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

As a result of infringement, I no longer license my works in electronic format. Web use, PDF, e-book, website – whatever – all electronic rights are denied. Why? The consequential losses due to infringement, and the subesquent trouble dealing with infringers who decide my work is worth nothing, means I simply cannot continue to engage in such a business model. Without exception, all of the infringers I have dealt with (or would like to) are using my creative output to derive money and have no interest in sharing any with the person who makes the content they crave.

In all respects, I no longer have a business as a photographer. Had every infringer contacted me, negoiated terms/fees then I would have a business. But they have not. I have shared more of this here:-

https://copyrightalliance.org/content/one_voice_creator_profiles_simon_brown#.Va6glmTB9gI

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

Web site owners who hide behind privacy are the worst. If they had nothing to hide, why hide? I have quite a few cases ready to go as soon as someone slips up and identifies themselves, but I suspect I will be waiting forever whilst those who hide continue to derive profits.

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

Cost and time to register. Actually having to register AT ALL just so I can get attorney costs awarded is deeply resented. But without registration I cannot gain any form of redress from infringers.

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?

As a creator, this issue does not affect me. I would add that many do not care about making legal use, they would rather infringe knowing the risks of being caught are low, and if caught the chances of the image being registered is low, and only paying out what they think the going rate is for creative works means its a simple cost/benefit analysis to take content and not pay anything. The rewards are far greater than if shareholder dividend has to be used to pay for use rights.

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

a) The threat of orphan works and the commercial exploitation thereof. I am an underwater photographer. Only I and I alone know the costs of creation, and I price my work accordingly. No one licensing an orphan work will be able to set a license fee that reflects my overheads and profit margins. I also shoot sensitive material and I will (and have) refused licensing terms if I feel the use is derogatory/political/offensive/misrepresentative to the subject.

Orphan works removes my right to say “No, not at any price” for any given use I am not happy with. It is for this reason commercial exploitation of orphan images is not welcomed, at any price.

Furthermore, the issue of electronic orphans may well be irrelevant when the PLUS database gears up to help users find creators.

b) The DMCA “takedown notice” is a process that is time consuming and ultimately derives zero income for the creator, but is a necessary step to protect the integrity and use of one’s work. Every image I have created was intended to derive commercial return, but DMCA allows others – Pinterest for example – derive commercial return, pay nothing and simply remove the work if a notice is received. The takedown notice reinforces the belief that images are free and removal is a satisfactory resolution to infringement. This view needs to be changed if creators like myself are going to return to electronic publishing.