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Maria Pallante
Register of Copyrights
U.S. Copyright Office
101Independence Ave. S.E.
Washington, DC 20559-6000
RE: Notice of Inquiry, Copyright Office, Library of Congress
Copyright Protection for Certain Visual Works (Docket No. 2015-01)

Dear Maria Pallante and Copyright officers;

I have been a freelance illustrator since 1988. My entire career is based on the ability for me to sell licensing rights of my images to my clients. I am grateful that the copyright laws of this country have given me this ability to make a living with my artwork. However I am very concerned that the new copyright laws will make it more difficult for me to collect a fair payment for my work. I would like to address these concerns with the questions your office asks of my profession.

1. What are the most significant challenges related to monetizing and/or licensing photographs, graphic artworks, and/or illustrations?

As a freelance Illustrator my entire business is about the ability to sell licensing usage rights of my images to my clients for payment. My biggest challenge is to be able to control this aspect of my business. I am constantly getting attacked with work-for-hire contracts, or contracts that over extend the rights to use. Now I see that I am faced with the very real issue of having any of my work identified as an Orphan to be used without regards to my financial compensation, as well as my ability to control where my images can be used. With the blessing and the curse of the internet, images are easily found, and able to be used. This new law will favor big business to freely use images and if in violation of a particular copyright, their payment to the creator is not a negotiated fee as it should have been if commissioning the image. A very real attack for an illustrator.

2. What are the most significant enforcement challenges for photographers, graphic artists, and/or illustrators?

My very real concern, that is echoed by my colleagues, is the undercutting of large companies to freely use images, my images, with disregard to my right to earn a living with my images. There is no protection for the use and manipulation of my images.
For example, if one of my illustrations is taken off my website, and digitally “enhanced” with the countless graphic digital programs available, and a color is changed and/or parts rearranged, this durative work can now be considered a new work and worst of all, can be copyrighted by someone else, with no negotiations for compensations to me the original creator. How can I continue to earn a living with my illustrations with this type of competition?

3. What are the most significant registration challenges for photographers, graphic artists, and/or illustrators?

The new copyright law will make another expense to register all of my images, from my 27 year career. Even after I've already registered with the US copyright office officially. Another costly, timely, step. And personally I don't like that that I will have to basically hire these registries to protect my images, something the basic copyright should do. What happens when these companies change their policies, as every company does. When they start charging more or what to introduce a subscription? The government always tend to side with larger companies then the small single tax payer. The have larger lobbies and attorneys.
What is in this for them? They most likely will want to charge more or change their policing of these images for the 'deluxe 'package. Another costly step to attempting to make a living as an illustrator.

4. What are the most significant challenges or frustrations for those who wish to make legal use of photographs, graphic art works, and/or illustrations?

I am not sure I completely understand this question, but I can say that I do allow my works from time to time, to be used for a program or institution that I believe in. This is all part of the negotiation. I would be so upset if my work was used for something I didn't stand behind. An historical example would be the German artist Käte Kollwitz who created powerful images about her passivism toward WWI. When the Nazi's took power they hijacked her powerful images and used it as propaganda for their agenda, completely against her wishes. Can you imagine how this effect her?

5. What other issues or challenges should the Office be aware of regarding photographs, graphic artworks, and/or illustrations under the Copyright Act?

My concern would be about the profit these image registries would have, who would run them and who would regulate them? As well as my ability and the protection I now have with copyright to earn a living with my illustrations.

Thank you for reading my letter and I ask you to recommend that visual art be excluded from any orphan works provisions Congress writes into the new copyright act.

Regards,

Heidi Younger