MIKE TOFANELLI
ILLUSTRATION

July 22, 2015

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 Mike Tofanelli and I have been earning my living as a freelance illustrator since 1989. My work has appeared in many major magazines, as well as in advertising campaigns and on book covers. I have also received recognition from national and international illustration competitions, like American Illustration and 3X3. I wish to convey my concerns and views on the proposed copyright legislation that would change our current copyright laws—in my opinion—for the worse.

I wrote members of Congress back in 2006 opposing the Orphan Works bill and I'm deeply dismayed that I am writing another letter to protect what belongs to me—the copyright and control over my own work, which is protected by Article 1, Section 8 of the U.S. Constitution. The new proposed laws do little to respect the rights of the visual artist and paves the way for the general public to gain easier access to our intellectual property for their own profit.

The lobbyists pushing this legislation have somehow reasoned that once an artist's work has fulfilled its initial purpose (e.g., being published in a magazine) that it is of no further value to the creator. This could not be farther from the truth. The works I create, whether appearing in a magazine, a book, or unpublished as a personal work, becomes part of my art inventory. My art inventory is my personal property and my ability to control the use of it is vital to my survival as an illustrator. It represents future income as I may allow additional commercial uses for my individual works at my discretion. The works in my inventory get displayed on my personal website and blog for the purpose of ongoing promotion of my illustration services to potential and existing clients. The distinct style of my work is my "brand" and identifies me amongst my peers in the marketplace. The quality of my work is the result of a lifetime of study, practice, and hard work. My art is me, and my livelihood relies on the copyright protection that has been promised me in the U.S. Constitution.

A troubling aspect of the proposed legislation is the registration of works with for-profit registries. Because many of us who have worked for decades have amassed an enormous art inventory, we face an insurmountable burden of compliance. The likely scenario is most artists will not be able to protect all of their works due to

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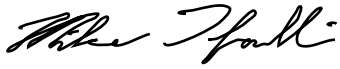
expense and time restraints. So any work that an artist is unable to protect will be legally labelled an “orphan,” making it vulnerable to exploitation by anyone. Especially unconscionable is that a work could be altered and made into a “derivative work,” and be registered by a new owner. For someone to claim authorship of another artist’s work by virtue of making a few changes in Photoshop, is an atrocity. It’s unimaginable that this would be allowable under *any* legislation. I cannot stress enough how unjust this is to the creators of intellectual property. Unreasonable burdens will be imposed on visual artists to protect their own work, but very little responsibility will be placed on potential infringers.

The purpose of copyright law should be to protect the creators of intellectual property— not corporate interests or others wishing to profit off of the creators’ hard work. I urge you to take the rights of the visual artists under strong consideration when drafting this new copyright act. Thank you for your time.

Sincerely,



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