

# Resources on Orphan Works

(Working draft – for comment)

Cyberspace Law and Policy Centre, UNSW

Please send comments to David Vaile\*, [d.vaile@unsw.edu.au](mailto:d.vaile@unsw.edu.au)

Version 51, 21 September 2011

## Contents

1. Articles, books, papers, submissions etc.....	1
2011.....	1
Australia/NZ .....	1
UK .....	1
US .....	1
Google Books.....	2
EU .....	2
Other .....	3
2010.....	3
Australia/NZ .....	3
UK .....	5
US .....	6
Google Books.....	6
EU .....	7
Canada.....	8
Other .....	8
2009.....	9
Australia/NZ .....	9
UK .....	10
US .....	10
Google Books.....	11
EU .....	13
Canada.....	13
Other .....	13
2008.....	13
Australia/NZ .....	13
UK .....	14
US .....	15
EU .....	16
2007.....	16
Australia/NZ .....	16
UK .....	17
US .....	17

---

\* Cyberspace Law and Policy Centre, UNSW Law Faculty, [www.cyberlawcentre.org](http://www.cyberlawcentre.org). This is part of a project generously supported by the Copyright Agency Ltd cultural development fund. The author also gratefully acknowledges the assistance of interns working for the centre including Pratheepa Kandaswamy, Melissa Wong, Lauren Loz, Michael Tan, Yun Wang, Jessica Lee, Yulilya Lutsyk, Eunice Park, and Karina Ko, and also comments and suggestions from a number of the authors of submissions and analyses listed herein, participants in interviews and workshops, and Prof Graham Greenleaf and Catherine Bond, lead investigator and postgraduate researcher respectively on the Unlocking IP ARC research project from which this initiative arose.

Notes: Section 1. 'Articles' is sorted by year post-2005, then jurisdiction, and author. 'Google books' is separately listed from 'US' after 2007. Items in Section 2. and on are sorted by jurisdiction, then author, and year. Full text is often available from index at eg., SSRN; if not, a direct URL may be provided. '\*' = recommended.

EU .....	18
Other .....	18
2006.....	18
Australia/NZ .....	18
UK .....	20
US .....	20
EU .....	21
Canada.....	21
Other .....	21
2005 and earlier.....	21
Australia/NZ .....	21
UK .....	22
US .....	22
Google Books.....	23
EU .....	23
Canada.....	23
Other .....	23
2. Legislation and interpretive materials .....	23
Australia/NZ .....	23
UK .....	24
US Legislation .....	25
US Bills.....	25
EU .....	26
Individual EU country legislation.....	27
Canada.....	27
India.....	27
Japan .....	28
South Korea .....	28
3. Conventions, Treaties, International Agreements etc. ....	28
4. Cases .....	28
Australia/NZ .....	28
UK.....	29
US .....	29
EU .....	30
Canada.....	30
5. Government reports and related materials .....	30
Australia/NZ .....	30
UK.....	32
US .....	32
Europe.....	33
Canada.....	35
Other Reports.....	36
6. Technical aspects (identification, searching... ).....	36
Identifiers and metadata.....	36
7. Other resources.....	36
Local digitisation projects.....	36
Position statements etc. by peak organisations.....	36
Commentary.....	37

# 1. Articles, books, papers, submissions etc.

2011

## **Australia/NZ**

**Brennan**, David and **Fraser**, Michael. 'The Use of Subject Matter with Missing Owners – Australian Copyright Policy Options' (August 2011), discussion paper for workshop at UTS on 22 September 2011.

**O'Donnell**, Louise. 'Beware Google's Library Plan' (4 April 2011) *Australian Financial Review* pg 55.

**McCauseland**, Sally. 'The Orphan Works Problem' (31 March 2011) *Arts Law Centre of Australia*. Available at: <http://www.artslaw.com.au/art-law/entry/the-orphan-works-problem/>

**Smith**, Nicholas. 'Is a copyright registration system to prevent orphan works the way of the future?' (27 January 2011), *IP Whiteboard* blog post referring to the EC Comité de Sages report. Available at: <http://blogs.mallesons.com/ipwhiteboard/is-a-copyright-registration-system-to-prevent-orphan-works-the-way-of-the-future>

**SBS**. *SBS Statement On Orphan Works [Version 1.0 February 2011]* (2011). Available at: <http://www.sbs.com.au/aboutus/corporate/view/id/541/h/SBS-Statement-on-Orphan-Works-1.0-February-2011> (circulated at UNSW workshop Feb 2011.)

**SBS**. *SBS Website User-Generated Content Guidelines* (January 2011). Available at: [http://media.sbs.com.au/home/upload\\_media/site\\_20\\_rand\\_211190160\\_sbs\\_user\\_generated\\_content\\_guidelines\\_140111.pdf](http://media.sbs.com.au/home/upload_media/site_20_rand_211190160_sbs_user_generated_content_guidelines_140111.pdf)

## **UK**

**JISC Legal**. 'Strategic Management of Intellectual Property Rights for OER in UK HE' (29 March 2011) Available at:

<http://www.jisclegal.ac.uk/ManageContent/ViewDetail/tabid/243/ID/1931/Strategic-Management-of-Intellectual-Property-Rights-for-OER-in-UK-HE.aspx>

**Hargreaves, Ian**. *Digital Opportunity - A Review of Intellectual Property and Growth* (2011), esp. chapter 4. Available at: <http://www.ipa.gov.uk/ipreview-finalreport.pdf>

**Korn**, Naomi and **Beer**, Emma. 'Briefing Paper on Managing Orphan Works' (28 March 2011) Available at: <http://www.jisc.ac.uk/media/documents/publications/programme/2011/scaorphanworksbp.pdf>

**Open Educational Resources IPR Support**. *Risk Management Calculator*, interactive online risk assessment tool for works including orphan works (January 2011). Available at:

<http://www.web2rights.com/OERIPRSupport/risk-management-calculator/>; see also media release, at: <http://www.jisc.ac.uk/news/stories/2011/01/calculator.aspx>

## **US**

**AP**, 'NY judge gives Google, lawyers more time to talk', Bloomberg Businessweek, 15 September 2011. At: <http://www.businessweek.com/ap/financialnews/D9PP265G2.htm>

**Dahlberg**, Brianna. 'The Orphan Works Problem: Preserving Access to the Cultural History of Disadvantaged Groups.' *Southern California Review of Law & Social Justice* 20 (2011), pp. 1–48. Available at SSRN: <http://ssrn.com/abstract=1664765>

**Epstein**, Jason. 'Books: Onward to the Digital Revolution' [review of Thompson, J, *Merchants of Culture*, Polity 2011], *New York Times Review of Books* (10 February 2011). Available at: <http://www.nybooks.com/articles/archives/2011/feb/10/books-onward-digital-revolution/> (subscription required).

## Google Books

**Band**, Jonathan. "A Guide for the Perplexed Part IV: The Rejection of the Google Books Settlement," *Library Copyright Alliance*, (March 31 2011), Available at: <http://www.librarycopyrightalliance.org/bm~doc/guideiv-final-1.pdf>.

## EU

Association of European Research Libraries (**LIBER**), Conference of European National Librarians (**CENL**), European Bureau of Library, Information and Documentation Associations (**EBLIDA**), European Federation of Journalists (**EFJ**), European Publishers Council (**EPC**), European Writers' Council (**EWC**), European Visual Artists (**EVA**), Federation of European Publishers (**FEP**), International Association of Scientific, Technical & Medical Publishers (**STM**) and International Federation of Reprographic Rights Organisations (**IFRRO**), *Memorandum of Understanding: Key Principles on the Digitisation and Making Available of Out-of-Commerce Works*, 20 September 2011. At:

[http://ec.europa.eu/internal\\_market/copyright/docs/copyright-infso/20110920-mou\\_en.pdf](http://ec.europa.eu/internal_market/copyright/docs/copyright-infso/20110920-mou_en.pdf)

**Associazione Italiana Editori**. 'The ARROW project presents its results: Substantial benefits from using ARROW in retrieving copyright information compared to manual search' (10 March 2011) Available at: <http://www.arrow-net.eu/sites/default/files/ARROW%20Results.pdf>

**European Digital Libraries Initiative**. 'Sector Specific Guidelines of Due Diligence Criteria for Orphan Works' Available at:

[http://ec.europa.eu/information\\_society/activities/digital\\_libraries/doc/hleg/orphan/guidelines.pdf](http://ec.europa.eu/information_society/activities/digital_libraries/doc/hleg/orphan/guidelines.pdf)

**de la Durantaye**, Katharina. 'H Is for Harmonization: The Google Book Search Settlement and Orphan Works Legislation in the European Union', *New York Law School Law Review*, Volume 55, Number 1, (2010/11). Available at:

[http://www.nyls.edu/user\\_files/1/3/4/17/49/1080/55-1%20Final%20de%20la%20Durantaye%2011.30.10.pdf](http://www.nyls.edu/user_files/1/3/4/17/49/1080/55-1%20Final%20de%20la%20Durantaye%2011.30.10.pdf)

**Baker**, Jennifer (IDG News Service). 'European Commission challenges Google Books: The EU's flagship digitization project takes on Google Books' (11 January 2011). News coverage of Comité des Sages/Europeana Report. Available at:

[http://www.arndnet.com.au/article/372912/european\\_commission\\_challenges\\_google\\_books/](http://www.arndnet.com.au/article/372912/european_commission_challenges_google_books/)  
See also NYT <http://www.nytimes.com/2011/01/11/business/global/11google.html>

**Comité des Sages**. *The New Renaissance* – Report: Recommendations for Europeana, (10 January 2011) Available at:

[http://ec.europa.eu/information\\_society/activities/digital\\_libraries/doc/reflection\\_group/final\\_report\\_%20cnds.pdf](http://ec.europa.eu/information_society/activities/digital_libraries/doc/reflection_group/final_report_%20cnds.pdf)

**Kroes**, Neelie. 'Ending fragmentation of the Digital Single Market' (7 February 2011) Available at:

<http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/11/70&format=HTML&aged=0&language=EN&guiLanguage=en>

**Kroes, Neelie.** 'Addressing the Orphan Works Challenge' (10 March 2011) Available at: <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/11/163>

**Standeford, Dugie.** 'Breakthrough Gives EU Principles For Digitising Out-Of-Print Books' *Intellectual Property Watch*, 20 September 2011. At <http://www.ip-watch.org/weblog/2011/09/20/breakthrough-gives-eu-principles-for-digitising-out-of-print-books/>

### **Other**

**Gollin, Michael, Hinze, Gwen, and Wong, Tzen.** 'Scenario planning on the future of intellectual property Literature review and implications for human development', in Wong, Tzen and Dutfield, Graham, eds. *Intellectual Property and Human Development, Current Trends and Future Scenarios* (2011), Cambridge University Press. Available at: [http://www.piipa.org/files/Book\\_Content/Chapter%209%20-%20IP%20and%20Human%20Development.pdf](http://www.piipa.org/files/Book_Content/Chapter%209%20-%20IP%20and%20Human%20Development.pdf)

**Remus, Titiriga.** 'Digital (on Line) Libraries: Problems with Orphan Works and Works Out of Print – Possible Solutions,' (12 January 12 2011). Available at SSRN: <http://ssrn.com/abstract=1739298>

## **2010**

### **Australia/NZ**

**ARC Centre of Excellence for Creative Industries and Innovation.** *Opening Australia's Archives National Roadshow: Collective Minutes* (September-October 2009), summary of meetings around Australia to discuss the Opening Australia's Archives project. Available at: <http://www.ip.qut.edu.au/materials/openingarchives/Opening%20Australia%20Archives%20-%20Sept09%20minutes.pdf> [Includes detailed discussion of libraries' concerns in relation to orphan works.]

**Australian Copyright Council.** 'Big statements on copyright' (29 November 2010), News and Policy blog post. Available at: <http://www.copyright.org.au/news-and-policy/details/id/1868/>. Refers to speech by Neelie Kroes European Commission Vice-President for the Digital Agenda, at 'A digital world of opportunities' Forum, Avignon, 5 November 2010. Available at: <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/10/619>

**Australian Copyright Council.** 'The Attorney General and the greens put copyright reform on the agenda,' (29 October 2010) News and Policy blog post. Refers to report in *Australian Financial Review*, James Eyres, 24/9/10, p. 18; and *Australian Greens Policy Initiative*, August 2010; authorised by Senator Bob Brown Parliament House Canberra ACT. Available at: <http://www.copyright.org.au/news-and-policy/details/id/1832/>

**Australian Copyright Council,** 'Response to Minister for Finance and Deregulation the Hon Lindsay Tanner MP & Special Minister of State and Cabinet Secretary Senator the Hon Joseph Ludwig, Report Of The Government 2.0 Taskforce, *Engage: Getting On With Government 2.0*,' (February 2010), submission. See p.10 re: treating PSI separately from Orphan Works. Available at: [http://www.copyright.org.au/admin/-cms-acc1/\\_images/10210748194c97fc2a2f9dc.pdf](http://www.copyright.org.au/admin/-cms-acc1/_images/10210748194c97fc2a2f9dc.pdf)

**Copyright In Cultural Institutions (CICI).** *Flexible dealing and cultural institutions – Statement of Principles regarding the use of section 200AB of the Copyright Act (1968): an industry standard and user guide for the cultural sector* (September 2010), CIC secretariat, National Library of Australia. Available at:

[http://nma.gov.au/shared/libraries/attachments/about\\_us/cici/statement\\_principles/files/35143/CICI\\_Statement\\_Principles\\_Section\\_200AB.pdf](http://nma.gov.au/shared/libraries/attachments/about_us/cici/statement_principles/files/35143/CICI_Statement_Principles_Section_200AB.pdf)

**Corbett**, Susan. 'Regulation for Cultural Heritage Orphans – Time Does Matter.' *The WIPO Journal: Analysis and Debate of Intellectual Property Issues* (2010): Issue forthcoming. Available at SSRN: <http://ssrn.com/abstract=1680044> and [http://www.iscr.co.nz/f556,15948/15948\\_Cultural\\_Heritage\\_Orphans\\_SC.pdf](http://www.iscr.co.nz/f556,15948/15948_Cultural_Heritage_Orphans_SC.pdf)

**Corbett**, Susan. 'Orphan Works' *New Zealand Law Journal* April (2010), 88-90. Available at: LexisNexisNZ, subscription required.

**Dang**, Khai and **Fang**, Dennis (Blake Dawson). 'Ushering in the age of open content', (9 February 2010), commentary on Gov 2.0 report "Engage: Getting on with Government 2.0" Available at: [http://www.blakedawson.com/Templates/Publications/x\\_article\\_content\\_page.aspx?id=57639](http://www.blakedawson.com/Templates/Publications/x_article_content_page.aspx?id=57639)

**Dawes**, Matt. 'Setting the Orphans Free', *Australian Law Librarian*, Vol 18 No 4 (2010), 289. Available at: <http://www.digital.org.au/submission/documents/MattDawes-SettingtheOrphansFree.pdf>

**Fitzgerald**, Brian, Coates, Jessica, et al. *Opening Australia's Archives: Open Access Principles for Australian Collecting Institutions*, Version 1 (December 2010), ARC Centre of Excellence for Creative Industry and Innovation and QUT Faculty of Law. See p.10. Available at: [http://www.ip.qut.edu.au/open\\_archive\\_principles](http://www.ip.qut.edu.au/open_archive_principles) [a very high level principle statement, and some strategies for dealing with OW]

**Gunn**, Fiona (NFSA). 'Industry standard for copyright orphans' (30 November 2010), blog post, referring to CIC principles. Available at: <http://www.nfsa.gov.au/blog/2010/11/30/copyright-orphans/>

**Gunn**, Fiona (NFSA). 'IP and NFSA: orphans in a legal storm' (6 January 2010) Screen Hub, paper from National Film and Sound Archive industry forum in 2009. <http://www.screenhub.com.au/news/shownewsarticleG.asp?newsID=30912>

**Morgan**, Dr Owen. (2010) 'New Zealand Broadcasters and Orphan Works' (29 July 2010), *Fortnightly Review of IP Media And Law*, blog hosted by IPRIA and CMCL at University of Melbourne. Available at: <http://fortnightlyreview.info/2010/07/29/new-zealand-broadcasters-and-orphan-works/>

**National Film and Sound Archive (NFSA)**. *Statement on Orphan Works* (June 2010). Available from: <http://www.nfsa.gov.au/collection/collection-enquiries/copyright/> or at: [http://www.nfsa.gov.au/site\\_media/uploads/file/2011/02/03/Statement\\_on\\_Orphan\\_Works.pdf](http://www.nfsa.gov.au/site_media/uploads/file/2011/02/03/Statement_on_Orphan_Works.pdf)

**National Film and Sound Archive**. 'Tracking Down the Copyright Holder : Hints and Tips' (June 2010), information sheet. Available from: <http://www.nfsa.gov.au/> or at: [http://www.nfsa.gov.au/site\\_media/uploads/file/2011/02/03/Tracking\\_down\\_the\\_Copyright\\_Holder.pdf](http://www.nfsa.gov.au/site_media/uploads/file/2011/02/03/Tracking_down_the_Copyright_Holder.pdf) (from Feb 2011?)

