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June 9, 2015

To: Copyright Office

Re: "Orphan Works" report

From: Sue Seif, MA, CMI, FAMI

There is no way to express the importance of a strong copyright policy to professional artists, many of whom are small business owners and entrepreneurs.

I am a graduate of the Johns Hopkins School of Medicine's master's program in medical and biological illustration, and have spent thirty-five years developing a library of work. I have lectured on medical topics all over the country, using my graphics, and earn an income from licensing these works during my transition to retirement.
Good faith licensees are never the problem. After a serious education effort, many clients now understand that ownership of our illustration is the currency in which we trade, and as such is worth compensation. I personally allow clients to use my work at no cost (if properly attributed) for educational purposes. If it is on a site or in a publication which would result in income to a client, I insist on appropriate compensation, usually using the guidelines suggested the Graphic Artists Guild manual.

The biggest problem area now is the internet. People have been conditioned for years to think that "if it's on the internet, it must be free". Work has a way of finding it's way to the net in often mysterious ways, and rarely with permission.

As an example, I prepared an anatomical illustration of a penis, properly licensed by a company for use in patient education. Several years later, after doing a Google image search, I found it on *over 700 domestic and international sites*, many of which were owned by one company selling herbal erectile dysfunction "remedies". Given their ubiquity online (and the high cost of the product), I can only imagine how much money they have made using this art. To add insult to injury, they kept my copyright insignia on the image on some of the sites. I have hired an attorney at great expense to try to remedy this situation.

To give you another example of the value of the license, I entered into an agreement fifteen years ago with a startup which wanted to use my image archive. There was no way they could afford to pay money, so I traded the use – just for their single core product and no other use – for a small percentage of ownership. To make a long story short, they sold the company three years ago to a major publishing house for $68M – and the art is still licensed for that one product only. To even hint that that license had no value is crazy.

Orphan works, as you no doubt understand, are often not "orphaned" at all, but the metadata has been stripped from the digital files. I did a random image search on about 100 images not long ago and literally found over 3500 websites, domestic and international, where my art appears. There are not enough years left for me to deal with them all, so my attorney and I are just trying to tag the worst infringers.

To say that once a piece is published, it "loses it's value" is absurd, as seen by the number of sites currently using my art (and so many others' art!) commercially, with no thought to licensing. I've tried to be charitable and say maybe they don't understand, but it's happened too many times on too many commercial sites to believe that their legal counsel have not given them a heads up. Please help those of us who want to maintain a livelihood from our years of education and work! Thank you.

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