

## *Orphan Works and Moral Rights: A View from the UK*

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Since the Google books litigation, the problem of orphan works has become a major preoccupation in the international copyright community. "Orphans" are works that may still be within copyright term, but whose copyright owners are unknown or difficult to locate. The use of these works cannot, therefore, be "authorized" by the copyright-holder, as required by copyright law. Orphan works encompass a large body of existing knowledge; the rapid growth in the digital transformation of works is also likely to generate orphan works with greater frequency in the future, as it becomes increasingly difficult to trace the origins of digital "content." Recent attempts to facilitate access to orphan works include a new European Union Directive, and, in parallel, UK measures that are, among other things, partially based on Canadian precedent. In the United States, the Copyright Office is planning a series of public discussions "on potential legislative solutions for orphan works and mass digitization under U.S. copyright law." But facilitating use does not resolve the problem fully. A compelling rationale for legislating on orphan works is the hope of addressing a broader issue: the need to preserve cultural heritage in the form of books, photographs, sound recordings, films, and other materials housed in the world's libraries and museums. Use should be recognized as an integral part of preservation; but this paper argues for exploring a further possibility, referenced in the UK scheme but not at the EU, that the "moral rights" aspect of copyright law, well known in European and international copyright laws, can be of help. In particular, attribution and integrity, typical moral rights, are key issues in the digital environment, and these interests hold a special importance in relation to orphan works. Moral rights principles can make a powerful contribution to heritage, while ultimately facilitating the preservation of copyright prerogatives by requiring the identity of works and authors to be maintained in a digital environment.

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