**National and State Libraries Australasia**, *NSLA position statement on copyright exceptions and limitations*, v1.0 endorsed 10 March 2010. Available at: <http://www.nsla.org.au/publications/papers/2010/pdf/NSLA.Discussion-Paper-20100504-Position.Statement.on.Copyright.Exceptions.and.Limitations.pdf>

**Schmitz**, Torsten. 'The Problem of Orphan Works: A critical Analysis of possible Solutions for New Zealand' (2009). Washington and Lee University, Virginia. Available at: <https://lawlib.wlu.edu/lexopus/works/916-1.pdf>

**van Dyk**, Robyn (Australian War Memorial). 'Digital preservation: the problems and issues involved in publishing private records online: the web publishing of the notebooks and diaries of C.E.W. Bean', (2010), paper for VALA2010, the 15th VALA Biennial Conference and Exhibition, Melbourne. Available at:  
[http://www.vala.org.au/vala2010/papers2010/VALA2010\\_77\\_van\\_Dyk\\_Final.pdf](http://www.vala.org.au/vala2010/papers2010/VALA2010_77_van_Dyk_Final.pdf)

**Weatherall**, Kimberlee. 'ACTA - Australian Section by Section Analysis' (2010) Available at: <http://works.bepress.com/kimweatherall/21>

## UK

**Arthur**, Charles. 'Digital economy bill rushed through wash-up in late night session: Government drops clause on orphan works but inserts amendment criticised as over-broad which could block sites based on 'intent'', *Guardian* online (8 April 2010). Available at:  
<http://www.guardian.co.uk/technology/2010/apr/08/digital-economy-bill-passes-third-reading>

**British Library/various authors**. 'Driving UK Research? Is Copyright a help or a hindrance? A perspective from the research community', essays and submissions collated by British Library (July 2010). Available at:  
<http://pressandpolicy.bl.uk/imagelibrary/downloadMedia.ashx?MediaDetailsID=628>  
[http://www.ethos.ac.uk/001\\_EThOSnet\\_Home.html](http://www.ethos.ac.uk/001_EThOSnet_Home.html)

**British Library**. 'Press and Policy: Intellectual Property' web site section (undated, accessed January 2011). Available at:  
<http://pressandpolicy.bl.uk/content/default.aspx?NewsAreaId=316> .

**de Zwart**, Melissa, and **Huang**, Vicki. 'The *Digital Economy Act* (UK) – preview for Down Under?' (20 April 2010), blog post on *Fortnightly Review of IP Media And Law*, blog hosted by IPRIA and CMCL at University of Melbourne. Available at:  
<http://fortnightlyreview.info/2010/04/23/the-digital-economy-act-uk-%E2%80%93-preview-for-down-under/>

**Goldenfein**, Jake. 'The *Digital Economy Act* 2010 (UK) and Orphan Works' (20 May 2010), blog post on *Fortnightly Review of IP Media And Law*, blog hosted by IPRIA and CMCL at University of Melbourne. Available at: <http://fortnightlyreview.info/2010/05/20/the-digital-economy-act-2010-uk-and-orphan-works/>

**Kendall**, Malcolm. 'The Copyright Problems of 'Orphan Works' for University Lecturers and Researchers' *Legal Information Management* Vol. 10 No. 3 (2010) 158–161. Available at:  
<http://journals.cambridge.org/action/displayFulltext?type=1&pdfType=1&fid=7891415&jid=LIM&volumeld=10&issueld=&aid=7891413> or  
<http://journals.cambridge.org/action/displayAbstract?fromPage=online&aid=7891413&fulltextType=RA&fileId=S1472669610000630>

**Korn**, Naomi and **Beer**, Emma. 'In From the Cold: The Problem and Solutions for Orphan Works', presentation for 'Living with IPR – The web, the law and academic practice' at JISC 2010 conference, London (8 April 2010). Available at:  
<http://www.jisc.ac.uk/media/documents/events/2010/04/presentations/ipr2.pdf>

**Khong**, Dennis W. K. 'The (Abandoned) Orphan Works Provision of the *Digital Economy Bill*' (August 1, 2010). Available at SSRN: <http://ssrn.com/abstract=1671785>

**Stop43.org.uk**. *The New Thinking* (May 18, 2010). Available at:  
[http://www.stop43.org.uk/docs/the\\_new\\_thinking.pdf](http://www.stop43.org.uk/docs/the_new_thinking.pdf)

## US

**Pallante**, Maria. 'Orphan Works, Extended Collective Licensing and Other Current Issues', *Columbia Journal of Law & the Arts*, Volume 34, Number 1, (Fall 2010) p.23.

**Perzanowski**, Aaron and **Schultz**, Jason, 'Digital Exhaustion'. *UCLA Law Review*, Vol. 58; Wayne State University Law School Research Paper No. 10-10; UC Berkeley Public Law Research Paper No. 1669562 (2010). Available at SSRN: <http://ssrn.com/abstract=1669562>

**Sage**, Joel. 'Revenue Streams and Safe Harbors: How Water Law Suggests a Solution to Copyright's Orphan Works Problem', *Boston University Journal of Science & Technology Law*, Volume 16, Number 2, (Summer 2010) p.294. Available at: [http://www.bu.edu/law/central/jd/organizations/journals/scitech/volume162/documents/Sage\\_WEB.pdf](http://www.bu.edu/law/central/jd/organizations/journals/scitech/volume162/documents/Sage_WEB.pdf)

## Google Books

**Australian Society of Authors**. 'Amended Google Settlement: Aussies In', web News page. (30 November 2009). Available at: <http://www.asauthors.org/scripts/cgiip.exe/WService=ASP0016/ccms.r?PageId=10255>

**Elhauge**, Einer R. "Why the Google Books Settlement is Procompetitive" (20 May 2010). The *Journal of Legal Analysis*, Vol. 2, No. 1, p. 1-68, 2010. Available at SSRN: <http://ssrn.com/abstract=1459028>

**Ericson**, Brooke. "Settling for Less? An Analysis of the Possibility of Positive Legal Precedent on the Internet if the Google Book Search Litigation Had Not Reached a Settlement." *American University Intellectual Property Brief* (Spring 2010), 33–43. Available at: <http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1026&context=ipbrief>

**Fraser**, Eric M. 'Antitrust and the Google Books Settlement: The Problem of Simultaneity.' *Stanford Technology Law Review* 4 (2010), pp. 1–22. Available at SSRN: <http://ssrn.com/abstract=1417722>

**Fry**, Robin. 'Forget the teenagers, we're all infringers now', *Copyright World* No. 196, (December 2009/January 2010), pp. 34.

**Glorioso**, Alessandra. 'Google Books: An Orphan Works Solution?', *Hofstra Law Review*, Volume 38, Number 3, Spring (2010) p.971. Available at: [http://law.hofstra.edu/pdf/Academics/Journals/LawReview/lrv\\_issues\\_v38n03\\_DD2.Glorioso.final.pdf](http://law.hofstra.edu/pdf/Academics/Journals/LawReview/lrv_issues_v38n03_DD2.Glorioso.final.pdf)

**Grimmelmann**, James Taylor Lewis. 'The Amended Google Books Settlement is Still Exclusive.' *CPI Antitrust Journal* (2010), NYLS Legal Studies Research Paper No. 09/10 #25. Available at SSRN: <http://ssrn.com/abstract=1560242>

**Grimmelman**, J "How to Fix the Google Book Search Settlement" (2009) 12 *Journal of Internet Law*, 10-20, at 14.

**Grimmelmann**, James Taylor Lewis. 'The Elephantine Google Books Settlement.' (2010) forthcoming; NYLS Legal Studies Research Paper No. 09/10 #40. Available at SSRN: <http://ssrn.com/abstract=1622053>

**Hemphill**, C. Scott. 'Collusive and Exclusive Settlements of Intellectual Property Litigation.' (2010). No. 384. Available at SSRN: <http://ssrn.com/abstract=1718515>

**Ji**, Yuan. 'Why the Google Book Search Settlement Should Be Approved: A Response to Antitrust Concerns and Suggestions for Regulation.' *Albany Law Journal of Science and Technology*, forthcoming (2010). Available at SSRN: <http://ssrn.com/abstract=1623009>



**Lang**, Bernard. 'Orphan Works and the Google Book Search Settlement: An International Perspective'. *New York Law School Law Review* Volume 55, Number 1. (2010). Available at: [http://www.nyls.edu/user\\_files/1/3/4/17/49/1080/55-1%20Final%20Lang%2011.30.10.pdf](http://www.nyls.edu/user_files/1/3/4/17/49/1080/55-1%20Final%20Lang%2011.30.10.pdf). **McGee**, Matt. 'Photographers Group To Sue Google Over Book Deal,' (6 April 2010) *Search Engine Land* web site news item. Links to American Society of Media Photographers litigation documents. Available at: <http://searchengineland.com/photographers-group-to-sue-google-over-book-deal-39537>

**Mtima**, Lateef and **Jamar**, Steven D. 'Fulfilling the Copyright Social Justice Promise: Digitizing Textual Information' *New York Law School Law Review* Volume 55 Number 1 (2010) Available at: [http://www.nyls.edu/user\\_files/1/3/4/17/49/1080/55-1%20Final%20Mtima%20&%20Jamar%2011.30.10.pdf](http://www.nyls.edu/user_files/1/3/4/17/49/1080/55-1%20Final%20Mtima%20&%20Jamar%2011.30.10.pdf).

**Pitt**, Karen (CAL). 'Google Book settlement: the sky is not falling', Australian *Intellectual Property Law Bulletin* (newsletter) Volume 22 No 10 (May 2010) (1). Available via LexisNexisAU.

**Pomerantz**, Aryeh L. 'Obtaining Copyright Licenses by Prescriptive Easement: A Solution to the Orphan Works Problem', *Jurimetrics*, Volume 50, Number 2, (Winter 2010) p.195.

**Sag**, Matthew. 'The Google Book Settlement and the Fair Use Counterfactual.' *New York Law School Law Review* 55 (2010) *The DePaul University College of Law, Technology, Law & Culture Research Series* Paper No. 10-001. Available at SSRN: <http://ssrn.com/abstract=1437812>

**Samuelson**, Pamela. 'Academic Author Objections to the Google Book Search Settlement' (February 16, 2010). *Journal of Telecommunications and High Technology Law*, Forthcoming; UC Berkeley Public Law Research Paper No. 1553894. Available at SSRN: <http://ssrn.com/abstract=1553894>

**Strategic Advisory Board for Intellectual Property Policy** [UK] (SABIP). *Google Books: A policy panel event* (February 2010), proceedings of forum. SABIP, London. Available at: <http://www.ipo.gov.uk/ipresearch-google-201007.pdf> See also <http://www.sabip.org.uk/>.

**Viana**, Liza Porteus. 'US Congress pushes through IP legislation before departure', *Intellectual Property Watch* Vol. 5 No. 10, (October 2008) pp. 5–6.

## **EU**

**Clifford Chance**. 'The Single Market Act: 50 measures to boost the EU economy' (November 2010), client briefing paper. Available at: [http://www.cliffordchance.com/publicationviews/publications/2010/11/the\\_single\\_marketact50measuresboostth0.html](http://www.cliffordchance.com/publicationviews/publications/2010/11/the_single_marketact50measuresboostth0.html)

**Colin**, Caroline. 'Registers, Databases and Orphan Works', in Derclaye, Estelle. *Copyright and Cultural Heritage: Preservation and Access to Works in a Digital World* (2010) Edward Elgar: London, p.28. Available at Google Books: [http://books.google.com.au/books?hl=en&lr=&id=J9E509jedGEC&oi=fnd&pg=PR1&dq=orphan+works&ots=gKan-Y\\_Ygj&sig=56oB9oZq1ZUte22A--GSFh43EtE](http://books.google.com.au/books?hl=en&lr=&id=J9E509jedGEC&oi=fnd&pg=PR1&dq=orphan+works&ots=gKan-Y_Ygj&sig=56oB9oZq1ZUte22A--GSFh43EtE)

**European Writers' Council on Orphan Works**. Public Hearing on Orphan Works, paper for Panel 1 – 'Orphan Works – Challenges and Opportunities', (26 October 2009) European Commission Internal Market and Services DG, Knowledge-based Economy Copyright Unit Brussels. Available at: [http://ec.europa.eu/internal\\_market/copyright/docs/copyright-info/orphanworks/Diocaretz\\_en.pdf](http://ec.europa.eu/internal_market/copyright/docs/copyright-info/orphanworks/Diocaretz_en.pdf)

**Purday**, Jonathan. 'Intellectual Property issues and Europeana, Europe's digital library, museum and archive', *Legal Information Management* 10(3) 2010: 174–180. doi:10.1017/S1472669610000678

**Riis**, Thomas and **Schovsbo**, Jens. 'Extended Collective Licenses and the Nordic Experience - It's a Hybrid but is It a Volvo or a Lemon?' *Columbia Journal of Law and the Arts* 33 Issue IV (2010): 1–26. Available at SSRN: <http://ssrn.com/abstract=1535230>

**van Gompel**, Stef & **Hugenholtz**, P. Bernt. 'The Orphan Works Problem: The Copyright Conundrum of Digitizing Large-Scale Audiovisual Archives, and How to Solve It.' *Popular Communication - The International Journal of Media and Culture* 8 no.1 (2010): 61–71. Available at: [http://www.ivir.nl/publications/vangompel/the\\_orphan\\_works\\_problem.pdf](http://www.ivir.nl/publications/vangompel/the_orphan_works_problem.pdf) (preprint), and <http://www.informaworld.com/smpp/content~db=all~content=a919084373>

## Canada

**Tarantino**, Bob. 'The Challenge of the Unlocatable Copyright Owner, (1 June 1, 2010), *Entertainment & Media Law Signal* blog post. Available at: <http://www.entertainmentmedialawsignal.com/2010/06/articles/copyright/the-challenge-of-the-unlocatable-copyright-owner/>

## Other

**Crews**, Kenneth D. (Director, Copyright Advisory Office, Columbia University) 'Copyright Exceptions and Statutory Diversity: The WIPO Study of Exceptions for Libraries and Archives', Proceedings of the Annual Congress of the International Association for the Advancement of Teaching and Research in Intellectual Property Munich, Germany, 21–23 July 2008. Available at SSRN: <http://ssrn.com/abstract=1589108>

**Dreyfuss**, Rochelle C, **Leenheer Zimmerman**, Diane and **First**, Harry (eds). *Working within the boundaries of intellectual property: innovation policy for the knowledge society* (2010), Oxford, Oxford University Press. See in particular: **Katz**, Ariel. 'Copyright Collectives: Good solution but for which problem?' Chapter 13, pp 395–430; and **Besek**, June. 'Enabling Digital Preservation by Expanding the Library Exceptions in the US *Copyright Act*: The Section 108 Study Group' Comment, p 431–444.

\***Lifshitz-Goldberg**, Yael. 'Orphan Works' (May 2010), WIPO Seminar. Available at: [http://www.wipo.int/edocs/mdocs/sme/en/wipo\\_smes\\_ge\\_10/wipo\\_smes\\_ge\\_10\\_ref\\_them\\_e11\\_02.pdf](http://www.wipo.int/edocs/mdocs/sme/en/wipo_smes_ge_10/wipo_smes_ge_10_ref_them_e11_02.pdf)

**Owens**, Andrew. *Copyright and the Orphan Works Issue (Laws and Legislation)*, (2010) Nova Science Publishers.

**Torsen**, Molly and **Anderson**, Jane, for WIPO. *Intellectual Property and the Safeguarding of Traditional Cultures: Legal Issues and Practical Options for Museums, Libraries and Archives* (2010), WIPO. See in particular Part II, Chapter 2 'Orphan Works' pp.34–37. Available at: <http://www.wipo.int/export/sites/www/tk/en/publications/1023.pdf>

**World Intellectual Property Organization** (WIPO). *Intellectual Property Handbook: Policy, Law and Use* (2004), 2nd ed. WIPO, Geneva, 262.

**WIPO**, 'Theme V: Making Orphan Works Available: a Licensing Solution?', a session at the forum *Facilitating Access to Culture in the Digital Age - WIPO Global Meeting on Emerging Copyright Licensing Modalities* (5 November 2010). WIPO, Geneva. [http://www.wipo.int/meetings/en/2010/wipo\\_cr\\_lic\\_ge\\_10/program.html](http://www.wipo.int/meetings/en/2010/wipo_cr_lic_ge_10/program.html) [includes audiovisual keynote from Prof Larry Lessig at: [http://www.wipo.int/multimedia/en/meetings/wipo\\_cr\\_lic\\_ge\\_10/wipo\\_cr\\_lic\\_ge\\_10\\_lessig.swf](http://www.wipo.int/multimedia/en/meetings/wipo_cr_lic_ge_10/wipo_cr_lic_ge_10_lessig.swf); and audio of session discussions, PPT from Magdalena Vinent, President, International Federation of Reproduction Rights Organizations (IFFRO) at: [http://www.wipo.int/edocs/mdocs/copyright/en/wipo\\_cr\\_lic\\_ge\\_10/wipo\\_cr\\_lic\\_ge\\_10\\_ref31\\_vinent.ppt](http://www.wipo.int/edocs/mdocs/copyright/en/wipo_cr_lic_ge_10/wipo_cr_lic_ge_10_ref31_vinent.ppt) ]

2009

**Australia/NZ**

**Australian Digital Alliance, Australian Libraries Copyright Committee**, *Joint submission of the ADA and ALCC to the Government 2.0 Taskforce regarding the 'Engage: Getting on with Government 2.0' Draft Report* (December 2009). Available at:

<http://digital.org.au/submission/documents/20091216ADAandALCC-Gov2.0Submission.pdf>.

