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To: Whom it May Concern,

Before reading my letter I would like to politely ask that you read these articles from the Constitution of the United States of America. I will be referencing these quite often and would like to remain as clear as possible.

The following excerpts are taken word for word from the Constitution of the United States of America:

Article 1, Section 8, Clause 8: To promote the Progress of Science and useful Arts, ***by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;***

The Bill of Rights, Articles I, and IV

ARTICLE [I.] ***Congress shall make no law*** *respecting an establishment of religion, or prohibiting the free exercise thereof; or* ***abridging the freedom of speech, or of the press;*** *of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*

ARTICLE [IV] ***nor be deprived of life, liberty, or property,*** *without due process of law;* ***nor shall private property be taken for public use, without just compensation****.*

It has come to my attention as with many other concerned artists the proposed changes to copyright law under the new version of the Orphan Works Act. Under these changes, from my understanding:

1. All artists must register all works they have created commercially
2. If the work is not registered, it falls under public domain, is "legally orphaned", and as such is no longer the artists' exclusive property
3. "Good faith" users can attempt to find the artist in question, but if they are unsuccessful, they are allowed to use the work in question as they please[1]
4. Users that produce derivative works off an original "orphan" work can copyright the derivatives without due compensation or acknowledgment to the original artist

[1] Pg. 11 Proposed Orphan Works Act. http://copyright.gov/orphan/reports/orphan-works2015.pdf

5. Corporations can use "orphan" works on a mass scale without due compensation or acknowledgment
6. Registered works do not belong exclusively to their creators meaning they do not necessarily make royalties off of their own work.

The definition of orphan work as per the proposal is:
"Any original work of authorship for which a good faith prospective user cannot readily identify and/or locate the copyright owner(s) in a situation where permission from the copyright owner(s) is necessary as a matter of law."[2]

To begin with, the definition of "readily available" is very vague. This could mean anything from a direct website link to a link on a search engine. This is also assuming the user is actually practicing "good faith" and seeking out the artist(s) as best as humanly possible. The major loophole in this definition lies within the fact that users can claim ignorance, or that they for some reason could not find the source of the art they are appropriating.

This change in copyright is harmful to artists everywhere. The first and most important reason why this law should not be adopted is that art belongs to the artist. The stipulations of this law are akin to taking parenting rights from a parent. A child is "authored" if you will, by the two parents that birthed him. He belongs to his parents until such a time that he is old enough to be on his own. Copyright is much the same. An artist "authors" their work and has custodianship over it until he 1. Sells it to a client and enters into a legally binding contract or 2. The estate of the copyright expires after a period of time. To take away the custodianship from the artist is to take away his/her life-blood and living. You are infringing upon the right to pursue happiness because you have taken away the means to pursue it.

The second reason why this law should not come into effect is that it promotes piracy. If everybody's work exists in the public domain until registered as this law would order, there is nothing to protect the work from being stolen and registered or used without consent of the artist for monetary gain or otherwise. This is wrong. **A man/woman earns bread for the table by working for it and reaping the rewards of their labor.** It is not fair or constitutional to take someone else's rights to their own property. By passing this law you are in effect making theft legal.

This law would affect my future as an artist drastically. I have been producing art for 12 years and received my first commission at 10 years old. I am currently enrolled in the 2D Animation program at Rocky Mountain College of Art and Design and expect to graduate with a BFA in spring of 2016. While in school I have produced some commissions but know that once I enter the professional realm next year it will be a major source of income for me.

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[2] Pg. 9 Proposed Orphan Works Act. http://copyright.gov/orphan/reports/orphan-works2015.pdf

The Office of Copyright has asked visual artists to answer five questions in regards to this proposed law. My answers are as follows:

1. What are the most significant challenges related to monetizing and/or licensing photographs, graphic artworks, and/or illustrations?

