July 19, 2015

Maria Pallante
Register of Copyrights
U.S. Copryight Office
101 Independence Ave. S.E.
Washington, DC 20559-6000

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

Dear Ms. Pallante and the Copyright Office Staff:

I appreciate the opportunity to comment on the proposed legislation.
I have been a full time illustrator since 2001. I have won awards with Communication Arts, Society of Illustrators, and 3x3. I have published books with Random House, Scholastic, Bloomsbury, Tynsdale, Focus on the Family and many others. I have been an art educator at the college level since 2006. I am well versed in copyright law and have been following the varied attempts at reforming US Copyright law via the Orphan Works bills for the last decade.

Fundamentally this proposed solution uses a hammer to solve a problem that requires a scalpel. This proposal will effectively eliminating the copyright protections I currently use to generate 100% of my income.

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

Determining a fair and appropriate fees for use. Fees vary significantly. Under the proposed law "reasonable compensation" would be difficult to determine and by the very structure of the law be weighted in favor of the infringer. This would reasonably have a detrimental effect on the fees I can negotiate for all types of projects. My pricing system would be determined not by the market but by judges who do not work in my profession.

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

Currently: The high legal costs involved in an infringement lawsuit.
Potentially: The Orphan Works legislations being proposed. This legislation effectively protects bad actors who are positioned to manipulate this new law to the direct detriment of sole proprietor illustrators. The effect of the Orphan Works legislation would be to limit damages by an infringing party to amounts so low the illustrator would be unable to find/afford legal representation.

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

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?

As an illustrator I often look at photographs created by others. But this use is limited and done in strict compliance with the fair use defense. Conversely I am aware of a variety of uses of my own work by others that would fall under the fair use defense. In this age of digital connectivity I have not encountered a situation in which the original author of a work cannot be located through reasonable efforts.

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

Reprographic Royalties. Most notably "Title Specific" Reprographic Royalties. Currently United States Illustrators are not considered "authors" of their work and are therefore not entitled to received monies collected through the International Federation of Reproduction Rights Organizations. This is in direct contrast to my Canadian and British peers who's copyright laws are structured to allow them to receive these funds that are specifically meant for them.

Best regards,

David Hohn