

To: [FN-OMB-IntellectualProperty;](#)
Subject: Academic research on Orphan copyright
Date: Tuesday, March 16, 2010 5:54:03 PM

Dear Ms. Espinel:

I am a legal research scholar and former member of the executive committee of the National Press Photographers Association. Last year, a colleague and I embarked on a research project on the Orphan Copyright Act. Our goal was to promulgate guidelines to help owners and producers of copyrighted material and potential users of "orphan works" navigate the world of intellectual property under the provisions of the act.

We were unable to do so. We found instead that there are neither a set of "best practices" available as guidelines nor any real provisions, structures, agencies, personnel or anything to provide oversight should Orphan Works provisions become law.

We found that the only way to truly define Orphan Works practices and provisions would be years of expensive and lengthy litigation.

Attached is our analysis, which has been accepted for publication this year by Visual Communication Quarterly, an international scholarly journal.

I would be happy to discuss our work and analysis. I hope it helps you address intellectual property issues as they arise.

Sincerely,

Jack Zibluk

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The Orphan Copyright Act: Open Door or a Deluge?

By

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Abstract

Despite the legislative rush to address the financial crisis of 2008, Congress nearly passed the most substantial re-write of the copyright system in 30 years. The Shawn Bentley Orphan Copyright Act was “fast tracked” and approved by the Senate in September, an action that allows bills with scant opposition to go to a vote without a formal hearing. However, organized protests by photography groups, artists and other image-makers convinced members of the House of Representatives to take a second look at the legislation.

While Congress did not pass the Act, its proponents, including library and archivist associations as well as many academic institutions, expect to bring it up again in the current session.

If enacted, the Orphan Works Act would place original, creative and professional works in the public domain if potential users cannot find the copyright owner as long as they conduct a “reasonably diligent search” and that search fails.

Since 1978, copyright protection has been automatic. Any original and professional work is automatically protected whether the work is registered with the U.S. Copyright Office or not. Researchers, archivists and historians see the Orphan Copyright Act as a way to gain access to inaccessible archives, material and information that have little commercial use. Artists, musicians, photographers and other copyright holders see the act as a threat to their ability to protect their intellectual property, and therefore a threat to their businesses and livelihoods. Opponents of the bill believe the vague legal definition of a “reasonably diligent search” invites both willful efforts and well as negligent mistakes that could only be remedied by lengthy and expensive litigation.

The following legal analysis paper examines the roots and implications of the Orphan Copyright Act, discusses its implications and proposes some guidelines for copyright holders as well as the potential users of Orphan Works in order to prepare them for the new world order of copyright law that may dawn under the expected eventual passage of the bill.

Introduction

Orphan works, copyrighted works whose owner(s) cannot be found, have raised concerns to such a level that in September 2008 the United States Senate passed the Shawn Bentley Orphan Works Act of 2008. Named after an early researcher into the orphan copyright subject and former aide to Sen. Orrin Hatch, the Act and a similar bill proposed by the House are aimed at addressing the issues presented by orphan works. Namely, are works not being used due to the fear of subsequent legal action? Is the public being denied access to these creative works because of the chilling effect of current copyright law? Under both pieces of legislation, works could in effect be used without prior permission should the copyright user fail to find the copyright owner. As long as the user conducted a “reasonable search” to find the copyright holder, the copyright holder would not be able to collect statutory damages or attorney fees from the infringer.

Libraries, museums, archivists and similar groups are generally in favor of the legislation. The stance of libraries, in particular, is that works are not being used for fear of litigation and high liability fees. These groups, including the American Association of Museums, the American Library Association, and the Motion Picture Association of America, also argue that recent factors have come together to amplify the orphan works problem. They cite changes in copyright laws which have abolished formalities such as registration systems, digital technology which has decreased distribution costs, and complex company mergers and consolidations which make finding a trail back to the copyright owner difficult if not impossible (Library Copyright Alliance, 2005).

Orphan Copyright advocates say the cost of unraveling the ownership questions many times may be too great to validate the risk of releasing those works. Some supporters argue that some groups might be able to use the orphaned works under the fair use doctrine; others say the danger of potential litigation is enough to scare the “gatekeepers” such as university lawyers, into keeping the works under wraps (Library Copyright Alliance, 2005).

