July 22,2015

Gareth Hyde - Freelance Artist
Self-Publisher – Hyde Komiks Ink
14855 W. Laurel Ln
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Maria Pallante
Register of Copyrights
U.S. Copyright Office
101 Independence 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 Copyright Office Staff,

I appreciate the opportunity to share my feelings and concerns about proposed changes to the current Copyright Laws in this inquiry process. My name is Gareth Hyde and I am a freelance artist and independent self-publisher. Together with my family we self-publish comic books, comic strips, and cartoons both digitally and in traditional printing. I have been able to create safely and operate my business successfully under the current Copyright Act of 1976. Being able to create and control the art and intellectual properties I create has been essential to the success of our publishing company. Having the current freedom and protection of current Copyright Laws to create and retain ownership of those creations has enabled me to control my own licensing, distribution, and monetizing of the art I create. The proposed changes to current Copyright Law would devastate my ability to control my products and operate my business successfully. In short, the proposed changes would destroy my publishing company and put me out of business.

I am writing to address the questions you raised in your inquiry request regarding problems visual artists face in the new digital landscape:

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

-In simplest terms the greatest challenge is also the greatest asset, control and distribution. Upon creating graphic art I control how it is used and therefore how it is monetized. Our current Copyright Laws protect and support this action and in effect allow me to operate my business. I maintain control of my product/art and can earn revenue for its initial use, its reproduction, and even licensing my product/art to other customers. Without this control I would be drastically limited in my ability to operate my business and monetize my product/art. Under proposed changes I would have to spend valuable time and money registering my product/art and if not registered I would lose all the control of that product/art and therefore have no ability to monetize it through sale or licensing. Also any unregistered product/art I might use would be considered available to "users" for free and available to them to register on their own. In effect allowing a user to secure my product/art, register it themselves, monetize it commercially, and complete with me directly in my market using my own created product/art. I really cannot comprehend why anyone would propose a plan that would limit my ability to run my business and control the products/art that I have created. Why would the government be supporting suggestions that take away the rights of citizens and business operators?

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

-I believe that the biggest challenges here for me are time and money. Under current Copyright Laws I as the creator of my product/art have the ability to enforce my ownership of that product/art simply by being its creator. I can increase my ownership enforcement through current established copyright procedures. It is then up to me to enforce and protect my ownership of my product/art. The only challenges are those that I choose to take on which require the use of my time and the expenditure of my money, but the choice to do so is ultimately mine as the product/art's owner. Under the proposed changes to current Copyright Law both my time and money expenditures would drastically increase for enforcement, and that has me very concerned. If my biggest challenges now are time and money for enforcement, how can I support suggested changes that would FORCE me to pay increased amounts of money for product/art registration and cost me increased amounts of valuable work time to register? If I do not forfeit both time and money to register all of my product/art, I immediately give up ownership and therefore have absolutely no ability to enforce control over my product. These new proposals would rob me of rights to own and enforce ownership of my product/art and so I do not support changes to current Copyright Law.

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

-As mentioned in question 2, I believe the challenges here are similar time and money. Here there is a different path leading to the same problem and outcome. Time is the biggest challenge. To register hundreds if not thousands of products/art a month would require an unsustainable amount of time to my business. I would effectively be spending all my work/creating time cataloging product/art for registration. I simply cannot do that. Under current Copyright Laws I have protection for my product upon its creation. My time devotion is to creating products/art for sale, and not to devoting time for registration. The second challenge here is money. I am a smaller independent publisher. My profit margin is low. Under current Copyright Law I can create, sell, and license product/art all on an independent basis. I do not require adding additional cost to a separate party to bring my product/art to my customers. With the proposed changes to Copyright Law I would be FORCED to pay a third party simply to do day-to-day business with my customers. This would effectively put me out of business by forcing me to pay for every piece of product/art that I create for sale which amounts to hundreds of products/art a week for comic strips and cartoons. Again I cannot understand why my government would support action that would take away my freedom to create a product/art and market it to customers.

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?

-In my business of creating visual art I use both digital and traditional art under current "legal use" as reference and inspiration, and I provide opportunities to have my product/art available for "legal use" under current Copyright Law to other users. I see no hindrance under current law for those who wish to use art under the "fair use" exception clause. Here there would be no use for commercial purposes which protects the product/art owner. I would never use another person's product/art for commercial purposes whether I knew who the owner was or not. It's not right nor is it legal. Neither would I allow another to use my product/art for commercial purposes without my permission. Our current Copyright Laws protect us from this use while providing educational, review/critique, and other "fair use" exceptions. If anyone is trying to use art under this "legal use" procedure and having trouble, then the logical action would be to review and adapt the "fair use" clause exceptions and definitions. My fear is that the proposed changes will not alter only "fair use", but eliminate my current rights and open up my product/art to additional and open "illegal use" to the equivalent of stealing my product/art all together. I do not support the proposed changes to current Copyright Law.

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

-I believe that trying to re-class existing products/art as "orphaned work" is a dangerous practice that will open up legal owners of products/art to theft and remove their legal rights as its owner. Visual art should be considered as owned, and to attempt to re-classify it as "orphaned" is an elaborate way of attempting to circumvent current Copyright Law in order to deprive the product/art owner monetary compensation. As visual artists our art is our product that fuels our business. For anyone else to attempt to re-define our product/art as "orphaned" and claim ownership of that product would be the equivalent of a patron of a retail store finding a retail item on the floor with no price-tag or UPC and claiming it as their own. In the case of the proposed law changes that person would then have the right to sell the retail item they picked up of the floor. In essence competing with the retail store using its very own product. How could any business survive that way? The proposed law would ignore the responsibility of a potential user of a visual art product of finding the copyright owner and simply let them re-define the product/art as "orphaned work" and profit from that product/art as they desire. The proposed Copyright Law changes would steal the rights of lawful property owners. These rights given in Article 1, section 8 of the U.S. Constitution and further outlined in the 1976 Copyright Act. Therefore I state again that I do not support these proposed changes to the current Copyright Laws.

I thank you for reading my letter, and thank you again for providing me the opportunity to participate in this notice of inquiry. I ask the Copyright Office to support visual artists and business owners/operators who deal in visual art products. I ask that the Copyright Office work WITH visual artists to draft legislation that protects visual artists and their lawful rights. The proposed changes to current Copyright Law will negatively affect the visual artists and the entire visual art industry. I DO NOT support the proposed changes to current Copyright Law and I urge you to take advantage of this inquiry phase to re-evaluate proposals and draft new sustainable strategies.

Sincerely,

Gareth Hyde