

Orphan Works

Computer History Museum
Jonathan Cheyer
2006 March 15

What Is an Orphan Work?

- Short answer: Can't determine and locate the true copyright owner
- Longer answer: "The owner of a copyrighted work cannot be identified and located by someone who wishes to make use of the work in a manner that requires permission of the copyright owner."

What Is the Problem?

- The CHM-SCC has a goal of preserving important historical software and making the software and documentation available to the general public for educational, historical, and hobbyist reasons.
- Much of the software we are trying to preserve may be an Orphan Work, which means that, legally, we may not be able to fulfill our mission.

Sample Project - NLS/Augment

- NLS/Augment project
- Almost 1 year of hard work to locate copyright owner
- So far, no copyright owner has been found
- It's not clear that even with another year of effort we will be able to locate the copyright owner

Why are Owners Hard to Find?

- Copyright owned by business entities may be sold and acquired many times over time
- Copyright owner is unaware they own the copyright
- Paperwork may be difficult to track down or impossible (paperwork no longer exists)

Report On Orphan Works

- Jan 2006 report by Copyright Office
- <http://www.copyright.gov/orphan/>
- Cases such as ours (museums, libraries) are recognized in the report
- Suggested changes to law
- Good start, need much more help

Problem for the SCC

- The work done by the NLS/Augment team is not scalable across our projects
- Too much work, too little result

What to Do

- The CHM needs to take this problem seriously
- Discuss the existing process used by CHM for software intake
- Identify common process to be used across our projects
- Develop strategy for bringing public awareness to the problem

Call to Action

- Community Outreach
 - Who is already in our community that is knowledgeable about legal?
 - How do we bring together technical and legal people
- Extend our community
 - Lawyers
 - Lobbyists
 - Congress