**Copyright Agency Ltd**, "Getting Permission to Copy" (March 2009). Website FAQ. Available at: [http://www.copyright.com.au/assets/documents/Permission to copy.pdf](http://www.copyright.com.au/assets/documents/Permission%20to%20copy.pdf)

**Crisp**, Philip. *IP Practice Policy and Reform - Issues for Universities* (2009). Australian Government Solicitor. See 'Digitisation and the problem of 'orphan works'' at p. 23. Available at:

[http://www.ags.gov.au/publications/agspubs/papers/Philip\\_Crisp\\_IP\\_Practice\\_Policy\\_and\\_Reform-Issues\\_for\\_Universities\\_Sept09.pdf](http://www.ags.gov.au/publications/agspubs/papers/Philip_Crisp_IP_Practice_Policy_and_Reform-Issues_for_Universities_Sept09.pdf)

**Fitzgerald**, Anne and **Pappalardo**, Kylie.. *Report to the Government 2.0 Taskforce: Project 4: Copyright Law and Intellectual Property* (2009). Accessible via:

<http://gov2.net.au/projects/project-4/> or at: <http://gov2.net.au/files/2009/12/Project-4-Final-Report.doc>

**Fitzgerald**, Anne. 'Open access policies, practices and licensing : a review of the literature in Australia and selected jurisdictions' (2009) School of Law, Queensland University of Technology, Brisbane. Covers Government Information Licensing Framework (GILF) project. Available at: <http://eprints.qut.edu.au/28026/>

\***Greenleaf**, Graham. 'National and International Dimensions of Copyright's Public Domain (An Australian Case Study)' *SCRIPTed* 6 no.2 (2009): 259–360 [Unlocking IP 2009 special edition]. Available at: <http://www.law.ed.ac.uk/ahrc/script-ed/vol6-2/greenleaf.asp>

\***McCausland**, Sally. 'Getting public broadcaster archives online: Orphan works and other copyright challenges of clearing old (but in copyright) cultural material for digital use.' (2009) 14 *Media Arts Law Review* 2 p. 140. Available on LexisNexis or at SSRN:

<http://ssrn.com/abstract=1408346>

**McDermott**, Eileen. 'The changing face of copyright', *Managing Intellectual Property* No. 188, (April 2009), pp. 60–74.

**National Archives of Australia**, *Submission to Towards Government 2.0: An Issues Paper* (23 July 2009) . Available from: <http://gov2.net.au/submissions/> and at:

<http://gov2.net.au/files/2009/09/National-Archives-of-Australia-Submission.DOC>

\***Rimmer**, Matthew. 'Wikipedia, Collective Authorship, and the Politics of Knowledge, in Christopher Arup & William Van Caenegem.' *Intellectual Property Reforms: Fostering Innovation and Development*, Edward Elgar, 2009. Abstract at SSRN:

<http://ssrn.com/abstract=1353606>

**Rimmer**, Matthew. "Discussant on Copyright Law and Orphan Works", Copyright Future, Copyright Freedom, Old Parliament House, Canberra, 27-28 May 2009.

\***Simes**, Laura. 'The flexible dealing provision for Australia's cultural and educational institutions' (2009). Paper for Unlocking IP 2009 conference at UNSW Law Faculty, April 2009.

Available at: [http://www.cyberlawcentre.org/unlocking-ip/2009/materials/Papers/4A\\_LSimes.pdf](http://www.cyberlawcentre.org/unlocking-ip/2009/materials/Papers/4A_LSimes.pdf). This paper is broadly based on A User's Guide, below.

\***Simes**, Laura. *A User's Guide to the Flexible Dealing Provision for Libraries, Educational Institutions and Cultural Institutions: Section 200AB of the Copyright Act 1968 (Cth)* (2009), Australian Libraries Copyright Committee and the Australian Digital Alliance with the assistance of the National Library of Australia, Kingston ACT. Available at ADA: <http://www.digital.org.au/documents/FlexibleDealingHandbookfinal.pdf>.

**Sterling**, Adrian. 'Australia and the Future of Copyright: proposals for new approaches', Copyright Society of Australia seminar (3 June 2009). Available at: <http://www.copyright.asn.au/events/f09n03paper.pdf>, seminar info at: <http://www.copyright.asn.au/events/f09n02.htm>.

**Sterling**, Adrian. 'The Future Of Copyright: Approaches For The New Era', An address to the British Literary and Artistic Copyright Association, London (12 March 2009). Available at: <http://www.blaca.org/BLACA%20Future%20of%20copyright%20120309.doc>

**Warren**, Margaret (State Library of Queensland). 'Getting the orphans out of the orphanage: risk management and orphan works at the State Library of Queensland' (20 January 2009), paper for Information Online 2009 conference, ALIA. Available at: [http://www.information-online.com.au/sb\\_clients/iog/data/content\\_item\\_files/000001/PresentationC3.pdf](http://www.information-online.com.au/sb_clients/iog/data/content_item_files/000001/PresentationC3.pdf)

**Williams**, Mark. 'Copyright and the pseudonymous or anonymous author : the right to remain other' *Copyright Reporter* 27 (3) (October 2009), Australian Copyright Council, pp. 63–81.

**Wilson**, Jennifer. 'The digital deadlock: How clearance and copyright issues are keeping Australian content offline' (August 2009) white paper commissioned by Screenrights and the AFTRS Centre or Screen Business. Available at: <http://csb.aftrs.edu.au/download.cfm?DownloadFile=5F65D805-145E-3FE8-82D247C9F3104539>

## UK

**Lawson**, Euan. 'Orphan works and transformative works: the UK government responds to the European Commission's green paper Copyright in the Knowledge Economy', *Copyright World* No. 191, (June 2009) pp. 15–16. Also in *Entertainment Law Review*, Volume 20, Issue 2, (2009) p.61. Available via WestLaw International.

**Libraries and Archives Copyright Alliance**. *Response by LACA: the Libraries and Archives Copyright Alliance* (2009). Response to UK-IPO paper *@ the Future*. Available at: <http://www.ipo.gov.uk/responses-copyissues-laca.pdf>

Korn, Naomi/**Collections Trust and Strategic Content Alliance** (JISC, British Library, BBC, National Health Service, Becta, and Museums, Libraries and Archives Council). *In from the Cold: An assessment of the scope of 'Orphan Works' and its impact on the delivery of services to the public* (April 2009), report on research project, JISC UK. Available at: <http://www.jisc.ac.uk/publications/reports/2009/infromthecold.aspx> and <http://www.jisc.ac.uk/media/documents/publications/infromthecoldv1.pdf>. See also presentation at: [http://www.jisc.ac.uk/media/documents/events/2009/06/sarah\\_fahmy\\_2b.pdf](http://www.jisc.ac.uk/media/documents/events/2009/06/sarah_fahmy_2b.pdf) and Korn 2010. **US**

**Bibb**, Megan. 'Applying old theories to new problems: how adverse possession can help solve the orphan works crisis', *Vanderbilt Journal of Entertainment and Technology Law*, Volume 12, Number 1, (Fall 2009) p.149.

\***Ginsburg**, Jane C. 'Contracts, Orphan Works, and Copyright Norms: What Role for Berne and TRIPs?' (2009). *Columbia Public Law Research Paper* No. 09-200. Available at SSRN: <http://ssrn.com/abstract=1357503>

**Hirtle**, Peter B. Chapter 3, "Duration and Ownership of Copyright," in *Copyright and Cultural Institutions: Guidelines for Digitization for U.S. Libraries, Archives, and Museums*, by Peter B. Hirtle, Emily Hudson, and Andrew T. Kenyon (Ithaca, NY: Cornell University Library, 2009) available for purchase at: <http://bookstore.library.cornell.edu/>, and free download at: <http://ecommons.cornell.edu/handle/1813/14142>

**Peters**, Marybeth (the Register of Copyrights). 'The "Orphan Works" Problem and Proposed Legislation', Statement of The Register of Copyrights before the Subcommittee on Courts, the Internet, and Intellectual Property, Committee on the Judiciary, United States House of Representatives, 110th Congress, 2nd Session, March 13, 2008. Available at: <http://www.copyright.gov/docs/regstat031308.html>

**Tune**, Cydney. 'Legal issues for photography', *Copyright World* No. 193, September 2009, pp. 15-17.

### **Google Books**

**Andrews**, Ryan. 'Contracting Out of the Orphan Works Problem: How the Google Book Search Settlement Serves as a Private Solution to the Orphan Works Problem and Why it Should Matter to Policy Makers', *Southern California Interdisciplinary Law Journal*, Volume 19, Number 1, (Fall 2009) p.97.

Society of American Archivists, "Orphan Works: Statement of Best Practices", Jan 12 2009, rev (17 June 2009). Available at: <http://www.archivists.org/standards/OWBP-V4.pdf>

\***Barton T**, 'Saving Texts From Oblivion: Oxford U. Press on the Google Book Settlement', *The Chronicle of Higher Education*, (29 June 2009). Available at:

<http://chronicle.com/article/Saving-Texts-From-Oblivion-/46966/> **Copyright Agency Ltd** (CAL). 'Google book settlement', web document directory (2009). (Documents below linked from here.) Available at: [http://www.copyright.com.au/Latest\\_News/Google\\_book\\_settlement\\_1.aspx](http://www.copyright.com.au/Latest_News/Google_book_settlement_1.aspx)

**Copyright Agency Ltd** (CAL). *CAL e-alert* (14 December 2009). Available at: <http://www.copyright.com.au/ViewNewsletter.ashx?id=19>

**Copyright Agency Ltd** (CAL). 'Guide to Google book settlement' (May 2009). Available at: <http://www.copyright.com.au/assets/documents/Google%20Settlement%20Guide%20-%20May%20update.pdf>

**Copyright Agency Ltd** (CAL). 'Overview of the Google Settlement', presentation (May 2009). Available at: <http://www.copyright.com.au/assets/documents/Overview%20of%20the%20Google%20Settlement%20-%205.09.pdf>

**Copyright Agency Ltd** (CAL). 'Major changes to Google Book Settlement will affect Australian rightsholders', media release (undated, 2009?). Available at: [http://www.copyright.com.au/Latest\\_News/Major\\_changes\\_to\\_Google\\_Book\\_Settlement\\_will\\_affect.aspx](http://www.copyright.com.au/Latest_News/Major_changes_to_Google_Book_Settlement_will_affect.aspx)

**Elinson**, Z. "Fate of Orphan Works Stirs Opposition to proposed Google Books Settlement" *New York Law Journal* (2009). Available via Legaltrac.

**Fraser**, E. “Antitrust and the Google Books Settlement: the Problem of Simultaneity” (draft paper, 23 June 2009) pp. 1–26, at 8. Available at: <http://ssrn.com/abstract=1417722>

**Grimmelmann**, James. ‘The Google Book Search Settlement: Ends, Means, and the Future of Books’ (April 17, 2009). *ACS Issue Brief; NYLS Legal Studies Research Paper No. 08/09 #32*. Available at SSRN: <http://ssrn.com/abstract=1388846>

**Hausman**, Jerry, and **Sidak**, Gregory. ‘Google and the Proper Antitrust Scrutiny of Orphan Books’ *Journal of Competition Law and Economics* 5 no.3 (2009) 411-438. Available at SSRN: <http://ssrn.com/abstract=1486560>

**Hirtle**, Peter. ‘Google Book Settlement, Orphan Works and Foreign Works’, LibraryLaw Blog, 21 April 2009. Available at: <http://blog.librarylaw.com/librarylaw/2009/04/google-book-settlement-orphan-works-and-foreign-works.html>

**International Federation of Reproduction Rights Organisations (IFRRO)**. ‘Google Book Settlement - Rights and Consequences’, briefing note (undated, 2009?). Available at: <http://www.copyright.com.au/assets/documents/Google%20rights%20and%20consequences.pdf>

\***Lang**, Bernard. ‘Orphan Works and the Google Book Search Settlement – an International Perspective’ (23 August 2009); published in *New York Law School Law Review* Vol. 55 (2010/11), pp. 111–155. Available at: <http://pauillac.inria.fr/~lang/ecrits/liste/orphan-gbs.pdf>.

**Lang**, Bernard. ‘Copyright's New Clothes — after H. C. Andersen — ... or is it Old Clothes?’, presentation for panel: ‘How to best recognize Orphan Status’, European Commission, Public Hearing on Orphan Works, Brussels (26 October 2009). Available at: [http://ec.europa.eu/internal\\_market/copyright/docs/copyright-info/orphanworks/Lang\\_en.pdf](http://ec.europa.eu/internal_market/copyright/docs/copyright-info/orphanworks/Lang_en.pdf)

**Lemley**, Mark A. ‘An Antitrust Assessment of the Google Book Search Settlement’ (July 8, 2009). Available at SSRN: <http://ssrn.com/abstract=1431555>

\***McCausland**, Sally. ‘Googling the archives – ideas from the Google Books Settlement on solving the orphan works problem in digital archive projects’, Unlocking IP Conference, *National and Global Dimensions of the Public Domain*, University of New South Wales, 17 April 2009, also in 6 no.2 (2009) *SCRIPTed* 377 - 389. Available at: [http://www.cyberlawcentre.org/unlocking-ip/2009/materials/Papers/7A\\_SMcCausland.pdf](http://www.cyberlawcentre.org/unlocking-ip/2009/materials/Papers/7A_SMcCausland.pdf)

**Picker**, Randal C. ‘Assessing Competition Issues in the Amended Google Book Search Settlement’ *U of Chicago Law & Economics* (2009), *Olin Working Paper* No. 499. Available at SSRN: <http://ssrn.com/abstract=1507172>

**Picker**, Randal C. ‘The Google Book Search Settlement: A New Orphan-Works Monopoly?’. *Journal of Competition Law and Economics* 5 no. 3 (2009): 383-409. Available at SSRN: <http://ssrn.com/abstract=1486559> or <http://jcle.oxfordjournals.org/content/5/3/383.full>

**Samuelson**, Pamela. ‘Legally Speaking: The Dead Souls of the Google Book search Settlement’ *Communications of the ACM* 52 (2009); *UC Berkeley Public Law Research Paper* No. 1387782. Available at SSRN: <http://ssrn.com/abstract=1387782>

**Samuelson**, Pamela, The Google Book Settlement as Copyright Reform. *Wisconsin Law Review*, Forthcoming; *UC Berkeley Public Law Research Paper* No. 1683589. Available at SSRN: <http://ssrn.com/abstract=1683589>

**Singel**, Ryan. *The Fight over the Google of All Libraries: A Wired.com FAQ*, Wired.com, (30 April 2009). Available at: <http://www.wired.com/epicenter/2009/04/the-fight-over-the-worlds-greatest-library-the-wiredcom-faq/>

**Slater**, Derek. 'Google Book Search settlement and access to out of print books' (2 June 2009), Google public policy blog. At: <http://googlepublicpolicy.blogspot.com/2009/06/google-book-search-settlement-and.html>

**US Copyright Office**. 'Search Copyright Information: Works registered and documents recorded by the U.S. Copyright Office since January 1, 1978' (2010). Available at: <http://www.copyright.gov/records/>.

## **EU**

**Ringnald**, Allard. 'National and International Dimensions of Copyright Law in the Internet Age Harmonizing exemptions: The Case of Orphan Works', *European Review of Private Law*, Volume 17, Number 5, (2009) pp. 895–923. Available via Kluwer Online.

**van Eechoud**, Mireille, et al. 'Orphan Works', Ch 7 in *Harmonizing European Copyright Law: The Challenges of Better Lawmaking* (2009), Kluwer Law International, Netherlands.

**Reding**, Viviane (EU Commissioner for Telecoms and Media). *Digital Europe – Europe's Fast Track to Economic Recovery* (9 July 2009) The Ludwig Erhard Lecture, Lisbon Council, Brussels. Available at: <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/09/336>

## **Canada**

**De Beer**, Jeremy, and **Bouchard** Mario. 'Canada's "Orphan Works" Regime: Unlocatable Copyright Owners and the Copyright Board' (1 December 2009). Copyright Board and Department of Canadian Heritage. Available at: <http://www.cb-cda.gc.ca/about-apropos/2010-11-19-newstudy.pdf>

## **Other**

**Crookson**, Michael. 'Image Recognition Technology and Orphan Works Solutions', *Landslide* (American Bar Association), Volume 1, Number 6, (July/August 2009 ) p.50.

**Wilson**, Amanda N. 'Jet-Setting Orphan Works: The Transnational Making Available of Works of Unknown Authorship, Anonymous Works, or Lost Authors', *Emory International Law Review*, Volume 23, Number 2, (2009) p.783. Available at: <http://www.law.emory.edu/fileadmin/journals/eilr/23/23.2/Wilson.pdf>

**Xalabarder**, Raquel, for WIPO. 'Voluntary Individual Licensing' in *Study On Copyright Limitations And Exceptions For Educational Activities In North America, Europe, Caucasus, Central Asia And Israel* (5 November 2009), SCCR/19/8, WIPO Standing Committee On Copyright And Related Rights, Geneva, pp. 126-127. Available at: [http://www.wipo.int/edocs/mdocs/copyright/en/sccr\\_19/sccr\\_19\\_8.pdf](http://www.wipo.int/edocs/mdocs/copyright/en/sccr_19/sccr_19_8.pdf)

## **2008**

### **Australia/NZ**

[ ] **Australian Copyright Council**. *Orphan Works* (18 December 2008). Available at: [http://www.copyright.org.au/admin/cms-acc1/\\_images/4754894014d0014914d3ab.pdf](http://www.copyright.org.au/admin/cms-acc1/_images/4754894014d0014914d3ab.pdf)

**Australian Copyright Council.** *Copyright permissions & clearances* (August 2008) formerly Information sheet G103 v01, see pp. 2-3. ToC of book version available at: <http://www.copyright.org.au/pdf/tocbooks/B132v01TOC.pdf> [

\***Australian Copyright Council**, *Orphan Works - Proposed Changes in the US & Issues for Australia* (December 2008). Information Sheet G101 v03. Available at: [http://www.copyright.org.au/admin/cms-acc1/\\_images/4754894014d0014914d3ab.pdf](http://www.copyright.org.au/admin/cms-acc1/_images/4754894014d0014914d3ab.pdf)

**Berryman**, Jennifer and **van de Velde**, Janice. 'Information Access Plan: Rights Management Discussion Paper', Paper 13 for National & State Libraries Australasia, *Re-imagining Discovery Services* workshop, State Library of Victoria, 4 February 2008. Available at: <http://www.nsla.org.au/publications/papers/2008/pdf/NSLA.Discussion-Paper-20080204-Re.imagining.Discovery.Services.Workshop.Handbook.pdf>

**Black**, Hilary May, and **Salte**, Brent. 'When copyright and chutzpah collide: The Google Library project and fair use', (2008) 13 *MALR* 186. Available via LexisNexisAU.