On the other side of the argument are groups such as visual artists, photographers, graphic designers and other producers of copyrighted material. Makers of this type of copyright-protected material and their professional organizations worry that permitting orphaned works to be used with fewer penalties could open the door to abuse of the system and reduced protection of copyrighted works. They especially fear the implications of both bills due to the frequent problem of identification of the author of these unique categories of works. Once the owner surfaces and discovers the use, the penalties to the user and the compensation for use to the owner could be greatly reduced under the legislation passed by the Senate and the proposed legislation in the House. It is of particular concern in the digital age, where works are easily manipulated, copied and pasted throughout the Internet, without the knowledge and consent of the copyright owner.

The legislation passed by the Senate:

- “Limits the remedies in a civil action brought for infringement of copyright in an orphan work ... if the infringer meets certain requirements, including proving that:
 - (1) the infringer performed and documented a reasonably diligent search in good faith to locate and identify the copyright owner before using the work, but was unable to locate and identify the owner;
 - and (2) the infringing use of the work provided attribution to the owner of the copyright, if known. Requires a search to include methods that are reasonable and appropriate given the circumstances, including in some circumstances: (1) Copyright Office records that are not available through the Internet; and (2) resources for which a charge or subscription is imposed” (A bill to provide limitation on judicial remedies in copyright infringement cases involving orphan works, 2008).

The bill also limits liability damages for potential infringers. It:

“Limits monetary compensation to reasonable compensation for the use of the infringed work. Prohibits such compensation if the infringer is a nonprofit educational institution, museum, library, or archive, or a public broadcasting entity and if the infringer proves that:

- (1) the infringement is performed without any purpose of commercial advantage and is primarily educational, religious, or charitable in nature; and
- (2) the infringer ceases the infringement expeditiously after receiving notice of the claim for infringement. Allows injunctive relief to prevent or restrain infringement, subject to exception and limitation” (A bill to provide limitation on judicial remedies in copyright infringement cases involving orphan works, 2008).

The Act also requires the U.S. Copyright Office to enact a program to create databases to and oversight programs. The Act:

“Directs the Register of Copyrights to: (1) undertake a process to certify that databases are available that facilitate searching for pictorial, graphic, and sculptural works protected by copyright; (2) report to the House and Senate judiciary committees on the implementation and effects of certain amendments made by this Act, including any recommendations for legislative changes; and (3) report to those committees on remedies for copyright infringement claims by an individual copyright owner or a related group of copyright owners seeking small amounts of monetary relief.

Directs the Comptroller General to report to such committees on the function of the deposit requirement in the copyright registration system” (A bill to provide limitation on judicial remedies in copyright infringement cases involving orphan works, 2008).

The House version of the bill is equivalent to the Senate version, except for the insertion of a “Notice of Use” provision that requires the user of a supposed orphan work to file a notice of intent to use the work with the U.S. Copyright Office. This serves as an additional protection device to the copyright holder and is supported by many graphic artists, illustrators and photographers (A Bill to provide limitation on judicial remedies in copyright infringement cases involving Orphan Works, 2008).

While the intent of the legislation is worthwhile, several factors make it an untenable solution. First, the reasonably diligent search requirement is too flexible and undeveloped. Additionally, there is no mention of funding in either bill to support oversight functions such as the development of best practices and registries. Finally, the ultimate harmful effect of this legislation is that, in essence, it will enable willful copyright infringement.

Despite the Orphan works defeat in 2008, neither advocates nor opponents believe the matter is settled. After all, the underlying issues remain. Furthermore, lobbyists on both sides of the issue continue to work on the legislation.

“OW will not die or be permanently defeated. It has been reintroduced five times during the last three Congressional sessions, and there’s absolutely no reason to believe the 111th Congress will be any different. The interests behind the legislation will continue their pursuit of the matter as they have during the past six years” (Graphic Artists Guild, 2008).

The Reasonably Diligent Search

One of the central issues relating to both bills revolves around the “reasonably diligent search” requirement. Both bills fail to clearly state what comprises a “reasonably diligent search”. Without precedent to rely on and without an intelligible definition of this search standard, the first round of orphan copyright cases to come before the courts have the distinct possibility of allowing for incomplete searches, leaving the copyright holders with few remedies with which they could protect themselves and their works.

The “reasonableness” standard is one often used in a variety of legal cases from negligence to contract to criminal law. The term is used widely and while imprecise, usually comes with a set of guidelines to help the judge or jury decide how to make a determination of “reasonableness”.

