

UNIVERSITI TEKNOLOGI MARA

**OPEN INNOVATION FRAMEWORK
FOR THE EXPLOITATION OF
ORPHAN WORKS IN CULTURAL
AND MEMORY INSTITUTIONS IN
MALAYSIA**

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ABSTRACT

Orphan works are copyright-protected works whose copyright holders cannot be identified or located by good-faith users. Mass digitisation activities and the creation of derivative works are impeded due to the difficulties or impossibility to obtain the necessary permission from the copyright holders. The existing Malaysian copyright law is inadequate in enabling access to and the exploitation of orphan works originating from this country. This situation has resulted in orphan works, including those deposited into the cultural memory institutions in Malaysia, being left idle and unable to be exploited by public members. The absence of an open and permissive licensing regime for the exploitation of orphan works has stifled creativity and grassroots innovations among the Malaysian public. Therefore, this thesis aims to develop an Open Innovation framework for the exploitation of orphan works in Malaysia. Since its inception, the application of Open Innovation in the context of copyright works has never been studied, motivating the researcher to explore its suitability for the exploitation of orphan works. This thesis posits that through adaptation of inbound and outbound Open Innovation strategies, it will spur the exploitation of orphan works for public goods through idea pitching, licensing, collaborative projects, and knowledge transfer activities. This thesis employed a combination of doctrinal, fieldwork, and library-based research. The thesis explored various theories that support the exploitation of orphan works through Open Innovation. It also compared the policies and laws in the European Union, the United Kingdom, Canada, and India to determine the extent of adaption of Open Innovation for the exploitation of orphan works. The comparative analysis found that most jurisdictions have adopted Open Innovation strategies through open and permissive licensing orphan works. Semi-structured interviews were conducted with ten respondents from the Malaysian Intellectual Property Office and the national cultural, heritage, and memory institutions for the purpose of developing the most appropriate Open Innovation model for the exploitation of orphan works in Malaysia. Based on the feedback from the respondents, an Open Innovation model comprising of policy, and substantive and procedural laws have been proposed in this thesis. It is anticipated that the proposed Open Innovation framework will provide policy and legal incentives for the exploitation of orphan works under the Malaysian copyright law.

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