MCDERMOTT MEDICAL ILLUSTRATION
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July 14, 2015

Maria Pallante
Register of Copyrights
U.S. Copyright Office
101Independence Ave. S.E.
Washington, DC 20559-6000

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

Dear Ms. Pallante and US Copyright Office:

I appreciate the opportunity to convey to you my history and feelings of why it is so important to retain the US Copyright Laws as they were instituted in 1787 and not to change them. I sincerely hope you have on file a letter I wrote to you about Remedies for Small Copyright Claims (76 FR 66758) dated January 17, 2012.

First, I would like to provide some information about me. I have been a professional medical illustrator since 1975, and self-employed since 1981. During the course of my career, I have created thousands of illustrations, retaining copyright to nearly all of my creative works. With only a few exceptions, I have registered all of my work with the US Copyright Office, Library of Congress. Although during the first two decades of my professional career I concentrated on the creation of visual works of art, I have spent the most recent decade and a half largely pursuing infringements of them.

I am a Board-Certified medical illustrator with over 35 years of professional experience. I am a Fellow and Past President of the Association of Medical Illustrators (AMI), and a founding member of the Illustrators' Partnership of America (IPA). I have been an adjunct Clinical Assistant Professor at the University of Illinois department of Biomedical Visualization for 30 years.

I earned a Bachelor of Science degree (with Honors) from the University of Illinois Medical Center at Chicago in the Medical Art program, one of five accredited programs of this specialty in the country. The intensive 5-year coursework included human gross anatomy (with dissection), histology, microbiology, neuroanatomy, comparative vertebrate embryology, and pathology, as well as advanced illustration courses such as anatomical sketching, medical & scientific drawing, and surgical procedures. I further obtained a Master of Arts degree in Instructional Design/Television (with High Honors) from the University of Missouri-Columbia.

I run and manage McDermott Medical Illustration, an established, successful Chicago-area full-time freelance practice. My company creates illustrations for medical journals, patient education materials, textbooks, pharmaceutical advertising, websites, and interactive digital media. My skills extend to the legal community, providing effective demonstrative exhibits to serve as evidence supporting expert testimony in personal injury and medical malpractice settlement and litigation.

My Clients have included:
• Advanstar Communications

• American Academy of Family Physicians
• American Academy of Orthopaedic Surgeons
• American Medical association
• Aptium Oncology, Inc.
• Belltone, Inc.
• Burson-Marsteller
• bMod Communications Montreal
• CMP Medica
• Consumer Guide/Publications International, Ltd.
• Corbett Accel
• Dowden Health Media
• Elsevier Science
• Haymarket Media, Inc.
• Holt, Rinehart & Winston
• H.P. Publishing
• Jobson Publishing
• Kinally, Flaherty Krentz & Loran, P.C.
• Krames Staywell
• Medical Economics Co.
• Medicine Today, Pty Ltd. Australia
• Merck, Inc.
* Norton Agency
• Northwestern Medical Faculty Foundation Chicago
• Pamlab,Inc.
• Quadrant Healthcom
• Scholastic, Inc.
• Scott, Foresman & Co.

My Professional Awards Include:
• 9 Awards of Excellence, Association of Medical Illustrators, 1978 - present
• World Congress on Biomedical Communications, 1st Place (Print), 1994
• DESI Awards of Excellence, Graphic Design USA, 1989, 1991
• 13 NY Rx Club Awards of Excellence, 1988 to present
• Illinois Healthcare Association First Place Award, 2009
• Outstanding Service Award, Association of Medical Illustrators, 2002
• Fine Arts Distinguished Achievement Award 2000, Marian Catholic High School Hall of Fame

My work has been selected for exhibition/publication in:
• The Museum of Science & Industry, Chicago
• Rochester Institute of Technology
• The Best in Medical Advertising & Graphics, Rockport Press
• Australian Institute of Medical & Biological Illustrators, Melbourne
• Medical Artists Association of Great Britain, London
• AEIMS exhibition, Strassbourg
• 7-page full color article, AirBrush Action Magazine, February 1997
• Invitational one-person show (65 color paintings), Museum of Surgical Sciences, Chicago, 1994

And now I'd like to express my thoughts about the history of Copyright and my pursuits of infringements.

The Copyright Act was the first article passed in the US Constitution. It was that important.

*"To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the **exclusive Right** to their respective Writings and Discoveries".*
U.S. Constitution, Article 1, Section 8.

