I am a part-time botanical artist and illustrator. My work lends itself to ornamental, decorative and educational applications.

I have spent many years and thousands of dollars perfecting my artistic and botanical skills, and this process is ongoing. Each drawing or painting is a product of this time, effort and expense.

The only way to make an actual living from original creative work is through resale and licensing agreements. Simply in terms of time, an individual cannot create and sell enough work one time only and survive financially.

A novel, short story, poem or work of nonfiction does not lose its value once it is published. In fact, the opposite often is true. The argument that a visual image becomes worthless once published is specious. If publishers are worried about copyright suits, they can negotiate Internet and digital rights up front.

It is my understanding that it is already difficult to an artist in one state to pursue a violator in another state. China flaunts copyright laws flagrantly. Many – maybe most – independent visual artists can't afford an action against a corporation with deep pockets and in-house lawyers.

Publishers do not always credit scientific illustrations. This needs to change. At the very minimum, agencies wishing to make use of a published image should be required to contact the original publisher *in writing*; the publisher in turn must

contact the author *in writing*, and the author the illustrator, *in writing*. "*In writing*" may be understood as an email or fax. Evidence such as letters or emails returned as "undeliverable" should be kept for at least several years.

Specific Questions 1. **Most significant challenges related to monetizing and/or digitizing photographs, graphic artworks, or illustrations?** I have no direct experience, but suspect that it is difficult for the individual to represent himself in this area while at the same time continuing to produce new images. There would be a lot of expense in getting an agent, or somebody to work in the artist's behalf.

2. **Most significant enforcement challenges for photographers, graphic artists/illustrators?** Different laws in different jurisdictions. An artist in one state might have to hire lawyers in several different states. Digital world makes stealing and/or tweaking an original image easy and immediate. Even when the concept and elements of a work are clearly copied, violators can get away by making a minor change. Many artists/illustrators lack the financial resources to pursue copyright violations. Some countries flagrantly ignore copyright law.

3. **Most significant registration challenges for photographers, graphic artists/illustrators?** Time,expense, record-keeping. These problems would be multiplied by the proliferation of commercial registries. Who would oversee commercial registries? Copyright law isn't that easy to understand.

4. **Challenges for those wanting to make legal use of legal images?** – Finding the artist. In the present day, difficulties of finding living artists/illustrators/photographers are exaggerated. Most have emails, blogs, or websites. It should be possible to trace the creator of the image through the original publisher. This might be more difficult with older works, but some mechanism should be in place to define "good faith" efforts to identify the creator of the image. There could be special language for those wanting to restore family photographs or paintings, etc.

5. **Other issues?** At the moment I think I have covered the issues most important to me.

Finally, if new copyright proposals, especially the "orphan work" proposal, could result in even less protections for the creators of original visual images. It would be difficult to impossible for an individual to seek and achieve redress from large, sometimes anonymous publishers or image agencies. The artist/illustrator works under time pressure. Gaining redress for copyright violations is already burdensome, and could become much greater with current proposals. The individual artist/illustrator simply does not have the time to serve as his own lawyer, and in many cases lacks the resources to hire professional help.

Sincerely,

Jeanette Lee Atkinson