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7/21/15

RE: Notice of Inquiry, Copyright Office, Library of Congress
Copyright Protection
for Certain Visual Works
(Docket No. 2015-01)

U.S. Copyright Office
101 Independence Ave. S.E.
Washington, DC 20559-6000

Dear Ms. Pallante
& U.S. Copyright Office Staff:

I am writing to you as a professional illustrator, artist and surface designer, as the new copyright law currently considered by the U.S. Congress, if enacted, would have a serious negative impact on the business of illustrators, photographers, designers, fine artists and visual artists from all fields worldwide.

After a 20+ years career as an art director. graphic designer, I have become a full-time freelance artist and surface and pattern designer. I am concentrating on creating illustrations that will be used in pattern and surface designs on products such as bedding, dish ware, apparel. as well as gift-wrap and paper goods. To that end I will be securing licensed rights of use for my work, as well as selling the designs outright. You can view a samples of my work on my website: ***http://www.elizabethhaledesignstudio.com***

Monetizing my illustrations, designs and artwork is the core of my business and therefore my income. My art is licensed on products and the copyrights allow me to certify that it is my work.

While the the internet has allowed artists to reach new audiences globally, it has also served as one of the greatest impediments for an artist's livelihood. Digitization has allowed for an artist's work to be exponentially viewed and shared and therefore almost impossible to wield complete control over how it is used. Often artist's images are utilized simply as decoration on social media sites. But just as often our names and copyright information are unlawfully removed, rendering our images particularly vulnerable to orphaning and thus appropriation. It is now frighteningly common to hear of a fellow artist's work being monetized by an unscrupulous third party with zero profit or credit being afforded the creator.

Right now, the burden of proof is on the 'encroacher' who must prove that they have rights of use to an image if accused of copyright infringement. But this new proposed legislation, if enacted, would transfer the burden of proof *onto the creator*, who is now required to document proper registration of their work if infringed upon;

something that almost every artist has never done, and might not learn to do until it is too late – this become a an huge pressure to prove something that is already a matter of course. This feels upside down, as if the victim of a crime, for example; for example, home theft – would first have to prove that they have installed special security devices in their home before they are allowed to press charges against the burglar!

Th most significant conflict for me is that, typically, a client will not only commission an illustration from me, but also license exclusive rights of use for a specific time, area and purpose. *If my work can be assumed 'orphaned'" from the moment of creation, I can no longer give my client a guarantee that they have the exclusive rights of use to it*. As a direct result of that, I lose money.
Obviously this is a of crucial importance to me !

For the artist/illustrator/ designer, copyright law is not an abstract legal issue, but the basis on which our business rests. Everything that we create, whether for a client or for our own creativity, becomes part of our business inventory. In this digital era, our inventory is more valuable to artists than ever before.

The proposed copyright reform would result not only in artists losing their livelihood, but also in much fewer visual art being shared publicly by its creators for fear of infringement, which in the long run would mean less images being published; and thus diminishing variety and quality of our visual culture.

Please reconsider how a future law based on the 2015 Orphan Works and Mass Digitization Report could have potentially disastrous effects on not only the field of illustration, but on the future creation of quality art in the public realm.

Regards,

Elizabeth Hale