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-- Options for Orphan Works Legislation --

Leveling the Playing Field for Visual Art

- Copyright Office implementation of an image-searchable database, populated with visual art previously registered by the Copyright Office
- Limitation of Orphan Works to prospectively created visual art
- Adoption of the “Canadian model,” in which an independent board approves requested uses
- User-initiated publication of a Statement Prior to Use with the Copyright Office
- Exclusion of visual art from the scope of Orphan Works
- Limitation of Orphan Works to any non-commercial use as well as certain narrowly construed commercial uses (e.g., “(a) non-commercial use as well as those commercial uses that are ancillary to the non-commercial use, such as souvenir sales in connection with exhibits by libraries, educational institutions, and archives; and (b) any use in a documentary film or non-fiction publication, provided that such use is necessary to provide an accurate depiction of the events portrayed and that such use is not unduly prominent.”)
- Exclusion of infringing imports from the scope of Orphan Works
- Exclusion of “useful articles” from Orphan Works
- Limitation of Orphan Works to text-based works (e.g., out-of-print books, including visual art contained in such publications) and copies made for archival or preservation purposes
- Exclusion from Orphan Works any potentially copyrighted work for which an effective or comprehensive search cannot be conducted