

March 25, 2005

TO: Jule L. Sigall, Assoc. Register for Policy & International Affairs.

FROM: Dan Streible,

RE: Comment on Orphan Works

As a concerned U.S. citizen who is also the director of an on-going academic-archival forum known as the Orphan Film Symposium, I offer this comment on orphan works and U.S. copyright. Regulatory and/or legislative form is in order to insure the survival of and access to a large category of existing films (and other works).

Above all, the public good and the rights of existing copyright holders can both be improved by undoing the inhibiting aspects of the ambiguities of U.S. copyright law. Far too many films sit in archives or private collections unpreserved and unseen because no one can identify their owners. The process is too labor-intensive and expensive. Even when identities can be uncovered, the status of the works often remain in legal limbo.

The Orphan Film Symposium is an on-going national gathering of archivists, filmmakers, collectors, historians, researchers, preservationists, copyright experts and others who are interested in the rich variety of neglected films that do not circulate in the marketplace. There is a wide consensus that the documentary, historical and educational value of these works is vast and important. But these experts also agree that this will remain an enormous hardship on the archival, preservation, production and education communities as long as U.S. Copyright remains unchanged.

I advocate changes to current copyright that would detail the procedure for a “good faith search” for copyright holders. A central database (available free, online) should be created in which intended users can register their uses. Furthermore, the law should protect those who restore, preserve, reuse or display orphan films, if they have made good faith efforts to identify copyright owners of presumably orphaned works. Good citizens should be immune from claims made by copyright claimants who do not respond to good faith inquiries ahead of time.

I support the Public Domain Enhancement Act, which has been proposed in the U.S. House of Representatives.

Dan Streible
The Orphan Film Symposium