July 23, 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)

To Whom it May Concern:

My name is Jody Hewgill. I am an internationally known, Toronto based artist and illustrator. I have been painting and illustrating since 1988, and have worked on a wide variety of assignments and commissions including book covers, celebrity portraits, theatre posters, and retail interior murals for clients in North America, Europe and Asia. My paintings have been commissioned by Arena Stage, Atlanta Olympic Committee, Entertainment Weekly, Windstar Cruises, Mondavi Wines, Oprah magazine, Rolling Stone, St. Supery Vineyards, Time Magazine, the United States Postal Service and the US Department of State to name just a few. A series of my posters are included in the Permanent Poster Collection of the Library of Congress in Washington, D.C. I am the recipient of many awards including American Illustration, Communication Arts, Print Magazine, The Society of Publication Designers, the Society of Illustrators in New York and Los Angeles.

I am writing to address the problems visual artists face in the new digital environment.

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

As a freelance illustrator, I need to have the ability to maintain a revenue stream, using my existing, original work for resale, in order to make a living for my family. The resale of my past images for new applications is a large part of my illustration business and my collection of work is a valuable resource that produces income for me and my family. Any attempt to replace the existing copyright laws, with a system that would benefit Internet companies, would endanger my ability to make a living. A number of companies have already taken my work without my permission or financial compensation, and have used it for their own benefit. Copyright law should protect the original content creators, not corporations that benefit from the theft and reproduction of imagery

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

The proposals the Copyright Office has made to Congress concern me. It is essentially a revised Orphan Works (OW) bill, but would be even worse. Orphan Works bills have been resoundingly opposed by artists since they first appeared a decade ago. A copyright law built on the foundation of orphan works law would allow internet companies to syphon off revenue from artists with the hopes of creating an even better revenue stream for themselves. There can be no bigger challenge for those of us who make our livicompete with giant corporations that can get artwork free from artists and compete with us for our own markets.

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

The proposal to reintroduce registration would become another financial burden for artists. Over the course of a career, a moderately prolific artist will produce thousandsof works. To register those images, the artist would have to locate them, unframe them if necessary, scan them, spot them, color correct them, keyword and catalog them, return them to their files or frames, add metadata and fill out registration forms for each one for at least two registries. All of that would take thousands of hours. And all this non–income-producing time would have to be stolen from time that the artist would otherwise be using to create new work.

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?

Like most artists, when I'm creating a new piece, I will use photographs and other graphic artworks for reference and inspiration, but only as a loose guideline. My work is always original, based on my own, original sketches and studies, created by my own hands.

I am aware of multiple blogs where other people have used my work in similar non-commercial postings. In every such instance of which I'm aware, the authors of these blogs have credited me, and I have never objected to such uses. So, based on this experience, I would suggest that where the current copyright law is working, it is working as intended, compelling a certain rigor regarding the use of work that I fear will be lost entirely if the laws currently being proposed are liberalized to permit massive commercial infringement.

The internet has made it very easy to be able to track down rightful owners of any image, whether through Google or sites like TinEye. There is no excuse to claim ignorance of the origin of an original artwork.

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

The kind of system the Copyright Office has proposed to Congress seems all too familiar to me. Artists have already seen their foreign reprographics royalties diverted away from them for at least 20 years. I fear this is exactly what is going to happen with the proposals the Copyright Office has made to Congress.

To prevent this unjust conflict of interest, it is imperative that no artists group that supports this legislation be allowed to receive any financial benefit from the creation of copyright registries or notice of use registries. These artists organizations have failed artists and should not be allowed to use this legislation to profit even further off the artists they were created to help.

I thank you for reading my letter and I ask you to recommend that visual art be excluded from any orphan works provisions Congress writes into the new copyright act.

Thank you,

Jody Hewgill
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