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U.S Copyright Office
Re: Notice of Inquiry on Copyright Protection for
Certain Visual Works ('Orphan Works')

To Whom it May Concern:

I have been a graphic designer and artist since 1986, and am writing in opposition to the proposed Copyright Protection for Certain Visual Works now being considered in congressional hearings.

As is – unfortunately – well demonstrated in the marketplace, many corporations can already not be trusted to engage in good faith 'diligent searches' for the copyright owner of work(s) the corporations wish to use for their own financial gain. Time and again, such unethical companies knowingly attempt to steal work (and income) from visual artists, by using the artists' copyrighted works without permission or remuneration and then, if caught by the artist, claiming a right to use the work under 'Orphan Works' with a dishonest excuse of "we couldn't find you" – when the truth of the matter is, these companies assume they'll probably succeed with their lawbreaking because the burden of proof falls on the creator of the work(s). The proposed new copyright law changes would grossly worsen this already difficult situation for visual artists.

The Orphan Works Act has been so corrupted by moneyed interests that it cannot be allowed to go forward as currently written. To do so would be to give unscrupulous companies and corporations a perceived free pass to steal artists' work.

The proposal to eliminate artists' Constitutional right to exclusive control of their work is particularly heinous, as is "privileging" the public's right to use an artist's work without permission. No one is 'privileged' to use my work without my permission.

At issue is more than remuneration; an artist's Constitutional control over their work is also necessary to ensure their work is not associated with an objectionable cause, entity, or content.

If a company cannot locate the owner of a work's copyright, then they shouldn't use it. Period. This moral guideline is so obvious and basic that I am amazed it needs stating, but apparently the corporations lobbying Congress on this issue have succeeded in debasing the original intent of the Orphan Works Act to the point where such a statement of basic business ethics is necessary.

Paying an artist for use of their work is simply part of the cost of doing business – like paying for office space, software subscriptions, etc. Companies should not be rewarded for failing to adequately budget for normal business operations by being given a free pass to steal from visual artists.

Thank you for your consideration of this matter.

Sincerely,

Amanda J. Sanow