To the U.S. Copyright Office
07-02-2015

I'd like to tell you about the damage that the Orphaned Works Bill could cause in my life.

As a 63 year old illustrator, graphic designer and image creator who's been an artist for decades, I have created hundreds of images for magazines and newspapers, CD and record covers, as well as art for online and advertising use. I survived as a full-time illustrator on commissioned jobs and by selling the reproduction rights to existing artwork all that time. With fewer commissioned works in this day of stock illustration and the dominance of photography, I rely even more than before on selling rights to my existing library of illustrated images over and over, when, for how much and to whom I choose. All my artwork is under my control.

Sure, everyone thinks they're an 'image creator' these days, using existing stock photos and art to generate graphics. Under ever tightening deadlines, designers spend less and less time conceptualizing ideas and crafting unique imagery, pushed to juggle existing images rather than working with an illustrator to create a specialized product. Spoiled by the availability of stock photography and stock art, many clients care less about originality than they do the bottom line. This is what makes our illustration work uniquely ours - we bring the originality to the client's doorstep.

While an illustration might initially cost more than using a stock photograph or stock art image, once you add in the usage rights requested, original image cost settles surprisingly in the same ballpark as stock usage. By re-selling the rights to my existing images, with few exceptions, I can compete head to head with images from stock houses. These days it pays to think globally regarding our illustrated projects and our backlog of original works remain a vital source of income.

As an illustrator and graphic designer since 1976, I've formally copyrighted a fair amount of my work but by no means all of it, since the copyright is considered mine and informally copyrighted upon creation according to the Copyright Act of 1976 without the need to register it. Many of my illustrations for publications include only a credit line linking the art to me. In dozens of instances this credit line was omitted and my signature cropped out, effectively 'orphaning' the artwork. With many of these magazines no longer in print, my art could easily be scanned and re-used with a half-hearted 'good faith' search by a less than honorable infringer.

This isn't just about a few uncredited illustrations found in the bottom of a box at a flea market. It's an industry waiting in the wings to steal our work for great commercial gain if a quick Google search results don't immediately provide the identity of the creator of a piece of art. In this day of digital manipulation, any work can be altered, imagery changed and an artist's name removed, effectively 'orphaning' work for improper use and stealing without permission.

The Orphaned Works Bill has been defeated twice before. I've expressed opposition it each time. If this bill is passed, it will devastate my working career as an illustrator. I will be pressured to register all of my work (past, present and future sketches, art and photos) with an ever growing number of clearance houses globally to insure people will know a specific piece of art it's mine, creating a bazaar 'opt out' procedure that will cost me thousands just to protect what I already own. An infringer only need to conduct a 'good faith' search to find me, putting the burden of proof on me. I will be forced to take advantage of every means to make sure I can be located and my art viewed and sourced as mine.

All of my artwork will have to be published and viewable in searchable databases for any potential user to locate me. The burden remains mine. I don't want everyone to see my art and potentially steal my concepts and technique. I choose what the public sees of my work to keep it fresh and my work desirable. This so-called 'Next Great Copyright Act' would make it far too easy for abusers to create derivative artworks from my art and allow these 'artists' to copyright such works in their own names. My ink smearing technique took me years to originate and perfect... and, damn it, it's mine, as are my watercolors, sketches, photos and other graphics, a lifetime of creative work.

It is my Constitutional right to exclusively control my work. I choose who uses it and for how much. The Orphaned Works Act will ‘privilege’ the public’s right to use my work. Don’t think for one second that this is just about students adding art to reports, dozens of art houses will spring up from passage of this disastrous bill, selling what they consider ‘orphaned’ art for high prices. There is a profit motive just under the surface os this ‘improved’ copyright law. That profit will not be mine.

The intellectuals who surmise that ‘all art belongs to the society it’s created within’ should try generating unique imagery for decades only to have it stripped away with the passage of such a far reaching, life altering and career damaging bill. Say NO to support of the Orphan Works bill.

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