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U.S. Copyright Office

101 Independence Ave. S.E.
Washington, D.C. 20559

To whom it may concern,

I would like to thank the U.S. Copyright Office for accepting letters concerning the Mass Digitization Pilot Program.

My name is Joseph Mackereth, and I am the Marketing Manager for the Western Virginia Foundation for the Arts and Sciences (known as Center in the Square). Center in the Square is a 501(C) 3 non-profit organization and the largest arts and cultural institution in the city of Roanoke, Virginia. Our direct beneficiaries include the Harrison Museum of African American Culture, the History Museum of Western Virginia, Mill Mountain Theatre, the O. Winston Link Museum, Opera Roanoke, the Roanoke Ballet Theatre, the Roanoke Symphony Orchestra, Science Museum of Western Virginia, Opera Roanoke, and the Roanoke Pinball Museum. Center in the Square's economic impact is \$18 to \$20 million annually.

As the Marketing Manager for Center in the Square, I see firsthand the need for creative talent and its direct impact on the local economy. Over the past 40 years, Roanoke has seen a dramatic increase in the quality of life and revitalization of its downtown district. This positive transformation is a result of Roanoke's arts and culture organizations and the creative individuals that fuel each organization. Having the opportunity to work closely with these creative individuals, I see the financial protection the current copyright law affords photographers, illustrators and graphic artists.

After reviewing the Orphan Works and Mass Digitation report I have a few points I would like to address to the Copyright Office. It is important to address these points as they will have a negative effect on photographers, writers, illustrators, graphic designers and other visual artists.

1. The proposed legislation would deem many works as "orphaned." A majority of these newly orphaned works would still be an active source of income for artists. Just because a potential user may have difficulty finding the copyright holder does not mean an artist has "given up" on that particular work as a source of income.
2. Artist should retain exclusive rights to publish or not publish their work. This allows the artist to manage the market value of their work. This is extremely important because creative individuals rely on the usage of their work for income. It would be wrong to conclude that after publication a work no longer has any monetary value. As is most often the case, an artwork can generate income for an artist many years after its original publication.
3. If orphaned works are no longer protected under Copyright Law, it would shift the favor from individual artists to corporate interest. Individual artists would be pressured into absorbing the additional costs and

labor to monitor copyright protection. Many artists are sole proprietors or have a small staff, and this additional burden would be a large restriction to their business. While on the other hand, corporations that can afford these additional expenditures will be able to maintain copyright protection and have a competitive edge in the market place.

4. Mass digitation and the ECL framework should be a resource where interested parties can search for the copyright holders of a specific work. The ECL framework should maintain the current copyright protection of orphaned work. Any database program should be voluntary, without cost or with a small annual due (\$50.00/year) for unlimited copyright registration. Artist would be willing to participate in such a program, as it would allow them exposure to potential clients. The user would benefit from being able to quickly find individuals or business that hold the copyright of a specific work. However, non-participation should not result in having a work of art be classified as orphaned. No third party should regulate the distribution of copyrights and/or usage. Any further usage should be negotiated in a contract between the artist and the potential client.

To conclude, I would like to say I support upholding the current copyright law. If changes are made, please take my comments into consideration and give artists the ability to control both their income and careers by protecting their copyrights.

Thank you for your time and considerations,

Joseph Mackereth

MARKETING MANAGER