings you published in Fabulous Fred's Fried Furry Funnies as Alas Yorick can never be reprinted and you can't be identified as the author. Ideally it should let you set up a series of contacts and beneficiaries going a generation or two down the family ladder, say listing my wife, my daughter, and a considerably younger nephew with an unusual name who should be easy to trace even if he doesn't keep track of the listings.

One of the real problems with life plus 70 year copyrights is that your children are unlikely to survive to the end of that period, and there's a reasonable chance no grandchildren may, so you don't know who will wind up in charge. It might be Willy the Wastrel, who would happily license pornographic movies based on your children's fantasies.

Publishers do keep databases of authors. Unfortunately, many authors fail to update their address info with publishers if they have agents. If the agent passes away or sells the agency, or splits with the author, the publisher has no recourse.

Recently at my day job, we received a permission request for a book from 1996 (yes, only 1996). We couldn't find the contract. The royalty department had the agent's address, but had been getting the royalty checks returned as undeliverable. A series of internet searches for the agent over the course of a month turned up nothing.

Just as the Permissions Manager was giving up on granting the permission (and giving up a nice fee), I suddenly connected the author's name to a blog I'd read a while ago. The latest info I found online (from early 2003) said that the author was on an extended trip out of the country. However, I discovered a connection to her via another science fiction author I know, and while searching for his email address, was able to find our author's. I emailed her. She replied that her agent had vanished a couple of years ago. We're working now to get her back royalties to her.

If not for pure dumb luck, an author would have missed out on a decent piece of change because their agent hadn't updated their contact information with the publisher, and the author, relying on that agent, had also not updated her information. All this hassle for a book only eight years old. Can you imagine how often this sort of thing occurs with records from before the computer era (which in publishing didn't actually start until 1992)?

Thanks for considering this complex and important matter.

Respectfully submitted,

Science Fiction and Fantasy Writers of America, Inc.