

From: [REDACTED]
To: [FN-OMB-IntellectualProperty](#)
Subject: Visual Artists seeking equitable Copyright laws and protection of Intellectual Rights
Date: Wednesday, March 24, 2010 3:15:06 PM

March 23, 2010

Dear Ms. Espinel:

My name is Jonathan Hunt from Coconut Creek, Florida. I am an Illustrator, Gallery Painter, Designer, Writer and Professor of Art. I make a living by creating, selling and teaching art. I have a vested interest in fighting for the rights of artists and I believe the United States as a whole does as well. I have been closely following the Orphan Works Legislation and all related issues concerning copyright and have been participating in the debate where possible.

It is my firm and unwavering belief that effective intellectual property enforcement is in the best interest of Visual and other Artists specifically, and the American people in general. Let me explain. Painted images, sculpture, video, novels, songs: These are the concrete products produced by Artists-- Just as automobiles and pharmaceuticals are products produced by other entities. Artists make a living by selectively selling or licensing the rights to their creations. Most people do not understand that in many cases, publishers do not own all the rights to a novel or piece of art that they are publishing. They have been licensed very specific rights by the Artist, while the Artist him or herself has retained all the other rights. In other words, my painting may be used on the cover of a book, and I have licensed the right to publish this image in that capacity only, while I myself keep the right to publish prints, or t-shirts or cards, etc. featuring the work that I can sell. This is a very important right for Artists who are trying to make a living from their Art. Despite the silly romantic notions surrounding the creation of Art, the Art is a commodity-- no different from the Cars and Pharmaceuticals mentioned earlier in this letter. If there was no demand for Art, there would be no market. And there is in fact, a huge consumer market for the visual arts- - for example the film Avatar and its associated toys and other products or the works of Van Gogh and Warhol which sell for millions of dollars per painting.

The idea put forth by the creators of the Orphan Works Act that once an Artist creates a work of art, it becomes "public property" is absurd. Would the U.S. Government ever consider forcing this ridiculous policy on any other manufacturer of goods? I cannot imagine this scenario. The powerful Drug Company and manufacturing special interest groups would never allow any such law to come to pass. Not even in the darkest depths of Socialism in Russia and Eastern Europe did the government give services and products away for free.

The entire premise of the Orphaned works Act is faulty. Despite the original misguided intentions of the Act to make the distribution and use of "orphaned" intellectual property more egalitarian, it is the opposite effect that would actually occur. Big business-- Stock Photo and Clip Art houses and the so called proposed "Copyright Registries" would systematically bend the laws to their whim to strip

individual artists of what few rights to their work remained. Am I overreacting? I don't believe so-- all the mechanisms are already in place to insure that these corporations will be well-positioned to be able to get the most out of the Orphaned Works Act (and Artists) if it ever passes.

Artists would become slaves to the corporate machines who would be their only patrons. These corporations would take possession of the art and all the rights to it as soon as it was made. I can think of no greater way to squash creativity. The intellectual and creative vacuum that would result would be devastating to the culture of the United States of America. It is hard enough to make a living as an artist already. The ironic and disturbing thing about being an artist is that we are told that the work we do is important (and we believe this ourselves or we wouldn't be doing it), yet when it comes time to PAY for Art, why do publishers and clients balk at shelling a fair and equitable rate? Why are there so many horror stories of "suffering artists" and illustrators, writers and musicians being cheated out of royalties that are rightfully theirs? When we call a plumber to our home we expect to pay (and handsomely). We go to a Doctor, we know we are going to have to pay up front for the service. So, why is this even an issue? Why would we as professional Artists desire LESS rights than we had before? Not to mention the fact if the legislation I have been reading about were passed, the laws of our country would be at odds with every other international copyright law that has been in place since the Berne Convention starting in 1893 (which took the U.S. until 1989 to join!).

So, in short: What would be the costs to my business if my intellectual rights are not protected and vigorously enforced? The cost to me and all of my friends and business associates involved in the arts would be catastrophic. I would not be able to make a living out of art. I probably would not have a job teaching art on the college level either. Why would anyone wish to get into debt for the rest of their lives to learn a skill that will not allow them to earn a living? Neither I nor any other business person could rationalize such an expense with no hope of return on the investment. The revenues collected from professional Artists' income by the U.S. Government via taxation and deductions for Social Security will plummet. This is a bad scenario for everyone.

Ms. Espinel, I was very encouraged to hear of the creation of the office of U.S. Intellectual Property Enforcement Coordinator, and excited by your appointment as "Copyright Czar". My hopes are high that you will do the right thing by supporting the already existing laws on Intellectual Property and it is my hope that new laws and even stronger enforcement will follow.

Thank you very much for your time and dedication to the Arts.
Sincerely,

Jonathan Hunt
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