Studio Inner Sanctum
38 Washington Street, Unit 3
Middlebury VT, 05753
adam@studioinnersanctum.com

Date: July 23rd, 2015

RE: Correction of information on previous letter on Notice of Inquiry, Copyright Office, Library of Congress; Copyright Protection for Certain Visual Works (Docket No. 2015-01)

Dear Ms. Pallante,

In my previous letter, I wrote about my concern about the Orphan Works proposition and mentioned a professional acquaintance named Patrick Ross. I want to correct that it's not the Copyright Office he worked at, but rather the U.S. Chamber of Commerce and an affiliate of the Copyright Alliance (http://copyrightalliance.org) as an Executive Director for three years as I quote his biographic background:

Patrick is the author of the literary travel memoir Committed: A Memoir of the Artist's Road (Black Rose, 2014). His essays have been published in numerous literary journals, and he won the 2012 Sidney W. Vernick Prize in Nonfiction from fwriction: review.

Patrick teaches creative writing for The Loft Literary Center, and has an MFA in Writing from Vermont College of Fine Arts.

Patrick's 26-year career in Washington, D.C., covers the communications gamut. He worked on Capitol Hill for U.S. Senator Harry M. Reid (D-NV), spent a decade as an investigative journalist covering the White House and Capitol Hill (earning nine journalism awards in the process), served as vice president of communications and senior fellow for a D.C. think tank, and was the CEO of an influential trade association. Currently he is a speechwriter and strategic communications advisor in the Obama Administration. He has been interviewed frequently as a policy expert by numerous media outlets including CNN, NPR, C-SPAN, Fox News, The New York Times, The Washington Post, and The Wall Street Journal.

Patrick has delivered keynotes and participated in panel discussions at several dozen events across the U.S. and in Europe, including major conferences such as South by Southwest (SXSW) and the Consumer Electronics Show (CES). He has spoken as an expert on a wide variety of subjects, including the Digital Revolution, technology policy, creative writing, and the creative process.

Thank you,

-Adam Glazer
www.studioinnersanctum.com

Studio Inner Sanctum
38 Washington Street, Unit 3
Middlebury VT, 05753
adam@studioinnersanctum.com

Date: July 22nd, 2015

RE: Notice of Inquiry, Copyright Office, Library of Congress
Copyright Protection for Certain Visual Works (Docket No. 2015-01)

Dear Ms. Pallante,

I'm a deaf freelance illustrator living in Vermont, originally from Cleveland, Ohio, writing out of great concern to the Orphan Works proposition. I've been published a few times in the small press comics industry and had illustrations grace the covers of a fellow small publishing author's books. Among other things, I have produced storyboards for the Independent Film-makers in Cleveland and an iPhone game project for a brief time.

I'm also well acquainted with Mr. Patrick Ross whom used to work for the Copyright Office and have been interviewed by him a few years ago, in which his book " Committed: A memoir of the artist's road " was based on. He and I share the same advocacy for copyright issues and the rights of creatives to own their work or have the right of creative protection to maintain living standards.

Also, I'm an athletic fencer and contribute my creative works to that sport that I'm passionate about. I'm still considering writing and illustrating a book based on this sport and famed history in the future. If the Orphan Works law gets passed, it would put a dent in my career and make it very challenging for me to catch up to all the images I uploaded in ordered to be registered.

My ultimate goal right now is to rebuild my creative career and put it back on track where I originally wanted it to be, but with the looming proposal of Orphan Works, I have no recourse but to take a stance on this before it damages my ability to grow as a professional, but also my reputation.

And so, I write to you to respond to your questions in regards to the Orphan Works:

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

I find that living in Vermont has been extremely challenging to me on a local level to make a living as an artist/illustrator due to the limited audience I try to reach out to and found that online or out of state clientele work has been my best method of getting exposure to new business.

However, I have been fortunate to work with a client who allowed me to have rights to the cover illustrations but have never been in a situation that required contractual rights to my images, as of yet. But I'm acutely aware of 'on spec' clients that circumvent our situations to their advantages out of greed or false pretenses to afford the services rendered.

As a deaf person, being taken advantage of is a very scary prospect when I only have email and texting on my smartphone to communicate since I don't sign, and have had voice calls blocked due to a data plan. I rely on clientele to be honest and professional, sticking with the parameters of the projects involved.

So, it's challenging for me to afford to copyright each image to protect them especially when I'm trying to make a living as an illustrator selling prints via an online store. This is extremely concerning that, if online galleries are the 'middlemen' to the international scene, there is NO way the Copyright Office can enforce image theft or alteration, should the Orphan Works is passed.

This is true because unscrupulous or ignorant individuals will try to copy an image that is already created and ready for print via an online service by the artist him/herself.

To do so is stealing the revenue that is to be earned. It's unethical. Not only that, it also hurts the online galleries' and store business reputation.

The public, nor Big Corporate or Big Data Banks, by whim, be allowed to take images without sole permission and acknowledgement.

It's also an unfair advantage when Big Publishers such as Marvel Comics have huge sums of money to afford to protect their Intellectual Properties while freelance artists such as I would have great difficulty in doing so with limited maneuverability to counter such ' image theft ' and lost revenue.

In truth, I have experienced image theft about two years ago when someone tried to use an image I posted online for a t-shirt they were selling on their website. This disturbed me greatly

because I wasn't aware of this until I fortunately stumbled across it. I requested the image be taken down since it was my creation and the person took it down.

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

I have not been in a Small Claims court situation, but I do foresee huge expenses involved in attempting to sue anyone who tries to steal my work. To allow the public access and right to alter my work is a serious grievance.

