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April 10, 2013

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2011-10]

Remedies for Small Copyright Claims: Third Request for Comments

Notice of inquiry.

Reply Comments Submitted by the Graphic Artists Guild, Inc.

by electronic filing

Re: **Federal Register**/ Vol. 78, No. 38 / Tuesday, February 26, 2013 / Notices

ADDITIONAL COMMENTS

The Graphic Artist Guild supports the comments and positions so well stated in the Picture Archive Council of America (PACA) Third Reply Comments regarding Remedies for Small Copyright Claims.

Graphic artists and illustrators share the same concerns as photographers, as our visual works are often infringed when displayed or reproduced without permission, particularly when users mistakenly believe that they are not infringing if they are not directly selling our images.

Visual art organizations, including the Graphic Artists Guild (GAG), American Society of Media Photographers (ASMP), Picture Archive Council of America (PACA), Professional Photographers of America (PPA), North American Nature Photography Association (NANPA), National Press Photographers Association (NPPA), and the American Photographic Artists (APA) have formed an ad hoc committee to work on this issue and other legislative issues of concern to visual creators. Although we are filing individual Comment Letters, we share the common goal of working together to address the economic, marketplace, and legal concerns of visual creators.



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We look forward to working with the Copyright Office in finding a workable solution to enable rights holders to seek justice and compensation for the infringing use of their work whatever the damages and remedies sought may be, including small value damages.

The Graphic Artists Guild has previously submitted two extensive and detailed replies outlining our positions and suggestions regarding Small Copyright Claims in response to the First and Second Notices of Inquiry. The Guild supports the creation of an alternate dispute resolution, small-value, copyright infringement court within the Federal district court system so that rights holders can take meaningful action against infringers.

As we explained and demonstrated through our national survey of American visual creators (and other classes of authors/creators) in our Second Comment Letter, very few illustrators, graphic artists, and photographers are able to take legal action against an infringer and recover even a customary usage fee or succeed in stopping the infringing use because the costs and lengthy procedure of our existing court system is unaffordable and impractical for most occurrences of typical infringement. The result is a significant and seriously detrimental loss of income to American visual creators, most of whom are self-employed independent contractors and small businesses.

The Graphic Artists Guild would like to take this opportunity to publicly thank the Copyright Office for acknowledging our national survey of American authors/creators as a contribution to the request for Empirical Data in the Second Notice of Inquiry. Visual creators had a tremendous desire to express their frustration and need for some cost-effective and simple way to pursue infringers.

Ideally, an alternate dispute resolution, small-value, copyright infringement court should work as a "People's Court" — a simplified, streamlined, and expeditious procedure that both parties can participate in without necessitating the expertise of representation by an attorney. This could easily work by mail, teleconference or live



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online conference for basic, straightforward infringements of visual works.

Complicated cases and more complex legal issues will necessitate representation by an intellectual property attorney and still ought to be taken to Federal district court.

ABOUT THE GRAPHIC ARTISTS GUILD

In the course of its 46-year history, the Graphic Artists Guild has established itself as the leading advocate for the rights of graphic artists on a wide range of economic and legislative issues, from copyright to tax law. Through its publication of the *Handbook: Pricing & Ethical Guidelines* (now in its 13th edition), the Guild has raised ethical standards in the industry, and provides an invaluable resource on pricing information that is relied on by both artists and clients. The Guild's newsletter, the *Guild News*, provides lively, provocative, and useful coverage of developments in the visual communications industry for its readers.

The Guild also provides a wealth of services and benefits for its members, including educational programs, discounts on a multitude of products and services, a legal referral network, and grievance handling. The Guild's website offers up-to-date information on Guild activities, updates on advocacy issues, members' portfolios, individual chapters, and tools and resources for all graphic artists.

Respectfully submitted,

Haydn Adams, President
Todd LeMieux, National Advocacy Committee Chair
Lisa Shaftel, National Advocacy Committee
Tricia McKiernan, Executive Director