Congressional Activity on "Orphan Works," Open Access

"Orphan Works"

The “Orphan Works Act of 2006,” H.R. 5439, was introduced in May, as a result of efforts by libraries, publishers, the U.S. Copyright Office and other groups to amend the copyright law to deal with works whose owners are difficult or even impossible to find. The thrust of the bill is that remedies for infringement of a copyrighted work will be limited if the user (the alleged infringer) had made a reasonably diligent, good faith search to locate the owner of the work but was unable to find the owner.

The bill was marked up by the House Judiciary Committee’s Subcommittee on Courts, the Internet, and Intellectual Property subcommittee in May and referred to the House Judiciary Committee. Even though libraries have concerns with some aspects of the bill, we supported it because we believed that, if enacted, H.R. 5439 would substantially alleviate the orphan works problem, particularly for libraries.

In a disappointing move in late summer, the orphan works bill was combined with two other bills dealing with online music licensing and "enhanced" criminal copyright enforcement to form the larger and more complicated "Copyright Modernization Act of 2006," H.R. 6052. Withdrawn three times from scheduled markup by the House Judiciary Committee (most recently on September 27), the bill will not move forward in the current congressional session. There is no companion Senate bill. Libraries will work on the reintroduction of an orphan works bill in the new Congress next year.

More information and background about orphan works is available on the ALA copyright pages.

Open Access to Research

On September 26, legislation to provide for a sweeping overhaul of the National Institutes of Health (NIH) - the first of its kind in 13 years - included key report language underscoring Congressional oversight to actively monitor participation rates and overall effectiveness of the NIH's Public Access Policy. The NIH Reauthorization Bill, authored by House Energy and Commerce Committee Chairman Joe Barton, passed the House of
Representatives on Tuesday, September 26.

The Alliance for Taxpayer Access (ATA) - of which ALA is a member - reports that the importance of the public access policy was brought into focus as well at last week's markup of the bill, when Congressman Mike Doyle of Pennsylvania echoed concerns about the meager participation rate - less than five percent - under NIH's current voluntary policy. Committee Chairman Joe Barton responded during markup, telling Doyle he shares many of his concerns regarding the function of the public access policy and pledging to work with the Congressman to implement reform measures.

More information and background about open access issues is available on the ALA copyright pages.

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