Dear Maria Pallante, and Staff,

This letter is in response to the June, 2015, Orphan Works and Mass Digitization Report, by the U.S. Copyright Office.

In the Report, the following statement defines the important issue you address:

"anyone using an orphan work does so under a legal cloud, as there is always the possibility that the copyright owner could emerge after the use has commenced and seek substantial infringement damages, an injunction, and/or attorneys' fees

While some users certainly may have viable defenses on fair use or other grounds, many will choose to forego use of the work entirely rather than risk the prospect of expensive litigation."

My contention is that this legal cloud is NOT A PROBLEM - it's the only protection the creator has. Let the users create – or pay someone to create – an original image for the purpose(s) needed. . .or do nothing. They should NOT have to right to use someone else's work because they contend it is orphaned. The idea that its cheaper and easier to just grab someone else's work so you don't have to pay for developing your own seems to be in the ascendance with what you call "good faith users." Over and over in this report the needs of the users seem to be the main concern. Why should they be on equal footing with me, the creator of the work?

Your entire report is an erudite solution to a non problem. My concern is that mass digitization, while potentially providing some benefit to society as a whole, is trampling individual creative rights and that you are more interested in acceding to corporate interests than protecting these individual rights. Stifling creative output surely is not your goal. Ultimately, what benefit would this be to society?

My Background:

I have been a painter for 21 years. I'm passionate about my work; it is personal and unique - it is my voice.
I create original watercolors by hand; these take me anywhere from 40 to 100 hours each to design and paint. My work has been juried into painting exhibitions all over the United States, China and Europe. I have achieved signature membership in the most prestigious of watercolor societies: the American Watercolor Society, National Watercolor Society, California Watercolor Society, San Diego Watercolor Society, Watercolor West, and Transparent Watercolor Society of America. I'm proud of these accomplishments and the respect I've earned from collectors of my art, publications and patrons of these art exhibitions, and my colleagues.

Achieving this has not been inexpensive. To break it down for you, here are the typical costs involved, *per painting,* to make it exhibition ready:

- Professional watercolor pigment and brushes - $12
- 300 lb acid free watercolor paper - $11 to $15
- Matting and framing $225 to $450
  Shipping $75 to $300 (not always round trip)
  Total: $316 to $775

Per year costs:

10 to 15 shows - $5000 to $10,000
Website $250
Publicity $1000

My Time:

60 hrs/week - painting
2 - 3 hrs/week - photographing and cataloging my work,
posting it onto my website - and maintaining the website
5 hrs/month - publicity development, business planning
6 hrs/month - client contacts, shipping logistics, receptions
4 hrs/month - bookkeeping

Being a painter is a full time job. Everything I create is part of my business inventory and does not diminish in value by being displayed on the internet.
My goal is to be fairly compensated through sales of my paintings.

Nothing in the Report explains why the preservation of old work requires a law that would permit the widespread commercial infringement of new work by living artists.

- Infringing on my work is like stealing my money.
- The decision as to how and by whom my work is used should be mine alone.
- My work does NOT lose its value upon publication online or in catalogs and magazines (the only places so far in which it been published.)
- In the digital era, my painting inventory is more valuable me than ever before.

Thank you for your consideration.

Best regards,

Robin Erickson
B.S. Mathematics, San Diego State University 1972
Full time artist, 2001 - 2015