July 19, 2015

Maria Pallante
U.S. Copyright Office
101 Independence Ave. S.E.
Washington, D.C. 20559-6000

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

FROM: Amy Kirkpatrick, Professional Artist

Dear Ms. Pallante and the Copyright Office Staff:

I am a professional artist with an expensive BFA art degree from Florida State University. I am very serious about my art and have made a living from my creative abilities since 1985. I made the switch from graphic design to fine art in 2006 and have been building my art catalog for licensing and print and currently have over 550 paintings. I have worked hard at branding and marketing my work and have been featured in multiple publications.

My career as a professional artist is as important as any other career. The art I create sells products, inspires people to act, changes moods, and clarifies points of view. I pay a fortune in art supplies, software, and time and need to be fully compensated. I must maintain control of my creations so I can pay my bills as well as choose who can use them and how.

I personally believe that orphan works should simply be “hands off” to anyone trying to use them without permission. Just because you can’t find who created it, accept that it still belongs to someone. If the artist of the orphan work can’t be found, hire an artist who can create something else. There are millions of us who’d be happy to oblige as we, too, must make a living.

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

As a graphic designer, I generally “worked for hire” and copyright was not an issue. It’s entirely different as a fine artist. I sell and license my own prints and original works. Copycats and theft of artistic and intellectual property are a daily challenge for all artists.

Licensing contracts that include wording that hands over copyright is becoming more common practice among retailers. Often, licensees are adding the verbage to hand over copyright ownership in a confidentiality agreement that can easily be misunderstood. This should be illegal.

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

Personally, I’ve seen my art repainted in discount stores such as Marshalls, but I do not have the finances to hire a lawyer and go after the infringers. I looked all over the copied art but they had no markings of a company or where it came from other than “made in China.” They were not prints of my actual paintings but it was obvious to me that someone had repainted my paintings. This should be illegal.

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

I have registered a lot of my art with the copyright office. The biggest challenge was figuring out how to register it. It took hours of watching the videos and then I still had to ask questions. Other than that, time and money are a challenge. Creating art is time consuming. Finding buyers is time consuming. Paying for everything involved such as supplies, computers, software, scanners, education, etc. costs a fortune. To register with the copyright office is simply another expense in time and money.

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?

Probably, their biggest challenge is understanding that art is a career. It's how we make a living and we must charge according to our time and expenses.

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

To this point, it has been a comfort knowing that we own our art upon creation and for 70 years after death. Art is a career. We don't make it to give it away. We don't create it for the benefit of the world. We make it under our basic right to make a living under the Constitution.

6. What are the most significant challenges artists would face if these new copyright proposals become law?

I fear what would happen. The thought of losing my inherent right to my creative property infringes on my right to make a living. Current theft is bad enough, but to have anyone try to actually change the laws so they can use it legally without paying for it, well, it is beyond belief. Why should anyone be able to take my art, erase my name, claim it's an orphan work, and sell it. Privatizing copyrights WILL become another Enron disaster! Greed and theft. Artists are people who should be valued and protected to create. The world would be very dark without us.

Sincerely,

Amy Kirkpatrick
Carlsbad, California