7304 Colonial Road
Brooklyn, NY 11209
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U.S. Copyright Office
101 Independence Avenue SE
Washington, DC 20559-6000

To whom it may concern:

My Name is John Tomac. I am an illustrator from Brooklyn, New York. I am lucky enough to make a living drawing pictures. This is not a hobby, it is a small business. The foundation on which I've been able to build that business is copyright law. I am extremely concerned that any changes to existing copyright law will seriously undermine my ability to make a living and destroy the small business I have been building since 2003.

I do more than draw pictures. What I offer is a unique service. When newspapers, magazines, publishers, advertising agencies or any other business, large or small, needs a an easy-to-understand visual to explain a complex subject they call me. This ability is not some God-given talent, it is the end result of studying art and illustration for four years at the Rochester Institute of Technology and spending over a decade working professionally. In exchange for my services I am paid hundreds, if not, thousands of dollars. The reason my work is that valuable is not simply because it is unique. It is because current copyright law allows me to control how and where it is used.

This is not unique to just newly created or recently published work. In fact, it applies to old work as well. Because I can control how and where that old work is used, it retains its value. For example, if a magazine wants to reuse a piece of art I created for them in a subsequent issue, they have to pay me to do so. If a publisher sees an image I created for someone else and thinks it would be perfect for a project they are working on they have to pay me to use it. If an advertising agency wants to extend the length of a campaign and continue using my work in it, they have to pay me for it. These entities do not get a discount because the work has already been completed. They are buying the right to reproduce the art, which does not fall simply because the work is done. In fact, old work my be more valuable than new work because the client knows exactly what they are getting. It is not uncommon for the secondary use of art to be more valuable than its original use. In a way, my art my business' inventory. In the digital age, I have the ability to distribute that inventory around the globe. I cannot do this without the benefit of the strong protections afforded me under current copyright law.

I understand that the Copyright Office and Congress are attempting to update copyright laws to address "problems" like orphan works and mass digitization. I ask who finds current copyright law problematic? Proposed changes seem to benefit large internet firms like Google at the expense of people like myself who hold copyrights and depend on them to earn a living. These suggested changes are not making the law stronger, they are creating loopholes that allow for people to steal my work and deprive me of my income.

Some say copyright holders are hard to find. I disagree. I am not difficult to find. In fact, businesses ranging in size from Fortune 500 companies to a one-man operations headquartered in an Ohio garage have had no difficulty in finding me. I have a website . I am listed in several commercial directories of professional artists. My contact information is embedded in the metadata of all the digital files that I publish on to the internet. If you conduct a reverse image search on Google using my art, my name will show up in the results. Anyone who asserts that it is difficult to find the owners of copyrighted materials is simply not trying very hard. Giving individuals and businesses who make a "good-faith" effort to find copyright holders and exemption from copyright law opens a Pandora's box of problems. What exactly constitutes a "good-faith" effort? Will businesses have an incentive do the bare minimum to avoid paying creators for their intellectual property? How do I protect myself from competitors who would create derivative works from my art after deliberately failing to find me in a "good-faith" search? How will businesses enforce the exclusive use of work clauses in contracts? Will creators be protected from breach of contract lawsuits when someone making a "good-faith" search for the owner and publishes the work elsewhere.

So far, the only remedy to these problems is the creation of registry for visual artwork. This solution seems in adequate to deal with the problem. Right now, I pay the U.S. Copyright office a filing fee every time I register a copyright. Would I have to re-register and pay in this new orphan works registry? If so, it would create a giant financial burden on my small business. Who is going to maintain this registry? Does the technology exist to make it feasible in 2015 or is it still years away? Does failing to register with this new orphan works registry create a loophole that legalizes what is currently infringement? How does this not run afoul the provision in the Berne Convention for the Protection of Literary and Artistic Works that say copyright is in effect from the moment a work is created? How does this not violate the Constitutional provision that gives creators exclusive use of their creation for limited amounts of time?

Let's be honest, if Google and others are intent on digitizing all of humanity's work, they have the resources and the ability to locate and pay the copyright holders to re-publish it. For the three months ending in March 31, 2015, the internet giant reported $17.26 billion in revenue and $3.6 billion in profits. This is not an insignificant amount of money. If successful in digitizing everything, Google will almost certainly sell ads against all this new, searchable content. That will only increase their revenues. Internet companies are not embarking on this project of mass digitization for the good of all people, they are doing it because they believe it will be profitable. I think that it is reprehensible that Congress and the Copyright Office would consider helping Google and others pad their bottom line by granting them the 21st Century equivalent of a letter of marque and reprisal to pillage the intellectual property of small business owners.

Changes to the copyright law that deprive creators the exclusive right to determine how and where their work is used should be rejected. These changes violate the Berne Convention. They are at odds with Article 1, Section 8, Clause 8 of U.S. Constitution. They threaten small business owners like myself with economic ruin. We as a country can and should do better than revisiting problematic legislation that has already failed twice.

Thank you for your time.
-John W. Tomac