July 20, 2015

Maria Pallante
Register of Copyrights
U.S. Copyright Office
101Independence 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 whom it may concern,
I do thank you dearly for giving us visual artists the opportunity to give our input on this subject. I am not a professional artist, at least not yet, but I aspire to be. I draw often, and produce a lot of work, and so the protection of that work is of great importance to me.
Copyright laws affect not only professional artists, but hobbiests, and aspiring professional artists like myself. I know many professional artists have already written, but I think I have a bit to contribute on how copyright laws affect non-professional artists and the struggles we face trying to protect our artwork.
1. What are the most significant challenges related to monetizing and/or licensing photographs, graphic artworks, and/or illustrations?
From looking into working for companies that need artists I can tell you that one of the biggest challenges of monetizing or licensing artwork is that a lot of these companies seem to want you to give up the rights to your own artwork pretty much immediately. Even one's portfolio is unsafe.
How terrifying the thought of showing a potential employer a portfolio of your work, not get hired, and then to potentially find it plastered everywhere.
Potential employers already have it in their agreements just to view a portfolio that your work may look like some stuff that they already have in production, and that by showing them your work you promise not to throw a big fit if something similar shows up for publication already. Now, I don't know about you, but to me that is terrifying and kind of shady. And as far as I know, under the current copyright laws I don't have any protection for things like that.
How would you feel if something you worked really hard on or for was suddenly taken away from you? You could see it, it will probably have been vandilized or slightly visually changed. But it was yours and you worked really hard on it and you're being told you can't have it back or have any say in what's done with it, or make another thing too similar to it because now it belongs to someone else.
Many professionals have to deal with the horror of having to sign their work away or not be able to pay their bills or feed their familys. Thankfully I don't have to face such an ultimatum, because I'm so afraid of even the thought of having my artwork stolen from me and not having enough protection as it is, that I have been unable to apply for any such work.
That in and of itself is not okay. For an artist to fear for the loss of their own artwork or ideas that they can't bring themselves to contribute their talents to society because copyright laws, as they currently stand, do not protect the artist and their works enough.
2. What are the most significant enforcement challenges for photographers, graphic artists, and/or illustrators?
For people like me, who aren't professionals, and even for the people who are, a lot of the problem with enforcing copyright laws on our work are the immence amount of legal fees that go into such an action.
The vast majority of artists cannot afford such legal action. I work in a hospital and I cannot afford to legally enforce any copyright on my work. Professional artists for the most part are not paid as they should be. Art is sort of treated like nothing. Artists often are not paid to the extent that they should be. They're often haggled down to the bare minimum. Many are living hand to mouth. Even those that aren't, those who are not professional artists, or those professional artists who have become successful, probably cannot afford what it would cost to enforce the rights of their work.
Even Walt Disney himself couldn't protect the copyright of his own work. Only recently has Disney gotten the rights back to Oswald the Lucky Rabbit, the predicessor to Micky Mouse, in 2006! That's 40 years after Walt Disney's death! If Walt Disney was unable to enforce copyright over his own works how am I supposed to be able to?
3. What are the most significant registration challenges for photographers, graphic artists, and/or illustrators?
I don't even want to think about trying to register all my work. That would be horrendous. Absolutely everything I make