Some consider the reasonableness standard appropriate for the amount of flexibility it allows plaintiffs and defendants to consider a host of aspects that are unique to each case. It also provides judges and juries an opportunity to use some plain old-fashioned common sense in some instances.

However, flexibility can also breed uncertainty in many of these reasonableness cases. For example, defendants in copyright cases often invoke the principle of Fair Use. Broadly, a user of copyright material can claim the material was used in commentary, journalism, scholarship, research or other areas protected under the First Amendment. Fair use, as mentioned earlier, is a defense often used, but has also been called “one of the most unsettled areas of the law. The doctrine has been said to be „so flexible as to virtually defy definition”” (Time Inc. v. Bernard Geis Assoc., 1968).

The challenge lawmakers and proponents of the Orphan Copyright Act face is to provide guidelines that are flexible enough to adapt to unique situations, but rigid enough to be clear about when an adequate search has been performed. The House bill says a “reasonably diligent search” should include.

- “(I) actions ... that are reasonable and appropriate under the facts relevant to that search, including whether the infringer took actions based on facts uncovered by the search itself;
- (II) the infringer employed the applicable best practices maintained by the Register of Copyrights under subparagraph (B); and
- (III) the infringer performed the search before using the work and at a time that was reasonably proximate to the commencement of the infringement” (A Bill to provide limitation on judicial remedies in copyright infringement cases involving orphan works, 2008).

It provides some broad guidance on what to include in these “best practices.”

- “The Register of Copyrights shall maintain and make available to the public, including through the Internet, current statements of best practices for conducting and documenting a search under this subsection” (A Bill to provide limitation on judicial remedies in copyright infringement cases involving orphan works, 2008).

And:

- “In maintaining the statements of best practices required under clause (i), the Register of Copyrights shall, from time to time, consider materials and standards that may be relevant to the requirements for a qualifying search” (A Bill to provide limitation on judicial remedies in copyright infringement cases involving orphan works, 2008).

So what exactly is a reasonably diligent search? How does a user know he or she has exhausted all avenues when searching for the copyright holder? The proposed leaves that question in the hands of the Copyright Office, but the Act does not provide any funding for staff, software, hardware or other provisions necessary to manage databases or address issues that would arise under Orphan Copyright use.

This has led to a debate on the best approach in determining whether a search has been reasonably diligent: ad hoc/case-by-case or formal?

The formal approach requires that the copyright holder place and retain his contact information in a centralized location. A registry of works would certainly help in the search efforts. However, the 1976 Copyright Act and the Berne Convention, an international agreement on intellectual property use, both abolished formalities such as registration requirements. Any kind of required, formal registry would also place additional burdens on the copyright owner. Owners would be spending time monitoring the registry to see if anyone wanted to use their work(s). It has the advantage of additional confidence, knowing exactly what is required of a user to perform a reasonably diligent search. But, this approach leaves little wiggle room for unique circumstances and situations.

Registration Requirements and the Funding Deficiency

The formal vs. ad hoc conflict has led some to suggest a voluntary registration requirement (Mausner, 2007). The U.S. Copyright Office, though, has articulated unease about funding such a database. They estimate a cost of around \$35 million to create this registry (Mausner, 2007). The argument, then hinges on the cost-benefit of creating such a system. If you are a believer in the need to archive and preserve creative expression and protect copyright owners, you would say the benefit outweighs the cost.

Newer technology might bring greater efficiencies in time and cost. Content-based image retrieval systems hold some promise for more effective image searches (Mausner, 2007). The technology is already in the marketplace, making functional visual registries feasible. However, the U.S. Copyright Office maintains, “On a practical level, it is difficult to imagine how the Copyright Office or any government office could ever keep pace with the image technology world that exists outside our doors and beyond our budget” (Peters, 2008). But, what is the penalty if a copyright owner does not submit information into the designated registry? Most likely, the owner would lose the ability to collect statutory damages and attorney fees.

Some are in favor of the ad hoc approach as it leaves room to consider a variety of factors and situations. This is the approach favored by the U.S. Copyright Office. Though this most certainly means the reasonably diligent search standard will have to be further clarified by case law through time, great courtroom expense, and frustratingly slow bureaucracy (Mausner, 2007). As a group of film documentarians asserted, “Without some level of certainty, filmmakers will never know when the search is ‘enough,’ rendering orphan works reform practically unusable” (Subcommittee on Courts, the Internet, and Intellectual Property, 2008).

