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Dear Sir/Madam:

I am a self-employed Certified Medical Illustrator and have been creating medical and scientific illustrations for 31 years. I received a M.A. degree in Medical and Biological Illustration from The Johns Hopkins University School of Medicine. I am currently chief illustrator as a subcontractor for the National Cancer Institute Physician Data Query (PDQ) Cancer Information Summaries on the website: www.cancer.gov. Other assignments include chief illustrator for the National Institutes of Health (NIH) Stem Cell Reports 2001–2011; illustrations for Scientific American magazine; illustrations for multiple pharmaceutical company slide decks and web sites; and cover art for textbooks.

Each of my illustrations is a substantial work that draws on my artistic know-how and my medical and scientific expertise, as well as hours of painstaking effort. My illustrations are no different in this respect from other works of intellectual output, such as books, plays, musical compositions or software (and there is no basis on which visual artworks should be classified any differently than such other products under the copyright laws). All of these products depend on a robust and effective system of intellectual property protection to ensure that creators are fairly compensated for their work. Without such protection the quality and indeed the continued production of such works would be jeopardized.

In my case, the economic survival of my medical illustration business hinges on my owning the copyright to my illustrations. Visual artworks like mine are critical to medical professionals and patients alike, but illustrators are not highly compensated. To sustain my business, pay for my education and continuing training and meet basic living expenses for my family, I need the ability to exploit the bundle of rights inherent in the works I produce. This ability accurately reflects the value of my work and benefits my clients. By allowing a client to license only those rights it needs, I am able to reduce the cost of my work to the client while retaining the right to make works available to additional licensees on terms negotiated by artist and user (rather than terms imposed under a collective licensing regime). In this regard I should point out that I often provide high resolution files of my artwork to students all over the world without charge for inclusion in undergraduate, masters and PhD theses. The fees I receive from commercial and institutional licensees of my illustrations help offset my loss of income for this service. In addition, because I retain ownership of the illustrations, I monitor their re-use by third parties in order to prevent unauthorized publication, alteration, mislabeling or other misuse. This protects the public from misleading and other potentially harmful uses of the images.

My ability to license rights to my illustrations and the ability of clients to obtain such rights on terms we freely negotiate is a time-tested mechanism and represents the proper balance of interests between creator and user in the marketplace for medical illustrations. My artwork does not lose value upon publication, as would be the case if the illustrations became publicly available after initial conveyance. In fact my large digital inventory of illustrations is very valuable to me, with the income from license fees currently representing 50% of my income. Tilting that balance by making it easier for mass digitizers or others to gain unlimited rights to my works would be like allowing an intruder to sneak into a shopkeeper's store and steal inventory off the shelves, seriously impairing both my current livelihood and my ability to sustain myself in retirement.

During my career as a medical illustrator, I have experienced first-hand the challenges of the digital era. My illustrations have a significant web presence and unfortunately my art is often used without my permission. This requires continuous vigilance on my part. Every day of the week I find infringements of my work. Very often the infringer finds my artwork online with my name illegally removed. The removal of my name not only hurts me financially but also my ability to attract clients. I typically write to the infringers to cease and desist and generally the infringer complies. Foreign infringers are very difficult to track down. It is a time consuming process and sadly modern technology has only made the ability to stop infringement more difficult, but at least I have some remedies available under copyright law. Any weakening of those laws would be devastating.

I hope you will continue to offer support to the art of medical illustration and not establish rules or systems that would hamper the ability of me and my colleagues in the profession to create the works on which our clients and our country depend.

Sincerely yours,

Terese Winslow

Terese Winslow, CMI

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