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 (80fr23054)

Dear Ms. Pallante,

I have been informed about the return of the Orphan Works Act. I would like to state that as of now I am not really well known, but the premise of the new laws would make it harder on myself and others in my predicament. Currently, I am protected to have my artwork available to the public and have control over the artwork. Original artwork is how I make my income and how I get more work. If there is something I have already created and thess new laws pass it would in a sense cripple where I am at currently.

With this in mind there are some questions that I saw that you wish to go into detail my concerns and where I want to take a career path.

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

The significant challenges that I have found is that an artist has to have valid proof of ownership. When having a valid copyright of your own artwork it allows you to control where it is sold, how it is presented, who can buy it, and more. It is control of a persons creativity and passion. Having the ability to companies to take that work without compensation or approval by the person that created, it would impact personal finances, and insure that finding work online or through agencies lowering pay or possible being cheated out of pay.

I have already ran into companies that wish me to surrender or give over my rights as an artist in order for them to use it. As visual artist see their artwork as work for a living, lawyers and non-creative fields do not get why this would be a hard set back for us. *(If the new laws are enacted.)*

Since graduating school, the market has had many ups and downs and for visual artist it has been more down then up. To use image banks to distribute your art or even to gain steady freelance work you would have to pay a great deal each month to keep that support going. These are households, families, and people that have their business in the visual field. Meaning independent contractors and creators, can lose income if they get their work taken through:
Work-for-hire
All-right publication contracts
They can also income due to:
Secondary royalties to foreign and domestic companies
Termination rights
Currently, many people read the print of contracts, ensure they have ownership of the artwork, and are supported when they have gain a copyright on the work through the Copy Right Office.
Collection of payment rights for visual artist need to be protected. The message from the artist

and visual arts communities is clear we want to be compensated for all the time, supplies, effort, and most of all our talents to companies that hire us. *We want to be able to defend our property.*

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

A challenge I have seen is that as visual artist grow their base and client list they are more targeted for this type of activity that the Orphan Artworks Act already threatens visual artists. Without legal protections the companies can ***legally steal artwork*** for their own needs. Licensing these works currently gives visual artist the ability to get paid for their time, talent, and product they sell. If there is a legal loop hole to obtain the artwork with paying for the work you will allow ***legal theft***.

It is bad enough that we as artists have to take certain contract that strip our rights to our work if agreed. Work-for-hire, all-right publication contracts, and termination rights all need to be reformed to help independent contractors, authors, artists, and creatives. This can be done by enforcing the work-for-hire is excluded as company employee and true employees are subjugated to surrender authorship. Publishers and companies should not be allowed to enforce all-right publication contracts to unknown or recognized artists. Termination rights of use of the artworks should be allow a shorter time frame to ensure proper compensation for photographers, graphic artists, and/or illustrators. Remedies for artists should be more accessible to combat piracy and non-approved used.

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

There are three things that hurt visual artist here:

1. The artwork has to be registered every ten years for $55.00 or $540.00 for a their life time. Meaning that they have to pay $595.00 not including any other fees they may need to pay in addition.
2. Group submitting may not always cover singular images that are in collections. Limiting the right that they may have if they filed individually.
3. Visual artists are by far the largest group of creators on the market. It would be costly for them to submit everything with-in the three month time frame if they don't have the funds to do so.

The 1976 Copy Right Act was revised to help alleviate these problems for creators and visual artist, but it still occurring. With this new Orphan Artworks Act would make it even worse for us trying to make a living.

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 a creator, my reference material and items are never taken from another person(s) to be used in my artwork. All images that I use are either created by myself or purchased and licensed to me through stock houses. I do not rework, alter or change others artwork for my own resale or purpose.

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

Allow artist to retain royalties and support the introduced law:

American Royalties Too Act of 2015

"Expands copyright owners' exclusive rights, in the case of a work of visual art, to include the right to collect or authorize the collection of a royalty if the work is sold by a person other than the author for at least $5,000 in an auction.

Defines "auction" as a public sale of visual art to the highest bidder run by an entity that sold at least $1 million of works of visual art during the previous year.

Revises the term "work of visual art" to make requirements for photographs consistent with requirements for paintings, drawings, and prints. (Currently, a photograph must be a still photographic image produced for exhibition purposes only.)

Limits the amount of such a royalty to the lesser of: (1) 5% of the purchase price; or (2) $35,000, subject to cost-of-living adjustments.

Directs entities conducting such auctions to collect and pay the royalties to a visual artists' copyright collecting society. Requires the collecting society, at least four times each year, to distribute the appropriate royalties (minus administrative expenses) to authors or successor copyright owners.

Requires an author of a work of visual art, in order to be eligible to receive such a royalty, to: (1) be a citizen of, or domiciled in, the United States or a country that provides resale royalty rights; or (2) have first created the work in the United States or a country that provides such royalty rights.

Establishes a copyright infringement offense for the failure to pay such a royalty. Subjects infringers to: (1) statutory damages, and (2) liability for the full royalty.

Prohibits the sale, assignment, or waiver of the right to collect such a royalty, subject to exceptions for works made for hire and transfers of copyright ownership.

Directs the Register of Copyrights to issue regulations governing visual artists' copyright collecting societies."
Taken from this link: https://www.congress.gov/bill/114th-congress/house-bill/1881

In closing, I would like to thank you for hearing the concerns of the visual art community to ensure we can strengthen our rights and enrich the lives of those who we provide our talents for.

Respectfully,

Craig S. DeLuca - Illustrator and graphic artist/designer.