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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 (Docket No. 2015-01)

Dear Ms. Pallante and the Copyright Office Staff:

Hello, I am writing to express my deep concerns over the proposed changes to copyright laws for visual art. I am a full time self employed illustrator and my family's living is made entirely though the commercial sale and leasing of images. I've just recently learned that the Orphan Works issues are in discussion again and that a call was made to artists to answer some questions from our perspective.

The questions put forward, as I understand it, are these:

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

It has become increasingly common in my industry that corporations demand full buyout of rights (work for hire) in order to do business. It is always an artist's choice to accept these terms of course, but the growing standardization of this practice is the greatest concern I'm aware of to monetizing my work in a long term view.

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

I believe this begins with a growing sense by well meaning individuals (and many who are not well meaning) that access implies a right to free use. With so much access to visual content online, many feel entitled to make use without compensation or consent simply because they can and are not aware of the damage this causes. To me, this is no different than the widespread practice and acceptance of piracy as relates to the music and film industries. Most artists I know make an effort to educate people as to why this is harmful.

To move beyond this though, actually enforcing ones rights can be extremely expensive and time consuming without access to a contingency fee lawyer. My understanding of the proposed changes to current copyright law, as described to me by legal professionals, is that the changes would make it unrealistic for contingency fee lawyers to take these cases and so defending one's copyrights would become an unrealistic financial burden.

The small claims court proposal is equally troubling in that it removes statutory damages.

It practically invites abuse with the only deterrent being compulsion to pay a use fee, as set by the court, to a use that was never authorized.

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

Under the proposed system, it seems it would become a part of my daily work routine to have to catalog and register every new work as it is created, and this would still leave me exposed to potential misuse. For the volume of work that I create that exists in the public space, I believe registration and constant policing of each piece would be an expensive and time consuming task which I would not realistically be able to carry out properly.

However, under the present system, I'm not aware of any registration challenges. As my works are automatically protected under current laws, I am at ease that any unauthorized use can be acted upon. If I should decide to register works officially (to expand my legal protections) I understand the process to be a simple and painless one

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?

For legitimate clients, I've encountered few complaints. Those who wish to use my images seem to have no trouble in locating me and negotiating terms directly.

For smaller operations and individuals, the most common frustration might be that many who wish to make use of found images have no reasonable budget to compensate for that use. I see no reason to give them incentive to pirate that work.

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

The current system, though certainly imperfect, does a very good job of protecting the rights of individual creators. I own whatever I create until I see fit to sell it to another entity. The power rests with those who own and create. It is simple, easy, and it works. This new system would shift that power to those who wish to use. It strips those who create and currently own of their authorship unless they are able to jump through these unnecessary hoops. In a sense, it puts all creators into a defensive position where their work is constantly under threat of appropriation and unauthorized use.

Thanks you, and my sincere regards,

David Palumbo