BioVisual Communications

P.O. Box 7521, Menlo Park, California 94026

July 23, 2015

Maria Pallante
Register of Copyrights
U.S. Copyright Office
101 Independence Ave. S.E.
Washington D.C. 200559-6000

RE: Notice of Inquiry, Copyright Office, Library of Congress
Copyright Protection for Certain Visual Works (80fr23054)

Dear Ms. Pallante,

I am writing to beseech you to consider carefully the impact of new legislation on the livelihoods and careers of visual authors and ask that you support legislation that does not undercut their ability to make a sustainable and rewarding living.

I am a professional medical illustrator, having worked in this field for over thirty years. The education and training required to be able to perform this kind of work is rigorous and extensive. I have a Masters Degree in Medical and Biological Illustration and have taken coursework in both premedical sciences and medical sciences including neuroanatomy, pathology, surgical illustration, pharmacology, embryology, biology, comparative biology, neuropsychology and a year of anatomy alongside medical students. In addition, I have an extensive formal art education and experience in visual media, graphic design, storyboarding, animation, and many forms of digital new media.

The rapid pace at which technology has transformed this profession is profound. The expense in time, effort and money to keep abreast of changing technologies and medical advancements—mandating continuous investment in professional education, new computer systems and software and business networks —is enormous. Most professionals in this field are self-employed and responsible for their own overhead, health insurance, retirement, training, business and capital expenses.

Why am I telling you this?

Because, in order to practice our craft in this profession, this is the challenge that I—and other visual artists like me—have. Our images are a product of a deep understanding of the subject matter, combined with technical expertise and the application of problem-solving skills which provide focus and clarity to the subjects and concepts we illustrate. The visual services we provide enrich our society's understanding of medicine and science. But if we cannot sustain a living from what we do, we cannot provide this benefit to others and serve the public good.

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

Limited budgets for quality medical/scientific images have been a significant challenge for this profession. Pressures from publishers forcing work-for-hire agreements or demanding copyright handover is causing a slippery slope of lower and lower prices for quality images. Those not willing to become prey to such practices must look elsewhere for work. Succumbing to such demands allows the large conglomerates to acquire huge databases of images to resell, squeezing the livelihoods of the professionals who actually provide the images.

Copyright ownership, giving me the ability to license my work in the secondary market has proved invaluable in helping to sustain a living. My images are valuable and are the product of hard work and dedication. As copyright owner, they are my assets. Licensing of secondary rights to my work is necessary and a standard business practice in order to sustain a living in this field.

If new copyright legislation were enacted which allows free use of such images—due to limited controls over what constitutes a reasonable search for the original copyright owner—I will have lost valuable avenues to monetize secondary usage of the images.

Furthermore, my images will be free-floating out there, likely with unauthorized changes made to them and monetized by someone who obtained the image without my permission. It creates a cascading set of events to my disadvantage. I could even find myself competing against—or even infringing—my own work!

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

Each project is unique and I negotiate usage of the images with each client. Many clients require exclusive rights to the use of their images. As copyright owner, I control to whom the image is licensed, and respect the contracts with my clients. If such an image were to be found and freely allowed to be used with limited restraints by new copyright legislation, I am no longer able to protect my client from others' infringement of the images, nor honor our original contractual agreement. I will have lost control of the ability to do so. Such new legislation will upend and throw into chaos a long supported business practice in the licensing of visual images.

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

All of my artwork has been produced under current copyright law. I have operated with the knowledge that my work is copyright protected as of the moment I create it. I have relied on that premise and it has enabled me to eke out a living in this field. As a small business owner juggling expenses and my time, it is simply not possible to register all my works. I surely have neither the time nor can I afford it. To require that artists register all their works with a registry in order to enforce their copyrights would be absurd.

Budgets for visual images are often limited in the science and medical field. In many cases profit margins are so slim to nonexistent that registration with the copyright office or another registry would be prohibitive. In the case of my images not registered with the copyright office, I could only get actual damages and no contingency attorney would be willing to litigate such a case. I cannot afford a copyright attorney to enforce infringement.

As you evaluate copyright law or Orphan Works legislation, I implore you to consider the value that visual artists bring to the table and the benefit they provide to society as a whole. We continue to create because current copyright law protects our most valuable assets. If that protection is removed, we will be forced to find other livelihoods and society will have lost a valuable resource—the creators of the very images it covets.

Sincerely,

Lynne Larson, M.A.
Certified Medical Illustrator