The most significant challenge is making sure that your copyrights are clear and demand respect. You would not ask a construction worker to build you a house for free because it takes labor. You would not ask a lawyer to advocate for you in court without payment, because he/she has earned the privilege to practice law. It is unfair to ask an artist to produce work without compensation because they labored over their work. In my case as a student, I have gone through extensive training to perfect my craft. Why should I accept anything less than fair payment for something that I have studied and worked for the same as anyone else? Is it not my property and do I not have the rights to it? Under this law, it will no longer be my license but a corporate one, taking my control from my own work.

2. What are the most significant enforcement challenges for photographers, graphic artworks, and/or illustrators?

Enforcement of this proposal is a logistical nightmare. As I outlined above when briefly defining "orphan work" you cannot possibly keep track of work that you put out if it is not licensed specifically to you. Under this law if a user does not actively seek you out to get permissions they are essentially free to use your work until someone catches them. This is theft and it is unconstitutional as per Article IV of the Bill of Rights. Theft is also a crime punishable by law. This takes the power from the creator over his/her own domain and puts it in the hands of everyone. Pretend you have a child. Say your child walks from the ice cream store to the gas station. This entire time he is still under your custody; you did not lose custody of him because he happened to go elsewhere. This is the same as art in a sense. Just because you have your art posted to different places such as Tumblr, or Facebook or Behance does not mean that you have lost your rights to it. It also does not mean that it is ok for someone to strip your watermark and post your work as their own.

3. What are the most significant registration challenges for photographers, graphic artists, and/or illustrators?

For me, personally, the greatest challenge will be paying for the registration fees and the wait times for licensing under whatever third party registers my work. I am a student who will be going into the professional world with a very small amount of money to start. I am in the same boat as millions of

young artists across the globe starting out. If I am paying living costs, insurance costs, maintenance costs on a website or two, gas mileage etc. how am I supposed to be expected to pay exorbitant registration fees to license every single piece of my work that is already out in cyberspace? Now multiply the amount of work that I have by 100 or more and you have the amount of work that professionals who have been in the business for a while are going to have to deal with. The shear volume of people attempting to register their work if this new system is adopted is astronomical and unrealistic. There is no possible way that every artist will get every piece registered in a timely fashion, let alone if they have the money for it. Many artists have to support themselves on a second income, including myself.

4. What are the most significant challenges or frustrations for those who wish to make legal use of photographs, graphic art works, and/or illustrations?

The biggest frustration is that people who would want to follow this roundabout process correctly are few and far in between. By enacting this law, you are making it easier for infringers to walk away with free access to millions of art pieces. You are essentially allowing a cat burglar to walk into the Louvre and take the *Mona Lisa* without legal authorization to do so. This also makes it hard on the people that do want to give due credit. Do they give it to the corporations or do they give it to the artist who has now had all of their ownership stripped from them? This is wrong and bad for everyone.

5. What other issues or challenges should the Office be aware of regarding photographs, graphic art works, and/or illustrations under the Copyright Act?

The Office should be aware that most of this law is in direct violation of constitutional law in regards to rights of property. Just as thieves slip through the regular justice system, you have widened the hole through which people of this sort pass. The corporations are not expected to keep track and hunt down infringements, yet they are the ones who are to own artistic registration over these same properties? This makes absolutely no sense. We are guaranteed "exclusive rights" under the constitution, but this law takes that away. This law says that "corporate rights" outweigh the rights of the individual; this is something that the founding fathers fought so hard against. An artist's intellectual/visual property should be just that: THEIR PROPERTY. The other thing to note is the uphill battle the Office will have created for themselves should this law come to pass. Who will be regulating the people and making sure that due diligence and "good faith using" are upheld? Who is going to be able to track down everybody that is doing this wrong? Who decides what a "reasonable buying price" for a recovered art piece is?

To conclude, artists produce work to support themselves, and to make the world a better place through the work they produce. This is a form of expression, how we speak to our world, how we relate. If our works are orphaned until registered there is nothing to stop anyone from misappropriating our work, using it for their own gain and leaving the original artist in a rut. This takes away our expression, it takes away our own right to our own property and takes away any chance we have of making a living from what we were put on this earth to do. All arts are important, and all artists deserve a chance to thrive without fear of losing everything they worked so hard to achieve.

Thank you for your Consideration,

Andrea "Misha" Farris