With regards to the submission and maintenance of best practices, it is assumed that various industry and trade organizations will submit these best practices, relative to their areas of expertise. As the U.S. Copyright Office stated in March 2008,

“thus a user who is looking for the owner of a sound recording would look to the recording industry and recording artists for guidance, as well as to other available resources. A book publisher looking for the owner of a photograph would look to the best practices proffered by photography

associations and, also, to the professional guidelines proffered by the publishing industry” (Peters, 2008).

The burden for drafting these best practices falls on industry associations who may or may not have the time or funding for development. Additionally, in a world where technology advancements are progressing at rapid rates, the best practice standards will need to be continually monitored by the Copyright Office and professional organizations and possibly changed for appropriateness. For the system to work, users and enforcers need to agree on best practices, and there is no guidance in the legislation on how to achieve this elusive consensus.

Compensation and Damages

One of the most significant fears of many copyright owners is that their work will be used without permission with the user claiming the work has “orphan” status. Under the proposed legislation, if the claim that the user did a diligent search for the copyright author but found nothing is successful, users would not have to pay statutory damages and attorney fees that they would normally pay for copyright infringement.

The librarians, archivists and museum groups assert that a remedies-based solution is the only solution; that the fear of having to pay high damages should be neutralized. If the owner surfaces, the user would have to pay “reasonable compensation”. Yet again, this ambiguous standard is applied, generating much uncertainty in the name of flexibility. “Reasonable compensation” is defined as “the amount on which a willing buyer and seller in the positions of the infringer and the owner...would have agreed with respect to the infringing use of the work immediately before the infringing began” (A Bill to provide limitation on judicial remedies in copyright infringement cases involving orphan works, 2008). This could be difficult to establish retrospectively. The bargaining and negotiating process to set “reasonable compensation” would most likely be different in each situation.

The ambiguity in the bills due to the terms “reasonable compensation” and “reasonably diligent search” could encourage a great deal of litigation. Many copyright owners do not have the resources to be involved in lengthy court cases. And, under the House and Senate bills, they would be deprived of the award of attorney fees whether they win or lose their case(s).

Guidelines

Assuming the law passes in the future, how can copyright owners protect themselves and their works? Formal academic and legal guidelines have yet to be established, and it would take a generation for courts to establish precedents through individual cases under Common Law, some attorneys and professional organizations have offered guidelines.

Author Mary Minow a co-author of the American Library Association's Legal Handbook offered best practices to guide orphan copyright users. She recommends a list of places to check for copyright holders, starting with the U.S. Copyright Office, but also including watchdog organizations such as the University of Texas and Copylaw.com, a site maintained by copyright attorney Lloyd Jassin of New York City (Library Digitization Projects and Copyright, 2002).

Samuel Demas and Jennie L. Brogdon, librarians at Cornell University, also offer a checklist of determining the copyright status of most works librarians are apt to encounter at http://www.copyright.cornell.edu/public_domain/ (Cornell Copyright Information Center, 2009). They also offer a checklist of databases (Cornell University Library, 2002).

The American Society of Picture Professionals (ASPP) has already posted its version of search best practices. They include:

“For images where the photographer or artist name is known:

- * If you have a digital image file, search the metadata for additional source information (Open document in PhotoShop. Under “File”, go to “File Info”);

- * If known, contact the original stock agency, or successor agency. They should be able to contact the photographer on your behalf or put you in contact with the photographer even if they no longer represent him/her. (If you need helping finding a stock agency, contact the Picture Archive Council of America.);

- * Contact the original publisher;

- * Contact the Professional Photographers of America (PPA) and use their artist registry <http://www.photographerregistry.com>;

- * Contact the Picture Licensing Universal System to search in their artists and licensor registry <http://www.useplus.com/useplus/registry.asp>;

- * Search by photographer's name at various stock agency sites to try and find the image (or to see if the agency might represent the photographer);

- * „Google’, or check photo-sharing sites like Flickr, using the photographer's name and follow leads such as educational institutions where he/she studied, professional organizations, etc.;

- * Do the same using keywords that give information about the subject of the image and find the image by subject matter;

- * If the image is a historical photo of a known location or a historically significant event, contact a local newspaper or historical society. The

image could have been published with a story or archived. Often staff of such organizations will know how to locate a creator/copyright holder or will be able to direct you to a source that might have an answer;

* Contact the U.S. Copyright Office at www.copyright.gov and search the database of copyright registrations (available since 1975). This search is limited as you need to search by title of the work or name of author or claimant; there is no image search” (ASPP, 2008).

