



# Beyond the Book<sup>®</sup>



## **Tarja Koskinen-Olsson - Rights Dissolution or Rights Resolution? Administration of Access to Copyright Works in the Digital Arena**

International Federation of Reproduction Rights Organization General Meeting 2007

F: Tarja Koskinen-Olsson needs little introduction to the majority of people in the room here today. Tarja is, of course, our honorary president, and she is also a member of the European Commission's i2010 Digital Libraries' High Level Expert Group, and it is from this perspective and the perspective of the RROs that we would like her to address today.

TKO: Thank you, and by way of conclusion firstly in my capacity of the High Level Expert Group of the European Digital Libraries when it was – had the first meeting for – year and a half ago, there was a feeling that IPR rights, intellectual property rights, are a challenge and you know the challenge in modern parlance is a hinder. And it said if not sold that would prevent or slow down the wonderful project. A copyright subgroup was nominated at the first meeting of the high level expert group, and the copyright subgroup took the task of finding solutions to the problems at hand. We had the following point of departure that these solutions that we are going to recommend should fall within the existing legal framework and that they would, at the same time, respect the copyright and related rights of right owners and respect the request from the side of the culture institutions to have access with legal certainty. With that in mind, we then addressed three issues, digital preservation, which I'm going to leave at that, out-of-print works, and orphan works. These solutions that we have found and recommended for out-of-print works consist of a model license as you heard at the keynote speech. The model license and negotiated between the parties, authors, publishers, and with the help of RROs, it is now a time to test the model license in practice into different countries.

At the stakeholders' conference in the middle of September this year, it was also found out that the model license, even though it was negotiated within the text-based material area also is with due attachment applicable to other areas such as audiovisual music and visual. So it's a good starting point for the different material types that are going to be digitized within the project. Now it is time to then

instrument or establish some practical tools, databases for out-of-print works (inaudible) with due rights clearance centers. And the role of RROs and IFRO (sp?) is establishing a mechanism for due rights clearance centers and databases is, of course, not that this would be sold centrally from one central place rather that it would be a routing mechanism to different databases and rights clearance mechanisms so that the community could jointly sold the rights clearance of out-of-print works. The licensing can be individual by the author, by the publisher, or through a collective. It doesn't really matter who does as long as the licensing takes place.

Secondly, the tolls for orphan works, we said that we are not recommending that the European Union would impact upon a legislative process trying to convince all the members states what kind of a solution is proper for the orphan works. We said all the member states may find their own solution and then mutually recognize the other solution in order to get the cross-border effect needed within the European Digital Libraries. Secondly, we said that irrespective of the legal model, there is a need for due diligence search criteria. And that is the work line that we are now going to start. At the stakeholders' conference in the middle of September, it was very much confirmed what the copyright subgroup was recommending. Namely, it is not up to the legislation to try to find out what constitutes reasonable search. It is – neither it is up to the legislation to say this is a good place to search for information. We believed very strongly and that was confirmed at the meeting that it is up to the creative sectors themselves to find out what constitutes reasonable search in their respective area. And the creative industries' areas that I'm talking about are tech space materials, music, audiovisual, visual, and photography.

With the help of the commission we are next week, as a matter of fact, starting discussions in these four creative groups on how to find out the criteria for reasonable search. I've been asked to coordinate the process, and I'll be happy to do so. What is needed moreover is a database of presumably orphan works. That leading, as Tracy Armstrong (sp?) was saying, that leading when applicable to a licensing source. And that is also part of the taker (sp?) process, the databases, and the rights clearing mechanisms coincide and have very many similarities as far as orphan works and out-of-print works are concerned. So that is now in the pipeline and we very much hope so that a – that considerable support would – could be given from the side of the commissioner within the framework of the eContent plus program. So that concludes the perspective of the copyright subgroup and the high level group. We are now working on the due diligence criteria for orphan works. If I put my IFRO and RRO hat, what does this mean for this community? I think the community's strength lies in finding practicable solutions to the problems at hand. And the RROs I think can be a focal point representing authors and publishers jointly.

There isn't one single body that would have the masterpiece in his hand solving all the problems. But the focal points can lead to the distributed solutions. This is a tremendous momentum for the community, for all of you at this moment to show

goodwill, readiness to participate in finding solutions for the problems, changing the problems into challenges, and answering properly to the challenges. Take this opportunity, have willingness to participate and facilitate the lawful use of print, out-of-print works or orphan works in the way that you can. This is the momentum copyright I think needs a goodwill and we can show the goodwill, I'm convinced. Thank you. (applause).

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