

EXHIBIT A

----- Original Message -----

From: Jan Constantine Wednesday, July 13, 2011 2:26:03 PM
Subject: Orphan Works Initiative
To: jack Bernard
Cc: Paul Aiken

Jack –

I wanted to follow up on your call and email on Michigan's orphan works initiative. Since my return from my vacation in France last week, I have heard from rights holders groups of all persuasions who have expressed serious concerns about many aspects of the initiative, including its legality, potential security risks, and the methodology used by Michigan to ascertain orphan works status, to name a few. We share those concerns, and find ourselves in the dark. You assured me that you would forward to me the details of Michigan's methodology, but we haven't received that yet. You also said that a list of several thousand books would be forthcoming in mid-July, 90 days before the works are scheduled to be displayed in October, but we haven't seen that, either. (I presume that means things are going a bit more slowly in terms of implementing your initiative)

You ended your call by inviting concerned parties (your exact phrase I recall was "people who come screaming to us") to reach out to you, Paul Courant and John Wilkins, to express our concerns and issues regarding the orphan works initiative and said that the University of Michigan would be receptive to a dialog on this project. I'd like to take you up on that and request a meeting of concerned groups and rights holders with representatives of the University of Michigan to discuss this initiative in detail so that we can fully understand your methodology, the extent of the uses to be made of these works, our continuing concerns over security and your rationalization as to how these procedures and uses are justified under copyright law.

Summer is a difficult time to rustle up any group of people, especially academics, but time is really of the essence especially if you still intend to post a list of potential orphan works in July and then display certain of them in as early as October. If things are moving more slowly, and you could assure us that nothing will be done to implement the initiative until after our discussions, then that might give us some breathing room until the fall.

I look forward to hearing from you.

Best,

Jan

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----- Original Message -----

From: Jack Bernard <bernar@umich.edu> Wed, Jul 13, 2011 2:55:34 PM
Subject: Re: Orphan Works Initiative
To: Jan Constantine
Cc: Paul Aiken

Hi Jan:

I hope your trip was relaxing--I know it was well-deserved. Thanks for following up.

I am sorry not to have had something in your hands already. As soon as I have something to forward--I've been away myself--I will. Once I've got something describing our process, beyond what's already on the website, I'll send it. I believe our library is trying to be as transparent and accurate as possible (attention to accuracy may be holding back public disclosure at the moment, because inaccuracy necessarily spoils transparency). As you pointed out, summer may be a bit more sluggish than other times of the year. Nonetheless, I'll give a poke today to keep us on task. Also, if we're pushing back a release date for announcing titles, I'll let you know that as well.

You know about the 90-day lag period, which should give us time to work through issues. Though, as far as I know, the clock has not yet begun to tick, because I don't believe we've announced a list of works we've identified as orphans works, yet. Our hope, of course, is to be accurate in identifying which works are orphans works; and we believe that having a period in which rights holders could identify works and having a searchable database improves the orphan works identification process--determining that a work is not an orphan work is just as valuable as determining that a work is an orphan work.

Just so you know, we haven't been hearing from rights holders groups of all persuasions, so I'm glad that you are willing to serve as a conduit (buffer?) and I appreciate your sharing this information.

I will notify Paul, John, and our library copyright office of the issues you've raised here and I know that they will be taken seriously.

I appreciate both your and the Guild's willingness to work with us. I'll be in touch shortly.

Many thanks,

Jack

----- Original Message -----

From: Jan Constantine Thursday, August 18, 2011 5:26:54 PM
Subject: Re(2): Orphan Works Initiative
To: Jack Bernard <bernar@umich.edu>
Cc: Paul Aiken

Jack- It is now more than a month since you replied to my email and I have heard nothing from you or anyone else from UofM regarding our concerns and questions about the orphan works initiative. I have many questions regarding the "Eight step program", the number and types of books that will be made accessible and the timeframe, to name only a few topics. I would request that we schedule a face-to-face meeting at your earliest convenience with people on your side who can answer some of these questions and individuals from the rightsholders side who have expressed similar concerns to me and perhaps directly to you or your colleagues. I understand that there are 27 books that have been targeted for the program to date and that it is UofM's (together with the Univ of Wis. and Univ. of Fla.) intention to make them available for full access in mid-October. If this is not the case, please let me know. Assuming it is, it is very important to us to have a meeting as soon as possible. I hope that you are enjoying your summer. Best. Jan

----- Original Message -----

From: Beth Humpert <bhumpert@umich.edu> Mon, Aug 29, 2011 2:14:18 PM
Subject: Meeting with UM
To: Jan Constantine

Dear Jan,

Jack Bernard asked me to schedule a conference call for the two of you, John Wilkin and Melissa Levine, also here at UM, to discuss the Orpan Works project. I'll schedule one hour. Can you let me know if any of these time blocks will work into your schedule? Thank you.

Friday, Sept 2, 10am - 3pm
Tuesday, Sept 6, 2:30pm - 5pm
Thursday, Sept 8, 11am - 4pm

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Beth Humpert
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----- Original Message -----

From: Jan Constantine Tuesday, August 30, 2011 11:33:31 AM
Subject: Re: Meeting with UM
To: Beth Humpert <bhumpert@umich.edu>
Cc: Paul Aiken

Beth- Paul and I will coordinate our respective schedules and will get back to you about the call soon. Thank you . Best. Jan

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Beth Humpert <bhumpert@umich.edu> on Monday, August 29, 2011 at 2:14 PM -0500 wrote:
Dear Jan,

Jack Bernard asked me to schedule a conference call for the two of you, John Wilkin and Melissa Levine, also here at UM, to discuss the Orpan Works project. I'll schedule one hour. Can you let me know if any of these time blocks will work into your schedule? Thank you.

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----- Original Message -----

From: John Wilkin <jpwilkin@umich.edu> Tue, Sep 06, 2011 3:13:52 PM
Subject: discussing orphan works
To: Jan Constantine
Cc: "Butchart-Bailey, Christine" <chrisbu@umich.edu>
Attachments: Attach0.html 5K

Dear Jan,

I'm writing to extend an invitation to come to Ann Arbor to discuss our orphan works initiative. It's our hope that our orphan works determination process will be useful to all parties, and I hope that an in-person discussion of the methods and goals will help both to clarify our work and the access methods and to give you an opportunity to share your perspective with us. There are several people from Michigan whom I would want to make sure are part of the discussion. I believe you know all of them, but I'll list them and their roles so as to be as thorough as possible. Jack Bernard, an attorney in our General Counsel's office, will participate to represent the legal issues from Michigan's perspective. Melissa Levine, who heads our Copyright Office and leads the pilot on orphan works, will address questions about the process of making determinations (and challenges). Paul Courant, the dean of libraries, will participate to represent the larger institutional perspective. And of course I will participate to help make clear the technological approach we're using.

I'm copying my administrative assistant, Chris Butchart-Bailey, who can coordinate calendars on our end. Chris would be glad to work with you on email or by phone at 734.764.8016. We think a deeper discussion of all of the issues will be helpful for all of us and we would be grateful if you could find a time to visit. Ann Arbor is lovely in the Fall and easily reached from the Detroit Metro airport. Frankly, we'd love a chance to talk. I hope you'll say yes.

Cheers,

John

--

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