July 21, 2015

I am a self-employed artist and illustrator, and have been in the business of creating images and licensing subsequent rights to those images since 1979. I have won national and international recognition and awards for my original work. Copyright is the basis of my income and ability to support my business. Copyright laws help protect the accuracy and integrity of my work, and my right to protect and to negotiate an appropriate fee for re-licensing.

The biggest challenge to monetizing/licensing my work is to keep control of where it appears and who uses it, and to keep my copyright notice and contact information associated with the work. I diligently attach metadata to my electronic image files - even so, that metadata is has been erased by websites the image appears on. I require that my name and copyright information be included with the image by my clients - they will do so, but often the image is appropriated by someone else and that information is cropped off. I always sign my work within the image area, and watermark when images are digitized - but there are multiple companies with software and tutorials instructing users how to erase watermarks.

As I am sure you are aware, historically artists are diligent in protecting their works, but unfortunately even with these attempts cannot prevent our works from being 'orphaned'.

If the Copyright Office is sincere about protecting rights of creators, it should make it illegal to remove a watermark, illegal to remove metadata, illegal to remove copyright information. The Copyright office should and can make all of its registered images searchable by image and not just by textual data.

In addition, the suggestion of a text-based 'Notice of Use' of a work assumed to be 'orphaned' would be useless. The only real protection for creators is to eliminate the concept of orphan works altogether. No work is an orphan, it all has been created by someone, even if a 'potential user' doesn't know who it is.

A requirement to resubmit all of my work to a different registry would be devastating to my ability to claim ownership and therefore license any work in the future. Even the PLUS registry under development appears to be utilizing metadata and watermarks - both identifiers that are useless currently to protect ownership information.

The proposed language suggests that 'potential users' rights are equivalent to those of creators. They most certainly are not. I, as the creator of my works, have the right to decide if I want my image licensed beyond the original use, re-used, re-purposed, re-imagined, re-combined and no-one else. If I want to sell an image only once, that is my legal choice and not the right of the 'potential user' to claim otherwise. If I want to create an image, put it on my website, and never license it at all, it is also my legal choice. 'Potential users' do not have rights to my images. If a 'potential user', individual or company, wants to further their business by using imagery, and can't find an image they can legally use, then they can do what individuals and companies have done historically for the decades before electronic file sharing - commission a new one, and keep artists and illustrators working and keep the integrity of the business of art intact.

Thank-you,
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