July 20, 2015

U.S. Copyright Office

101 Independence Ave. S.E.

Washington, DC 20559-6000

Docket #2015-01

To whom it may concern,

My name is Seth Hampson, I am senior animation/illustration student preparing start a career in the art industry to provide a living for myself and my family. I would like to thank you for providing a notice of inquiry and requesting feedback from American citizens about the proposed changes to copyright law. As a freelance illustrator, copyright law protects my work in much the same way a radio chip protects valuable products from being stolen at a retail store. Just like the store would lose money if those items are stolen, I would lose my livelihood if my artwork is commercialized without my consent. Passing any law that makes the rights of artists expensive and nearly impossible to comply with -while making it easier for infringers and thieves to profit- could possibly result in the collapse of the art industry in America, and across the global economy.

As an artist, I am well aware there is much difficulty for those outside of this profession to understand the effort, skill, and years of dedication needed to be able to create quality work for a living. It is as involved as most other careers; be it construction, engineering, or business. Throughout history, artists have been perceived with some level of disregard- taken for granted, if you will. Allowing the proposed changes that effectively strip artists of the rights to their own work would render artistic production profitable for anybody but the creators themselves. Doing so would eliminate any economic incentive to create artwork. This could be compared to forcing technology companies to share their blueprints with competitors. It would destroy innovation and progress. If this law passes as it is proposed, it would allow the violation of rights stated in Article 1, Section 8 of the U.S. Constitution.

I would like to take the time to answer the questions proposed in the notice of inquiry.

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

For me personally, I rely on copyright law to ensure I have the ability to license and charge for uses of my work. Without this power, any effort used to produce my work becomes unprofitable. Under current law, the only challenge to monetizing my work is to find those willing to purchase it. Knowing the rights to my work are protected, I can safely negotiate with clients without fear

they will take my work, strip all copyright notice from it, and redistribute it without paying me a cent. If clients and companies are given the right to make minor adjustments to my work and then sell it as a “derivative work”, it would be no worse than a carjacker stealing a vehicle, grinding off the serial numbers, repainting the body, and putting it back out on the market. However, in that case, if the carjacker was caught, he would most likely be prosecuted. The corporations guilty of modifying art to redistribute would have a solid legal case against me and walk free. Under the proposed law, monetization would effectively become impossible for artists.

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

Under current law, if an artist discovers someone infringing on their copyright, the artist can register the work to prove they are the creators, and then take the infringer to court and sue. This helps ensure that the profits are for the artist who created the piece, and not for someone else who has the power of copy-paste and photoshop. With the proposed changes, corporations are basically given legal rights to freely use an artist’s work without compensation. An artist has little chance of success suing the infringer in court. The infringer would simply have to prove it was an “orphaned work”, which could come as simply as the infringers themselves removing copyright and metadata from the image. This sounds like the construction of another loop-hole for corporations to legally abuse artists and employees.

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

Fortunately, under current law, copyright is an automatic right for “authors” (artists in this case) the moment they lay their pen to the paper (or whichever medium is being used), as stated in Article 1, Section 8 of the U.S. Constitution. If there is a need to sue for copyright infringement, the original creator of the work must register the work with the copyright office and pay a fee. Because the legal preparations for a copyright infringement lawsuit can be expensive, especially so for independent contractor artists, the goal of the lawsuit must be to ensure the protection of the artist’s right to compensation for their work. With the new proposals in consideration, an artist would have to register -with several private companies- every single piece they ever have and ever will make. For prolific artists, this is prohibitively expensive both in time and money. Also, due to the fact they are registering with a private company, that company then has all the information needed to pursue the artist’s clients and drive profits even further from the original creators. In that case, not only is this private company being paid to take an artist’s work, they’re being paid to take the artist’s business away.

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

The only challenge is contacting the artist and compensating them fairly. As an artistic professional, using another artist's work with proper compensation is as important to me as another artist using my work with proper compensation. It is fair, effective, and it promotes healthy competition and innovation. It is an unfortunate fact there are a vast number of works on the internet that could be labeled "orphans", but any lawful business should know it is not ethical to use these images without locating the creator. Many of these "orphaned" works are the result of internet pirates removing the copyright and metadata from the original image. The purpose of copyright protection is to keep the production of artistic materials a viable income for the artists themselves. Those who feel otherwise are either uninformed about the skill and dedication required to produce artwork, or are most likely looking for ways to cut costs and improve profits at the expense of their employees and others at the bottom of the chain.

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

There have been remedies provided for organizations that do not profit from the reproduction of artwork, such as libraries and educational institutions. In addition, people are given the right to reproduce artwork under "fair use", which is not for profit and does not go against the artist's interests (such as commentary on a personal blog). But to consider applying these same remedies for the commercialization of "mass digitized" artwork while avoiding compensation for the artist is essentially legalizing property theft. It is with a firm conviction that I believe artwork should not be used commercially without the permission from the rightful owner of the work. And it is with firm conviction that I believe the artist who created the piece is by default the rightful owner of the work, unless they purposefully sold the rights to another.

As stated previously, if these new proposals pass, artists would struggle to find their work a viable source of income. Anything they produce can be separated from its source and redistributed for-profit through large internet corporations while the artist doesn't see a single cent. Private copyright registries can take advantage of having all of the artist's images AND client list. Not to mention it would be prohibitively expensive in both time and money for an artist to register everything they make. It sidesteps the rights provided to authors in the constitution. These proposed laws are faulty, driven by law students unfamiliar with the art industry, guided by corporate lobbyists, and might lead to the collapse of visual arts in our nation, and even international copyright laws as well.

Thank you for taking the time to read my letter.

Sincerely,

Seth J. Hampson