Kimberly Krauss
Illustration Student

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Dear Copyright Office,

While I have no professional experience, and so cannot properly answer your questions regarding registration and license, I would still like to impart my thoughts on your proposed legislation and how it may affect my future career. Though not professional I have experience in commissions amongst peers, and have witnessed the turmoil involving uncredited works.

The proposed Orphan Works legislation is in the clear benefit of users while hurting artists. I understand you want to be able to distribute these orphaned works, but the fact remains that the artist has exclusive rights. Anything they plan to do with the work could be ruined by good faith users' infringement. Because such infringement can jeopardize work for the artist, compensation is necessary, and when you lessen that for the benefit of the user it really affects the artist's livelihood. From the suggested legislation is seems as if reputation is considered not compensable, when reputation is what gets us work. It is not only the lack of pay for the orphaned work that hurts the artist, it is the association in its use. Good faith users have no way of knowing if their project is something the artist would have consented to or not. I also noticed in the report mention of "reasonable compensation" based on the assumption that business would have occurred normally if the infringement had not taken place. Because there is no way of knowing that without contacting the artist first, such compensation is not appropriate. Statutory damages are the only way to properly compensate.

Orphaned works are not unused assets drifting in the void, they are still being managed by their owners. One instance of infringement could affect the artist's entire career. I hope you will consider this when writing this legislation.

Thank you for listening,

Kimberly Krauss