Hello,

My name is Heather Scott and I have concerns about the revisit of the Orphaned Works Act, which would grant any party the ability to use copyrighted material after they have done a "fair and reasonable" search for the copyright holder.

As a graphic artist and content producer, I don't feel that this is just.

Search engines such as Google send automated scripts (nicknamed, robots, bots, crawlers, parsers, etc) into websites and archive it's contents on their servers (this is how search engines actually work, after all). Unfortunately, people will simply stop at the search level of things and in the case of image searches, will save the files directly from the search results pages. They never visit the website the image is on and it doesn't even cross their minds to try and obtain permission to use it - even if the capability to ask is right there!

As a tax-paying graphic design business owner, I have to fight this A LOT.

Clients very often bring me such images and ask me to use them on their marketing materials or sometimes even on a product that they will turn around and sell. If I have to ask them where they got the image from, they always tell me that they can't remember and that they found it on Google. Retracing their steps to find the image is practically impossible and while this would grant ME the "fair and reasonable" search status, it sure doesn't grant it to them. As I mentioned earlier, they were but a click away from getting the information needed to make contact.

The current copyright laws allow me to protect the rights of those that produced the image initially and I refer the client to something more suited to their needs by way of stock image sites or self-production. This actually works! In fact, my clients love it even more because they don't get confused for someone else and are a stronger brand for it.

The situations in which I see the Orphaned Works act benefitting anyone are slim. As an artist, I don't want people to fake a "fair and reasonable" search to use my art for free (I watermark my content with my contact information, but I know people who want to cut corners and use it will edit it out). As a graphic designer that could benefit from plausible deniability, I don't want to infringe on someone else's work either.

Please don’t allow the Orphaned Works Act to pass. It is a bad idea.
Sincerely,

Heather Scott
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