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 am in charge of over a million or more historical photographs for the Special Collections archive at the University of Washington Libraries. We have researchers from all over the nation and the world who use our materials. As is common with most historical archives we have many photographs of uncertain origin or by photographers who have long since died or who cannot be traced, or who have heirs who either do not know they are the heirs to the copyrights or who do not care.

It is extremely annoying to have images with no commercial value get caught up in the copyright mess that comes from commercial companies such as Disney that want to hold their copyrights forever. The vast majority of images that we handle do not have the type of commercial value that the Disney images do and most of the time there isn't a way to track back to find any heirs or even to confirm that there are heirs who would hold the copyrights. (Often when we do find an heir, they are pleased that their grandfather's photograph has been used in a book or documentary.) It is insane to have a 70-95-120 year waiting periods before the copyright is cleared up for these images and researchers can legally use them. Often nothing is known about the creator (perhaps all we have is "Jones Photo" or perhaps there is no name at all). Most of the time there is no way to know when the person died or even when the image was created. (The most insane copyright rule of all is that "unpublished anonymous and pseudonymous works" are not available for 120 years after their creation, which leaves all unpublished works without an author from the 20th century unavailable for use—yet there is no way to determine who it would harm for someone to use those anonymous images made by someone most likely long dead. Believe me—if I have an anonymous photograph made in 1898, that anonymous creator is dead.)

Essentially the current copyright laws leave historical archives with the choice to tell researchers they can't use the majority of the historical images from the 20th century that we have or to ignore copyright. There is a clear difference between modern work that is under copyright now and can be traced back to the copyright holder. Before the copyright laws were changed, there were reasonable periods for which materials were under copyright so you could tell your researchers that an image would reasonably be out of copyright by a particular time period even if you didn't know the creator of the image. Who are we protecting when I have to tell a person writing a book that the photo they want to use to illustrate it cannot be used because it was created in 1899 and we don't know who made it? The point of copyright should not be to stifle the creative use of work that no longer can benefit the creator.

A new system should be developed so that historical materials with basically no monetary value do not get caught up in the desires of large commercial interests. If a company such as Disney wants to hold their copyrights forever, rather than changing the entire copyright law for them and sweeping all of us in with them, a different system for copyright extension should be developed. For example, why not allow a company/person to pay for their copyrights to be extended or have some system where these commercial interests have to register to extend their copyrights beyond a reasonable number of years. It used to be that copyright ended if the person/company didn't re-register it. If commercial interests want extended copyrights, then they could register them—which then means that there would be a place to search for copyright

extensions, but would allow materials with no continuing commercial use to drop out of the copyright status and be able to be used by the public.

The current copyright laws prevent public use of materials that should be open for creative use even though they are no longer viable to provide profit for the creators or heirs. Ironically it prevents the use of images that heirs would often be pleased to see used in books and other productions. There needs to be a system that would divide out such materials from being linked with commercial interests that want to continually extend copyright periods to retain ongoing profits. If there are creators or heirs who can demonstrate a need for a continued copyright status beyond a more reasonable time period, then there should be a different system to allow them to obtain that copyright but not impact materials for which no such value can be demonstrated.