Copyright Law was first instituted with the Statute of Anne in Great Britain in 1710. At that time, it was believed that control of the world belonged to those with the best maps; hence those maps needed governmental protection. My knowledge of this history of copyright law exists because the first infringement of my work occurred in 1990 when an artist removed my copyright notice from one of my works and actually sent it, with his logo, to market himself to the actual client who commissioned me to create it.

After that occurrence I researched US Copyright Law and thereafter presented copyright talks and workshops to University of Illinois Medical Center graduate students and at Association of Medical Illustrator annual meetings for over two decades. This was an effort to spread the word about the importance of timely registration of copyrights so that artists had recourse in the event they were infringed, and could ensure their rights and ability to obtain future revenues from their copyrighted works.

I have created work on a commissioned basis since 1975. I do not sell my work, I license limited rights to each piece, and retain copyright. My ownership and retention of copyright is my business and retirement income. I have obtained more income from licensing of existing, copyrighted work over the last decade than I have from new commissions.

I have been adamant about pursuing infringement of my work. To date, I have filed six lawsuits for copyright infringement in Federal Court. After diligent searching, I was able to find attorneys to represent me on contingency and/or partial contingency arrangement *because I had timely registered copyrights.* I had to pay out of pocket expenses, which in some cases were in the thousands of dollars. In addition, the time expenditure and personal stress on my part was enormous, sometimes leaving me no time or energy left to engage in creating new work. However, all six cases eventually resulted in settlements without a trial.
The shortest duration from filing to final result was just a month and a half; the longest dragged on for nearly a decade, with the first two attorneys engaged in the case passing away during the process. Looking back, even with all the stress, expense and time involved pursuing infringements, I still would do it all over again, because parties were stealing my self-created property, produced by the labor of my brain, spirit and hands, and I have exclusive rights to those creations under current copyright law.

In addition to the lawsuits I found necessary to file, I have also pursued numerous settlements both with existing clients and unrelated parties who infringed my work. I alerted the parties in question about the unauthorized uses they had made, and because I had very specific license agreements with the clients who exceeded their license of rights, *and had registered copyrights for all of the images involved,* I usually was able to obtain reasonable compensation for the unauthorized uses without involving a lawyer. I calculated compensation based on industry standards, either as a multiple to the initial fee paid in the license, or as a multiple of what the fee would have been for taking my rights without authorization. Because of the threat under current copyright law of statutory damages and legal expenses if I should file a lawsuit against the infringing party, ***with timely registered copyrights under the existing law, I had,*** in effect, ***a hammer for justice.***

And now what is going on? I am nonplussed that the US Copyright Office would wish to invalidate copyright registration certificates I have filed for over 30 years by its own Orphan Works policy.

What does the US Government Copyright Office have to gain by Orphan Works legislation?

Why would the US Copyright Office wish to give public access to copyrighted works, just because people want to steal them, not pay for them, or are too lazy to figure out who owns the copyright?

I rely on the availability of statutory damages, attorney fees and injunctive relief to enforce and protect my copyrights. I rely on the passive protection automatically granted to me the moment I place an idea into a tangible form, whether on a piece of paper or into a digital file. If Orphan Works legislation passes, it is my understanding that all infringement cases will be treated as unregistered.
Small claims court is an absolutely ludicrous concept for copyright infringement.
Does the US Copyright Office plan to pay back all the registration fees (plus interest) to those who, like me, registered diligently over decades? Or will the US Copyright office grandfather us into the statutes instituted and in effect since January 1, 1978?

Why has the US Copyright Office not created a searchable database for visual arts that have been registered? I cannot see a reason why the US Copyright Office cannot construct a viable searchable database for registered visual art from visual art deposits that have been made over time. It would be impossible for me to furnish deposit data and register all of my work created since 1975 with a commercial registry, not to mention that one doesn't even exist today.

I am a member of ASIP (American Society of Illustrators Partnership). I do not think my secondary royalties should be paid to publishers or to a trade organization that claims to own or represent my rights, they should be paid to ME, the copyright owner.

In addition, the US Copyright Office should not legalize the payment of royalties derived from the overseas commercial licensing of individual artists' work to self-selected US trade organizations by formalizing the defacto extended collective license currently underway in the US by the Authors Coalition of America and its visual art member organizations.

I cannot understand it, but it seems to me that the US Copyright Office is attempting to construct policies that give special interest parties priorities over the rights of individual creative artists.

Respectfully submitted,

Teri J. McDermott, MA CMI
Past President and Fellow,
Association of Medical Illustrators