

**Mind Your Business**  
**You Will Lose All The Rights to Your Own Art**  
Mark Simon

As you know, I usually handle the subjects in my articles with a sense of humor. That is not the case this month. I find nothing funny about the new Orphan Works legislation that is before Congress.

In fact, it PISSES ME OFF!

As an artist, you have to read this article or you could lose everything you've ever created!

An Orphaned Work is any creative work of art where the artist or copyright owner has released their copyright, whether on purpose, by passage of time or by lack of proper registration. Like when parents give up their child to be an orphan, you can give up ownership in your creative work to be an orphan for others to use without your permission.

If you don't like to read long articles, you will miss incredibly important information that will affect the rest of your career as an artist. You should at least skip to the end to find the link for a fantastic interview with Brad Holland of the Illustrators Partnership about how you are about to lose ownership of your own artwork.

Currently, you don't have to register your artwork to own the copyright. You own a copyright as soon as you create something. International law also supports this. Right now, registration allows you to sue for damages, in addition to fair value.

What makes me so MAD about this new legislation is that it legalized THEFT! The only people who benefit from this are those who want to make use of our creative works without paying for them, or from large companies who will run the new private copyright registries.

These registries are companies that you would be forced to pay to register every single image, photo, sketch or creative work.

It is currently against international law to coerce people to register their work for copyright because there are so many inherent problems with it. But because big business, like Bill Gates, can push through laws in the United States, our country is about to break with the rest of the world, again, and take your rights away.

With the tens of millions of photos and pieces of artwork created each year, the bounty for forcing everyone to pay a registration fee would be enormous. We lose our rights and our creations, and someone else makes money at our expense.

This includes every sketch, painting, photo, sculpture, drawing, video, song and every other type of creative endeavor. All of it is at risk!

If the Orphan Works legislation passes, you and I and all creatives will lose virtually all the rights to not only our future work but to everything we've created over the past 34 years unless we register it with the new, untested and privately run (by the friends and cronies of the U.S. government) registries. Even then, there is no guarantee that someone wishing to steal your personal creations won't successfully call your work an orphan work, and then legally use it for free.

In short, if Congress passes this law, **YOU WILL LOSE THE RIGHT TO MAKE MONEY FROM YOUR OWN CREATIONS!**

Why is this allowed to happen? APATHY and MONEY.

Artists have apathy and corporations have money.

We need to be heard in order to protect our incomes, our creations and our careers. GET OFF YOUR ASS!

That means writing letters to our congressmen and representatives. That means voicing your opinion about how we need copyright protection, as we've had since 1976, that protects everything we create from the moment we create it. Currently, your work is copyrighted as soon as it's created, whether you register it or not. This is the case around the world.

However, an Orphan Works bill is also in the works in Europe. I was speaking recently with Roger Dean, the famed artist of the YES album covers, and he is greatly concerned with what will happen if Orphan Works bills become law. "This will devastate the livelihood of artist, photographers and designers in a number of ways."

Dean continues, "That at the behest of a few hugely rich corporations who got rich by selling art that they paid no part in the making of, the U.S. and U.K. governments are changing the copyright laws to protect the infringer instead of the creator. This is unjust, culturally destructive and commercial lunacy. This will not just hurt millions of artists around the world."

"On the other side of the coin," Dean argues, "what argument will a U.S. court have with a Chinese company that insists it did its research in China and found nothing? If the cost of this is onerous for a U.S. based artist, what will it be like for artists and small businesses in emergent economies?"

If an artist, whose work is as famous as Roger Dean's, is concerned with this legislation, it should be of great concern for all of us.

The people, associations and companies behind the Orphan Works bill state that orphaned works have no value. If that were true, no one would want them. However, these same companies DO WANT your work, they just don't want to pay for it. If someone wants something, IT HAS VALUE. It's pretty simple.

