July 3, 2015

Dear Copyright Office,

I am a visual artist, and former award-winning editorial cartoonist, writing to express my concern with the Orphan Works 2015 proposals.

As I read the Orphan-Works2015.pdf report, I found myself wondering time and again that the report seems to be written from the perspective of commercial entities (primarily those interested in mass digitization of visual works) and not from the perspective of the individual content creator who relies on their created works to make a living one image at a time, as I do.

As a visual artist and content creator, I make my living through exclusive control of the copyright of the images I create. My ability to make a living will be impacted under the proposals, and specifically if I a cannot keep exclusive control to the rights of my work, if the public is privileged to use my work without my consent, if commercial entities can incorporate my product, if others can register copyrights on derivative products, and if I have to undergo the burden of having to formally register every piece of work I create (even today's cost of $35 per item to file for formal copyright is very burdensome, especially for visual artists who can create a number of works weekly).

I am particularly troubled by the idea that a commercial entity can infringe on my work through 'best effort' practices, and should they be found in violation of such practices, then their liability, and my recovery is limited. This seems like an open invitation by large corporations to misuse the system and exploit small copyright holders. We see examples, day in and day out, of large commercial entities trampling on the rights of small players. If their liability is limited, this will invite bad behavior with limited recourse to the infringed artists.

Technology is evolving to make finding the copyright owners easy. For example a simple image search can often lead you to the source of an image. Therefore the burden of finding the owner of a work will become less over time and should not necessitate legislative change.

I particularly want to stress that a work DOES NOT lose value on publication or after first creation. Everything an artist creates becomes part of their business inventory. Today’s painting is tomorrow print or illustration or book. The modern era creates more opportunity for artists to make a living at their work, but only if they can keep a tight control on the copyright of their creations.

I am really appreciative of the fact that under current copyright laws I have full ownership of my creation as soon as it is created, without the need of formal registration. This is one of the few things in the law today that favor content creators. Please do not change this just to make it easier for commercial entities to leverage (and likely, willfully infringe on) the work I have created after a lifetime of learning, sacrifice, blood, sweat, and tears.

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