**Cutler**, Terry. *Venturous Australia - building strength in innovation*, Report on the Review of the National Innovation System (2008). See Chapter 7 in particular, esp. recommendations about improving access to cultural collections, esp. Recommendation 7.14, p. 171. Available at: <http://www.innovation.gov.au/Innovation/Policy/Documents/NISReport.pdf>. See also Review web page, including related work, at: <http://www.innovation.gov.au/Innovation/Policy/Pages/ReviewoftheNationalInnovationSystem.aspx>

\***Greenleaf** Graham. 'Unlocking IP to stimulate Australian innovation – An Issues Paper' *UNSW Faculty of Law Research Series* Paper No. 2008-44 (2008); [2008] *UNSWLRS* 44. A submission to the Review of the National Innovation System chaired by Dr Terry Cutler. Available at SSRN: <http://ssrn.com/abstract=1398604> or <http://www.austlii.edu.au/au/journals/UNSWLRS/2008/44.html>

**Hunter**, Alix, and **MacNeill**, Kate. 'Art on the outside: Thoughts on legal aspects of institutionalised art production', (2008) 13 *MALR* 468. Available via LexisNexis AU.

**Illustrators Australia.** 'US Orphan Works Bill' (2008), referring to submissions by Illustrators Partnership of America to US Congress. No longer online.

'**Information Policy**', Chapter 7, *National Innovation System review report (2008)*.

**Woods**, Stephanie. 'Creative commons : a useful development in the New Zealand copyright sphere?'. *Canterbury Law Review* (14) 2008: 31-63. Available via AGIS Plus Text.

## UK

**British Copyright Council.** Annex: *Orphan works and other orphan material: the BCC proposal* (28 November 2008). Available at: [http://www.britishcopyright.org/pdfs/policy/2009\\_014.pdf](http://www.britishcopyright.org/pdfs/policy/2009_014.pdf)

**British Screen Advisory Council** (BSAC), submission to the New Inquiry by the All Party Intellectual Property Group: *Has Gowers Helped or Hindered Enforcement of IP Rights?* (September 2008). Available at [http://www.bsac.uk.com/files/response\\_papers/BSAC\\_Response\\_to\\_All\\_Party\\_IP\\_Group\\_Inquiry\\_Sept\\_08.pdf](http://www.bsac.uk.com/files/response_papers/BSAC_Response_to_All_Party_IP_Group_Inquiry_Sept_08.pdf)

**British Screen Advisory Council**, *Implementing the Gowers Review of Intellectual Property: Additional Paper from BSAC* (2008). Available at: [http://www.bsac.uk.com/files/event\\_papers/Orphan\\_works\\_additional\\_paper\\_from\\_BSAC.pdf](http://www.bsac.uk.com/files/event_papers/Orphan_works_additional_paper_from_BSAC.pdf)



\***Sterling**, Adrian. 'Orphan works and other orphan material: *Amendments to U.K. Copyright, Designs and Patents Act 1988 -- The "legitimated use" system*' (21 November 2008). Paper circulated at *8th IBC Annual International Copyright Law Conference*, London, 4/5 December 2008; proposal adopted by the British Copyright Council and included in the Council's Response to the EC Green Paper on *Copyright in the Knowledge Economy*, and submitted by the Council to the UK Intellectual Property Office. Available at: [http://www.qmipri.org/documents/Sterling\\_OrphanWorks.pdf](http://www.qmipri.org/documents/Sterling_OrphanWorks.pdf)

**Sterling** J.A.L. *World Copyright Law* 3rd edition (2008), esp. paras 12.32–12.37.

## US

**American Society of Media Photographers**. *FAQ: ASMP's Position on Orphan Works* (2008). Available at: <http://asmp.org/articles/frequently-asked-questions-about-asmps-position-orphan-works.html> and <http://asmp.org/articles/orphan-works.html>.

**American Photographic Professionals**, *APA Position on the Orphan Works Act of 2008* (2008). Available at: [http://www.apanational.com/files/public/APA\\_on\\_Orphan\\_Works\\_Act\\_2008.pdf](http://www.apanational.com/files/public/APA_on_Orphan_Works_Act_2008.pdf)

**Bollier** D. *Viral Spiral: How the Commoners Built a Digital Republic of Their Own* (2008), The New Press, New York. Available at <http://www.viralspiral.cc/download-book>

**Bronder**, Vigdis. 'Saving the Right Orphans: The Special Case of Unpublished Orphan Works', *Columbia Journal of Law & the Arts*, Volume 31, Number 3, (Spring 2008) p.409.

\***Ginsburg**, Jane C. 'Recent Developments in US Copyright Law: Part I - 'Orphan' Works.' *Revue Internationale du Droit d'Auteur* (2008); *Columbia Public Law Research Paper* No. 08-183. Available at SSRN: <http://ssrn.com/abstract=1263361>

**Heller** M, *The Gridlock Economy – How Too Much Ownership Wrecks Markets, Stops Innovation, and Cost Lives* (2008) Basic Books, New York.

**Henning**, Darrin. 'Copyright's *Deus Ex Machina*: Economic Fostering of Orphan Works through Reverse Registration', 55 *J. Copyright Soc'y U.S.A.* 201 (2008). Available at: <http://copywrite.files.wordpress.com/2008/05/finalhenningcpy206.pdf>

**Lang**, Daryl. 'Photo advocates divided over orphan works' (2 May 2008), *Photo District News* website. Available at <http://www.pdnonline.com/> or [http://www.pdnonline.com/pdn/eseach/article\\_display.jsp?vnu\\_content\\_id=1003801084](http://www.pdnonline.com/pdn/eseach/article_display.jsp?vnu_content_id=1003801084)

**Lipinski**, T.A. 'Green Light for Grey Literature? Orphan Works, Web-Archiving and other Digitization Initiatives – Recent Developments in U.S. Copyright Law and Policy'. In: *Tenth International Conference on Grey Literature: Designing the Grey Grid for Information Society* (2008) Conference Proceedings. Available at: <http://opensigle.inist.fr/handle/10068/698001> or [http://www.greynet.org/images/GL10,\\_page\\_67.pdf](http://www.greynet.org/images/GL10,_page_67.pdf)

**Pike**, George H. 'Orphan Works Proposals Moving Quickly Through Congress' *Information Today* 25 no. 7 (2008). Available at SSRN: <http://ssrn.com/abstract=1640120>

**Pike**, George H., 'Copyright Back on Congressional Agenda'. *Information Today*, Vol. 25, No. 2, p. 1, 2008 ; U. of Pittsburgh Legal Studies Research Paper Series. Available at SSRN: <http://ssrn.com/abstract=1408227>

**Pike**, George H., 'Progress Continues on Patent Reform and Pro IP' (May 1, 2008). *Information Today*, Vol. 25, No. 5, p. 17, May 2008. Available at SSRN: <http://ssrn.com/abstract=1640182>

**Rangnath**, Rashmi. 'Publishers and PicScout make our case for orphan works', (14 March 2008), Public Knowledge policy blog entry. Available at: <http://www.publicknowledge.org/node/1455> [image recognition as a solution?]

**Stock Artists Alliance**, 'Orphan Works 2008: Commentary and Updates', web blog (2008). Available at: <http://www.stockartistsalliance.org/orphan-works>

**US Library of Congress**. *International Study on the Impact of Copyright Law on Digital Preservation* (July 2008), A joint report of The Library of Congress National Digital Information Infrastructure and Preservation Program. Available at: [http://www.digitalpreservation.gov/library/resources/pubs/docs/digital\\_preservation\\_final\\_report2008.pdf](http://www.digitalpreservation.gov/library/resources/pubs/docs/digital_preservation_final_report2008.pdf).

## EU

**European Commission High Level Expert Group – Copyright Subgroup**. 'Final Report on Digital Preservation Orphan Works and Out-of-Print Works (Jun 4, 2008). Available at: [http://eu.europa.eu/information\\_society/activities/digital\\_libraries/doc/hleg/reports/copyright/copyright\\_subgroup\\_final\\_report\\_26508-clean171.pdf](http://eu.europa.eu/information_society/activities/digital_libraries/doc/hleg/reports/copyright/copyright_subgroup_final_report_26508-clean171.pdf).

**Jakobsen**, Søren Sandfeld, **Nielsen**, Ruth, **Riis**, Thomas, **Savin**, Andrej and **Østergaard**, Kim. *Comments on the Commission's Green Paper on Copyright in the Knowledge Economy* (December 1, 2008). Available at SSRN: <http://ssrn.com/abstract=1310196>

## Other

**OCLC Online Computer Library Center**. *WorldCat Copyright Evidence Registry* (2008). Pilot. Available at: <http://www.worldcat.org/copyrightevidence> and <http://www.oclc.org/au/en/productworks/cer.htm>

## 2007

### Australia/NZ

**Australian Copyright Council**. 'Information Sheet G096 *Copyright Amendment Act 2006*' (January 2007). Available at: [www.copyright.org.au/admin/cms-acc1/\\_images/12563024654cfc323754598.pdf](http://www.copyright.org.au/admin/cms-acc1/_images/12563024654cfc323754598.pdf)

**Atkinson** Ben. *The True History of Copyright: The Australian Experience 1905–2005*, (2007) Sydney University Press.

**Christie**, Andrew. 'Cultural Institutions, Digitisation and Copyright Reform' [2007] *UMelbLRS* 13; Intellectual Property Research Institute of Australia Working Paper No. 09.07 or (2007) 12 *MALR* 279. Available at: <http://www.austlii.edu.au/au/journals/UMelbLRS/2007/13.html> or <http://www.ipria.org/publications/wp/2007/IPRIAWP09.2007.pdf>, or from LexisNexisAU.

**Dakin**, Helen (Senior Legal Officer, Australian Copyright Council). 'Some Current Copyright Issues' (Dec 2007) 28 *Incite* 12 pp. 27–28. Available via AGIS+.

**Greenleaf**, Graham, **Maurushat**, Alana, **Vaile**, David, **Bond**, Catherine and **Paramaguru**, Abi. 'Not a Fair Trade: Australia's TPM Protection and AUSFTA-Inspired Reforms' (2007). *UNSW Law Research Paper* No. 2007-19. Available at SSRN: <http://ssrn.com/abstract=977118>

\***Hudson**, Emily; **Kenyon**, Andrew T. 'Without Walls - Copyright Law and Digital Collections in Australian Cultural Institutions' (2007) *UMelbLRS* 6. Available at: <http://www.austlii.edu.au/au/journals/UMelbLRS/2007/6.html> and as *SCRIPT-ed*, Vol. 4, No.

2, 2007, *U of Melbourne Legal Studies Research Paper No. 240*, available via SSRN: <http://ssrn.com/abstract=1007391>.

**Hudson**, Emily and **Kenyon**, Andrew. 'Digital Access: The Impact of Copyright on Digitisation Practices in Australian Museums, Galleries, Libraries and Archives'. *U of Melbourne Legal Studies Research Paper No. 300*; *UNSWLJ* 30 No.1 (2007), 12–52. Available at SSRN: <http://ssrn.com/abstract=1065622> or <http://www.austlii.edu.au/au/journals/UNSWLawJl/2007/2.pdf> or <http://www.austlii.edu.au/au/journals/UNSWLawJl/2007/2.html>

**Paramaguru**, Abi. 'Save the Orphans!', *House of Commons* blog post (12 February 2007), 'Unlocking IP' project, Cyberspace Law and Policy Centre, UNSW. Available at: <http://www.cyberlawcentre.org/unlocking-ip/blog/2007/02/save-orphans.html>

**Rimmer**, **Matthew**. 'The iPod Act: changes to Australia's copyright laws, 01 March 2007', *Australian Intellectual Property News*, (2007) Issue 255, 1 March 2007. Available via CCH Intelliconnect.

**Weatherall**, Kimberlee and **Brennan**, David J. 'Has copyright protection gone too far?', *Managing Intellectual Property* No. 174, (November 2007) pp. 74–76. Available via Hein Online.

## UK

**White**, Benjamin. 'No idea is an island: rights clearance of sound recordings by the British Library', *Copyright World* No. 167, (February 2007) pp. 24–26.

**Phillips**, Jeremy. 'Killing the orphans', *Journal of Intellectual Property Law and Practice*. Vol. 2 No. 10 (October 2007), editorial, pp. 633-634. Available at: <http://jiplp.oxfordjournals.org/content/2/10/633.full>

## US

[**Brannon**, P, 'Reforming Copyright to Foster Innovation: Providing Access to Orphaned Works' 14 *Journal of Intellectual Property Law* 145 (2006–2007).

**Hetcher**, Steven. 'Orphan Works and Google's Global Library Project', *Wake Forest Intellectual Property Law Journal*, Volume 8, Number 1, (Winter 2007) p.1. Available at: <http://ipjournal.law.wfu.edu/documents/article.8.1.pdf>

**Hickman**, Benjamin. 'Can you find a home for this 'orphan' copyright work?: a statutory solution for copyright-protected works whose owners cannot be located', *Intellectual Property Law Review* Vol. 39, (2007) pp. 639-672. *Syracuse Law Review*, Vol. 57, (2006) pp. 123-156.

**Khong**, Dennis. 'Orphan Works, Abandonware and the Missing Market for Copyrighted Goods', (2007) *International Journal of Law and Information Technology*, Vol. 15, No. 1, pp. 54-89, 2007. Available at SSRN: <http://ssrn.com/abstract=1544558>

**Lessig**, Lawrence. 'Copyright Policy: Orphan Works Reform' (1 February 2007), 'Lessig 2.0' blog post. Available at: [http://www.lessig.org/blog/2007/02/copyright\\_policy\\_orphan\\_works.html](http://www.lessig.org/blog/2007/02/copyright_policy_orphan_works.html).

**Lessig**, Lawrence. 'Against the current "Orphan works proposals"' (February 2007), 35 minute presentation. Available at: [http://www.lessig.org/blog/archives/Against\\_Web.mov](http://www.lessig.org/blog/archives/Against_Web.mov).

**Lessig**, Lawrence. 'An Orphan Works Maintenance Requirement' (February 2007), summary of proposed scheme. Available at: <http://www.lessig.org/blog/archives/OWMR.pdf>

[**Mausner, J.O.**, 'Copyright Orphan Works: A Multi-Pronged Solution to Solve a Harmful Market Inefficiency' (2007) 12 *Journal of Technology Law & Policy* 395. Available at: <http://jtlp.org/wp-content/uploads/2010/02/December2007t.pdf>

**Pike**, George H., 'An Update on Orphan Works', *Information Today*, Vol. 24, No. 7, p. 1, 2007; *U. of Pittsburgh Legal Studies Research Paper Series*. Available at SSRN: <http://ssrn.com/abstract=1408209> (University of Pittsburgh - School of Law)

**Schwartz**, E.J and **Williams**, M, 'Access to Orphan Works: Copyright Law, Preservation and Politics' *Cinema Journal* (2007) Vol. 46, No. 2.

**Sherman**, David. 'Cost and Resource Allocation Under the *Orphan Works Act of 2006*', *Virginia Journal of Law & Technology*, Volume 12, Issue 2, (Spring 2007). Available at: [http://www.vjolt.net/vol12/issue2/v12i2\\_a2-Sherman.pdf](http://www.vjolt.net/vol12/issue2/v12i2_a2-Sherman.pdf)

**Sleep**, Tony. Comment on Lessig blog, (25 February 2007). Available at: xx.

**Teng**, Simon. 'The orphan works dilemma and museums: an uncomfortable straitjacket', *Journal of Intellectual Property Law and Practice* Vol. 2 No. 1, (January 2007) pp. 30-39. Available via OUP Journals Current.

**Tushnet**, Rebecca, 'Naming Rights: Attribution and Law' *Utah Law Review*, Vol. 2007, No. 3, pp. 781-814, 2007; *Georgetown Public Law Research Paper* No. 1034341. Available at SSRN: <http://ssrn.com/abstract=1034341>

**Valkonen**, Sami, and **White**, Lawrence J. 'An Economic Model For The Incentive/Access Paradigm Of Copyright Propertization: An Argument In Support Of The Orphan Works Act', *Hastings Communications and Entertainment Law Journal* Volume 29, Number 3, (Spring 2007) p.359.

**Williams**, M. "Recent Second Circuit Opinions Indicate that Google's Library Project is Not Transformative" (2007) 25 *Cardozo Arts & Entertainment Law Journal*, 303- 331.

## **EU**

[See also *Reports* section.]

**Gompel**, Stef van. 'Unlocking the potential of pre-existing content: how to address the issue of orphan works in Europe?', *IIC: International Review of Intellectual Property and Competition Law* Vol. 38 No. 6, (2007) pp. 669702.

**Gompel**, Stef van. *Audiovisual Archives and the Inability to Clear Rights in Orphan Works*, IRIS plus, (2007). Available at: [http://www.obs.coe.int/oea\\_publ/iris/iris\\_plus/iplus4\\_2007.pdf](http://www.obs.coe.int/oea_publ/iris/iris_plus/iplus4_2007.pdf)

## **Other**

**Bezos**, Salvador M., *International Approaches to the Orphan Works Problem* (May 27, 2007). Available at SSRN: <http://ssrn.com/abstract=989213>

## **2006**

### **Australia/NZ**

**Australian Copyright Council**. "Information Sheet G51, Owners of Copyright: How to Find" (July 2006). Available at: [http://www.copyright.org.au/admin/cms-acc1/\\_images/5153494894c8dbfefbe32b.pdf](http://www.copyright.org.au/admin/cms-acc1/_images/5153494894c8dbfefbe32b.pdf)

**Australian Copyright Council.** ‘Response to government proposals for new exceptions in media release ‘Major copyright reforms strike balance’’ (May 2006). Available at: [http://www.copyright.org.au/admin/cms-acc1/\\_images/7537365424c97fbfbe34fd.pdf](http://www.copyright.org.au/admin/cms-acc1/_images/7537365424c97fbfbe34fd.pdf)

**Australian Digital Alliance (ADA).** ‘Orphaned Works On the Agenda’, *ADA Monthly Intellectual Property Wrap-Up* (January/February 2006). Available at: <http://www.digital.org.au/issue/ipwJanFeb06.htm>

**Daniels, Helen** (Assistant Secretary, Copyright Law Branch, Attorney-General's Department). ‘An Overview of the Government's Copyright Reform Agenda’, presentation at ACIPA's 11th Annual Copyright Conference (17 February 2006).

