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Dear Copyright Office,

Registering published and unpublished photos
Right now, as a class of copyright holders, photographers are in a difficult position protecting their works. One issue to look at in this Internet age of needing to upload content quickly is the need for photographers to presently register published and unpublished images separately. Most photographers simply don't have the time to register all their work as unpublished before uploading images to the Internet in order to fulfill their current deadlines. This is true for categories such as photojournalists, wedding photographers, portrait photographers, event photographers, and commercial photographers.

It's also a somewhat blurred line determining what's published and unpublished on the Internet. Is my personal Facebook page with 300 or 400 friends considered published? Probably not as it can be considered not "presented to the public", as publishing is defined. But if it's 2,000+ friends is it now published? No clear answer on that. Right now the Copyright Office currently asks photographers and artists to decide if their images are published or unpublished, making a blurry line more blurred.

Assuming a photographer's images are widely distributed and are considered published, at $55 per application, a single project can cost $110 to register published and unpublished images separately. That isn't an amount most photographers can absorb in their current business model. If you are photographer dependent on being able to upload in a timely manner, proper registration becomes both time wise and financially too difficult. Being able to mix unpublished and "Internet published" works together, maybe within a 3-month window that published work currently enjoy, would solve some, but not all, of the issues facing photographers.

Having photographers, who shoot a very large number of images yearly, register all their work, both Internet published and unpublished, on a quarterly basis instead of piecemeal, would make the process easier for both photographers and the Copyright Office. The difficulty of overcoming this barrier for photographers means that The Library of Congress is not receiving any deposits of this era of our country's photo history. Granted, many are not of the quality that might be wanted or needed for the LOC, but eliminating this entire group gives librarians no access to any images they may want to represent today's world.

Resolving smaller infringement claims
Another issue I think should be looked at is resolving small infringement claims outside the Federal Court system. I think the current system and copyright laws are fine for major infringements for those that can afford pursuing a Federal

lawsuit. But for the great majority of copyright holders, it's currently impossible to pursue.

I have the wherewithal to pursue infringement of my registered work, which I have done so in the past. Even hiring an attorney on retainer, my out of pocket expenses for filings and depositions before we finally reached a settlement just prior to jury selection, was about four to five thousand dollars. A great majority of photographers do not have those resources. Four to five thousand dollars to the average photographer could represent about ten percent of their yearly income. Having a system to resolve smaller infringements would make cases that do not deserve being made into a Federal lawsuit, would greatly benefit the small businessperson that most photographers are.

Right now, image theft is rampant because infringers and their lawyers know that photographers and artists can't afford to defend their work. Lawyers tell each other in conferences and classes that if your client infringes and you get a letter that is not from a lawyer, simply ignore it. If the work is not registered, simply ignore it. My own lawyer sat in on such a class for lawyers. Nothing illegal or wrong about it, but because pursuing infringements is so expensive in the current system, most infringed photographers simply give up pursuing infringers. This causes more infringements as more and more companies, who do a risk assessment of such behavior, determine that taking and using images without permission or a license is frankly cost effective.

A small claim system for claims under a set value or set criteria would be greatly beneficial to a vast majority of copyright holders.

Clear Orphan Work search protocols
Lastly, I look forward to seeing Orphan Work legislation to ease the use of orphaned works, as long as artists are still protected from abuse from issues such as false "diligent" searches. Clear guild lines and protocols for such searches would be helpful. A registry for images I think is an unneeded layer of bureaucracy and cost that is not needed in this age of Google Image searches.

Thank you for your considerations on these issues.

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