

October 1, 2015

Maria Pallante
Register of Copyrights
U.S. Copyright Office
101 Independence Ave. S.E.
Washington, DC 20559-6000

RE: Notice of Inquiry, Copyright Office, Library of Congress
Copyright Protection for Certain Visual Works (Docket No. 2015-01)

Dear Ms. Pallante and the Copyright Office Staff:

Thank you for allowing me to respond to the special Notice of Inquiry. As a professional medical illustrator, I am continually working at improving my craft and my knowledge so that my efforts are rewarded in a just and free marketplace protected by law. My clients value my work and insights, but I must continually advocate for myself in the face of corporate interests who wish to circumvent the law for their own interests and appropriate my images without my consent or compensation.

Having such attacks to my rights now showing up in the guise of Orphan Works legislation yet again is disconcerting and the need to respond is taking me away from my work, but it needs to be done.

There was a question posed to us (professional Illustrators and other creatives) that I wish to address here:

5. What other issues or challenges should the Office be aware of regarding photographs, graphic artworks, and/or illustrations under the Copyright Act?

It seems the greatest challenge I foresee is the abridgement of rights granted in Article 1, section 8 of the US Constitution by an act of Congress. Although there may need to be a decision made concerning a limited number of intellectual properties that may have been ‘orphaned’, this particular proposal does not offer a workable remedy for the individual creative but instead will instead create havoc for us and effectually turn our just and working marketplace into a free-for-all of “finders, keepers” with the finders being the corporations that are behind this proposal.

The onus of finding the creator for a work thought to be ‘orphaned’ is rightfully on the party wishing to use it. It should never be considered that we as creators need to pay to play for each and every piece of work that comes from the talent God gave us. It is not that difficult to find us, but it is extremely hard for creatives to budget onerous fees and jump through the hoops that the proposal would impose. It would probably put some of us out of business or stop many brilliantly talented Americans from entering the fields that they were called to.

The proposal as written is bad law. It redefines established business precepts that are accepted not only in the US but in most of the civilized world. This would put the creators in the US at a disadvantage in the world marketplace. Many of my clients for the last few years found my work and myself (was not difficult!) from overseas as well as domestically. I believe that they would no longer seek mine or my colleagues' efforts if the United States of America created unique and unfavorable laws that threw the marketplace for our creations into the uncertainty that shall occur should this proposal be enacted.

This whole affair has been looked at before several times in the recent past and justly defeated each time for its many flaws and unconstitutional infringements of our rights. That it come up again, not from we the creators that copyright laws are meant to protect, but from outside and deep-pocketed entities seeking to profit at our and our profession's expense with the help from Congress is extremely disturbing because of its insidious indifference to settled and just law. That they do this knowingly is also an illegal activity in that it shall interfere with our lawful business relationships in order that they can intrude for their own profit without contributing.

We need to do our work and be justly compensated. If we are infringed upon, we need to be able to redress the grievances under the good and just laws that have served us well to protect our rights. This proposal will take away these rights as well by eliminating our only protections from the worst infringers, that of fair compensation and penalties for law-breakers.

I am no lawyer, only the best illustrator that I know how to be. I should not have to use a lawyer at every turn just to ply my vocation. That I need to do this and answer again these questions is a necessary effort on my part in hopes that a more correct solution be found for what should be a minor problem.

Yours truly,
Richard D. Weaver,
Certified Medical Illustrator