What role should registries play in averting orphan work problems?

What mechanisms will facilitate information sharing about which works are public domain, orphan, or open access?
A TRANSCRIPT
OF THE
Registers
OF THE
Worshipful Company of Stationers:
FROM 1582-1628 A.D.
By G. F. Breece Eyre.
In Three Volumes.

VOLUME I. 1582-1589.

PRIVATELY PRINTED,
LONDON:
1863.
Copyright Principles Project

• “Copyright law should encourage copyright owners to register their works so that better information will be available as to who claims ownership in which works.”

• “This idea can be implemented by restructuring the availability of certain rights and remedies depending on the rights holders’ registration of the work with a registry service.”
Proposed EU Directive

• “A diligent search should involve the consultation of publicly accessible databases that supply information on the copyright status of a work.”
Public Knowledge: A Copyright Office for the 21st Century

• “A complete copyright registry that takes full advantage of digital technology will reduce costs for copyright holders, those engaging in searches, and taxpayers.”
“Very often any description of a typical orphan work photograph would be useless: for example, ‘farmer with three horses, mountains in background.’ A user might never match the photograph to the description. Conversely, requiring an owner to monitor a user database would be pointless for the same reason.”

Also . . . dynamic and other difficult-to-register works . . . expense of centralized systems.
Victor Perlman

“Try doing a text search for a photograph and see what happens!”
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What mechanisms will facilitate information sharing about which works are public domain, orphan, or open access?
MAX
YOUR NAME
ADDRESS
CITY STATE
555-1234
“Metadata has become a powerful tool to organize and search through the growing libraries of image, audio and video content that users are producing and consuming. This is especially important in the area of digital photography where, despite the increased quality and quantity of sensor elements, it is not currently practical to organize and query images based only on the millions of image pixels. Instead, it is best to use metadata properties that describe what a photo represents and where, when, and how the image was taken.”
Information Sharing Mechanisms

• Centralized registries

• Decentralized tags

• ???
Information Sharing Mechanisms

- Public/private
- Centralized/decentralized/federated
- Universal/sector-specific
- Mandatory/voluntary
- National/international
- Digital/physical
- Human readable/machine readable
- Text/image/audiovisual
- Owner/user
- Identification-facilitating/transaction-facilitating
- Passive/active
Hargreaves Report

“It is widely acknowledged that the solution to these difficulties lies in the very technologies that created the problem. Just as new digital technologies provide new and exciting ways of using content, they offer a means of transforming the efficiency of licensing”
“These are notable benefits, but setting them out still does not answer the question why such a system has not already been created . . . .

Initiatives are disparate, some appear to have lost momentum, and they have not so far produced the common standards and principles which would realize the potential of digital licensing.”
Challenges

• Interoperability
• Persistence (vs. metadata stripping)
• Comprehension
• Reliability
• Expense—who bears the burden?
  – External benefits of locatability
• . . .
The Legal Environment for Rights Information Infrastructures

• Compare real property law:
  – Recording of real property interests is not strictly a prerequisite for valid property rights, but failure to record ("sitting back and doing nothing") has consequences under state recording acts and related common law rules.
  – E.g. adjustment of remedies, early expiration of rights, superior rights for subsequent bona find purchasers, adverse possession.
  – Legal consequences & incentives → participation in public and private rights information infrastructures.
LOST

2-12-11

Shy/Timid Yorkie Mix

$1500 Reward

310-488-0024
What if digitization that allowed happy reunions between users and owners (or happy new open access homes?) triggered reward, instead of punishment?
• Jule Sigall
  – Associate General Counsel, Microsoft
  – Formerly Associate Register, U.S. Copyright Office

• Piero Attanasio
  – Head of International Affairs, Italian Publishers Association
  – Scientific Coordinator, ARROW

• Bruce Nash
  – Founder and President, Nash Information Services
  – Publisher of The Numbers, online database of movie financial information