



ASSOCIATION OF AMERICAN UNIVERSITIES

March 25, 2005

Mr. Jule L. Sigall
Associate Register for Policy and International Affairs
Copyright Office
Library of Congress
orphanworks@loc.gov

Dear Mr. Sigall:

The Association of American Universities (AAU) writes to commend the Copyright Office for the open, consultative process by which you have undertaken the examination of orphan works. The Office's Notice of Inquiry has prejudged neither the nature and extent of the problem nor the appropriateness of any solution, but has raised a number of critical issues to be answered in accurately framing the problem and its solution.

As noted in the comments submitted by the Library Copyright Alliance, as well as in comments submitted directly by universities, promising activities supporting education, research and scholarship are being seriously limited or prevented by difficulties obtaining clearances for use of copyrighted works. There is good reason to believe that such difficulties will increase as more works are created in, converted to, and used in digital formats.

AAU believes that the problems already encountered by universities and their libraries, and the likelihood that those problems will increase in the future, provides ample evidence of the need for a policy response to the problem of orphan works. A key challenge will be to develop a solution to the problems of orphan works that fairly reflects the interests of both users and owners of copyrighted works, that is sufficiently simple that it can be implemented, and that accords with international treaty obligations. In these respects, the proposal developed through the Copyright Clearance Initiative of the Glushko-Samuels Intellectual Property Law Clinic of American University's Washington College of Law warrants serious consideration as the starting point for a fair and workable policy for dealing with orphan works.

No doubt the Copyright Office will receive a number of other proposals that warrant careful consideration as well. Because of the importance and complexity of the issues surrounding orphan works, we encourage the Copyright Office to proceed expeditiously in its inquiry, and, if warranted, convene representatives of key constituencies to work collectively toward a mutually satisfactory policy proposal for dealing with orphan works

AAU looks forward to working with the Copyright Office as it continues its inquiry into this important issue.

Sincerely,

John C. Vaughn
Executive Vice President

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Brown University
California Institute of Technology
Carnegie Mellon University
Case Western Reserve University
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Cornell University
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