Dear Sir or Madam,

I am a professional fine artist (painter). I have been making a living at this profession since graduating from college with a degree in illustration in 2008. I do not profess to be an expert on copyright law, but it does effect my livelihood and I try to be educated about it.

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

As a fine artist, my most valuable assets are the original works which I produce and sell through galleries. In order to protect this value, some galleries require that I not make any reproductions of these works, or that they be involved in the decision of what kind of reproductions may be made. This is in an effort to preserve the value that collectors have paid for a work as an original (one-of-a-kind) and to protect my brand/image as a high end, collectable artist. Any person or business that reproduces my work without my knowledge may dilute the value of my other works, and/or directly compete with me for customers. It is almost impossible for me to monitor all avenues where this might take place, on the internet and across the world. It is very important to me that the legal burden of image use be on the user, not the creator. This burden is important so that I have recourse, even as a single person with no legal team against a corporation or wealthy entity, if such illegal use is discovered.

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

First, there seems to be a lot of gray area about how much of an image needs to be changed to constitute a new work. Other artists altering/repurposing my images to create new art is a concern of mine. I would like to see more clearly defined laws in this area - preferably that the original (source) image should no longer be recognizable in order for any derivative work to be considered a new work.

Second, the most major issue that I face is that it is that it is impossible for me to maintain control or credit for my images as they are reposted, saved, copied, etc across the web. While I am generally not concerned about digital reproduction that links back to the source or credits me, this is not always the case which which makes me quite concerned about any “orphan” policy that is being considered.

For instance, Social media is an important part of my marketing strategy. I use facebook, instagram, tumblr etc to stay connected with past collectors and find new ones, as well as to promote my workshops and classes. Effective social media use means that I must post public images on a regular basis (daily). These images become searchable via google image search, and are regularly saved and reposted to blogs and other websites without my permission. Generally, I do not try to police this or consider it a problem when no profit is being made by the person/entity reposting my image.

On a darker side of this problem, recently a large print-on-demand website has popped up that allows the customer to use google image search to find an image and then print it as a postcard, cup, magnet, etc. The user does click a “terms and conditions” button to verify that they (the customer) are the copyright owner. However, with the images being sourced via internet-wide search, it is highly unlikely that any of these customers are actually copyright holders. Almost all artists I know have found that prints of their works are being made without their consent through

this website. The general public is not educated enough about copyright law, and I believe that many people who are customers of this service genuinely do not know that they are doing anything wrong. The company certainly must know that many of these images are not actually being printed by the copyright holder. However, it is impossible to issue a cease and desist to remove my images from this website because they are not actually hosted on the print site. In order to stop them from appearing, I would have to somehow get them removed from google image search, which would be bad for my brand and online identity. With the advent of online image databases, infringements like this are increasing. I understand that this is a difficult area of the law to police, and I do not have a good solution.

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

I often create more than 100 original visual works a week. For me to scan a single small image, color correct and save it takes about 5 minutes, larger images take 30+ minutes. It would take me hours to scan a week's worth of productivity, plus time to sort and categorize the images, and store the files in triplicate on back up systems. For me to need to register each work as I create would take 10 or more hours a week, which is more than one full work day. This would decrease my productivity by as much as 20%.

In addition, as a part of my daily social media presence I post lots of photos of works-in-progress as I am painting in my studio. Having to register each of these before I could publish (post) it would further slow down my work and hinder my marketing.

If each image registration cost me even $1, a fraction of current registration costs, it would cost hundreds of dollars a month which would have a large impact on my income.

Currently, I do not register any works as the time and cost is prohibitive.

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?

I use other artist's work as examples when I teach classes and workshops. Sometimes, I cannot find the name of the artist who created a work. In that case I generally choose another example for my classes. I do not consider this a frustration, it is simply a part of constructing lessons.

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

When I worked primarily as an illustrator, work for hire contracts were a huge problem for me. I no longer do any work under these contracts, as I consider them predatory and unfair. Not working with these contracts does cut out an entire category of potential income for me. I would like to see the work for hire laws amended so that they truly only apply to employees, and cannot be used to cover works produced on commission, as they are currently used in the illustration field.

Thank you for your time to thoroughly investigate matters of copyright. I understand that with new digital media, there are new areas for copyright law to cover. I sincerely hope that you will

keep the interests of creators at the front of your mind as you make recommendations about these difficult issues.

Best,

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