Some major artist and photography associations, or I should say the managers of the associations, support this bill. The reason they support is that they will operate some of the registries and stand to make a lot of money. Some have already been given millions of dollars by the Library of Congress. Follow the money and you will see why some groups support this bill of legalized theft of everything you have ever created.

Corbis and Getty Images have opposed the Bill but have a lobbyist in Washington who is negotiating behind closed doors for favorable concessions to them. They are large stock photo and stock art companies. They sell art and photos inexpensively and are trying to build giant royalty-free databases. Do you see how they could benefit from considering most art in the world orphans?

Do you know who owns Corbis? Bill Gates. He doesn't do anything unless it can make a huge amount of money.

For years we've heard of Hollywood fighting with China to protect the copyrights and income for distributing feature films from pirated DVDs. Our government has worked with the film studios to protect their investment.

Individuals in our government are NOW WORKING AGAINST US by allowing our own citizens TO STEAL OUR CREATIVE WORKS.

It will be easy for them to get away with it unless we make ourselves heard.

Your calls and letters do work. I've been involved with many instances of a single letter making a difference in public policy. Tens of thousands of calls and letters help even more.

This is not empty talk. I have written letters to my congressmen and I will do so again. I do what I can to let every creator know about terrible legislation like this...thus you are reading articles like this one and you can listen to interviews I've posted online.

### **CONTACT YOUR LEGISLATOR:**

Go to <http://www.usa.gov/Contact/Elected.shtml> to quickly find the phone number, address, e-mail of every U.S. Senator, U.S. Representative, Governor and State Legislator.

Forward this article to every creator you know and urge them to take a moment to protect their very livelihood. I am giving everyone the right to reprint this article in any form to help spread the word to protect our creative rights.

Instead of sitting around watching TV tonight, TiVo that show tonight, write a letter make yourself heard.

Letters to our government officials don't have to be long, but they should be heartfelt. A good story helps. Tell them who you are, how this legislation negatively affects you and that you want them to vote against the Orphan Works legislation. It's that easy!

If you don't, you will have only yourself to blame when you see other people making money from your art and you don't see a dime.

*Spider-Man* comic artist Alex Saviuk is also concerned about the loss of copyright protection. "When I found out all the negative aspects of the new legislation, it would almost behoove us to want to do something else for a living," says Saviuk. "If we would have to register with all the different companies, we would never be able to make a living."

"It would impossible for me to register all my art," continues Saviuk. "It would put me out of business."

You can listen to my complete interview with Alex online at <http://www.SellYourTvConceptNow.com/orphan.html>.

Think this doesn't apply to you? Maybe you don't license your artwork? How about this?

Photos on the internet could be orphaned. With tens of millions of photos shared online with services like Flickr, Shutterfly and Snapfish, there is a huge opportunity unauthorized use of your photos...legally.

You could see photos you take of your family and kids or of a family vacation used in a magazine or newspaper without your permission or payment to you. You would have to pay to register your photos, all of them, in every new registry to protect them. Say the average person takes 300 photos per year (I take a lot more than that). If a registry only charges \$5 per image, that is a whopping \$1,500 to protect your photos that are protected automatically in the current laws. If there are 3 registries, protecting your images could cost an amazing \$4,500. Not to mention the time it would take to register every photo you take. Plus, you will also have to place your copyright sign on every photo.

That's not including all your art, sketches, paintings, 3D models, animations, etc. Do you really have all that extra time and money? Plus, even if you do register, the people stealing your work can still claim it was orphaned and unless you fight them, they win. Even if you win, you may not make back your legal fees.

It gets even better. Anyone can submit images, including your images. They would then be excused from any liability for infringement (also known as THEFT) unless the legitimate rights owner (you) responds within a certain period of time to grant or deny permission to use your work.

That means you will also have to look through every image in every registry all the time to make sure someone else is not stealing and registering your art. You could actually end up illegally using your own artwork if someone else registers it. DOES ANYONE SEE A PROBLEM WITH THIS?

