July 21, 2015

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

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

Dear U.S. Copyright Office:

I would like to comment on the Notice of Inquiry for the proposed revisions to current copyright law. As a former self-employed artist now working as publications manager, and so with experience of both sides of this business relationship, I am alarmed by the sweeping changes to copyright law under consideration by the Copyright Office. These revisions would irrevocably damage the ability of an independent artist to compete and would remove from clients the ability to forge personal business relationships that allow participation in the creative process that ultimately contributes very much to the public interest.

The independent artist relies on U.S. copyright law to protect his or her intellectual property in the marketplace. This property is private property and belongs to the artist, who should be compensated fairly for his or her labor as the creator of the property and as owner of a reusable asset that requires the investment of time, skill, education and financial resources. Both artist and client cultivate a business relationship based on value, business ethics, and fairness.

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

Abusive business practices by clients who demand the surrender of digital rights as a condition of granting assignments, effectively preventing artists who manage their own assets from working.

Predatory practices by large image bank companies that promise market access but instead eat up an artist's investment with fees while exploiting their work without compensation.

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

The high cost of pursuing infringement cases renders protecting one's work financially impractical.

The orphan works bills that have been proposed in Congress would limit remedies and effectively eliminate the possibility of bringing infringement cases, creating a "no fault" license to infringe. Independent media creators would have no practical way to defend copyright ownership.

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

High cost and bureaucratic burden measured in the time and expense needed to document and register one's work and so create an unnecessary bureaucracy that benefits only corporate interests at the expense of the independent entrepreneur. Existing law made an independent career in the arts

possible by relaxing the restrictive registration requirements of pre-1976 law. The proposed revisions would be a return to the old law.

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?

There are so many choices among artists and their work that are available that the challenge of locating a copyright owner is very much mitigated by the availability of work to choose from. The due diligence needed to locate an owner is exactly what the current law was meant to require. Given that libraries and museums can adequately operate under current fair use definitions, there is no reason to revise the current law to essentially make infringement legal for large commercial corporate interests.

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

Making any registry an official arbiter of copyright ownership would lock out independent artists, who could not afford to compete with large commercial interests. Instead I support the Copyright Office's recommendation of Congressman Jerry Nadler's bill American Royalties Too (ART) Act of 2015 as a remedy to the registry issue.

In summary, I believe that the movement by large corporate interests to aggregate the property of independent artists, and for all intents and purposes appropriate that property without having to pay for it, is anti-entrepreneurial and anti-competitive. The independent business person has the right to participate in the marketplace without fear of losing ownership of the assets that provide his or her livelihood. I am opposed to any revision to the current law that included orphan works proposals.

Sincerely,

Rosemary Volpe

Formerly a self-employed illustrator whose clients included *Scientific American, Field & Stream* and the Brooklyn Botanic Garden, I now manage publications for academic and general audiences at Yale University's Peabody Museum of Natural History, where I have worked to improve editorial and prepress best practices and developed an expertise as the go-to person for intellectual property issues. A current member and one-time board member of the Guild of Natural Science illustrators, I came to museum work through certification from the New York Botanical Garden's illustration program, where I was also an instructor.