**Fitzgerald, Brian,** ‘Conceptualising a Right to Share/Access Knowledge’ [2006] *AIPLRes* 1. (presentation). Available at: <http://www.austlii.edu.au/au/other/AIPLRes/2006/15.pdf>

**Fitzgerald, Brian F., Fitzgerald, Anne M., Perry, Mark, Kiel-Chisholm, Scott D., Driscoll, Erin P., Thampapillai, Dilan, and Coates, Jessica M.** *Open Access to Knowledge (OAK) Law Project Report No. 1: Creating a legal framework for copyright management of open access within the Australian academic and research sector* (2006). QUT Faculty of Law, OAK Law Project, Brisbane, Qld. See para 2.119–2.123, pp.50–51. Available at: <http://eprints.qut.edu.au/6099/>

**Hudson, E** ‘The Copyright Amendment Act 2006-The Scope and Likely Impact of New Library Exceptions’ [2006] *UMelbLRS* 5 and (2006) 14(4) *Australian Law Librarian* 25. Available at: <http://www.austlii.edu.au/au/journals/UMelbLRS/2006/5.html>.

**Hudson, Emily.** ‘Little Orphan Author’ (2009) presentation ACIPA conference, Brisbane. Available at: <http://www.acipa.edu.au/PDFs/2007CopyrightConfEHudson.pdf>

**McAllister, Moyra** (Advisor, Copyright, ALIA). ‘Copyright: Orphan Works’, *Incite*, Vol. 27, No. 7 (July 2006): 10. Available online via AGIS+. <http://search.informit.com.au/documentSummary;dn=233041978739473;res=IELHSS>

\* **McDonald, Ian.** ‘Some Thoughts on Orphan Works’, *Copyright Reporter*, 24 (3) October 2006: 152–198. (Formerly at: [http://www.copyright.org.au/pdf/acc/articles\\_pdf/a06n05.pdf](http://www.copyright.org.au/pdf/acc/articles_pdf/a06n05.pdf))

**National Museum of Australia,** ‘ALCC/CICI seminar on orphan works’, (22 May 2006). Available at:

[http://www.nma.gov.au/about\\_us/copyright\\_and\\_reproductions/cici/news\\_and\\_information/2006/](http://www.nma.gov.au/about_us/copyright_and_reproductions/cici/news_and_information/2006/).

**Ricketson, Sam, and Ginsburg J.** *International Copyright and Neighbouring Rights: The Berne Convention and Beyond*, 2nd ed (Oxford: Oxford University Press, 2006)

\***Rimmer, Matthew.** ‘Robbery under Arms: Copyright Law and the Australia-United States Free Trade Agreement’ (March 2006), *First Monday*, Volume 11, Number 3. Available at SSRN: <http://ssrn.com/abstract=855805> and [http://works.bepress.com/matthew\\_rimmer/8](http://works.bepress.com/matthew_rimmer/8)

**Rimmer, M.** “Finders Keepers: Copyright Law, and Orphan Works”, presentation for ALCC/CICI Orphaned Works Forum (22 May 2006). Available at <http://digital.org.au/alcc/HomeArchives.html#OrphanedWorks> and <http://digital.org.au/alcc/slides/OrphanworksMRimmer.ppt> (slides)

**Wyburn, Mary.** ‘Higher education and fair use: A wider copyright defence in the face of the Australia-United States Free Trade Agreement changes’, (2006) 17 *AIPJ* 181. Available via Thomson Legal Online.

**UK**

**British Screen Advisory Council.** 'Copyright and Orphan Works: A paper prepared for the Gowers Review by the British Screen Advisory Council' (2006). Available at: [http://www.bsac.uk.com/files/copyright\\_\\_orphan\\_works\\_paper\\_prepared\\_for\\_gowers\\_2006.pdf](http://www.bsac.uk.com/files/copyright__orphan_works_paper_prepared_for_gowers_2006.pdf)

**Khong, Dennis.** 'Orphan Works, Abandonware and the Missing Market for Copyrighted Goods', *Int'l J. of Law and Info. Tech.*, Vol. 14, no. 3, (2006). Available at <http://ijlit.oxfordjournals.org/cgi/rapidpdf/eai032v1.pdf> .

**US**

**Whalen, Maureen.** 'Marooned in Storage: Rescuing Orphan Works' (September 2006) *Museum News*, American Association of Museums. Available at: [http://www.aam-us.org/pubs/mn/MN\\_S006\\_orphan-works.cfm](http://www.aam-us.org/pubs/mn/MN_S006_orphan-works.cfm)

**Benkler, Yochai.** *The Wealth of Networks: How Social Production Transforms Markets and Freedom* (2006). Yale University Press.

**Brito, Jerry and Dooling, Bridget.** 'An Orphan Works Affirmative Defense to Copyright Infringement Actions'. *Michigan Telecommunications and Technology Law Review*, Vol. 12, p. 75, 2005. Available at SSRN: <http://ssrn.com/abstract=942052>

**Gutmann, Peter.** 'When Copyright Owners Stop Selling Older Works, Maybe Pirates Deservesome Legal Cover', *Legal Times*, July 24, 2006. Available at: <http://www.wcsr.com/resources/pdfs/telecomm080806.pdf>.

**Hecker, Joel.** 'Who Should Be At Risk? The Proposed Orphan Works Legislation', *The Picture Professional*, Issue 2, 2006.

**Huang, Olive,** 'U.S. Copyright Office Orphan Works Inquiry: Finding Homes For The Orphans' (2006) 21 *Berkeley Tech. L. J.* (1), p. 265, 270.

**Lessig, Lawrence et al.** *Reply Comments of Creative Commons and Save the Music in Response to Notice of Inquiry on Orphan Works* (2006), pp. 13–14. Available at: <http://www.copyright.gov/orphan/comments/reply/OWR0114-STM-CreativeCommons.pdf>

**Muller, Frank.** 'Owners and Users Unite!: Orphan Works in the *Copyright Modernization Act of 2006*', *DePaul Journal of Art, Technology & Intellectual Property Law*, Volume 17, Number 1, (Fall 2006) p.79–128. Available via Hein Online.

**Petit, C. E.,** 'Cost Allocation and Copyright Orphans' (August 2006). Available at SSRN: <http://ssrn.com/abstract=921610>

**Pike, George H.,** The Problem of Orphan Works (April 2006). *Information Today*, Vol. 23, No. 4, p. 15, April 2006. Available at SSRN: <http://ssrn.com/abstract=1657111>

**Proskin, Emily Anne.** 'Google's Technicolour Dreamcoat: A Copyright Analysis of the Google Book Search Library Project', *Berkeley Technology Law Journal* 21.1 (2006) pp.213-239.

**Thompson, Coree.** 'Orphan Works, U.S. Copyright Law, And International Treaties: Reconciling Differences To Create A Brighter Future For Orphans Everywhere', *Arizona Journal of International and Comparative Law*, Volume 23, Number 3, (Fall 2006) pp.787–852. Available at: <http://www.ajicl.org/AJICL2006/vol233/ThompsonNote.pdf>

**Varian, Hal R.** 'Copyright Term Extension and Orphan Works' *Industrial and Corporate Change* 15 no. 6 (2006): 965 - 980. Available at SSRN: <http://ssrn.com/abstract=1116430>

**White**, Lawrence J. and **Valkonen**, Sami. 'An Economic Model for the Incentive/Access Paradigm of Copyright Propertization: An Argument in Support of the Proposed New 514 to the *Copyright Act*' (2006). *NYU Working Paper* No. EC-06-05. Available at SSRN: <http://ssrn.com/abstract=1281949>

## **EU**

**Hugenholtz**, Bernt, **Van Eechoud**, Mireille, **Gompel**, Stef Van, **Guibault**, Lucie and **Helberger**, Natali. *The Recasting of Copyright & Related Rights for the Knowledge Economy*, U. of Amsterdam Institute for Information Law (Nov. 2006). Available at SSRN: <http://ssrn.com/abstract=1096673>, or [http://www.ivir.nl/publications/other/IViR\\_Recast\\_Exec\\_summary\\_2006.pdf](http://www.ivir.nl/publications/other/IViR_Recast_Exec_summary_2006.pdf) (executive summary), and [http://ec.europa.eu/internal\\_market/copyright/docs/studies/etd2005imd195recast\\_report\\_2006.pdf](http://ec.europa.eu/internal_market/copyright/docs/studies/etd2005imd195recast_report_2006.pdf)

## **Canada**

Knopf, Howard (Macera & Jarzyna, LLP)/**Documentary Organisation of Canada (DOC)**. *The Copyright Clearance Culture And Canadian Documentaries: a White Paper on behalf of the Documentary Organisation of Canada* (22 November 2006). Available at: [http://docorg.ca/sites/docorg.ca/files/White%20Paper\\_HPK\\_Copyright&Documentaries.pdf](http://docorg.ca/sites/docorg.ca/files/White%20Paper_HPK_Copyright&Documentaries.pdf) or [http://www.macerajarzyna.com/pages/publications/HPK\\_white\\_paper.pdf](http://www.macerajarzyna.com/pages/publications/HPK_white_paper.pdf)

## **Other**

'Legislation recommended to deal with problem of 'orphan works'', *World Intellectual Property Report* Vol. 20 No. 3, March 2006, pp. 14-16

## **2005 and earlier**

### **Australia/NZ**

**Australian Digital Alliance (ADA)**. 'Orphaned Works - US Developments & Australian Conundrums', *ADA Monthly Intellectual Property Wrap-Up* (March/April 2005). Available at: <http://www.digital.org.au/issue/ipwMarApr05.htm>

\***Australian Digital Alliance (ADA)**. Submission to the Attorney-General's Department in response to the *Fair Use and Other Copyright Exceptions: An examination of fair use, fair dealing and other exceptions in the Digital Age* (May 2005). Available at: <http://www.digital.org.au/submission/FairDealingReview05.rtf>.

\***Australian Copyright Council**. *Response to the issues paper on Fair Use* (June 2005). See p. 3 para 12 and pp. 7–8, para 34-38, supporting Canadian model. Available at: [http://www.copyright.org.au/admin/cms-acc1/\\_images/18679514704c97fbf05eb70.pdf](http://www.copyright.org.au/admin/cms-acc1/_images/18679514704c97fbf05eb70.pdf)

**Australian Copyright Council**. Submission to the Copyright Law Review Committee in response to issues paper *Simplification of the Fair Dealing Provisions of the Copyright Act 1968*, (April 1997).

**Australian Vice Chancellor's Committee (AVCC)**. '*Entering the Digital Age: Fair use and other copyright Exceptions*' *An examination of fair use, fair dealing and other exceptions*, AVCC Submission to the Attorney- General's Department (2005), submission no. 115. See p.15. Available at:

[http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/\(AEEBC4E05675B564D2489B776B8B056A\)~p129+AVCC.pdf/\\$file/p129+AVCC.pdf](http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/(AEEBC4E05675B564D2489B776B8B056A)~p129+AVCC.pdf/$file/p129+AVCC.pdf)

**Hudson**, Emily, and **Kenyon**, Andrew. *Copyright and Cultural Institutions: Short Guidelines for Digitisation* (2005). See pp. 9 and 16. Available at: <http://www.law.unimelb.edu.au/cmcl/publications/Copyright%20Guidelines%20Shortform.pdf>

**Lindsay**, David. 'Fair Use and Other Copyright Exceptions: Overview of Issues' (2005) 23(1) *Copyright Reporter* 4.

**Weatherall**, K. 'Fair Use, Fair Dealing: The Copyright Exceptions Review and the Future of Copyright Exceptions in Australia', Intellectual Property Research Institute of Australia, *Occasional Paper* No 3/5, (May 2005). See p 14.

## UK

**Waelde**, Charlotte. 'Orphan works', Appendix F in Ed Barker, Charles Duncan, Andres Guadamu, Jordan Hatcher, Charlotte Waelde. *The Common Information Environment and Creative Commons: Final Report to the Common Information Environment Members of a study on the applicability of Creative Commons Licences*, 10 October 2005. Available at: <http://www.austlii.edu.au/au/other/AIPLRes/2005/2.html#Heading795>

Hirtle, Peter B. "Unpublished materials, new technologies, and copyright: facilitating scholarly use", *Journal of the Copyright Society* 49 259–275 (Fall 2001) at 269. Available online at <http://ecommons.library.cornell.edu/handle/1813/58> .

## US

**Aufderheide**, Patricia and **Jaszi**, Peter. *Untold Stories: Creative Consequences of the Rights Clearance Culture for Documentary Filmmakers* (2004). Available at: [http://www.centerforsocialmedia.org/rock/backgrounddocs/printable\\_rightsreport.pdf](http://www.centerforsocialmedia.org/rock/backgrounddocs/printable_rightsreport.pdf)

[**Brito**, J and **Dooling**, B, 'An Orphan Works Affirmative Defense to Copyright Infringement Actions' *Michigan Telecommunications and Technology Law Review* 12 no.75 (2005), pp. 75–113. Available at: <http://www.mttl.org/voltwelve/brito&dooling.pdf>.

**Center for the Study of the Public Domain**. "Orphan Works Analysis and Proposal" *Submission to the Copyright Office* (March 2005), Duke Law School. Available at: <http://www.law.duke.edu/cspd/pdf/cspdproposal.pdf>

**Cunard**, Jeffrey. Counsel for the Coll. Art Ass'n, Debevoise & Plimpton LLP, Letter to Jule L. Sigall, Assoc. Register for Policy & Int'l Affairs, U.S. Copyright Office (Mar. 25, 2005) . Available at: [http://www.collegeart.org/pdf/caa\\_orphan\\_letter.pdf](http://www.collegeart.org/pdf/caa_orphan_letter.pdf).

**Ginsburg**, Jane and **Goldstein**, Paul. 'Comments on "Orphan Works" Inquiry (*Federal Register*, January 26, 2005)' (March 2005). Submission by letter. Available at: <http://www.copyright.gov/orphan/comments/OW0519-Goldstein-Ginsburg.pdf>

**Hirtle**, Peter B. "Recent Changes To The Copyright Law: Copyright Term Extension," *Archival Outlook*, January/February 1999. Contains the first version of the 'Copyright Term and the Public Domain' chart now maintained at: <http://www.copyright.cornell.edu/resources/publicdomain.cfm>.

**Landes**, William M, and **Posner**, Richard A. "Indefinitely Renewable Copyright" (1 August 2002), *U Chicago Law & Economics*, Olin Working Paper No. 154. Available at: <http://ssrn.com/abstract=319321>

**Lessig**, Lawrence, et al. 'Save the Music/Creative Commons Orphan Works Comments', Proceedings before the US. Copyright Office Notice of Inquiry on "Orphan Works" (Mar. 25,



2005). Available at: <http://www.copyright.gov/orphan/comments/OW0643-STM-CreativeCommons.pdf>.

**Lessig**, Lawrence *The Future of Ideas: The Fate of the Commons In a Connected World* (2001). Esp. p.5. Available at: [http://thefutureofideas.s3.amazonaws.com/lessig\\_FOI.pdf](http://thefutureofideas.s3.amazonaws.com/lessig_FOI.pdf)

**Library Copyright Alliance**. ‘Comments on Orphan Works Notice of Inquiry’ (Mar. 25, 2005). Available at: <http://www.arl.org/info/frn/copy/orphanedworks/LCAcomment0305.pdf>.