I should direct the question to the Copyright Office if it's truly fair for big publishers to afford lawsuits and with duplicity, turn things around and take images by way of alteration, defending themselves with legal ease, while artists like me cannot have that form of professional convenience.

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

I began my creative career some time during the mid-1990s up til the present and have not copyrighted my images yet, even though some are on my website in a gallery page to act as my portfolio, and also on Society 6 which is an online store that sells prints and merchandise based on the artwork I uploaded. The sales revenue from that site is divided between me and the service.

I would agree with many creative professionals that whatever has been created is already copyrighted but will require a copyright mark on it. In fact, I think it would make it easier if a creative makes a co-pay to an online service such as a gallery or store that requires image uploading, to have the work registered right away or have copyright symbols on it to block the public or Big Corporate stealing it.

There needs to be an easier and more affordable way for us to register our work without ' emptying our wallets ', so to speak.

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?

There is a difference between stealing and borrowing, but lines can be blurred if they claim to be " borrowing " and ending up making a profit out of it on their end. The Orphan Works is nothing but a back door scheme to destroy all the creatives' ability to proactively or reactively protect our work in timely fashion.

If those who work to make legal use of photos, graphic design, or illustrations, there must be legal permission required and credit due in my name is also of paramount importance.

If educational institutions such as museums or universities need images, professional creatives MUST still be acknowledged and credited to. Permission must be granted prior to using the image AND the content has to be approved in order for the ‘ public ‘ sector to use it in a proper manner.

It’s one hundred percent unethical for anyone to take credit for work that is not their own. This is also why the Orphan Works is an extremely troublesome tool of circumvention.

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

The issues of “ On Spec “ clientele is a very real one and one with the AIGA (American Institute of Graphic Artists) have been vocal about. The Orphan Works law, if passed, will make it easier for those ‘ on spec ‘ companies or clientele to take advantage without having to approach creative professionals for work and for free.

That would be extremely unethical and wrong. It would destabilize the creative industry into poverty. And when this happens, it’s very likely the industry will not be able to sustain itself and the landscape of visual and audio culture could, technically, come crashing down.

I direct you to this URL of AIGA’s stance on ‘ spec work ‘: **http://www.aiga.org/position-spec-work/**

I have seen the dark side of ‘on spec’ proposals over the years and it is very disturbing. Early on, I didn’t realize the scheme until I figured it out. This is one reason why art schools in the past, or present, have not done a good job in educating students on this issue and be prepared for such unscrupulous business practices by clients.

Sadly, however, arts organizations like AIGA, or Vermont Arts Council, usually don’t do a very good job of being proactive in guarding our creative rights despite providing ‘ educational ‘ articles for awareness’ sake.

Instead, they prefer to play “ Switzerland “ to stay neutral. But on the other hand, arts organizations should be more helpful in providing funds for legal fees to fight copyright infringement so that creatives don’t have to pay out of pocket entirely or provide a list of networked specialized attorneys that deal with these issues on an affordable level.

It’s imperative that creatives like us need a secure protocol to ensure we can safely protect our Intellectual or Creative Properties without risk of unknown ‘ image theft ‘. Perhaps, having a smartphone app connected to the Copyright Office to register works ‘on the fly’ snapping images as an official registrant would make things easier, but the fees must be reduced to ease in the process. But advance notice must be given to provide more time before the image is being “ borrowed “, even though a loophole can be exploited to stall the process and “ kill the clock “ before the creative registers it. This is also very concerning.

That’s why I think having an ‘ image escrow ‘ be utilized before the borrower touches it legally. That would give the creative notice that there is a request being made and a response is needed. This prevents ‘ stealth image theft ‘ on the internet. There also needs to be some form of ‘trip wire’ on an image that activates it when someone ‘right clicks’ and saves the image, allowing the creative to know where the source of origin is coming from.

This is also why the Orphan Works is detrimental to all of our professional livelihood when there is a prevalent culture of ‘right click’ or ‘save image’ via smartphone that cannot be enforced. It’s one reason many professionals I know put copyright marks on them at the time of creation as a notice that it belongs to them by name.

As a deaf creative, my career as an illustrator is important to me as my “ voice “.

I would suggest not giving in to pressure by those who are lobbying for Orphan Works based on ‘ just because ‘ the public has a right. After all, it is NOT their livelihood but ours. It’s our job to create for the public to ‘ consume ‘ by way of proper economical exchanges in sales or legal credit.

To what benefit does this Orphan Works proposition offer? Would it make sense, for example, if an educational public sector downloaded an orphaned work and made it their own, when the true original image belongs to someone who created it? This proposition makes no sense.

I don’t think the problem is with the current Copyright protocols, but rather the internet. That part needs enforcing and requires digital watermarks even if they’re not copyrighted, there needs to be a reasonable way for us to register immediately without mounting costs, although fees like this are tax deductible in our profession.

However, one idea could work is to register the image for free so that it officially belongs to the creative immediately and the fee(s) can be paid off over time like a balance, instead of upfront payment.

The image or artwork would have to be uploaded as an attachment online with secure identification protocols to ensure the registrant is ‘ who they say they are ‘, and with a private

profile or account on the Copyright Office's website or database accessed by mobile or desktop devices. Or a paid account subscription annually or monthly to register works for free in a private manner.

I could continue endlessly with many issues but it's clear that the Orphan Works proposition is not in my favor, nor any other professional creative's livelihood.

It's my hope that the Copyright Office and Congress does the right thing and reject it until a better solution arrives to level the playing field.

Thank you,

-Adam Glazer
www.studioinnersanctum.com