Martens & Kiefer
BIOVISUALIZATION

July 21, 2015

Dear Copyright Office,

I am a medical illustrator who has earned a living from licensing my copyrighted original artwork I have created over the past 24 years. Additionally, I am a Professor of Art at Northern Illinois University, teaching young illustrators how to contribute to the culture by creating powerful visual art and how to make a living as such an artist through licensing of their work. Yes, it is possible to make a living as a visual artist—my husband and I, both with graduate degrees in Biovisualization from University of Illinois at Chicago, formed our business, Martens & Kiefer, in 1991. We have both won the top awards in our profession including Awards of Excellence and Member's Choice Awards numerous times from the Association of Medical Illustrators. My work alone has been published 330 times in the last 6 years in surgical and science textbooks, medical journals and phamaceutical education materials.

Our business model is based on our ability to monetize our copyright protections as they currently exist. All of our income comes from the fees we collect from licensing our original creations both in limited and exclusive licenses.The proposed changes in Copyright law would remove my ability to control my creations. Orphan works legislation would cause me to be in breech of contract for all the exclusive licenses I have entered into. Exclusive licenses are very valuable to our company, generating the most income for our business and making our work more valuable to the clients we are working for. Our clients are investing in artwork that facilitates and represents their interests with the protection that they will not see this work in competition or in use with values that do not align with their own. All my exclusive licenses are limited by time. My clients usually renew this license at the end of our agreement because they see the value I created for them. The inventory of existing illustration is very valuable to me with secondary licensing making up approximately 35% of my income.

I create original visualizations completely from my ability to imagine and put this visualization into a tangible copyrightable form to teach complex medical information for the benefit of mankind. I do not copy or rework googled images. What I do is completely original from my abilities and hands alone. What I do impacts our society by teaching the public and physicians. It requires an extensive, expensive education. Without the ability to recover those costs and make a decent living wage from work garnered from the way current copyright law protects artists, there will be few if any medical illustrators in the future. New discoveries require skilled, educated medical illustrators to communicate these advancements. We do not want to live in a world where medical knowledge is passed around via hacked derivatives of existing images by unknowledgable profiteers. The internet is full of this, we all know it. Do we want this to be all there is? The current copyright law works to continue to source the medical community and public with reliable, accurate illustration by creating an environment for medical illustrators to earn a living, thus, serving the public interest.

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Further, I think it is utterly unconscionable to think the Copyright office would invalidate my copyright registration certificates by their own orphan works policy and concentrate my personal intellectual property that I was given protection under the law into privately owned databases under current proposals. Any searchable database should be created solely by the Copyright office and not by private entities. This focus on searchable databases completely bypass the fact that artist rely on the passive protection automatically granted the moment we fix an idea in a tangible expression. It is unwieldy and cost prohibitive to need to register every little thing we do.

Lastly, as a member of the American Society of Illustrators Partnership (ASIP), I believe my secondary royalties should be paid to ME and not to publishers or to a trade organization that claims to own or represent my rights—I can assure you they do not. And the Copyright Office should NOT legalize the payment of royalties derived from the overseas commercial licensing of individual artists works to self-selected US trade organizations by formalizing the de facto extended collective license that is underway in this country by the Authors Coalition of America and its visual art member organizations such as the Graphic Artists Guild, Society of Illustrators NY, Society of Childrens Book Writers and Illustrators.

I believe the Copyright Office is constructing policy that gives special interests priorities over the copyrights of visual artists and I urge you to instead protect artists' creations and their ability to earn a living.

Sincerely,

Kimberly Martens. M.A.M.S., CMI
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