

To: Julie L. Sigall
Associate Register for Policy & International Affairs

Date: 03/14/2005

From: Alexander Perlis

Comment:

I wrote to Prentice-Hall publishers on 29 May 1997 seeking permission to use some material from an out-of-print book in classes I was teaching at the time at the University of Arizona. I received no response, and to this day do not know whether I can make use of the material. My suspicion is that the proposed use is authorized as a form of "fair use", but to be sure I decided to ask. Receiving no response whatsoever is nothing short of frustrating.

My feeling is that if there is no response when an attempt is made to query a copyright holder, i.e., when a good faith effort to contact the supposed holder exists, then there should be a mechanism for the orphaned work to revert back to the public domain. For example, I could imagine the following type of mechanism: after receiving no response, I would subsequently write to the Copyright Office with a copy of my letter to Prentice-Hall. The Copyright Office would then post this on their website, and Prentice-Hall would have 30 days in which to discover this, respond to my query, and write to the Copyright Office reasserting its copyright. Otherwise, by virtue of the notice being on the Copyright Office website for 30 days, the work would revert to the public domain.

Perhaps the rules could be different for individual copyright holders, as opposed to large corporate publishers. With the latter, it seems worthwhile to have a system in place that requires the publisher to meet certain ongoing obligations in order to maintain the copyright.