July 23, 2015

Dear Copyright Office,

I would like to make a few comments in regards to your Notice of Inquiry. I am a professional board certified Medical Illustrator and the manager of an academic publications department at the Barrow Neurological Institute. I have a Master of Science Degree in Medical Illustration. I am the President-elect of the Association of Medical Illustrators. I and my department have received numerous awards for illustrations, animations, and neuroscience textbooks as well as the acknowledgement and gratitude of the neuroscience field. My institution is both a creator/licensor and a purchaser/licensee of visual media. We create original, accurate highly detailed visuals explaining new neurosurgical techniques and newly understood anatomical relationships. Our institution retains the copyrights to most of our visual works, first to be able to create derivatives with the base art as new techniques are developed, and second, to license to third parties to support production costs, and third, to maintain control of the use of our visuals to promote our institution's reputation and to keep them from being used to promote inaccurate medical concepts.

Question 1. Challenges to monetization and licensing: The most significant challenge we face are people who use our visual works without permission or payment. Many people do not take the time to understand or respect copyright law. They seem to think they can capture and download our work as they please. They seem to think that many uses are fair use, which are not. Another challenge is publishers who want to take all copyrights to our visual works without compensation, making it difficult to support production and impossible or expensive to produce new derivative works. With online publishing and subscription models they often want to not only publish the academic articles with the images, but also separate those images from the articles and license them separately to their subscribers. All without adequate payment to support the cost of creating the works! Some publishers ask our authors for permission to redraw or make derivatives of our works. They seem to think they can then copyright that version and use, resell, or license as they please.

Question 2. Enforcement challenges: We are infringed frequently. Our institution is in the business of healthcare and science, not law suits, so we greatly appreciate that the threat of financial penalties is often enough to stop infringers. Still, it takes a great deal of time and expense to find the infringers and keep after them until they respond appropriately. We greatly fear that if the Copyright Office removes that threat of penalty under orphan works or the penalty for educational institutions / purposes or creates a toothless small claims system, it will open a flood gate of infringement that we cannot control. We are concerned about infringement in countries that do not respect US copyright law.

Question 3: Registration challenges: Our greatest difficulty in registering our works is the time and expense it takes to register so many pieces. We are a high volume department trying to meet the needs of a large number of neurosurgeons, neurologists, and scientists. It is often difficult to register in a timely manner. It is prohibitively expensive to register all of the volume of work we create. A minor issue is that our authors would often rather we not include the date on our copyright notification. For our

website and for presentations, even though the content is current, they feel the year can make it seem outdated. It makes it difficult to perfect the copyright notification.

Question 4: Challenges to legal use: Our greatest challenge is finding trained professional illustrators with the talent and knowledge necessary to create the kinds of original accurate detailed medical illustrations we need. We appreciate that copyright law gives us options for purchasing all rights our partial rights, so that we can tailor the project to our budget. Most important this creates a business model that works better for our contract illustrators. Visuals are extremely important to our academic publications, so the health of the industry is very important to institutions like mine.

I am very concerned about some of the ideas being proposed without adequate feedback from our industry, including orphan works, mass digitalization, small claims copyright court, and protection of educational institutions. I am worried that proposed legislation will greatly harm our industry and the rich visual support we bring to scientific academic publications.

Sincerely,

Mark Schornak