

**COPYRIGHT'S DEUS EX MACHINA:
REVERSE REGISTRATION AS ECONOMIC FOSTERING OF
ORPHAN WORKS**

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ABSTRACT

Changes in copyright law over the last several decades have created a proliferation of orphan works, or works for which no copyright owner can be found. People wishing to use or adapt these works are unable to obtain permission, and so their status hampers business development and limits the free exchange of new ideas. This article investigates the problem of orphan works and the various proposed solutions. It concludes by rejecting all proposed solutions and suggesting a new and novel solution that avoids the economic pitfalls of others, while maintaining the policy balance sought by modern copyright law.

INTRODUCTION

Orphan works present a particularly difficult problem for copyright law. Orphan works can most easily be understood as those for which no copyright owner can be found.¹ As a result, people wishing to use or adapt these works are unable to obtain permission. This places a high burden on those wishing to use orphan works, hinders the preservation of older works that make up our cultural heritage, and limits the free exchange of new ideas.²

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¹ U.S. COPYRIGHT OFFICE, REPORT ON ORPHAN WORKS (2006).

² See letter of Sen. Orrin Hatch requesting the Copyright Office research and report on the orphan work problem. *Id.* at iii.

We have heard that this situation places an unnecessary burden on those who wish to use orphan works: They cannot reduce the risk that their use of the work might result in copyright infringement, and therefore would likely choose not to use the work. This would be unfortunate and inconsistent with the purpose of the Copyright Act, because in such cases it