July 22, 2105

Maria Pallante
Register of Copyrights
U.S. Copyright Office
101Independence 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,

My name is Sandra Chang-Adair and I am a professional fantasy illustrator, comic book artist and graphic designer for the last 25 years. Currently, I have a new 48-page Art Book called "Steampunk Rising", published by SQP Books this year which showcases my female pin-up art. I am the artist, writer and creator of the online sci-fi comic, "Gothic Geisha", about a future dystopia. A new venture of mine includes working on a children's book called "Musketeer Tails". I have illustrated for many publications including "Inside Kung-Fu Magazine", "Hustler Magazine", "Corel Painter Magazine", "Advanced Photoshop Magazine", "Fantasy Artist Magazine", "Heavy Metal Magazine", "Infected by Art" and the "Michael Jackson Opus Book". I have worked for prominent clients including Epson, Southern California Edison, Toshiba, Disney, Mattel, Sony, Amazon, MGA and Saban Entertainment. I am a member of the Society of Illustrators Los Angeles (SILA) and the Society of Children's Book Writers and Illustrators (SCBWI). I was awarded a Certificate of Merit or my illustration, "Steampunk Alice in Wonderland" in the SILA 48th Annual Illustration West Competition in 2009.

I am writing to you regarding the Orphan Works Legislation, which I am vehemently opposed to. As an artist, painting is my passion and my

livelihood. Art is an integral part of my existence and is the culmination of skills acquired through decades of diligent study, schooling, relentless practice and experience. A single painting requires knowledge in anatomy, portraiture, perspective, color theory, environment design and composition. A piece of art can take a day to several months. It is intensive work and not to be taken for granted by others. To think that the public and second-handers will have a privilege and right to use my work for their own purposes is an insult and an outrage. This is my blood, my bread and butter. The Orphan Works Law violates my Constitutional right to the exclusive control of my work. This is NOT copyright reform but a blatant right for corporations and others to STEAL my work legally and without just, monetary compensation.

The thought of other people making derivatives of my work further infuriates me. I take pride in my creation, I don't want my artwork mutilated, revised and ruined or represented in any other form than its original conception. The horror that others can lawfully disfigure my paintings and then copyright the resulting piece as their own is inconceivable. The right bestowed on others to register my work as theirs because they believed my illustration was abandoned is preposterous. I apologize for digressing and addressing the personal, philosophical aspects of this proposed bill. I will resume and discuss the salient issues that concern the Copyright Office.

1. What are the most significant challenges related to monetizing and/or licensing photographs, graphic artworks, and/or illustrations?

As an artist, my revenue can be earned in two methods: initially, by creating the artwork for publication by the client; secondly, by licensing the artwork. After initial publication, the artwork does not lose its monetizing ability; it becomes an asset for licensing to other markets. I often create personal paintings without a client. These illustrations can become lucrative resources. They are reproduced and available for sale as prints or handmade jewelry at my online Etsy.com and Ebay stores; as art on merchandise, (prints, t-shirts, mobile-device cases, laptop stickers, clocks, pillows, etc.), at Print-On-Demand websites, like Society6.com, CafePress.com, Spreadshirt.com, DeviantArt.com, and Zazzle.com; sold to other licensees as needlepoint templates and PSP Tubes; and used by other potential clients at my discretion.

If I sign a Work-For-Hire or All-Rights Publishing contract, then I grant the client copyrights to my commissioned work. All royalties from the artwork in secondary markets will be theirs. If I freelance for large corporations, such contracts are standard and a necessary evil if I want to do the work. In essence, the creator is bereft of authorship. The art becomes the property of the corporation. Often, I cannot even display

the artwork on my own website or portfolio unless I negotiate those terms beforehand in the contract. Earning a living as an artist is difficult, the lost of licensing income for an artist increases the hardship and is a major loss to his finances.

2. What are the most significant enforcement challenges for photographers, graphic artists, and/or illustrators?

Recently, I discovered several of my paintings illegally licensed on three separate European websites. I attribute these infractions to a licensing agent that is no longer in my service. I ended his art representation in 2011. After repeated calls to the ex-licensing agent, he has not responded and appears to be intentionally avoiding me. I have never been paid any royalties through this agent. It enrages me that other people are profiting from my artistic endeavors without my knowledge. My alternative is legal action. The immediate challenge is the exorbitant cost of legal fees in an infringement lawsuit. Since some of this artwork was not registered in the U.S. Copyright Office, it would be difficult to find a contingency fee lawyer. It is challenging for a small, independent individual to fight against a large corporation that has attorneys on retainer. Litigation would be a financial burden, not to mention the time, effort, and emotional strain expended on a lawsuit.

