July 22, 2015

To: Maria Pallante Register of Copyrights U.S. Copyright Office
101 Independence Ave. S.E. Washington, DC 20559-6000

Re: Notice of Inquiry, Copyright Office, Library of Congress Copyright Protection for Certain Visual Works (Docket No. 2015-01)

Dear Ms. Pallante & U.S. Copyright Office Staff:

My name is Kim Niles. I am a 48 year old, full-time artist and owner “KiniArt”, my artist aka and the name of my business registered in WA state. I have been making and selling my art online since the late 1990's. I have been focused exclusively on drawing and painting my own very unique style of cartoon animals, with primary focus on dog breeds and with an emphasis on terrier breeds since February 2004. I have made my KiniArt company my sole employment since August of 2005. Through KiniArt, I sell my original artworks, art prints, and printed on a wide variety of products through many print-on-demand companies such as Cafepress.com and Zazzle.com. I also license my artworks to companies for use on their products under the “KiniArt” brand label.

Under the current laws, according to the attorney hired to represent me in a past infringement issue in which a major American department store used a nearly exact derivative version of one of my Westie *(West Highland Terrier)* dog art illustrations on their store-brand pajamas without a license of any kind, my KiniArt Westie Terriers” are so synonymous with the KiniArt brand that they are protected by both copyright *and* trade dress rights. And yet, because they are *so* popular, they are my most infringed upon works. When I first began drawing them in early 2004, I knew nothing about formally registering my work. I am a very prolific artist, and after the department store infringement (undisputed and now long since settled), thanks to my attorney, I learned how to register my works online before they're offered for sale anywhere. My attorney advised me at the time, not to worry about registering older works since there were years of them. She said I should wait to register the older works if/when they are infringed upon but register the newer works on a regular basis. This is what I have done since then (2010). The only way I can afford to register my works on an ongoing basis is to list them as collections of works – and I currently try to do this every 4-6 weeks or so – Listing them for example as “2015 KiniArt Works of MAY 15 through JUNE 30”.

I already battle constant infringements of my work in the USA, Canada, the UK, Brazil, China, and other countries. My KiniArt collectors bring the majority of infringements to my attention on a nearly monthly basis because they're either exact copies or they're barely different

derivatives because the infringing party wants to keep that “KiniArt” style in the artwork because that is precisely why it sells so well – so it's still recognizable as KiniArt. Infringements are the only downside of my business. There is often little to nothing that I can do against the foreign infringements, such as the shopping mall in Brazil who has repeatedly helped themselves to exact copies of my works for their products. However, the US, the law has always had my back on such matters – where if my customers bring it to my attention because they recognize it AS a KiniArt image, it's infringement because as the artist, only I have the right to make derivatives or to license that right to others. If you make the proposed changes to this country's copyright laws, you will essentially be making it legal for others use my art - an image and recognizable style that came from my years of countless hours of work - without my permission, without crediting me as the original artist, and without a license/compensation.

Such changes will be the death of my company because it will grant permission to others to make *very small* changes to my works and list them for sale in the same markets in which I sell – The original art markets, art prints, print-on-demand gifts, children's books, and art licensing. I have no doubt the proposed changes to the law will find me competing against what are essentially my own unique artworks (they'll claim are “derivatives”) – and as I've been out of the job market running my own company for over 10 years, this will see me applying for employment at the likes of Walmart because I won't be able to compete against a flood of KiniArt derivatives in any of the markets I depend on for my livelihood.

Please consider me – and others like me – when you consider these changes to the current copyright laws regarding automatically orphaning artists' early/unregistered works, allowing others to make derivatives without licensing that right from the artist, and the ability for individual artists to register their works as small collections on a monthly or bi-monthly basis.

Sincerely,

Kim Niles, *aka KiniArt*
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