**Sprigman**, Christopher. “Reform(aliz)ing Copyright”, Research Paper No 88, August 204, (2005) 56 *Stanford Law Review* 485. Available at: <http://ssrn.com/abstract=578502>

**Troll Covey**, Denise. ‘Rights, Registries, and Remedies: An Analysis of Responses to the Copyright Office Notice of Inquiry Regarding Orphan Works’, in M. Halbert (Ed.): *Free Culture and the Digital Library* Symposium Proceedings. Atlanta, Georgia: MetaScholar Initiative at Emory University (2005), pp. 106–140. Available at: [http://works.bepress.com/denise\\_troll\\_covey/45](http://works.bepress.com/denise_troll_covey/45)

**Troll Covey**, Denise. ‘Copyright and the Universal Digital Library’, *Universal Digital Libraries: Universal Access to Information. Proceedings of the International Conference on the Universal Digital Library*, 9–26. Hangzhou, China (October 2005). Available at: [http://works.bepress.com/denise\\_troll\\_covey/2](http://works.bepress.com/denise_troll_covey/2)

### **Google Books**

**Google, Inc.** RE: Google’s Response to Notice of Inquiry Regarding Orphan Works (25 March 2005) Available at: <http://www.copyright.gov/orphan/comments/OW0681-Google.pdf>

**Google, Inc.** RE: Google’s Response to Notice of Inquiry Regarding Orphan Works (9 May 2005) Available at: <http://www.copyright.gov/orphan/comments/reply/OWR0134-Google.pdf>  
[

### **EU**

#### **Canada**

**Gervais**, Daniel. *Application of an Extended Collective Licensing System in Canada: principles and issues related to implementation* (2003), Ottawa, Department of Cultural Heritage. Available at: [http://aix1.uottawa.ca/~dgersvais/publications/extended\\_licensing.pdf](http://aix1.uottawa.ca/~dgersvais/publications/extended_licensing.pdf)

**Harris**, Lesley Ellen. Editorial *Copyright & New Media Law* Newsletter (July 2005) . Available at: <http://www.library.yale.edu/~llicense/ListArchives/0507/msg00096.html> **Other**

**WIPO**. *Survey of national legislation on voluntary registration systems for copyright and related rights* (2005). WIPO document SCCR/13/2. Available at: [http://www.wipo.int/edocs/mdocs/copyright/en/sccr\\_13/sccr\\_13\\_2.pdf](http://www.wipo.int/edocs/mdocs/copyright/en/sccr_13/sccr_13_2.pdf)

**Kraan**, Wilbert. ‘Identifiers, migrating metadata and orphaned objects’ (16 December 2003). The Centre for Educational Technology Interoperability Standards (CETIS), UK. Available at: <http://zope.cetis.ac.uk/content2/20031216172927>

## **2. Legislation and interpretive materials**

### **Australia/NZ**

**New Zealand Parliamentary Counsel’s Office**. *Television New Zealand Amendment Bill 89-2* 2009, version 2 as reported from the Commerce Committee on 28 October 2010. Amends the

*Television New Zealand Limited Act 2003* (NZ), and adds a new Schedule and amends the *Copyright Act 1994* (NZ). Available at:

<http://www.legislation.govt.nz/bill/government/2009/0089/latest/DLM2411813.html>

Parliament of the Commonwealth of Australia, *Copyright Act 1968* (Cth). See Parts VA and VB, and ss. 51, 52, 33(3), 34(1), 40, 42, 43, 51, 52, 54–61, 103A, 103B, 103C, 110, 113C, 195AR, 200AB, and 219. Available at: [http://www.austlii.edu.au/au/legis/cth/consol\\_act/ca1968133/](http://www.austlii.edu.au/au/legis/cth/consol_act/ca1968133/) or <http://www.comlaw.gov.au/Details/C2010C00476>

Parliament of the Commonwealth of Australia, *Copyright Amendment Act* (2006), No. 158 of 2006. Available at: [http://www.austlii.edu.au/au/legis/cth/num\\_act/caa2006213/](http://www.austlii.edu.au/au/legis/cth/num_act/caa2006213/) or <http://www.comlaw.gov.au/Details/C2006A00158>

Parliament of the Commonwealth of Australia, *Copyright Amendment Bill* (2006). Available at: <http://www.austlii.edu.au/au/legis/cth/bill/cab2006223/> or <http://www.comlaw.gov.au/Details/C2006B00170>

Parliament of the Commonwealth of Australia, Attorney-General, *Explanatory Memorandum to the Copyright Amendment Bill* (2006). See at 7. Available at: [http://www.austlii.edu.au/au/legis/cth/bill\\_em/cab2006223/memo\\_0.html](http://www.austlii.edu.au/au/legis/cth/bill_em/cab2006223/memo_0.html)

Parliament of the Commonwealth of Australia, Attorney-General, *Supplementary Explanatory Memorandum to the Copyright Amendment Act* (2006). See para 52, re s.200AB. Available at: [http://www.austlii.edu.au/au/legis/cth/bill\\_em/cab2006223/memo\\_1.html](http://www.austlii.edu.au/au/legis/cth/bill_em/cab2006223/memo_1.html)

Parliament of the Commonwealth of Australia, *Copyright Amendment (Digital Agenda) Act 2000* (Cth), No. 110 of 2000 ('Digital Agenda Act'). Available at: [http://www.austlii.edu.au/au/legis/cth/num\\_act/caaa2000294/](http://www.austlii.edu.au/au/legis/cth/num_act/caaa2000294/) or <http://www.comlaw.gov.au/Details/C2004A00702>

\*Parliament of the Commonwealth of Australia, *National Film and Sound Archive Act 2008*. See s.6. Available at: [http://www.austlii.edu.au/au/legis/cth/num\\_act/nfasaa2008278/](http://www.austlii.edu.au/au/legis/cth/num_act/nfasaa2008278/) or <http://www.comlaw.gov.au/Details/C2008A00014>

Parliament of the Commonwealth of Australia, *US Free Trade Agreement Implementation Act 2004*, Schedule 9. Available at: [http://www.austlii.edu.au/au/legis/cth/consol\\_act/uftaia2004363/](http://www.austlii.edu.au/au/legis/cth/consol_act/uftaia2004363/)

Patents Act 1990 Section 123 Available at: [http://www.austlii.edu.au/au/legis/cth/consol\\_act/pa1990109/s123.html](http://www.austlii.edu.au/au/legis/cth/consol_act/pa1990109/s123.html)  
Regulations 38 to 42 of the *Copyright Act 1912–1966*

## UK

*Copyright, Designs and Patents Act* (1988) UK. See s. 190. Available at: <http://www.legislation.gov.uk/ukpga/1988/48/contents>

*Digital Economy Act* (2010) c.24 UK, assented 8 April 2010. Available at: <http://www.legislation.gov.uk/ukpga/2010/24/contents>. See also *Explanatory Notes to the Act* as passed by Department for Culture, Media and Sport and the Department for Business, Innovation and Skills. Available at: <http://www.legislation.gov.uk/ukpga/2010/24/notes/contents>

*Digital Economy Bill* [HL] 2009-10, Bill 89. See the later excised clause 42 (cl 43 in later version) inserting s116A-E, and Schedule 2 inserting Schedule 1A 'Regulation of licensing bodies', into *Copyright, Designs and Patents Act 1988*. Available at: <http://www.publications.parliament.uk/pa/ld200910/ldbills/032/10032.i-ii.html> (as amended)

in committee 8 February 2010) or  
<http://www.publications.parliament.uk/pa/cm200910/cmbills/089/2010089.pdf>. (as sent 16 March 2010)

Explanatory Notes to the *Digital Economy Bill [HL]* as brought from the House of Lords on 16 March 2010 [Bill 89]. Available at:

<http://www.publications.parliament.uk/pa/cm200910/cmbills/089/en/201089-en.pdf>

*Digital Economy Bill [HL]*, House of Lords, Hansard of 8 April 2010, 2.49 pm, col. 1713. (Discussion of the last minute exclusion of Clause 43 and Schedule 2 Orphan Works provisions.) Available at:

<http://www.publications.parliament.uk/pa/ld200910/ldhansrd/text/100408-0009.htm#10040856001067>

## US Legislation

*Preservation of Orphan Works Act*, Title IV of the *Family Entertainment and Copyright Act of 2005*, 'to provide for the protection of intellectual property rights, and for other purposes,' Pub. L. No. 109-9, s. 202, 119 Stat. 218, 226, 227 enacted April 27, 2005. Available at:

<http://www.copyright.gov/title17/92chap1.html#108> or <http://thomas.loc.gov/cgi-bin/bdquery/z?d109:s167>. See Bill S.167 of 109th Congress, at:

<http://www.govtrack.us/congress/bill.xpd?bill=s109-167>

*Sonny Bono Copyright Term Extension Act* (CTEA), 'To amend the provisions of title 17, *United States Code*, with respect to the duration of copyright, and for other purposes,' Pub. L. No. 105-298, 112 Stat. 2827 (1998) Available at:

<http://thomas.loc.gov/cgi-bin/bdquery/z?d105:s505>. See Bill 'Fairness in Music Licensing Act of 1998' H.R. 505 of 105th Congress, at:

<http://www.govtrack.us/congress/bill.xpd?bill=s105-505>

*Digital Millennium Copyright Act of 1998* (DMCA), 'To amend title 17, *United States Code*, to implement the *WIPO Copyright Treaty* and *Performances and Phonograms Treaty*,' Pub. L. No. 105-304, 112 Stat. 2860, 2889. (Amends, inter alia, s. 108). Available at:

<http://thomas.loc.gov/cgi-bin/bdquery/z?d105:h2281>: See Bill H.R. 2281 of 105th Congress, at: <http://www.govtrack.us/congress/bill.xpd?bill=h105-2281>

*Copyright Renewal Act of 1992*, Title 1 of *Copyright Amendments Act of 1992*, 'To amend title 17, *United States Code*, the copyright renewal provisions, and for other purposes,' Pub L No. 102-307, 106 Stat. 264 (26 June 1992). See Bill S.756 of 102nd Congress. Available at:

<http://thomas.loc.gov/cgi-bin/bdquery/z?d102:s.00756>. (See also Title 2, 'National Film Preservation Act of 1992'.)

*Copyright Act of 1976*, Pub. L. No. 94-553, (19 October 1976), 90 Stat. 2541. Title 17, *United States Code*. See esp. ss. 107 (fair use), 108(h), 109, 115(b)(1), 504(c)(2). Available at:

<http://www.law.cornell.edu/uscode/html/uscode17/>

United States *Constitution*, Article 1, section 8. Available at:

<http://www.law.cornell.edu/constitution/>

See *SourceWatch* for further materials pre-2009.

[http://www.sourcewatch.org/index.php?title=Orphan\\_works\\_legislation](http://www.sourcewatch.org/index.php?title=Orphan_works_legislation)

## US Bills

*Shawn Bentley Orphan Works Act of 2008*, 'A bill to provide a limitation on judicial remedies in copyright infringement cases involving orphan works', **S.2913**, 110th US Congress, referred from Senate to House, 24 April 2008, passed Senate amended 26 September 2008. Available

at: <http://www.opencongress.org/bill/110-s2913/show> , <http://www.thomas.gov/cgi-bin/bdquery/z?d110:s.02913;> <http://www.govtrack.us/congress/bill.xpd?bill=s110-2913> or <http://copywrite.org/2008/05/16/s2913-shawn-bentley-orphan-works-act-of-2008/> Commentary: <http://www.lexology.com/library/detail.aspx?g=ce714b3f-5050-43b4-a7af-743ad47d647a>

*Orphan Works Act of 2008*, ‘A bill to provide a limitation on judicial remedies in copyright infringement cases involving orphan works’, **H.R.5889**, bill of 110th US Congress, introduced to House 24 April 2008. Available at: <http://www.opencongress.org/bill/110-h5889/show>

*Copyright Modernisation Act of 2006*, ‘To amend title 17, *United States Code*, to provide for licensing of digital delivery of musical works and to provide for limitation of remedies in cases in which the copyright owner cannot be located, and for other purpose,’ **H.R.6052**, bill introduced to 109th Congress, Title II (2006). Available at: <http://thomas.loc.gov/cgi-bin/bdquery/z?d109:h.r.06052;> or <http://www.govtrack.us/congress/bill.xpd?bill=h109-6052> Previously introduced as **H.R.5439**, below.

*Orphan Works Act of 2006*, ‘To amend title 17, *United States Code*, to provide for limitation of remedies in cases in which the copyright owner cannot be located, and for other purpose,’ **H.R.5439**, bill introduced to 109th US Congress (22 May 2006). Available at: <http://www.govtrack.us/congress/bill.xpd?bill=h109-5439> or <http://thomas.loc.gov/cgi-bin/query/z?c109:H.R.5439>:

*Preservation of Orphan Works Act of 2004*, ‘To amend section 108 of title 17, *United States Code*, relating to reproduction of works by libraries and archives,’ **H.R. 5136**, bill introduced to 108th Congress (23 September 2004). Available at: <http://www.govtrack.us/congress/bill.xpd?bill=h108-5136>

*Public Domain Enhancement Act of 2003*, ‘To amend title 17, *United States Code*, to allow abandoned copyrighted works to enter the public domain after 50 years,’ **H.R. 2601**, bill introduced to 108th US Congress in 2003. Available at: <http://www.govtrack.us/congress/bill.xpd?bill=h108-2601> or <http://thomas.loc.gov/cgi-bin/bdquery/z?d108:H.R.2601;> Reintroduced as **H.R.2408** for the 109th Congress, 17 May 2005. Available at: <http://www.govtrack.us/congress/bill.xpd?bill=h109-2408> or <http://thomas.loc.gov/cgi-bin/bdquery/z?d109:H.R.2408>: See *SourceWatch* for further materials pre-2009. [http://www.sourcewatch.org/index.php?title=Orphan\\_works\\_legislation](http://www.sourcewatch.org/index.php?title=Orphan_works_legislation)

## **EU**

**European Commission.** Draft *Single Market Act*, (27 October 2010). Open for consultation until Feb 2011. See Proposal 2 for an Orphan Works Directive. See also Single Market High Level Conference organised by the European Commission in Brussels, 8 February 2011. Available at: [http://ec.europa.eu/internal\\_market/smact/index\\_en.htm](http://ec.europa.eu/internal_market/smact/index_en.htm), and see related Communication at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0608:REV1:EN:PDF>. [“Proposal No 2: In 2011 the Commission will submit a proposal for a framework Directive on the management of copyrights, with the aim of opening up access to online content by improving the governance, transparency and electronic management of copyright. The Commission will also be proposing a Directive on orphan works.”]

**European Commission Recommendation 2006/585/EC of 24 August 2006 on the digitisation and online accessibility of cultural material and digital preservation.** (2006). Brussels: Commission of the European Communities, *Official Journal of the European Union (OJ)*, L 236, p. 28, 31 August 2006. Available at: [Orphan Works Resources List](http://eur-</a></p>
</div>
<div data-bbox=)

[lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:236:0028:0030:EN:PDF](http://lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:236:0028:0030:EN:PDF) or <http://euwiki.org/2006/585/EC>

*European Parliament and Council Recommendation 2005/865/CE of 16 November 2005 on film heritage and the competitiveness of related industrial activities* (2005). Brussels: Commission of the European Communities, *Official Journal of the European Union* (OJ), L 323, 9 December 2005, p. 57. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:323:0057:0061:EN:PDF>

*European Council Resolution C/162/02 of 25 June 2002 on preserving tomorrow's memory - preserving digital content for future generations* (2002). Brussels: Commission of the European Communities, *Official Journal of the European Union* (OJ), C 162, p. 4, 6 July 2002.

**Directive 2001/29/EC** of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society. Brussels: Commission of the European Communities, *Official Journal of the European Union* (OJ), L 167, 22 June 2001, p. 10. Summary at: [http://europa.eu/legislation\\_summaries/information\\_society/l26053\\_en.htm](http://europa.eu/legislation_summaries/information_society/l26053_en.htm), text available at <http://www.ivir.nl/legislation/eu/copyright-directive.doc> or <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:167:0010:0019:EN:PDF>.

**Directive 96/9/EC** of the European Parliament and the Council of 11 March 1996 on the legal protection of databases. See in particular Articles 5(2)c, 5(3)n, and 5(5) and Recital 40. Summary available at: [http://europa.eu/legislation\\_summaries/internal\\_market/businesses/intellectual\\_property/l26028\\_en.htm](http://europa.eu/legislation_summaries/internal_market/businesses/intellectual_property/l26028_en.htm)

### **Individual EU country legislation**

**Norway**, *Act Relating to Copyright in Literary, Scientific and Artistic Works* (1961). *Act No. 2 of 12 May 1961 relating to Copyright in Literary, Scientific and Artistic Works, Etc.*, with subsequent amendments latest of 30 June 1995. See section 38b. Available at: <http://bat8.inria.fr/~lang/orphan/documents/europe/norway/no005en-copyright-19950630.html>

**Sweden**, *Act on Copyright in Literary and Artistic Works* (1960). No. 729, of December, 30, 1960, as amended up to April 1st, 2000. See Article 26i. Available at: <http://www.wipo.int/wipolex/en/details.jsp?id=3656>

See also the Scandinavian *Extended Collective Licensing* (ECL) system “under which national legislation permits accredited collecting societies to license use of non-members’ works on approved terms,” noted in Sterling 2009 and Sterling 2008 paras 12.24, 12.32–12.37.

**Hungary**, proposed law. See EU Parliamentary Note.

### **Canada**

**Parliament of Canada**, *Copyright Act* R.S., 1985, c. C-42. See Section 77: ‘Owners who cannot be located’ for the licensing regime. Available at: <http://laws.justice.gc.ca/eng/C-42/FullText.html> and <http://laws.justice.gc.ca/en/showtdm/cs/C-42/> (See also the Copyright Board Brochure, in Reports).

