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Thank you for this opportunity to respond to your invitation to comment on the affects of copyright law on my career as fine artist and illustrator.

My art is reasonably well known since it has served the advertising, editorial, public relations and historical documentation needs of the aerospace industry, publications, the military services and air and space museums for 68 years. Some of my clients have included: Aviation Week & Space Technology Magazine; Boeing Corporation; Republic Aircraft Company; Garrett Corp; General Dynamics; General Electric; Grumman Aerospace Corporation; Pratt & Whitney and Sikorsky Aircraft of United Technologies Corporation; Lockheed Martin; McDonnell Douglas; Mitsubishi Aircraft; Northrop Corporation; and the National Air and Space Museum of the Smithsonian Institution.

The most well known of my works are my 1976 25 foot high by 75 foot wide B-17 mural in oil "Fortresses Under Fire" created in the World War II Gallery of the National Air & Space Museum of the Smithsonian Institution and my 20 foot by 75 foot "Evolution of Jet Aviation" mural in the museum's Jet Aviation Gallery created in 1980. I transferred my copyrights in the B-17 Mural to the Smithsonian Institution which was a mistake, and I retain the copyrights in the Jet Aviation Mural.

Among many honors received based on my art are the 1995 honorary doctorate of humane Letters from Daniel Webster College in Nashua, NH bestowed for my years of documenting aviation history through art. I am a 2004 member of the Aviation Week & Space Technology Laureate Hall of Fame in the National Air & Space Museum, again for Lifetime Achievement in Aerospace art. I am a member of the Society of Illustrators Hall of Fame in New York and was enshrined in the National Aviation Hall of Fame

as “Dean of Aviation Art” in 2012, the only artist enshrined in the Hall of Fame’s fifty years of existence. Also in 2012, I was honored to be the recipient of the National Aeronautic Association’s Distinguished Statesman of Aviation Award and in 2014 the Honorary Aerospace Engineering Engineer Alumni Award from Texas A&M.

In managing artists and artists’ affairs, I served as Air Force Art Chairman for the Society of Illustrators for 18 years, being responsible for coordinating artist tours for the US Air Force Art Program in the Pentagon and served as the Society’s Executive Vice President for two years. I am a founder and past president of the American Society of Aviation Artists, the organization now entering its thirtieth year.

My entire career has relied on the protection and licensing of intellectual property and the careful managing and control of copyrights. I have recovered fees from guilty infringers, licensed innocent infringers, while vigorously protecting my and others’ copyrights.

I can say with confidence that the best thing that happened for creators of art and other intellectual property was the enactment of the Copyright Law of 1976 which made earning a living from art much more likely for the artist.

Automatic copyright protection bestowed on the author in the 1976 act without the requirement for registration guaranteed the author of works created after January 1, 1978 the exclusive right to control his/her copyrights for life plus seventy years. The only way the creator could lose his/her copyrights was to transfer them to someone else in writing. An artist’s copyrights serve as a source of income far beyond their first licensed use. Since copyrights are infinitely divisible, one’s inventory of copyrights is as good as a bank account and amounts to very valuable personal property. The advent of the internet with its rapid communication ability has actually greatly increased the value of our personal inventory of copyrights.

Any effort to allow third parties to exploit these rights other than through exercise of the artist’s exclusive right to do so would be theft of his/her personal property, resulting in the stealing of money belonging to the artist. It is important for the successful business of art that we voluntarily control all uses of our art.

Any plan which reverses current law and requires registration of an artists' entire inventory of copyrights to avoid exposing them to potential infringement would be unconscionable. For artists with huge bodies of work this would be a total disaster. Few, if any artists will have the time and/or financial assets available to register their entire inventories.

Mandatory registration with a commercial entity would place that entity between the artist and the buyer and would remove the artist's exclusive right to control his/her intellectual property guaranteed under current law. I expect such a government action would serve to dampen creativity (the exact opposite of the primary purpose of copyright law) while reducing the ability of the nation's artists to make a living in the arts.

There are many contractual arrangements in place across the art industry in danger of being negated by government action. Entire business models are in jeopardy.

A great number of Art Collectors around the World own valuable limited edition prints created by our nation's artists. The majority of these editions are long out of print, their value deliberately designed by their business models to increase in value through planned scarcity, a business model which has created a valuable after-market for thousands of signed and numbered limited reproductions. These limited prints are accompanied by Certificates of Authenticity which legally bind artist and publisher in guaranteeing the buyer that there will never be another fine art edition created of the work. If the copyright law were to no longer honor the creator's control of his/her copyrights promised for life plus seventy years, it will no longer be possible for artists to guarantee the integrity of the limited edition print. Owners of these limited editions will lose the value of their investments if unauthorized copies were to come on the market, and that is exactly what would happen if artists lose control of their copyrights. It is not only the artist creating the work, but the many States with laws requiring the inclusion and honoring of Certificates of Authenticity who rely on maintaining the integrity of these certificates and limited editions.

Another area which should be of great concern to the government is the art residing in the Air Force Art Collection. This collection of over 10,000 works has been donated by artists over the past 65 years. Artists by law are unable to claim more than the actual costs of materials used in the creation of their donated art for tax purposes, The monetary value of time and exercise of talent are not accepted as donations by the IRS as income tax deductions. When that law was instituted, the loss of these tax deductions became a major deterrent for many who would have otherwise participated in the Air Force Art Program.

To compensate artists for the loss of these tax deductions, I, as Society of Illustrators Air Force Art Chairman during the 1976-78 time period, negotiated an arrangement with both Air Force and Coast Guard JAGs allowing the artist to donate all right, title and interest in their original works to the government while, under the Offer of Gift, opting to retain the copyrights in their work. The artist transferred a paid-up license to the government to reproduce the work *for government purposes only*.

This served to prevent the artists' own work in the collection from being used without compensation by unscrupulous publishers who might otherwise use Air Force art in lieu of commissioning art from the artist. It allowed the artist, who had received no remuneration for his/her donation to the government, to retain the copyrights – *and their inherent commercial value* – in his/her inventory. By retaining this valuable source of potential income, artists have been able to replace lost earning time expended in creating the donated works, these residual license fees having since served as vital additional income for countless donating artists.

I personally am honored to have 62 major paintings in the Air Force Art Collection. Any law that were to compromise my copyrights in those paintings would undermine their value to me and likewise, to all the other artists who, in good faith, have donated their work to the country. Any change in copyright law which would remove artists' exclusive control of our copyrights would greatly impact our future income streams, and amount to theft of this vital source of income.

Removal of this opportunity for return on art donated under the Air Force Art Program could also have an adverse effect on artist interest in participation in this important program.

A few final thoughts:

I expect that all artists and creators of intellectual property, who are aware of these potential threats to their livelihood, would hope that the government will decide to continue the protection of the rights of our nation's artists.

Everyone must understand that the theft of value in an artist's inventory of copyrights will also adversely impact his/her potential retirement income.

It is also worth noting that the freelance artist is engaged in an unpredictable vocation without employer provided health insurance, retirement plans or unemployment insurance. The self employed carries full responsibility for all of these requirements themselves, plus their own full social security and all of the usual requirements of family.

It makes no sense for the government to put in place an action designed to end or reduce the taxable income and potential savings of artists, adversely impacting the business and livelihoods of an entire segment of industry.

It is clear that my own successful career has been made possible by my exclusive right to the exploitation of my intellectual property as guaranteed by the Copyright law in effect since January 1, 1978.

Very respectfully,

Keith Ferris
Career Freelance Artist/Illustrator
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