Thank you very much for the opportunity to comment on Proposed copyright legislation, concerning Orphan Works and Mass Digitization

Roderick Lees
11516 Sherwood Court
Midwest city, OK 73130
(405) 464-5357
Ratoil1@cox.net

By way of introduction, I am a member of the American Society of Aviation Artists, a Purdue University Bachelors holder, a Troy State Masters Holder, and a retired Military officer who was selected as aMaintenance and logistics Commander on several occasion; I have also served on numerous cases as a Military Magistrate, adjudicating and determining decisions on levels ranging from individual financial legal difficulties to, in one case, an attempted Murder case.

On retirement I was employed with the Boeing Company as a Program analyst, assisted in Copyright determinations, and on departing that company, accepted work full time as a Program manager with the Federal Government in the United States Air Force. Although my current employment does not depend on selling artwork, I have achieved profit from artwork and have expectation of future sales of my artwork.

I have been producing aviation and other artwork for over 50 years; occasionally I have been able to use my work for modest financial gain, Including small business efforts and working with the Federal Government. I am also versed in copyright legislation.

In my current full-time Federal position, I am bound by legal precedent and direction to prevent outside agencies, individuals, etc. from taking advantage of the U.S. Government through illegal or questionable practices; I expect no less in this case, that the Government would protect MY interests and the interests of my fellow artists where copyright is concerned. This, then, is the purpose for my submission to your office.

As I understand proposed legislation concerning Copyright ownership, the intent of the proposed ruling would be to facilitate non-participating individuals (Any Individual, Group of Individuals, Nation, Institution, Corporation, Company, Business, or the like), the legal right to apply for and gain Copyright to works of art, etc., for their profit. The express purpose of this legislation appears to intend to allow Group A to attain this profit without requiring compensation to the owner of said copyright work; in essence, total transfer of ownership of the work without permission or due process. The penalty: Legal and fiduciary actions against an artist for non-conformance. The law, as written,

appears to favor those who do not generate works, but those who can pay for them and associated legal support.

To quote Keith Ferris, a world-renouned freelance, professional aviation artist, “Automatic copyright protection in the 1976 act without the requirement for registration guarantees the author of works created after January 1, 1978 exclusive right to control his/her copyrights for life plus seventy years. The only way the creator could lose his/her copyrights is to transfer them to someone else in writing.”

This has worked for almost 40 years; it’s succinct, and addresses the issues of Copyright while leaving no room for alteration.

An artist’s copyrights serve as a source of income far beyond their first licensed use. Since copyrights are infinite in value and ownership, one’s inventory of copyrights is equivalent as a fiduciary account and amounts to extremely valuable personal property. The advent of the internet with its rapid communication ability has greatly increased the value of our personal inventory of copyrights.

My understanding of Copyright law matches that which currently is on record. The existing Copyright Law of 1976, covering all art created after January 1, 1978, guarantees the artist, heirs or assigns, the exclusive right to control his/her copyrights for life plus seventy years; This being in effect from the moment your work is created --- with no requirement for registration or other action.

To reiterate, Copyright is about recognition and ownership/compensation for creative/noncreative works and/or services rendered in support of a project, event, or art/craftwork. The basic premise is an individual owns their works. The proposed new law would essentially allow anyone to claim copyright, engage lawyers, etc. to own works created by others without their express permission. This is, in a word, “Theft”.

There is no logical argument to this action; Equate it to a person who, noticing a car has not been moved from a parking spot in a week, opines it is available for the taking and does just that, no matter whether that car is owned by others or not. Imagine it being your car…

Additionally, The “Next Great Copyright Act” is expected to rescind guarantee of an artist owning and controlling their works, by removing legislated exclusive rights to control one’s own copyrights. I should not have to say it, but I must: This is being done in the medical community in this nation… we do not need more control factions. Most responsible adults can make decisions and deal with consequences.

In one line, I take serious umbrage with the concept!

As a side note, Copyright violation and non-compensation is a known problem internationally, where criminals around the globe either exempt or non-participatory from

national laws manufacture, sell, and otherwise participate in theft of copyright for profit. (e.g. simulated Gucci © bags, Levi Strauss © blue jeans, etc.). Prosecution is nigh impossible, and consequence for such transgressions, negligible. Consequences for the artist include potentially extreme fiscal loss; this can (and should) be considered life/occupation threatening.

The average artist/creator does not retain council as a matter of course; it is expensive and counterproductive for them to retain legal representation, as usually they are small business participants. Legal recourse should be a last step, not a first-step checklist item. This new legislation has potential to create grievous harm to not only those who create works, but those who would utilize the works of others in their daily activities.

In final analysis, I do not approve of, nor do I condone, the proposed legislation allowing non-copyright owners to capture, file for, and profit from works which I have generated under existing copyright law. Existing law is sufficient to maintain control of copyright works, and the proposed changes to legislation, if passed, would be nothing more than blatant, legalized (and indeed by definition, criminal) opportunism for transfer of license of an artist's works with approval of U.S. Courts. This legislation must not prevail in test. Certainly it should be stricken from records as having being considered. To pass this new legislation would be a travesty with immediate and lasting negative effects.

As an artist with Boundless future potential to earn financial gains from my work, I am more than concerned with the modified copyright legislation being proposed; potential exists to have GREAT negative impact on the arts community far beyond that of the actual artists. It is difficult now to make a living as an artist; this new legislation could clearly be a death sentence.

It is my sincere desire and request that this legislation be disapproved without recourse, and the current Copyright laws (as previously quoted) be allowed to remain in force without alteration.

Thanks again for your time and serious consideration!

Roderick Lees,
Lt Col, USAF (Retired)
Colonel, (Honorary, Oklahoma Air National Guard
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