### **India**

Copyright Act 1957 (India), s. 31A. Available at: <http://www.copyright.gov.in/Documents/Copyrightrules1957.pdf>

### Japan

Japan, *Copyright law* (No. 48 of 1970), as consolidated 2009. Article 67. Referred to at: <http://www.wipo.int/wipolex/en/details.jsp?id=6579>; English translation of 2006 version at: [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=187324](http://www.wipo.int/wipolex/en/text.jsp?file_id=187324)

### South Korea

Korea, *Copyright Act*, s47. Available at: [http://eng.copyright.or.kr/law\\_01\\_01.html](http://eng.copyright.or.kr/law_01_01.html)

## 3. Conventions, Treaties, International Agreements etc.

**Australia-US Free Trade Agreement** [2005] ATS 1, Washington 18 May 2004, entry into force 1 January 2005. Available at: <http://www.austlii.edu.au/au/other/dfat/treaties/2005/1.html> or <http://www.dfat.gov.au/fta/ausfta/final-text/index.html>

**Berne Convention.** ([1971]1979). *Berne convention for the protection of literary and artistic works*. Opened for signature 9 September 1886 at Berne. Revised by Paris Act of 24 July 1971, amended on 28 September 1979. Available at: [http://www.wipo.int/export/sites/www/treaties/en/ip/berne/pdf/trtdocs\\_wo001.pdf](http://www.wipo.int/export/sites/www/treaties/en/ip/berne/pdf/trtdocs_wo001.pdf)

**General Agreement on Tariffs and Trade** (GATT) was modified in the US by *Uruguay Round Agreements Act* (URAA). [The URAA restored copyright in foreign (non-US) works that as of 1 January 1996 had fallen into the public domain in the US because of a failure to comply with US formalities. ]

**Rome Convention** (1961), *International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations*. Adopted on October 26, 1961 at Rome. Available at: [http://www.wipo.int/wipolex/en/wipo\\_treaties/text.jsp?doc\\_id=131048&file\\_id=189995](http://www.wipo.int/wipolex/en/wipo_treaties/text.jsp?doc_id=131048&file_id=189995)

**TRIPS Agreement** (1994), *Agreement on Trade-Related Aspects of Intellectual Property Rights* Annex 1C of the Marrakesh Agreement Establishing the World Trade Organization, signed in Marrakesh, Morocco on 15 April 1994. Available at: <http://www.wipo.int/treaties/en/agreement/trips.html>

**Universal Copyright Convention** (1971). Adopted on July 24, 1971 at Paris, entry into Force on 10 July 1974. Available at: [http://www.wipo.int/wipolex/en/other\\_treaties/text.jsp?doc\\_id=128894&file\\_id=172845](http://www.wipo.int/wipolex/en/other_treaties/text.jsp?doc_id=128894&file_id=172845)

**WIPO Film Register Treaty** (1989), *Treaty on the international registration of audiovisual works*. Adopted at Geneva on April 18, 1989. Available at: [http://www.wipo.int/export/sites/www/treaties/en/ip/frt/pdf/trtdocs\\_wo004.pdf](http://www.wipo.int/export/sites/www/treaties/en/ip/frt/pdf/trtdocs_wo004.pdf)

**WIPO Copyright Treaty** (1996). Adopted in Geneva on 20 December 1996, entry into force 6 March 2002. Available at: [http://www.wipo.int/treaties/en/ip/wct/trtdocs\\_wo033.html#P83\\_10885](http://www.wipo.int/treaties/en/ip/wct/trtdocs_wo033.html#P83_10885)

## 4. Cases

### Australia/NZ

*Copyright Agency Limited v State of New South Wales* [2008] HCA 35, 233 CLR 279; 248 ALR 590; 78 IPR 1; 82 ALJR 1244; [2008] AIPC 92-303. See paragraphs 60-63, 67, 68 and 70. Available at: <http://www.austlii.edu.au/au/cases/cth/HCA/2008/35.html>

*Copyright Agency Limited v State of New South Wales* (2007) FCAFC 80, Full Federal Court of Australia. Available at: <http://www.austlii.edu.au/au/cases/cth/FCAFC/2007/80.html>

*Avel v Multicoïn Amusements & anor.* [1990] HCA 58; (1990) 18 IPR 443; (1990-1991) 171 CLR 88. Available at: <http://www.austlii.edu.au/au/cases/cth/HCA/1990/58.html>

## UK

## US

-- *Google Book Search*:

*Authors Guild et al v Google, Inc.*, 05CIV8136 (S.D.N.Y. filed Mar 22, 2011) Available at: <http://nysd.uscourts.gov/cases/show.php?db=special&id=115> [

*Authors Guild, Inc. v Google, Inc.*, No. 1:2005cv08136 (S.D.N.Y. filed Sept. 20, 2005) and *McGraw-Hill Cos. v. Google, Inc.*, No. 1:2005cv08881 (S.D.N.Y. filed Oct. 19, 2005) (the initial Google Book search litigation).

\**Google Book Search Litigation US Settlement Agreement, Author's Guild, Inc. v. Google Inc.*, Case No. 05 CV 8136-JES (S.D.N.Y. Oct. 28, 2008). Available at: <http://books.google.com/googlebooks/agreement/> and <http://www.googlebooksettlement.com/intl/en/Settlement-Agreement.pdf>

See also: *Settlement FAQ*. Available at:

<http://books.google.com/googlebooks/agreement/faq.html>;

von Lohmann, Fred, EFF Senior IP Attorney. 'Google Book Search Settlement: A Reader's Guide', EFF Blogpost, 31 October 2008. Available at:

<http://www.eff.org/deeplinks/2008/10/google-books-settlement-readers-guide>; and

Band, Jonathan. 'A Guide for the Perplexed: Libraries and the Google Library Project Settlement' (2008) American Library Association and Association of Research Libraries paper. Available at: <http://www.arl.org/bm%7Edoc/googlesettlement-13nov08.pdf>

-- *Other*:

*The American Society of Media Photographers Inc v Google Inc*, 10-02977, US District Court, Southern District of New York filed 7 April 2010. [Pitt:] The press release of a plaintiff is available at: <http://www.graphicartistsguild.org/news/news-system/article?id=122>

*Davis v. The Gap, Inc.*, 246 F.3rd 152 (2d Cir. 2001) *Golan v. Gonzales* United States Court Of Appeals Tenth Circuit (D.C. No. 1:01-cv-01854 LTB-BNB) Filed sep 4 2007.

<http://cyberlaw.stanford.edu/system/files/Golan+v.+Gonzales.pdf>

*Kahle v Ashcroft* 2 USPQ2d 1888 (2004). Available at:

[http://cyberlaw.stanford.edu/about/cases/kahle\\_v\\_ashcroft.shtml](http://cyberlaw.stanford.edu/about/cases/kahle_v_ashcroft.shtml) and

<http://www.oreillynet.com/pub/a/policy/2004/05/06/kahleversusashcroft.html> See also US Supreme Ct rejection. **Albanese**, Andrew. 'Supreme Court Declines To Hear Orphan Works Case', *Library Journal* (16 January 2008). Available at:

<http://www.libraryjournal.com/article/CA6523163.html>

*Worldwide Church of God v. Philadelphia Church of God, Inc.*, 227 F.3d 1110 (9th Cir. 2000)

## EU

### Canada

*CCH Canadian Ltd. v Law Society of Upper Canada* [2004] 1 SCR 339, 2004 SCC 13. Available at: <http://scc.lexum.umontreal.ca/en/2004/2004scc13/2004scc13.html>

*Neighbouring Rights Collective of Canada v. Society of Composers, Authors and Music Publishers of Canada*, [2004] 1 F.C.R. 303.

**Copyright Board of Canada**, ‘Decisions - Unlocatable Copyright Owners: Decisions/Licences Issued’, (1990–2010). List of 249 decisions, as at January 2010. Available at: <http://www.cb-cda.gc.ca/unlocatable-introuvables/licences-e.html> . See de Beer and Bouchard 2009 for discussion of these cases.

**Copyright Board of Canada**, ‘Applications Denied (Reasons)’, (2004–2010). List of 8 decisions. Available at: <http://www.cb-cda.gc.ca/unlocatable-introuvables/denied-refusees-e.html>

## 5. Government reports and related materials

### Australia/NZ

**Australian Government**, Department of Finance and Deregulation. ‘Government 2.0 Work Plan — Status Report August 2010’ (2010). <http://www.finance.gov.au/e-government/strategy-and-governance/docs/work-plan.pdf>

**Australian Government** (Lindsay Tanner, Minister for Finance and Deregulation). *Government Response to the Report of the Government 2.0 Taskforce* (5 May 2010). See in particular Recommendation 7.3. Available at:

<http://www.finance.gov.au/publications/govresponse20report/index.html>. **Attorney-General’s Department**. *Statement of IP Principles for Australian Government Agencies* (2007).

Available at:

[http://www.ag.gov.au/www/agd/agd.nsf/Page/Copyright\\_CommonwealthCopyrightAdministration\\_StatementofIPPrinciplesforAustralianGovernmentAgencies](http://www.ag.gov.au/www/agd/agd.nsf/Page/Copyright_CommonwealthCopyrightAdministration_StatementofIPPrinciplesforAustralianGovernmentAgencies)

**Attorney-General’s Department**. “Issues and Reviews: AUSFTA Free Trade Agreement” (2006), web page, modified August 2009. Available at:

[http://www.ag.gov.au/www/agd/agd.nsf/Page/Copyright\\_IssuesandReviews\\_AUSFTAFreeTradeAgreement](http://www.ag.gov.au/www/agd/agd.nsf/Page/Copyright_IssuesandReviews_AUSFTAFreeTradeAgreement)

**Attorney-General’s Department**. *AGD e-news on Copyright*, Issue 39 (May 2006). Available at: [http://www.ag.gov.au/www/agd/agd.nsf/Page/Copyright\\_e-NewsonCopyright\\_2006\\_Issue39-May2006](http://www.ag.gov.au/www/agd/agd.nsf/Page/Copyright_e-NewsonCopyright_2006_Issue39-May2006)

**Attorney-General's Department/various authors**. *Fair Use and Other Copyright Exceptions: An examination of fair use, fair dealing and other exceptions in the Digital Age*(2005). Web pages, including links to Issues Paper and Submissions. Available starting at:

[http://www.ag.gov.au/www/agd/agd.nsf/Page/Publications\\_Copyright-ReviewofFairUseExeption-May2005](http://www.ag.gov.au/www/agd/agd.nsf/Page/Publications_Copyright-ReviewofFairUseExeption-May2005)

**Attorney-General's Department**. *Fair Use and Other Copyright Exceptions: An examination of fair use, fair dealing and other exceptions in the Digital Age*, Issues Paper (2005). See para 11.20, p.29. Available at:

[http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/\(CFD7369FCAE9B8F32F341DBE097801FF\)~FairUseIssuesPaper050505.pdf/\\$file/FairUseIssuesPaper050505.pdf](http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/(CFD7369FCAE9B8F32F341DBE097801FF)~FairUseIssuesPaper050505.pdf/$file/FairUseIssuesPaper050505.pdf)



**Copyright Law Review Committee (CLRC).** *Report on the simplification of the Copyright Act 1968: Part 2: Categorisation of Subject Matter and Exclusive Rights, and Other Issues* (1999). See 7.88. Available at: <http://www.austlii.edu.au/au/other/clrc/5> or [https://www.ag.gov.au/www/agd/agd.nsf/Page/Copyright\\_CopyrightLawReviewCommittee\\_CLRCReports\\_SimplificationoftheCopyrightAct1968](https://www.ag.gov.au/www/agd/agd.nsf/Page/Copyright_CopyrightLawReviewCommittee_CLRCReports_SimplificationoftheCopyrightAct1968)

**Copyright Law Review Committee (CLRC).** *Report on the simplification of the Copyright Act 1968: Part 1: Exceptions to the Exclusive Rights of Copyright Owners* (1998). Available at: <http://www.ag.gov.au/clrc>, <http://www.austlii.edu.au/au/other/clrc/4.html>, or [http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/\(756EDFD270AD704EF00C15CF396D6111\)~CLRC+Simplification+of+the+Copyright+Act+1968+-+Part+1.pdf/\\$file/CLRC+Simplification+of+the+Copyright+Act+1968+-+Part+1.pdf](http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/(756EDFD270AD704EF00C15CF396D6111)~CLRC+Simplification+of+the+Copyright+Act+1968+-+Part+1.pdf/$file/CLRC+Simplification+of+the+Copyright+Act+1968+-+Part+1.pdf)

**Copyright Law Review Committee (CLRC).** *Simplification of the Fair Dealing Provisions of the Copyright Act 1968*, Issues Paper (AGPS, Canberra, 1997).

**Copyright Law Review Committee.** *Jurisdiction and Procedures of the Copyright Tribunal: Final Report* (2000) Ch 18. Available at: <http://www.austlii.edu.au/au/other/clrc/3/1.html>

**Copyright Law Review Committee,** *Copying by Libraries and Archives under the Copyright Act 1968: Issues Paper* (April 1997) AGPS, Canberra.

**Copyright Convergence Group,** *Highways to Change: Copyright in the New Communications Environment* (AGPS, Canberra, 1994). See p.68. Available at: [http://www.ag.gov.au/agd/WWW/rwpattach.nsf/viewattachmentpersonal/\(CFD7369FCAE9B8F32F341DBE097801FF\)~highwayssummary.html/\\$file/highwayssummary.html](http://www.ag.gov.au/agd/WWW/rwpattach.nsf/viewattachmentpersonal/(CFD7369FCAE9B8F32F341DBE097801FF)~highwayssummary.html/$file/highwayssummary.html)

**Copyright Law Committee on Reprographic Reproduction (Franki Committee).** *Report of the Copyright Law Committee on Reprographic Reproduction* (October 1976) at [1.02]. Available at: [http://www.ag.gov.au/www/agd/agd.nsf/Page/Copyright\\_CopyrightLawReviewCommittee\\_CLRCReports\\_CopyrightLawCommitteeonReprographicReproduction](http://www.ag.gov.au/www/agd/agd.nsf/Page/Copyright_CopyrightLawReviewCommittee_CLRCReports_CopyrightLawCommitteeonReprographicReproduction)

**Government 2.0 Taskforce** (chair Nicholas Gruen). *Engage: Getting on with Government 2.0 -- Report of the Government 2.0 Taskforce* (December 2009). Secretariat hosted by the Online Services Branch, AGIMO, Department of Finance and Deregulation, Australian Government, Canberra. See Recommendation 7.3, p. xxi. Available at: <http://www.finance.gov.au/publications/gov20taskforcereport/> and <http://www.finance.gov.au/publications/gov20taskforcereport/doc/Government20TaskforceReport.pdf>. Also published as Ch 28 [http://ses.library.usyd.edu.au/bitstream/2123/6542/1/PSI\\_vol2\\_chapter28.pdf](http://ses.library.usyd.edu.au/bitstream/2123/6542/1/PSI_vol2_chapter28.pdf)

**Government 2.0 Taskforce** (chair Nicholas Gruen). *Engage: Getting on with Government 2.0 -- Draft Report* (2009). Secretariat hosted by the Online Services Branch, AGIMO, Department of Finance and Deregulation, Australian Government, Canberra. See Recommendation 7.3. Available at: <http://gov2.net.au/about/draftreport/> and <http://gov2.net.au/files/2009/12/Draft-Government-2-0-Report-release.pdf>.

**Government 2.0 Taskforce** (chair Nicholas Gruen). *Towards Government 2.0: An Issues Paper* (July 2009). Available from: <http://gov2.net.au/blog/2009/07/23/official-issues-paper-released/> and at: <http://gov2.net.au/files/2009/07/Towards-Government-2.0-An-Issues-Paper.pdf>. (See also Submissions to the *Issues Paper* at: <http://gov2.net.au/submissions/>.)

**National Library (NZ) in collaboration with New Zealand Government.** *Creating a Digital New Zealand: New Zealand's Digital Content Strategy* (August 2007). Available at:

<http://www.digitalstrategy.govt.nz/upload/Main%20Sections/Content/NATLIBDigitalContentStrategy.pdf>

**New Zealand Government.** *The Digital Strategy 2.0* (August 2008). Available at: <http://www.digitalstrategy.govt.nz/upload/Documents/Digital%20Strategy%202.0%20FINAL.pdf> and <http://www.digitalstrategy.govt.nz/Digital-Strategy-2/>

**McLay, G.** *Strategy and Intellectual Property – Scoping the Legal Issues, A Research Report Commissioned to Inform the Development of the New Zealand Digital Content Strategy*, (April 2006). See pp. 11 and 16.

## UK

**UK Intellectual Property Office.** *Taking Forward the Gowers Review of Intellectual Property: Second Stage Consultation on Copyright Exceptions* (2009). Available at: <http://www.ipo.gov.uk/consult-gowers2.pdf> **UK Intellectual Property Office.** *Taking Forward the Gowers Review of Intellectual Property--Proposed Changes to Copyright Exceptions*, (2008). Available at: <http://www.ipo.gov.uk/consult-copyrightexceptions.pdf> See also summary of responses, at: <http://www.ipo.gov.uk/response-copyrightexception.pdf>

**UK Intellectual Property Office.** *Copyright in a digital world - What role for a Digital Rights Agency?* (2008). Available at: <http://www.ipo.gov.uk/digitalbritain.pdf>

**Department for Business Innovation and Skills (BIS) and Intellectual Property Office (IPO).** *Copyright the way ahead: A Copyright Strategy for the Digital Age* (2009). Intellectual Property Office. Available at: <http://www.ipo.gov.uk/c-strategy-digitalage.pdf>

**Department for Culture, Media and Sport (DCMS) and Department for Business Innovation and Skills (BIS).** *Digital Britain Final Report* (June 2009). See also *Digital Britain Interim Report*. Available at: <http://www.official-documents.gov.uk/document/cm76/7650/7650.pdf> or <http://webarchive.nationalarchives.gov.uk/+/interactive.bis.gov.uk/digitalbritain/report/>. See in particular 'Orphan Works' in Chapter 4 Creative Industries, at p. 115, at: <http://webarchive.nationalarchives.gov.uk/20100511084737/http://interactive.bis.gov.uk/digitalbritain/report/creative-industries-in-the-digital-world/orphan-works/>

**UK Intellectual Property Office.** *Orphan Works – Potential Solutions*, discussion paper (23 September 2008). Available at: <http://www.ipo.gov.uk/c-owpaper0809.pdf>.

**Gowers, Andrew.** *Gowers Review of Intellectual Property* (2006), UK Treasury. See esp. 'Orphan Works', section 4.91 et seq. Available at: [http://www.hm-treasury.gov.uk/d/pbr06\\_gowers\\_report\\_755.pdf](http://www.hm-treasury.gov.uk/d/pbr06_gowers_report_755.pdf) or [http://webarchive.nationalarchives.gov.uk/+/http://www.hm-treasury.gov.uk/d/pbr06\\_gowers\\_report\\_755.pdf](http://webarchive.nationalarchives.gov.uk/+/http://www.hm-treasury.gov.uk/d/pbr06_gowers_report_755.pdf).