The group also suggests searchers check a list of websites for the copyright holder’s name, as well as providing a list of other potential resources. In the event that a copyright infringement case came to the court, the court would theoretically look to see if the best practices had been followed in the search process.

Public Knowledge, a freedom of information advocacy group, advocates the creation of an independent visual registry similar to the Domain Name Registry System used for web sites. That group’s proposal stresses the importance of searchable databases and a registry under the supervision of the Copyright Office. It also includes:

- All new visual work to have data that differentiates and identifies the work and its owner.
- The establishment of a free and accessible copyright search engine.
- That images on the database be low resolution to discourage print publication or reproduction (Public Knowledge, 2008).

Discussion

While it is a worthwhile effort to make information, especially information with no clear copyright ownership, available to any citizen, particularly scholars and students, Orphan Works legislation represents more of a worthwhile concept than a feasible, practical program.

Proponents stress the need for a registries and searchable databases for any program to work, but no one has proposed any means of funding such an operation. At a time when both private and public budgets are under siege, it is dubious whether any institution will find the funds for a new initiative.

Furthermore, industry and trade organizations have little confidence in the best practices requirement. For example, the Association of Independent Music Publishers (AIMP) stated in a position paper in July 2008, that

“best practices are not defined; instead the legislation leaves it up to the Copyright Office to create a statement of best practices, in effect creating an unjustified ‘safe harbor’ for willful infringers. We are doubtful that the ‘best practices’ would be adequate, developed in a timely manner, or would address the unique requirements for searching musical compositions. There is no single public or private database of all musical

compositions in the United States, and even if all of those database resources were merged, they would not be comprehensive. More specifically and most untenably, all unpublished and published works would have to be registered with the Copyright Office regardless of the public policy prohibition against such requirement. The U.S. performing rights organizations, ASCAP, BMI and SESAC maintain databases of primarily published works by their respective members. Most unpublished musical works will not appear in a search of these databases” (AIMP and CCC, 2008).

Even following their own best practices, the Cornell librarians have trouble identifying some manuscripts. Cornell Samuel Kroch Library librarian Sarah Thomas, in written testimony on the Orphan Copyright Act, described her library’s search for the owners of 198 “orphan” documents in 2005:

“The bottom line for this project is appalling. We spent over \$50,000 in staff time on copyright issues and ... only 14 percent of our inquiries resulted in denials; for most (58 percent), we could never determine who owned the copyright. Furthermore, the inability to agree on the definition of reasonable search and best practices puts the courts in a position to define them. It will take years of litigation, not to mention millions of dollars, to define the parameters of these terms” (Cornell University Library, 2005).

The ease with which material may be transferred from one owner to another also creates potential for Orphan Works questions that may only be answered through litigation. For example, even as she offers guidelines and “best practices,” Minow expresses concerns over the potential for litigation and complications, particularly for archivists and database administrators, under *New York Times v. Tasini* (2001).

In *Tasini*, a group of freelance writers and photographers protested when the newspaper sold the rights to their archives to various databases despite the fact that the freelancers, who owned the copyright on the material, did not give permission to do so. The Supreme Court found in favor of *Tasini* and the freelancers. Under *Tasini*, the copyright holder retains ownership of material even when that material is part of an archive or database sold to a third party. While the *Tasini* case required the newspaper to obtain the permission from the freelancers in order to sell the archives, the court made no recommendations to potential archive buyers.

If the original copyright holder is not clearly identified – the very definition of an “orphan” --the archivist or database administrator would have no way of knowing if someone other than the original publisher owned the rights, or limited rights, to the material. The archivist would not be expected to even be able to ask whether someone other than the publisher owned any rights to the material.

Overall, while proponents of the legislation may articulate a very valid need for orphan works legislation of some kind, it is clear the proposed legislation has flaws too significant to make it a workable solution.

