July 23, 2015

Maria Pallante

Register of Copyrights U.S. Copyright Office

101 Independence Ave. S.E.

Washington, DC 20559-6000

RE: Notice of Inquiry, Copyright Office, Library of Congress **Copyright Protection for Certain Visual Works** (80fr23054)

Dear Ms. Pallante,

I am writing to ask that you create policy to protect visual authors and their exclusive rights, and support a sustainable environment for professional authorship.

Licensing my rights is how many people derive income and copyrights are their economic assets. Copyright is also of the utmost importance for creative control of all personal and original work to protect its accuracy, integrity and authenticity. All artists are currently facing threats to the integrity and preservation of their entire body of work. My concerns and experiences are shared by my colleagues and by other artists throughout this country.

My personal artwork is done mainly for my own satisfaction, but I have done freelance work in the past, in both graphic illustration and photography. With the copyright changes that are being discussed, I would basically lose all of my rights to anything that I post on-line, among other things. The digitization of the world's creative works, along with the dramatically rising arc of unauthorized secondary licensing by ever-expanding techno- publisher behemoths, are increasingly harming visual authors. For over 25 years a passive U.S. Copyright Office has not implemented policy or recommended legislation to restore balance to the author/publisher relationship. Additionally, there are other overdue actions the Copyright Office can implement to restore equity to the American artist.

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

- the acknowledged **lack of negotiating power** of independent contractors
- the confiscatory scourge of **work-for-hire** and **all-rights publishing contracts**
- the loss of secondary royalty income from the diversion of artists' **domestically-earned reprographic royalties** by the Copyright Clearance
- Center, content aggregators and commercial databases to publishers
- the loss of secondary royalty income from the diversion of **foreign-earned reprographic royalties** from overseas collecting societies to self-appointed U.S. visual art charity and trade organization recipients
- the need for regulatory oversight of collective rights administration by the Copyright Office *to assure royalties are paid to the artists who earned them*, and **not** to publishers, content aggregators, commercial databases, "art" charities or "art advocacy" trade organizations
- the length of time before the exercise of **termination rights**

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

Little can be done to right the current extreme imbalance between author and publisher, *or author and user if you prefer*, but I concur with three solutions that have already been suggested by others:

1. The right to authorship in the U.S. should be inalienable. It is self-evident that work-for-hire for independent contractors *deprives an artist of authorship* in direct contravention of my constitutional right to secure the exclusive rights to my work for limited times. This loss of authorship is compounded by the loss of all secondary income created by the ongoing licensing and exploitation of that work, including the *exclusive right to create derivative works*. Meaningful copyright reform would prioritize amending the law to ***apply work-for-hire only to true employees.***

2. The length of time to exercise the termination right must be shortened. By the time a creator can exercise a termination right he or she

has been impoverished for three and a half decades while those copyrights have built a billion dollar corporation *or four*. The exercise of the termination right has become a grossly unmatched legal fight against a leviathan.

3. All statutory remedies should be automatically available to visual artists at the moment an artist fixes a creative expression in a tangible form. Statutory remedies are the only viable method by which an artist can enforce and defend their property right. The substantial deterrent of ***automatic*** statutory remedies will have a significant effect on the rampant piracy and unauthorized use suffered by American visual artists.

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

It is self-evident that is fundamentally unreasonable to require registration for visual artists as a prerequisite to statutory remedies. Without theses remedies, including attorney fees, costs recovery and injunctive relief, visual artists cannot adequately enforce their rights.

I implore you to reconsider this legislation, and please develop a new set of guidelines that are equitable, which protect and preserve the rights of all artists to their own creations.

Respectfully,

Jan Annarella

Chicago, IL