Do you think the U.S. Copyright Office is here to protect you from this legislation? Think again.

Brad Holland of the Illustrator's Partnership shares his notes from a recent meeting with General Counsel of the Copyright Office.

Holland: "If a user can't find a registered work at the Copyright Office, hasn't the Copyright Office facilitated the creation of an orphaned work?"

Carson: "Copyright owners will have to register their images with private registries."

Holland: "But what if I exercise my exclusive right of copyright and choose not to register?"

Carson: "If you want to go ahead and create an orphan work, be my guest!"

This cavalier and disrespectful dialogue should have you seeing red. Who the hell does he think he is? Carson should be fired and RUN OUT OF WASHINGTON!

None of this could happen with our current laws. Our current laws work and they protect us and our creations.

The only people who will benefit from the copyright law change are those who can't create work on their own or companies who stand to make a lot of money from using our works of art. They pay contributions to Congressmen, which is why they get what they want. We need to stand up and be heard. Every one of you needs to write your Senators and Representatives. We have to protect our livelihoods. It's that serious.

Plus, the technologies being developed for locating visual art don't work well enough. On March 13, 2008, PicScout, one of the softwares used in the registries, stated to the House IP subcommittee:

"Our technology can match images, or partial information of an image with 99% success."

A 1% margin of error is huge when you consider the millions of searches performed for art every day. That means for every million searches, 10,000 images could be orphaned.

Plus, this only takes into account images registered on their system. If you have registered all your work on another system, they won't be searched here and even though you may have spent thousands of dollars registering your creations, a new or unused directory could orphan everything you've ever created.

This is just one of the many reasons why INTERNATIONAL LAW FORBIDS COERCED REGISTRATION as a condition of protecting your copyright. The United States is about to break international law by making us register our works. The people behind the bill say it's not forced registration, but you won't have any rights unless you register. THIS IS SIMANTICS! Of course, this is forced registration and we can't stand for it!

There many, many other problems with the Orphan Works legislation. As a creator, YOU MUST understand what is going on.

**For additional information** on Orphan Works developments, go to the IPA Orphan Works Resource Page for Artists:

[http://www.illustratorpartnership.org/01\\_topics/article.php?searchterm=00185](http://www.illustratorpartnership.org/01_topics/article.php?searchterm=00185).

This is not something that is going to go away easily. We need to be vocal NOW!

This legislation has been beaten or delayed for the past 2 years and they will keep trying until it passes. This is no time to be quiet and see what happens. What will happen depends on you. Send e-mails and call your congressmen. Ownership of your own creations depends on it.

Roger Dean sums this up well, “Where are the colleges and Universities in all this? Has the whole world gone to sleep?”

**GET ON ORPHAN WORKS E-MAIL LIST:**

To be notified of the latest information on the Orphan Works bill and when we should contact our legislators, send an e-mail to [illustratorpartnership@cnyemail.com](mailto:illustratorpartnership@cnyemail.com) and ask to be added to the Orphan Works list.

**AUDIO INTERVIEW LINK:**

I have recorded a fantastic interview with Brad Holland of the Illustrator’s Partnership regarding this bill and what it means to us as artists. Please go online to <http://www.SellYourTvConceptNow.com/orphan.html> to listen and learn more about how you may lose ownership of all your art and photos. This article and the recorded interview are available for anyone to use in any print or on any website. Please forward this information to every person and group you know so we can work together and protect our creations and livelihoods.

Mark Simon is an award-winning animation producer/director and speaker. He speaks around the world on subjects about art, animation and tv production. His copyrighted companies may be found online at [www.SellYourTvConceptNow.com](http://www.SellYourTvConceptNow.com) and [www.Storyboards-East.com](http://www.Storyboards-East.com). He may be reached at [marksimonbooks@yahoo.com](mailto:marksimonbooks@yahoo.com).

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