

To Whom It May Concern:

Re: Commentary and views on the US Copyright Law and its effectiveness in fulfilling the promise of exclusive reproduction rights granted to creators under our Constitution

My name is William B. Westwood, M.S.. I am a self-employed, professional, Board Certified Medical Illustrator. I reside in Albany, NY and have been continuously self-employed as a medical illustrator since 1982. My clients are and have been medical publishers, medical magazines, medical product manufacturers, medical advertising agencies, pharmaceutical and biotech companies, individual physicians, attorneys and others. (www.billwestwood.com)

I have lectured extensively on copyright at the graduate, undergraduate, and professional levels. I also a one of three panelists on an ongoing radio show on copyright (10 years, WAMC Northeast Public Radio, "The Copyright Forum").

I have also experienced extensive infringements of my work over the years, both large and small, and have, as a result, engaged in a number of legal actions to enforce and protect my copyrights. The largest such action resulted in a lawsuit, in concert with 14 other plaintiffs, which involved some 925+ infringements. One hundred and twenty four of those infringements involved my illustrations. This action took just shy of ten years to reach a conclusion, mainly due to the marginal competence of the Ohio Federal Judge in the case and also because the current system allows so much latitude to defendants (especially large ones) to bury "the little guy in paper" for the purposes of running them into the ground financially – and this in cases (like ours) where the infringements were clear, obvious and beyond question.

What I learned from my ten years in pursuit of justice in the above mentioned case was that our Copyright laws are skewed to favor those with deep pockets – and this in spite of the fact that most of the tens of millions of pieces of US based copyrightable visual material are created by small businesses, independent artists, photographers and illustrators such as myself.

I have also tried to use the legal system to pursue dozens of smaller infringements of my work. In each of these cases, I encountered copyright attorneys who simply had no desire to get involved in cases that they deemed "too small" to warrant their attention – even if the potential fees might be \$5,000 to \$10,000 and none of them, even in situations of prior timely registration, would even discuss working on a contingency. Faced with legal fee structures ranging from \$275 - \$500 per hour, it was financially out of the question for me to pursue these other infringements of my work through the legal system.

As a result, I have for over five years, been approaching and negotiating settlements with infringers myself, using the threat of a lawsuit as leverage for obtaining a settlement. I

have been reasonably successful in doing this. However, I have little recourse if an infringer “blow me off”.

I would like to see some type of alternative system developed in the US to help me protect my copyrights – which are my livelihood! However, the “small claims” system that has been previously suggested has, at this point in time, far too many weaknesses to work for me. First of all, if by “small”, proponents of this alternative mean a few hundred dollars for an infringement, I want no part of it. There has to be an affordable system conceived and established that will punish willful infringers and adequately reward infringed copyright owners.

I am currently dealing with approximately twenty infringements of two of my medical illustrations. Most of these infringements are online and involve commercial businesses.

In my 30 years of experience, there have been only two or three innocent infringements of my artwork. The several hundred infringements of my work have overwhelmingly been willful infringements by commercial concerns, who use my work to further their businesses and make money off my creative efforts.

I urge the Copyright Office and the members of the House Judiciary Committee to make changes, but make changes that will NOT further deprive the millions of visual creators of imagery of ways to protect their copyrightable works and which will also enable them to get APPROPRIATE recompense and justice when their works are willfully and serially infringed.

Respectfully submitted,

William B. Westwood, MS, CMI, FAMI