July 21, 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 (Docket No. 2015-01)

Dear Ms. Pallante and the Copyright Office Staff:

Thank you for the chance to comment regarding the problems artists face as we strive to make a living while making our world a more rich and wonderful place to live. I have been an artist my entire life but, several years ago I began selling my services and works. Unlike most other professionals, artists face a unique set of societal stigmas. We are told repeatedly “What a great work of art, I wish I could paint like that.” directly followed by, “So, when are you gonna get a real job?” We are deemed lazy, social deviants, a drain on society, art programs striped from schools due to budgets. I find it ironic that for all the attacks on the character of artists, that we should need to repeatedly rally to defend our right to our own creations which are the very foundation of our livelihood.

I will now try to answer your questions in the order they were given.

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

It takes tens of thousands of hours of study and practice to develop the skills you need to succeed as an artist. Yet the product of all of that study and skill is systematically devalued, often underpaid for, extorted or outright stolen. Allowing “potential users” even more ways to copy/rework/steal artwork exacerbates this immeasurably.

Other detractors from the value of an artist works include image banks (like fiverr) where artist are preyed upon. They are “given” the chance to sell their work on large bank sites in the hopes they can somehow make a living. Giant image banks underprice their works and devalue artwork globally often in direct competition with their unwitting contributors.

Large companies often require artists to transfer all rights to use through contracts. The only reason for this that I can see is to exploit an artist's talents and avoid fair compensation future use of the artwork. Artist often feel they have no choice in this. If refused, the contract will be given to another artist that cannot afford to turn down the contract. Again this practice affects the value of artist on a global scale.

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

Registration *see below and Legal fees for going after someone who has stolen your work. What is worse, as I understand it, orphan laws would make litigation impossible. All a “potential user” would need to do to protect themselves from statutory damages and attorneys' fees would be a declaration saying they couldn’t find the owner. In the worst case this could be accomplished by having a third party to remove the watermark from my artwork then re-post the work as uncredited. Then “finding” that work and using it without the need to compensate me. If I wanted to get litigious, small claims court would make even recouping court costs uncertain and with no injunction against further offense, the infringing party could continue to use my copyrighted work having paid the court set maximum penalty. Sounds like a good business strategy. Steal art. use it. In the unlikely event the original artist takes legal action pay a small fine. This does NOT protect individual rights and only serves to reinforce criminal acts.

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

Complex and inaccurate process for registering/copywriting original works. Paying fees to register/maintain rights to work created is not viable for starting artists. Further even with registration litigation is often cost prohibitive. Because of this smaller/younger artist often forego registering their works, believing falsely in poormans copyright (emailing a copy to yourself) or that the act of publishing their work is proof of ownership. Or they just hope for the best and worry constantly that their work and rights are being violated with no way to protect themselves.

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?

Finding the owner and user license information in the vast seas of the internet. If I were looking for an image for my publication I would do a word search and pick something from the masses. but if that image has no credited author. How do I know if it is public domain, Creative Commons CCBY or all rights reserved? Being able to do an image search of a registered database again would solve this issue.

Other fair use. Such as blogs and educational sites are not the problem and often go above and beyond in crediting the creators of any content they use.

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

Any legislation regarding the creation of art and its use thereafter should focus primarily on protecting the rights of the creator.

As an artist I go by the name Gabriel Bishop and I have been working as a professional artist for about 5 years now. I work primarily in digital mediums where infringement of my rights is a constant worry. Due to the manufactured devaluation of artworks, I barely make enough to maintain my overhead. There is no way I could afford litigation if anyone stole my work. Please act in the best interests of actual people like me, who put their heart and souls into the work they do. Work that makes this world a beautiful place to live in.

Thank you

Gabriel