22 July 2015

Catherine R. Rowland
Senior Advisor to the Register of Copyrights

Dear Ms. Rowland,

I am an artist and own copyrights to more than 1100 images (all scientific illustrations of fishes). My images are frequently taken and used on the web with no attribution and no copyright, something I have little or no control over. I have identified more than 2000 web pages that have used my work without authorization over the last 5 years, many using more than one image. Some of these are taken from previous web posts, but many are scanned from copyrighted publications (most often books) that contain CMI. It's very easy to find me and/or my images through a web search, particularly with a content based image retrieval from Google Images. However, I think about 95% or more of the users of my work neglect to do so, and I doubt that another law is going to help -- they are already breaking the law and most of them know this. I think that "Orphan Works" simply suggests another "out" for these infringers, making it more difficult and more expensive to litigate against serial offenders, many of whom are placing my images on products for sale. It is already a big problem to get some of the infringers to remove the works even with a DMCA notice. Certainly they don't need another bill that will let them raise the claim (after the fact) that their use is legitimate.

As for legislation that can make registration easier: the biggest problem for me is that I frequently publish 100 or more images together in books. The books are registered for VA copyright. Some district courts treat this as one and only one statuatory award for infringement even if an infringer were to make 10 designs from 10 fishes from said book. This is even though the images are created separately and are sold separately and have an utterly complete and independent life as a copyrighted work, and are even being infringed and sold as independent economic units. The law and applications are unclear on these points. It is almost impossible to register say 150 images separately, especially when upon first publication they can be registered together to save time and money.

Thanks for your time.

Sincerely,

Joseph R. Tomelleri
www.americanfishes.com