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From:
Clara Vath
Böttgerstr. 35
01129 Dresden
Germany

e-mail: info@vath-art.de
website: www.vath-art.de

Dear Copyright Office:

I am a professional illustrator from Dresden, Germany and have been working as a full-time freelance illustrator since 2012. The 2015 Oprhan Works and Mass Digitization Report is not only highly troubling and dangerous for American artist but will have a worldwide impact on the creative field of art. It will directly lead to financial loss for illustrators, photographers, fine artists and visual artist. It will highly hinder the artists' business which by itself can be very hard already to make a living of. Therefore, pray, take the keen and insistent request of artists all over the world to heart who see the main source of their livelihood in danger by the 2015 Oprhan Works and Mass Digitization Report.

My illustrations can be found on the covers of numerous books, inside children's magazines, on tee-shirts, fabric and various other products which people see, use and enjoy in their day to day life. Illustration is an art form that shares a rich and important history. And while each and every one has some kind of personal relationship with illustration - be it their favorite children's books, movie poster or tee-shirt design - very few people outside of the field understand the myriad challenges that professional illustrators have faced for many years.

It can be hard for me and other artist to make a living of our work, or to enforce copyright protection of our work. However, current legislation in most countries around the world enables us to prove ownership of our work through the simple act of publishing it under our name.

Many people do not know how precious the artist's usage rights are. Generally, if a client commissions an illustration from me, they also license rights of use. Licensing can be individual as they may license it for a certain amount of time, a certain area or a certain purpose. Once that time period elapses, the rights return to me allowing me to re-license that same work to another client – a fact that the authors of the Orphan Works and Mass Digitization Report seem to not understand. Unfortunately, there seems to be a misconception that upon publication our artwork loses it's value. This is an inaccurate and potentially dangerous falsehood.

In many cases, the client will license exclusive rights, meaning no one else is allowed to use the illustration commercially for a certain amount of time. If my work can be assumed „orphaned" from the moment of creation, I can no longer give my client a guarantee that they have the exclusive rights of use to it. As a direct result of that, I lose money.
This in an already competitive field where rates have not kept up with living costs and inflation in the past decades.

While the proliferation of the internet has afforded artists the ability to reach new audiences across the planet, it has also served as one of the greatest impediments for an artist's livelihood. Digitization has allowed for an artist's work to be exponentially shared and therefore almost impossible to exert complete control over how it is used. Most of the time our images are utilized simply as decoration on social media sites. But just as often our names and copyright information are unlawfully removed, rendering our images particularly vulnerable to orphaning and thus

appropriation. It is almost daily that I read about a fellow artist's work being monetized by an unscrupulous third party with zero profit or credit being afforded the creator.

Right now, the burden of proof is on the infringer who must prove that they have rights of use to an image if accused of copyright infringement. But this new proposed legislation, if enacted, would transfer the burden of proof onto the creator, who is now required to document proper registration of their work if infringed upon; something that almost every creator outside the United States has never done, and might not learn to do until it is too late – a tremendous pressure to prove something that is already a matter of course.

This is as if the victim of a crime – for example, a burglary – would first have to prove that they have installed cameras and special security devices in their home before they are allowed to press charges against the burglar!

For the illustrator, copyright law is not an abstract legal issue, but the basis on which our business rests. Our copyrights are the products we license, so in essence taking our work because it is deemed orphaned is literally stealing money out of our pockets. Everything that we create, whether for a client or for our own personal indulgence, becomes part of our business inventory. And in the digital era, inventory is more valuable to artists than ever before.

Please reconsider how the 2015 Orphan Works and Mass Digitization Report could have potentially disastrous effects on not only the field of illustration, but on the future creation of quality art in the public realm.

Sincerely,

Clara Vath

freelance illustrator, Germany

www.vath-art.de

Clara Vath

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