## US

**Various authors.** *Initial submissions to the Orphan Works inquiry* (2005), US Copyright Office. Available at: <http://www.copyright.gov/orphan/comments/index.html>

**US Copyright Office, Library of Congress.** 'Notice of inquiry: Orphan Works', *Federal Register*, January 26, 2005 (Volume 70, Number 16). Available at: <http://www.copyright.gov/fedreg/2005/70fr3739.html>

**US Copyright Office.** *Orphan Works*, web pages, last updated September 2008, for the Report, related legislation and explanatory material. Available at: <http://www.copyright.gov/orphan/>

\*Peters, Marybeth (Register of Copyrights)/**US Copyright Office**. *Report on orphan works: A report of the Register of Copyrights* (2006), Library of Congress, Washington DC, 2006. Available at: <http://www.copyright.gov/orphan/orphan-report-full.pdf> and <http://www.copyright.gov/orphan/orphan-report.pdf>.. “

## Europe

### European Commission

**Communia project**, *Public Domain Manifesto* (1 January 2010). Available at: <http://publicdomainmanifesto.org/> \***European Commission**. Communication From The Commission To The European Parliament, The Council, The Economic And Social Committee And The Committee Of The Regions. *Towards a Single Market Act: For a highly competitive social market economy – 50 proposals for improving our work, business and exchanges with one another* (11 November 2010) Brussels, COM(2010) 608 final/2. See Proposal 2 for an *Orphan Works Directive*. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0608:REV1:EN:PDF> See also related web page at: [http://ec.europa.eu/internal\\_market/smact/index\\_en.htm](http://ec.europa.eu/internal_market/smact/index_en.htm) [p.8: “Proposal No 2: In 2011 the Commission will submit a proposal for a framework Directive on the management of copyrights, with the aim of opening up access to online content by improving the governance, transparency and electronic management of copyright. The Commission will also be proposing a Directive on orphan works.”]

European Commission, European Digital Libraries Initiative: **Comité des Sages** (Reflections Group). *The New Renaissance* (10 January 2011), Report. Available at: [http://ec.europa.eu/information\\_society/activities/digital\\_libraries/doc/refgroup/final\\_report\\_cds.pdf](http://ec.europa.eu/information_society/activities/digital_libraries/doc/refgroup/final_report_cds.pdf). See also the CDS web page at [http://ec.europa.eu/information\\_society/activities/digital\\_libraries/comite\\_des\\_sages/index\\_en.htm](http://ec.europa.eu/information_society/activities/digital_libraries/comite_des_sages/index_en.htm). For comment see <http://blogs.mallesons.com/ipwhiteboard/is-a-copyright-registration-system-to-prevent-orphan-works-the-way-of-the-future>, NYT story at: <http://www.nytimes.com/2011/01/11/business/global/11google.html>

European Commission, **European Digital Libraries Initiative**: Representatives of right holders and cultural institutions. *Memorandum of Understanding on Diligent Search Guidelines Orphan Works* (June 2008). Available at: [http://ec.europa.eu/information\\_society/activities/digital\\_libraries/doc/hleg/orphan/mou.pdf](http://ec.europa.eu/information_society/activities/digital_libraries/doc/hleg/orphan/mou.pdf)

\*European Commission, **European Digital Libraries Initiative**. *Joint Report: Sector-Specific Guidelines on Due-Diligence Criteria for Orphan Works* (2008). Available at: [http://ec.europa.eu/information\\_society/activities/digital\\_libraries/doc/hleg/orphan/guidelines.pdf](http://ec.europa.eu/information_society/activities/digital_libraries/doc/hleg/orphan/guidelines.pdf)

European Commission, **European Digital Libraries Initiative**. *Appendix to the Joint Report [on Sector-Specific Guidelines on Due-Diligence Criteria for Orphan Works] - Sector Reports* (2008). Audiovisual, Visual/Photography, Music/Sound, and Text working groups. See discussion and bibliographies on ‘Grey’ and unpublished literature in the Text section. Available at: <http://www.europeanwriters.eu/images/files/12%20appendix.pdf>

\***European Commission**. *A Digital Agenda for Europe* (May 2010), Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, COM/2010/0245. See p. 30. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0245:FIN:EN:HTML> or

[http://ec.europa.eu/information\\_society/digital-agenda/documents/digital-agenda-communication-en.pdf](http://ec.europa.eu/information_society/digital-agenda/documents/digital-agenda-communication-en.pdf)

\*European Commission/**Vuopala**, Anna. *Assessment of the Orphan Works Issue and Costs for Rights Clearance* (May 2010). DG Information Society and Media, Unit E4 Access to Information. Available at:

[http://ec.europa.eu/information\\_society/activities/digital\\_libraries/doc/reports\\_orphan/anna\\_report.pdf](http://ec.europa.eu/information_society/activities/digital_libraries/doc/reports_orphan/anna_report.pdf)

**European Commission**. Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions (August 2008) [SEC(08) 2372]. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008DC0513:EN:NOT>

**European Commission**, *Green Paper on Copyright in the Knowledge Economy* (16 July 2008). COM (2008) 466. Summary at:

[http://europa.eu/legislation\\_summaries/information\\_society/mi0008\\_en.htm](http://europa.eu/legislation_summaries/information_society/mi0008_en.htm), text at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0466:FIN:EN:PDF>

\*European Commission, Information Society initiative, i2010: Digital Libraries, **High Level Expert Group** (HLG) on European Digital Libraries, Copyright subgroup. *Final report on digitization, orphan works, and out-of-print works* (4 June 2008). Available at: [http://ec.europa.eu/information\\_society/activities/digital\\_libraries/doc/hleg/reports/copyright/copyright\\_subgroup\\_final\\_report\\_26508-clean171.pdf](http://ec.europa.eu/information_society/activities/digital_libraries/doc/hleg/reports/copyright/copyright_subgroup_final_report_26508-clean171.pdf)

European Commission, Information Society initiative, i2010: Digital Libraries, **High Level Expert Group** on European Digital Libraries, Copyright Subgroup. *Report on Digital Preservation, Orphan works, and Out-of-Print Works: Selected Implementation Issues* (18 April 2007). Available at:

[http://ec.europa.eu/information\\_society/newsroom/cf/itemlongdetail.cfm?item\\_id=3366](http://ec.europa.eu/information_society/newsroom/cf/itemlongdetail.cfm?item_id=3366).

See also Appendices, available at: <http://www.europeanwriters.eu/index.asp?ID=451>

European Commission, Information Society initiative, i2010 Digital Libraries, **High Level Expert Group** (HLG) on European Digital Libraries, Copyright Subgroup. *Key Principles for Orphan Works and Out-of-Print Works Databases (DB) and Rights Clearance Centres (RCC)*. Available at:

[http://ec.europa.eu/information\\_society/activities/digital\\_libraries/doc/hleg\\_minutes/copyright/report\\_key\\_principles\\_ow\\_opw.pdf](http://ec.europa.eu/information_society/activities/digital_libraries/doc/hleg_minutes/copyright/report_key_principles_ow_opw.pdf)

**European Commission**. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: *'i2010: digital libraries' of (30 September 2005)*. Brussels: Commission of the European Communities, COM(2005) 465 final, *Official Journal* C 49 of 28 February 2008. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005DC0465:EN:NOT>

## European Parliament

**European Parliament**. Resolution of the European Parliament on 'Europeana – next steps' (May 2010), p. 8. Available at:

[http://ec.europa.eu/information\\_society/activities/digital\\_libraries/doc/parliament/resolution\\_europeana.pdf](http://ec.europa.eu/information_society/activities/digital_libraries/doc/parliament/resolution_europeana.pdf)

**Ficsor**, Mihály (Hungarian Patent Office). *Note: How to Deal with Orphan Works in the Digital World? An Introduction to the New Hungarian Legislation on Orphan Works* (15 October 2009), paper for "Workshop on Copyright - Tackling orphan works and improving access to works for visually impaired persons", Legal Affairs Committee; **European Parliament**,

Directorate General for Internal Policies, Policy Department: Citizens' Rights and Constitutional Affairs, PE 419.607, 30pp. Available at:  
<http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=27981>

**Koskinen-Olsson**, Tarja (Olsson & Koskinen Consulting, Ystad, Sweden) *How to Deal with Orphan Works in the Digital World?* (10 November 2009), paper for "Workshop on Copyright - Tackling orphan works and improving access to works for visually impaired persons", Legal Affairs Committee; **European Parliament**, Directorate General for Internal Policies, Policy Department: Citizens' Rights and Constitutional Affairs, PE 419.613, 18 pp. Available at:  
<http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=27997>

**Hiidenmaa**, Pirjo (President of the European Writers' Congress). *Note: Orphan Works in the Digital Era* (10 November 2009), paper for "Workshop on Copyright - Tackling orphan works and improving access to works for visually impaired persons", Legal Affairs Committee; **European Parliament**, Directorate General for Internal Policies, Policy Department: Citizens' Rights and Constitutional Affairs, PE 419.614, 18 pp. Available at:  
<http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=28001> .

**Niggemann**, Elisabeth (Deutsche Bibliothek). *Note: How to deal with Orphan Works in the digital world?* (10 November 2009), paper for "Workshop on Copyright - Tackling orphan works and improving access to works for visually impaired persons", Legal Affairs Committee; **European Parliament**, Directorate General for Internal Policies, Policy Department: Citizens' Rights and Constitutional Affairs, PE 419.611. Available at:  
<http://www.europarl.europa.eu/document/activities/cont/200911/20091113ATT64507/20091113ATT64507EN.pdf>

## European Union

**Council of the European Union**. 'Council Resolution of 25 June 2002 on preserving tomorrow's memory — preserving digital content for future generations,' Brussels: Commission of the European Communities, *Official Journal C* 162 (06 July 2002), pp. 4–5. [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002G0706\(02\):EN:NOT](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002G0706(02):EN:NOT)

**Council of the European Union**. 'Council Conclusions on the European digital Library – Europeana (JO/2008/C 319/07)' (20 November 2008). Available at:  
[http://ec.europa.eu/information\\_society/activities/digital\\_libraries/doc/communications/i2010diglib/council\\_conclu\\_20nov08.pdf](http://ec.europa.eu/information_society/activities/digital_libraries/doc/communications/i2010diglib/council_conclu_20nov08.pdf)

**Europeana Group**. *ARROW - Accessible Registries of Rights Information and Orphan Works*, web site. Available at: <http://group.europeana.eu/web/guest/details-arrow/>. See also ARROW project web site, at: <http://www.arrow-net.eu/>

**Europeana Foundation**/Europeana v1.0 Project. *Europeana Public Domain Charter* (May 2010). Available at: <http://group.europeana.eu/web/europeana-project/publications/>

## Canada

**Copyright Board of Canada**. *Our Mandate* (undated), web page. Available at: <http://www.cb-cda.gc.ca/about-apropos/mandate-mandat-e.html>.

**Copyright Board of Canada**. *Unlocatable Copyright Owners* (2001) brochure. Available at: <http://www.cb-cda.gc.ca/unlocatable-introuvables/brochure2-e.html>

### **Other Reports**

\***OECD**. *OECD Recommendation on Public Sector Information (PSI)* (2008), C(2008)36, adopted by OECD Council at its 1172nd Session on 30 April 2008, at p. 5. Available at: [http://www.oecd.org/document/36/0,3746,en\\_2649\\_37441\\_44384228\\_1\\_1\\_1\\_37441,00.html](http://www.oecd.org/document/36/0,3746,en_2649_37441_44384228_1_1_1_37441,00.html) and <http://www.oecd.org/dataoecd/41/52/44384673.pdf>.

**WIPO**, *Study on Copyright Limitations and Exceptions for Libraries and Archives*. Available at: [http://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=109192](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=109192).

## **6. Technical aspects (identification, searching... )**

**Harry Ransom Center [U Texas] and University of Reading Library**. *Firms Out of Business* (undated, accessed January 2011), online search tool. Available at: <http://www.fob-file.com> and for explanation: [http://tyler.hrc.utexas.edu/fob\\_about.cfm](http://tyler.hrc.utexas.edu/fob_about.cfm). See also The WATCH File (Writers and Artists and Their Copyright Holders) <http://tyler.hrc.utexas.edu/>

**Kopinor**. Extended Collective License - the Nordic Solution (undated, accessed January 2011). Available at: <http://www.kopinor.org/opphavsrett/avtalelisens>

\***Hirtle**, Peter B. *Copyright Term and the Public Domain* (3 January 2011), chart first published in Hirtle 1999, now maintained at: <http://www.copyright.cornell.edu/resources/publicdomain.cfm>

**MILE** (Metadata Image Library Exploitation) Orphan Works Database (undated, accessed January 2011). Available at: <http://orphanworks.ssl.co.uk/>

### **Identifiers and metadata**

**EIDR** <http://eidr.org/>

**International DOI Foundation**. *The Digital Object Identifier (DOI®) System*, web site and object registration service (undated, accessed January 2011). Available at: <http://www.doi.org/>

**ISAN** [http://www.isan.org/portal/page?\\_pageid=168,1&\\_dad=portal&\\_schema=PORTAL](http://www.isan.org/portal/page?_pageid=168,1&_dad=portal&_schema=PORTAL)

## **7. Other resources**

### **Local digitisation projects**

**National Library of Australia**. *Australian Newspapers Digitization Project*. Available at: <http://newspapers.nla.gov.au/ndp/del/home> or <http://trove.nla.gov.au/ndp/del/home>

**Australian War Memorial**, CEW Bean project (2003–). See van Dyk 2010, and more recent discussion.

### **Position statements etc. by peak organisations**

**Association of American Publishers (AAP)**. Statement of Allan Adler, vice president for legal and government affairs of AAP to the US House of representatives Judiciary Committee's Subcommittee on Courts, the Internet and Intellectual Property concerning The U.S. Copyright Office Report on Orphan Works (8 March 2006). Available at: [http://www.publishers.org/main/Copyright/attachments/Orphan\\_Works\\_Testimony\\_3-5-06.pdf](http://www.publishers.org/main/Copyright/attachments/Orphan_Works_Testimony_3-5-06.pdf); see also summary at [http://www.publishers.org/main/Copyright/CopyKey/copyKey\\_01\\_04.htm](http://www.publishers.org/main/Copyright/CopyKey/copyKey_01_04.htm)

**American Library Association.** Google Book Search Settlement (2009?). Available at: <http://wo.ala.org/gbs/>. Orphan works. Available at: <http://www.ala.org/ala/issuesadvocacy/copyright/activelegislation/orphanworks/index.cfm>

**Association of Research Libraries.** Copyright & Intellectual Property Policies: Orphan Works (2005). Available at: <http://www.arl.org/pp/ppcopyright/orphan/index.shtml> and <http://www.arl.org/pp/ppcopyright/orphan/orphanresources.shtml>

**eIFL** (NGO working with libraries worldwide to enable access to digital information in developing and transition countries). 'Orphan Works', section in *eIFL Handbook on Copyright and Related Issues for Libraries* (October 2009) Available at: <http://www.eifl.net/eifl-handbook-copyright-and-related-issues>

**International Association of Scientific, Technical & Medical Publishers (STM), Association of Learned and Professional Society Publishers (ALPSP), and Professional/Scholarly Publishing Division (PSP) of the Association of American Publishers.** *Safe Harbour Provisions for the Use of Orphan Works for Scientific, Technical and Medical Literature* (23 October 2007). Available at: [http://www.stm-assoc.org/2007\\_11\\_01\\_Safe\\_Harbor\\_Provisions\\_for\\_the\\_Use\\_of\\_Orphan\\_Works.doc](http://www.stm-assoc.org/2007_11_01_Safe_Harbor_Provisions_for_the_Use_of_Orphan_Works.doc)

**International Association of Scientific, Technical & Medical Publishers (STM).** 'STM Position: The Use of Orphan Works', position paper (December 2006). Available at: [http://www.stm-assoc.org/2006\\_12\\_01\\_STM\\_Position\\_Orphan\\_Works.pdf](http://www.stm-assoc.org/2006_12_01_STM_Position_Orphan_Works.pdf)

**International Publishers Association (IPA).** *Position of the International Publishers' Association (IPA): The Use of Orphan Works* (23 April 2006). Available at: [http://www.internationalpublishers.org/images/pdf/PP\\_Copyright/ipaonorphansworks\\_position20060423.pdf](http://www.internationalpublishers.org/images/pdf/PP_Copyright/ipaonorphansworks_position20060423.pdf)

**International Federation of Library Associations and Institutions (IFLA) and International Publishers Association (IPA).** *IFLA/IPA Joint Statement on Orphan Works* (June 2007). Available at: <http://www.ifla.org/publications/iflaipa-joint-statement-on-orphan-works> or <http://archive.ifla.org/VI/4/admin/ifla-ipaOrphanWorksJune2007.pdf>

**International Federation of Reproduction Rights Organisations (IFRRO).** *Statement on Orphan Works*, (May 2007). Available at: <http://www.ifrro.org/upload/documents/IFRRO%20Statement%20on%20Orphan%20Works%20May%202007.pdf>

**LACA: the Libraries and Archives Copyright Alliance (UK).** *Position statement on orphan works* (December 2007). Available at: <http://www.cilip.org.uk/policyadvocacy/copyright/statements>

## **Commentary**

**Ricketson S and C Creswell.** *The Law of Intellectual Property: Copyright, Designs and Confidential Information*, 'looseleaf' service, Law Book Co. Available at Thomson Reuters online.

**Thomson Legal Online.** Residual three-step test exception for libraries and archives – s 200AB, para. [11.336] 'Application of s 200AB to libraries and archives.' in *Commentaries: Law of Intellectual Property: Copyright, Design and Confidential Information*, Part II - Copyright and "Neighbouring Rights". Accessed 20 January 2010. Available via Firstpoint.

**Thomson Legal Online.** Implied licences, para. [14.436] 'Statutory deeming provisions', in *Commentaries: Law of Intellectual Property: Copyright, Design and Confidential Information*,

Part II - Copyright and "Neighbouring Rights". Accessed 20 January 2010. Available via Firstpoint.

Thomas **Hauss** , Justin Hill Ph.D. , Rohan Massey , Francesco Mattina , Hiroshi Sheraton and Boris Uphoff, 'Sound recordings and co-written musical works - term of protection' (10 September 2008), briefing note. Available at:

<http://www.lexology.com/library/document.ashx?g=5537b38e-e5fb-4910-a13e-8926859ea242#page=13>