

The United States Constitution, Article I.8.8 authorizes Congress "To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and inventions". This usually is interpreted in terms of copyright and patent.

As an author and inventor, I have two related suggestions:

1. "Harmonization" with foreign or international law should not be a consideration. There are plenty of courts to sort out different laws.
2. There should be no change in the rights of authors, except perhaps to shorten the excessively long term, which currently can be 100 years, not at all a "limited time".
3. The law should be changed to forgive infringement when a reasonable effort was made to contact the author (not the estate or assignee, unless named in the copyright notice affixed to the copied work) to obtain permission.

However, should the author, the estate, or an assignee make themselves known and request it, SUBSEQUENT unauthorized publications should become infringing.

Withdrawal of an unauthorized orphan work which is forgiven infringement should not be a penalty enforceable in civil or criminal law.

This exception to withdrawal should apply to removal of printed unauthorized materials from circulation or sale, or removal of web-posted copies.

4. Commercial vs. noncommercial forgiven infringement should be treated the same: Motive or profit of the unauthorized publication should not be relevant, because the infringement is to be forgiven.

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John

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