has some sort of importance. I'm not talking about 30 second doodles that once I'm done with them end up in the doodle drawer (that's right I don't even throw those away) I'm talking about works that take between 1 and 3 hours to complete, as well as ones that take up to 8 hours or more.
The ones that only take me from 1 to 3 hours are as carefully inked and colored as the ones that take me up to 8 hours. They aren't just throw aways or meaningless practice work. They are things I'm often very proud of and I find very beautiful or a true example of my skill... I have well over 200 of them, and that's just in what I could easily tally up for this letter.
I have drawers upon drawers, boxes upon boxes, sketchbooks upon sketchbooks, and even a couple of obsolite and or dead computers worth of finished, inked and colored, work in my possession.
To have to catelog and register those would take a horrendous amount of time. It would actually take more man-power than I think I could reasonably dig up. And that's just me. How many artists out there also have a vast backlog of work they would have to register? I guarantee every artist has an unreasonably large collection of artwork that they would not want stolen from them, even if some or even most of it doesn't compair to the quality they may do now.
Every piece of artwork has importance to an artist. Every piece has taken effort, and love. Every pice has a little bit of that artist's soul in it. You can bet that almost every artist would be trying to register almost all of their backlogged work as well as their newer works. As a records worker myself, that is not something I would want to sort and catelog, even digitally. Record keeping is a nightmare as it is, and image files are larger than text files. The more I think about it the worse it gets.
But I to the challenges I face in the registration process, besides the quantity of backlog artwork I would have to register, is mostly that I don't have the time to do that for every new thing I create.
I'm a single mother of a toddler and I work a fulltime job. I really don't have the time to do the artwork I do do, let alone turn around and register it. I cook dinner, clean house, wash and put the baby to bed. I have virtually no time to myself, and occasionally I put some chore or other aside to push out a 2 hour drawing. To have to spend even more time registering that drawing... that's just more time I don't have. I'd probably never sleep. I can't do it. But I would have to to keep my work protected. Or forfeit my rights for it. And if I let my rights on that work be forfeit... well that's money that could go into keeping my son and I fed and clothed and sheltered. Or money that could otherwise be going back into the economy.
That's a loss for everyone.
I just don't have the time to register all my artwork as I do it. I really don't even have the time to write this letter. But here I am, because this is such an important subject!
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?
At times I have needed references, or I may like a specific style, or pose or what have you, and at the very least I always credit the original artist and link back to their work if possible. There is absolutely no excuse not to credit an original artist. But in this case I'm talking about things that do not receive any revenue.
I try not to do the above very often. I prefer to work with my own photo references or imagination, because otherwise, even with giving credit to the original artist, it just feels like stealing.
Many people on the internet are courtious enough to ask an artist permission to use their pictures as their profile icons on sites. If the 13 - 25 year old demographic has that kind of coutesy towards an artist why shouldn't companies do the same?
Ask to use it. If the company is receiving some sort of revenue, they should pay to use that artwork. It's common sense. It's like not paying an employee for the work they do. That art took someone's time and energy, there's a sentimental value there. And that should be compensated.
No artwork should be considered orphaned or free to use unless the artist themselves consents to such a thing. There is no excuse not to credit or pay an artist for their work. None. No.
If a company wants to use an artowrk, photograph, graphic art, etc. and cannot get in touch with the original artist they should not be allowed to use that art anyway as if it had been orphaned. It's a fact of life that you can't always have what you want. You can't always have a namebrand item, sometimes you have to go with generic. Sometimes you can't have the company or artist you want to work on something work on it. Everyone else is expected to suck it up, and move on to their next top choice. It should be no different when it comes to artwork. If one artist cannot be contacted, or cannot work on a project for a company, then that company needs to seek out another artist who can do a piece for them.
People are busy. Us artists are often working as hard as we can to get by and sometimes don't check our e-mails or sites where are artwork is at regularly. Often we're too busy doing other misc. work to pay our bills. Sometimes we're so tired and worn out and ragged that we can't check or add to our art collections. Our work should never be concidered

abandoned. Never.

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

The very things that this Orphaned Artwork bill proposes shows just how undervalued artists are. Art is everywhere. Art and design are probably the largest part of our lives as a whole. Everything was designed by somebody. Everything was drawn by somebody. Look around you. Look in your office. What do you see? You might see a calendar, that calender's photos were taken by somebody. Maybe yours has drawings or paintings on it. those were drawn or painted by somebody. Look at your computer screen, do you have a viewsonic like me? See those little birds on the logo? Those were drawn and painted by somebody. The screen itself was designed and drawn by somebody. Your drink, whether it be a can, or a bottle, the design on the label was drawn and colored by somebody. The label on your airfreshener. The background on your phone (if it's one of the ones that came with your phone), the phone itself, the background on your computer, the designs and logos on any programs you use, the design of your purse or bag, the billboards outside, the covers of CD cases, the list goes on and on and on.

Art is all around you. A person or maybe even a few people are behind each and every piece of artwork you take for granted. Logos and labels and things that we see so often we don't even register that a person did that.

Without those artists what would we have?

Absolutely nothing. Not a single solitary thing.

Artists are everything. Art is everywhere. I ask you to please, if you've read this, take the rest of your day and find every piece of art, graphic art, illustrated art, photographic art, every image that was somehow made or taken by a person... and note it.

Each and every artist deserves compensation for their work. Each and every artist deserves credit. Whether they have the time to fill out regestry paperwork or not. Whether they have the money for legal assistance in enforcing copyright of their work or not.

Each and every artist deserves proper protection over their own work. Because if you alienate the artists, if you scare them away from sharing their work for fear of losing it, or having it stolen, or not being compensated for it's use... then you lose everything.

So again. Please. take the rest of your day and notice the artwork around you.

6. What are the most significant challenges artists would face if these new copyright proposals become law?

If these new artwork proposals became law, well, very easily things could desolve into almost no artist being paid for their work at all.

those too busy to watch the sites where their artwork is at, or those too busy to check their e-mail regularly will lose their artwork because it will be considered orphaned even though the artist didn't abandon the work, but was too busy with their day job trying to make ends meet.

It's soul crushing to have your work taken from you. Many artists would feel that blow. They and others may turn to keeping their artwork private. That could lead to a deficit of art for all manner of things. Non-artists may even shirk away and not post so much as benign family photos for fear of them being stolen. It's a problem that affects everybody, not just artists, but non-artists as well.

It's a severe loss of protection for artists and their work in a system that doesn't provide a whole lot of protection to begin with.

Artists need that compensation and protection on their artwork.

Please don't take that away from us.

I thank you for your time,

Rachael Hemphill