

Re: Pluto's OK

Source: <http://sci.tech--archive.net/Archive/sci.space.history/2006-09/msg00579.html>

- *From:* Brett Paul Dunbar <brett@xxxxxxxxxxxxxxxxxxxx>
 - *Date:* Thu, 14 Sep 2006 18:25:23 +0100
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In message <QLmNg.3487\$726.1871@xxxxxxxxxxxxxxxxxxxxxxxx>, Scott Hedrick <dinehnmKILLSPAM@xxxxxxxx> writes

"Brett Paul Dunbar" <brett@xxxxxxxxxxxxxxxxxxxx> wrote in message news:DDGHY2urS1AFFw+L@xxxxxxxxxxxxxxxxxxxxxxxx

That would violate the Berne convention, as the treaty prohibits requiring any kind of formality to establish or retain copyright on the general principal that copyright should not be lost accidentally or due to ignorance of a specific legal system.

You misunderstand– we weren't saying that copyright would be lost without registration. The registration was to give notice of the most current copyright holder, to avoid a copyrighted item from becoming an orphan, thus making it impossible to legally get permission to copy. There's currently no process to get permission to copy or reprint something in copyright where the current holder cannot be found, essentially making such an item useless. There are thousands of items currently in copyright, but for which the current owner is unknown. The registration process we were describing involved items which have transferred ownership– if someone buys or otherwise knowingly obtains the copyright to an item, then they should be required to register that change of ownership, so as to allow the public to contact them if it is desired to duplicate an out-of-print item. One way to ensure this is done is to require registration within a limited period of time of the change of ownership. The penalties for not properly registering could be as drastic as losing the copyright, or it could be that the item is treated as an orphan if a duly diligent search cannot uncover the proper owner, and thus the item could be legally reprinted at the standard government-issue rate, with the royalties thus held in trust until the true owner comes forward. Thus, orphans can be legally reproduced even without the permission of the copyright holder, *unless* the current holder declares at the time of registration that the item is not to be reprinted without permission.

Actually I didn't misunderstand. Virtually any penalties for failing to register would violate Berne, loss of copyright certainly would it is absolutely forbidden to impose any formalities for the retention of copyright. In

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practice if a publisher has made a good-faith effort to find the copyright holder and places a reasonable royalty in an escrow account they should be OK, as they have clearly demonstrated an intent to pay.

Suitable rules would allow registration after the deadline, but would not allow such registration to cancel projects involving the no longer orphan item that were started during the time of orphanhood, nor would it allow a change in royalties for anything done before proper registration. If the copyright is considered valuable to the owner, then the owner should take a minimum step to protect it.

It's not an attempt to get something for nothing, rather, it's an attempt to prevent something from becoming nothing simply because the owner cannot be found.

It would breach the Berne convention. A simpler approach would be allowing an explicit good-faith defence, i.e. that a good faith attempt to locate the copyright holder has been made and reasonable royalties placed in escrow, that would be permissible.

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Great Internet Mersenne Prime Search <http://www.mersenne.org/prime.htm>

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Brett Paul Dunbar

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