Providing the public with access to these otherwise hidden works can be a reality. However, because of the vagueness and ambiguity of the “reasonably diligent search” standard, the lack of funding for oversight of the orphan works databases and registries, and the philosophy of willful copyright infringement this legislation, in essence, proposes, overall, the Orphan Works Act, while a commendable effort, is unwise, impractical and ultimately untenable.

Bibliography:

Articles:

American Society of Picture Professional, Best Practices for Locating Copyright Owners Of Photographic and Visual Art, <http://www.aspp.com/pages/257/189/0/> (Accessed January 7, 2009).

Association of Independent Music Publishers (AIMP) and California Copyright Conference (CCC) Joint Position Paper on Orphan Works Legislation, available from [http://www.aimp.org/UserFiles/File/AIMP-CCC_Orphan_Works_Position_Paper\(1\).pdf](http://www.aimp.org/UserFiles/File/AIMP-CCC_Orphan_Works_Position_Paper(1).pdf) (Accessed January 7, 2009).

Cornell Copyright Information Center, *Copyright Term and the Public Domain in the United States*, http://www.copyright.cornell.edu/public_domain/ (Accessed February 14, 2009).

Cornell University Library, <http://www.copyright.gov/orphan/comments/OW0569-Thomas.pdf> (Accessed on March 19, 2009).

Cornell University Library, “Determining Copyright Status for Preservation and Access: Defining Reasonable Effort”, <http://cidc.library.cornell.edu/political/citations.htm> (Accessed February 14, 2009).

“Legislation has three possible outcomes,” Orphan Works News, Graphic Artists Guild, Nov. 2008, <http://orphanworksnews.com/?m=200811> (Accessed March 19, 2009).

Library Copyright Alliance, *Re: Orphan Works Notice of Inquiry*, <http://www.copyright.gov/orphan/comments/OW0658-LCA.pdf> (Accessed on March 12, 2009).

Library Digitization Projects and Copyright = Part V – Permissions, Good Faith Efforts and Disclaimers, June 28, 2002, <http://www.llrx.com/features/digitization5.htm#fn42> (Accessed January 9, 2009).

Mausner, J.O, “Copyright Orphan Works: A Multi-Pronged Solution to Solve a Harmful Market Inefficiency”, *Journal of Technology Law & Policy*, Volume 12, Issue 2, December 2007.

Minow, Mary, “Library Digitization Projects and Copyright = Part V – Permissions, Good Faith Efforts and Disclaimers,” June 28, 2002, <http://www.llrx.com/features/digitization5.htm#fn42> (Accessed on March 4, 2009)

Peters, Marybeth, *The Orphan Works Problem and Proposed Legislation* (2008), <http://www.copyright.gov/docs/regstat031308.html> (Accessed on October 14, 2008).

Public Knowledge, *Competitive Visual Registries for Copyrighted Works*, <http://www.publicknowledge.org/pdf/pk-visualregistry-memo-20070129.pdf> (Accessed on March 19, 2009).

Public Knowledge Proposes Creation of Visual Registry Based on the DNS Model, <http://www.publicknowledge.org/issues/ow> (Accessed on February 14, 2009).

Subcommittee on Courts, the Internet, and Intellectual Property, March 20, 2008, *Statement of Doculink, Film Independent, International Documentary Association, Independent Feature Project, National Alliance for Media Arts and Culture, Public Knowledge, and Tribeca Film Institute*, <http://www.publicknowledge.org/pdf/ow-statement-20080320.pdf> (Accessed on March 12, 2009)

Laws and legislation:

House, A Bill to provide limitation on judicial remedies in copyright infringement cases involving orphan works, 110th Cong., 2nd sess., 2008, H. R. 5889 (accessed January 6, 2009).

Senate, A Bill to provide limitation on judicial remedies in copyright infringement cases involving orphan works, Summary, 110th Cong., 2nd sess., 2008, S. 2913.

U.S. Copyright Act of 1976, 44 U.S.C. §§ 505 & 2113;

Legal cases

New York Times Co., Inc., et al. v. Tasini et al., 533 U.S. 483 (2001)206 F.3d 161.

Time Inc. v. Bernard Geis Assoc., 293 F. Supp. 130, 144 [S.D.N.Y. 1968] as quoted in *Princeton University Press v. Michigan Document Services*, 99 F.3d 1381 [6th Cir. 1996].