July 19, 2015

Maria Pallante
Register of Copyrights
U.S. Copyright Office
101 Independence Ave. S.E.
Washington, DC 20559-6000

RE: Copyright Protection for Certain Visual Works Docket 2015-01

Dear Ms, Pallante and members of the copyright office:

My name is David Wenzel, I am an illustrator working in the field for over 40 years, creating original artworks for a wide variety of publishers, advertising agencies and other clients. I am concerned that corporate lawyers and lobbyists are attempting to modify the existing copyright laws to further erode the creative rights of myself and the thousands of fellow artists, who are presently able to use their created images to create revenue streams based on resale of those images. Many of my fellow illustrators are not making huge incomes and it is essential we continue to have the ability to utilize the secondary usage rights of our artwork to bulk out our revenue streams. The current regulations, although not perfect, enable an illustrator to keep unauthorized usage to a minimum, because we can use the weight of the court system to protect us from unauthorized reproduction of our works. If the current regulations are modified, so that creators can only prosecute through the small claims process, then we will all be at the mercy of corporate lawyers and limited penalty payouts on violation cases we artists win. The fact is, there will be many copyright infringements by various groups that will be able to pay the small claims copyright infringement fine and still make a profit. Many creators don't have the means to employ one lawyer let alone the army of attorneys, many corporations retain, to protect our rights. Under the new provisions proposed, businesses will be permitted to claim they are using "orphaned works" and be free to exploit those images for profit. They can try to do that now, but if the artists find them out then they must face the full extent of the current law, which right now, is a deterrent.

Part of the suggested new modifications would require creators to copyright not only newly created images but also every image they have ever created in order to protect themselves. The people who proposed this suggestion have no idea of how many images an illustrator creates in their lifetime. Many us have created thousands and many are no longer in our possession. It would be a nearly impossible burden to locate, scan and apply for a copyright on all these images. It would take as huge amount of time and money and it could lead to unscrupulous entrepreneurs trying to secure copyrights on well-known artists

before the artist could complete the complicated process, and essentially pirate the copyright for their own use.

There are other aspects to consider. Many illustrators now are executing new sample artworks to post on their websites and other Internet sites. These pieces are needed to alert clients to changing skills and technical abilities. If an artist has to copyright all of these images to protect themselves, it would not only slow down the way the industry works, but also it would inhibit artists from creating these new works because there would be a complicated process, to protect their copyright. Also many artists now post images of works in progress, to share with the community and students, how their artworks are developed. If the new copyright provisions are enacted it would mean an artist had to copyright every illustration at each stage of completion before they could post them. Otherwise a company, or individual could download the images of the ‘in process’ artwork, as an orphaned artwork, and apply for a copyright of that unfinished work and then resell the uncompleted image with full ownership with all the rights that implies.

In closing please consider that the copyright laws, as they now stand, offer creators some protection. With the exception of the provision that enables ‘work for Hire” which is regularly used by business to strip away creators rights. The beneficiaries of the new modifications to the copyright law are not creators; they are businesses hoping exploit free artwork. The advent of the computer has led many people to think that artwork is just for the taking, and there are many that would strive to take advantage of the creative endeavors of others without credit or payment. The new modifications being proposed will severely harm the creative community in the United States. These provisions will make it easier for businesses to use the copyright law to exploit and deny income streams to a dwindling creative community. Instead of allowing exploitation of artists’ rights laws should be modified to further protect them from those who would deny them. Please reject the proposed modifications and consider reinforcing modifications that further protect U.S. creators.

Respectfully,
David Wenzel