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Attn. Catherine Rowland
Senior Advisor to the Register of Copyrights
U.S. Copyright Office
101 Independence Ave. S.E.
Washington, D.C. 20559-6000

July 8, 2015

RE: Notice of Inquiry, Copyright Office, Library of Congress
[Docket No. 2015–01]

Dear Ms. Rowland,

In response to your inquiry regarding the mass digitization of copyrighted artwork and the new Orphan Works proposals I am writing to you about my business and how these new laws would affect me as a professional artist and Medical Illustrator/animator.

In pursuit of my career I have spent numerous years receiving higher education in order to be qualified not only as an artist, but as a physiologist and anatomist as well, which are mandatory qualifications in my field in order to assure accuracy to our clients who are commissioning original scientific artwork from our company. My partner and I have both received B.A.s. in science/art as well as graduate degrees in Medical Illustration. I have also spent additional years in art school. As a result of this we have received numerous professional awards from the AMI, the Rx Club, among others and have been published in hundreds of medical journals and other publications that appear all over the internet. Our work, client list and awards can be seen on our professional website: http://kostudios.com/

The copyright law that “protects” our rights to our artwork is vital to our business and our livelihood. It is NOT an abstract legal issue, but rather the basis on which our business rests. We do not depend only on the custom artwork that we create, but also on the ability to re-license our artwork once it has been published. Many of our clients pay for only first time publishing rights, which do not cover the effort and intellectual work that goes into producing the piece (keep in mind that extensive scientific research and thought goes into each piece as well as the conceptual nature of artwork and the execution). Re-licensing this artwork to other companies, in many cases smaller entities that can only afford artwork on a licensing basis, is the bread and butter of our industry in many cases. When anyone infringes on our rights by stealing our artwork they are essentially stealing our ability to earn an income, which is synonymous to monetary theft.

We invest a large amount of time negotiating voluntary contracts with our clients, not only negotiating usage rights, but signing non-disclosure agreements to protect their copyrights to their patented products as well. The new Orphan Works proposals would in essence be threatening the copyrights of many of these major scientific entities as well and injuring their businesses and their ability to create scientific discoveries and instrumentation. This is an international issue for us as well as for them since information is prevalent all over the globe. The Orphan Works legislation could make it much easier for foreign entities to steal the scientific research patented in this country through our artwork if it is stolen and disclosed.

Finally, I would like to stress that for all the reasons stated above, our work does not lose its value upon publication. Our artwork is part of our business inventory and vital to our ongoing existence as a thriving business. The Orphan Works legislation is proposing, not only to make us insolvent, but in doing so and in making artists in general insolvent, it is proposing to destroy the ability for our country to generate original artwork and promote creativity since the creators of such work are likely to be put out of business eventually. They may also be subject to being unjustly sued by companies that have claimed their artwork as “derivatives”.

In the digital era, inventory is more valuable to artists than ever before. The protection of our inventory should be a vital goal of the copyright office.

Thank you and best regards,

Myriam Kirkman-Oh
Co-Owner

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