July 20, 2015

To: Maria Pallante, Register of Copyrights

I create visual imagery, I am a self-employed Artist and illustrator, and have been in the business of creating images and licensing subsequent rights to those images since 1985. I have won national and international recognition for my original work. Copyright is the basis of my income and ability to support my business. It is the only way I have to protect the accuracy and integrity of my work, and to negotiate an appropriate fee for re-licensing.

The biggest challenge to monetizing/licensing my work is to keep control of where it appears and who uses it, and to keep my copyright notice and contact information associated with the work. I routinely attach metadata to my electronic image files - that metadata is routinely erased by every website the image appears on. I require that my name and copyright information be included with the image by my client - they will do so, but often the image is appropriated by someone else and that information is cropped off. I always sign my work within the image area, essentially a watermark – but there are multiple companies with software and tutorials instructing users how to erase watermarks.
There is nothing I can do to prevent my work from being 'orphaned'.

If the Copyright Office is sincere about protecting rights of creators, it should make it illegal to remove a watermark, illegal to remove metadata, illegal to remove copyright information, and also illegal to mass digitize any works not in the public domain without written permission from the creator, all with stiff financial penalties. The Copyright office should make all of its registered images searchable by image, not just by textual data. If Google and Bing can do it, so can the Copyright Office.
In addition, the suggestion of a text-based 'Notice of Use' of a work assumed to be 'orphaned' would be useless. The only real protection for creators is to eliminate the concept of orphan works altogether. No work is an orphan; it all has been created by someone, even if a 'potential user' doesn't know who it is.

I have registered much of my work with the US Copyright Office, and have submitted paper published versions, as well as electronic files for work unpublished at the time of registration. The

Copyright Office has these records and all of the associated images. If there is to be a clearing house for image searches, it should be the Copyright Office, with no additional fees or labor required of the creator. It would be physically impossible for me to re-register, scan or photograph the hundreds of images I have created over the years. In many cases, I no longer have the published work, or the original art, even though I own the copyrights. A requirement to resubmit all of my work to a different registry would be devastating to my ability to claim ownership and therefore license any work in the future. Even the PLUS registry under development appears to be utilizing metadata and watermarks - both identifiers that are useless currently to protect ownership information.

I am very troubled by the overall tone of the proposed language that 'potential users' rights are equivalent to those of creators. They are not. If I as the creator do not want my image licensed beyond the original use, re-used, re-purposed, re-imagined, re-combined, that is my prerogative. If I want to sell an image once, and then let it collect dust, that is my choice - it is not the right of the 'potential user' to claim otherwise. If I want to create an image, put it on my website, and never license it at all, it is also my choice. 'Potential users' do not have rights to my images, I do. If a 'potential user', individual or company, wants to further their business by using imagery, and can't find an image they can legally use,

then they can do what individuals and companies have done for the decades before electronic file sharing - commission a new one, and keep illustrators working.

Sincerely,

Armand Cabrera

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