If the Orphan Works law is ratified, artwork that has not been registered by its creator will all be considered Orphan. This will allow internet companies and large corporations to take advantage of artists by stealing revenue generated by the art. How will the artist actively locate all the potential copyright infringements of his work, not to mention the derivatives? Constant monitoring of the worldwide web to find unsanctioned usage of one's work would be a daily, time-consuming, paranoid undertaking. An artist creates several hundreds pieces of art in his lifetime. How can he keep track of all possible copyright violations? Suppose several transgressions are found, the legal fees in fighting this infringement would be monumental!

Last year, an attendee at a comic book convention informed me that a library made posters of my "Steampunk Alice in Wonderland" painting to promote reading. Needless to say, I did not consent to this right, but I did not mind since it was for a good, non-profit cause. But suppose my artwork was used to represent something I detest, like cigarettes, GMO products or sunscreen containing carcinogens. In this hypothetical situation, my artwork would be unfairly used to advertise things I consider morally apprehensive.

3. What are the most significant registration challenges for photographers, graphic artists, and/or illustrators?

Obviously, registering the lifetime body of work would be a huge financial burden on the artist. In the past, I've registered several pieces of my artwork at the U.S. Copyright Office. Each single registration cost $55. You can submit a collection of artwork under one registration, but I was made to understand that the copyright law had limitations in protecting individual pieces in a series. The duration for Copyright protection is only 10 years. As noted before, an artist creates hundreds of paintings during his lifetime, registering all of these, not to mention keeping track of when they expire and the costs of re-registering would be unreasonably expensive, a logistical nightmare, and not even practical for the wealthy, well-established artist.

4. What are the most significant challenges or frustrations for those who wish to make legal use of photographs, graphic artworks, and/or illustrations?

If the Orphan Works Act is enacted, there would need to be One Copyright Office Approved International Image Database to house all the copyrighted artwork. Individuals or corporations wanting to determine if a work was abandoned should conduct their search on one authorized image registry. Separate content and commercial registries are impractical because that would cause confusion and frustration among copyright inquirers and artists alike. If artists were required to register and pay to have their artwork catalogued in separate content registries, it would be costly and time-consuming. It would be impossible to register on all of them, so the artist must carefully discriminate which catalog galleries to belong to. Likewise, which registries would people search if they wanted to legally determine if a work was Orphan? The only people profiting here are the commercial content registries. The Sanctioned Copyright Image Database should make the other commercial databases obsolete and be extremely user-friendly. The expense and time dedicated to digitizing all the illustrations, photographs and graphic artworks to create and maintain this Database would be colossal and should be the responsibility of the U.S. Copyright Office.

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

The Orphan Works Act is written to favor corporate infringers over the creators and is the unfair "socialization" of collective licensing. Under this law, even properly copyrighted artwork could be considered Orphan if the copyright owner cannot be located. What would a "good faith" search comprise of? The Copyright Office must clearly delineate

what it means by a diligent search and not leave it to the discretion of the person conducting the investigation. Surely it will be in the best interest of the person desiring to profit from an abandoned work to make a lackadaisical search for the copyright owner.

If the Orphan Works Legislation is passed and a Copyright Infringement Small Claims Court put into effect, then Copyright, which is considered federal law, would have to be administered in a local, state court. Would these cases burden existing Small Claims Courts or will a separate Copyright Infringement Small Claims Court be created? How will the local judicial system handle this nightmare flood of Copyright Infringement cases that will bound to occur? What would constitute statutory damages for the copyright owner? Would the Copyright Office stipulate the limitation of the fine or would that be dependent on the state? It would have to be extensive to deter the infringer in the future for committing the same crime. Large Corporations would consider a fine of $10,000 or less inconsequential. Corporations would be inclined to take advantage of Orphan Works and risk infringement rather than pursuing the proper course of commissioning an artist for their project.

In conclusion, I implore you to abandon the Orphan Works act. The right to authorship of one's work in the U.S. should be inalienable. The First Amendment to the Bill of Rights states Freedom of Speech & Press, which includes art and music. The Fifth Amendment stipulates "...nor shall private property be taken for public use, without just compensation." The art I create is my own, private property in every sense of the term. The painting did not exist before it was conceived in my mind and my hand manifested it in tangible form. My art should not be forcibly taken away from me for the use of others without my consent. The Orphan Works legislation violates the constitutional rights of all creators to keep ownership of their hard-earned work and the revenue the art generates. I appeal to the creative spirit that is endowed in all human beings to keep this right sacred. Please don't transfer the creator's authorship to others, those who were not capable of creating the art on their own and did not exert the time and effort in doing so. The ramifications of passing the Orphan Works bill are unethical.

Sincerely,

Sandra Chang-Adair

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