July 22, 2015

Maria Pallante
Register of Copyrights
U.S. Copyright Office
101 Independence 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 James O'Boyle, and I work as a freelance illustrator. 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?

Illustration is highly-valued commodity, yet the field is barely financially viable for new practitioners. Making a living wage as a freelance illustrator requires years of diligent promotion, and attracting consistent clients, not to mention natural talent, and most likely, an expensive college degree. Many artists make personal (un-commissioned) work for years before they are hired for payed jobs with a desirable frequency. These personal works are posted online on various blogs and social media platforms as a means of promotion. A visible body of work is important for attracting clients. We have already reached the age in which you must have a visible presence on the internet in order to survive in the market.

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

   Because artists must promote their artwork online to be visible in the current market, their images are just floating around on the internet, ripe for the taking. Anyone can edit out your signature (if they even have to) and claim the work as their own. It is difficult enough to prevent this from happening (if you ever even find out). I can't imagine the damage that would be done if it were *legal* for people to do this. I know numerous colleagues have had their designs stolen by crooked 'entrepreneurs' who make money by stealing artwork they could not have made themselves, and printing it on t-shirts or the like. In certain cases, the theft is committed by a large clothing company. Proven examples include Urban Outfitters and Lululemon. Artists rarely earn enough disposable income to enter into a legal battle with a wealthy corporation. We need protection, or else our work will be poached relentlessly. Copyright is the essence of an artist's value.

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

To maintain visibility on the internet, artists are motivated to produce many new pieces of artwork and post them with great frequency. Artists cannot afford to register all the artwork they make with for-profit registries. There are too many pieces of artwork - and the ones that go unregistered should not be up-for-grabs to any crooked business owner who wants artwork but doesn't want to pay an artist. There is also a general lack of information and awareness about methods of copyrighting your work. Artists should not have their handiwork stolen because they neglected to wade through a bunch of arcane legal jargon.

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?

The most significant challenge for someone who wishes to have artwork is to pay for it. As previously mentioned, illustrators might actively solicit work from all over - they are eager to meet and speak with potential clients. Contacting artists to hire their services is easy - by design. Artists want to be found and hired. They advertise their contact information. The only hurdle a client has is paying for the artists inimitable handiwork.

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

Copyright and exclusive ownership is the essence of being an artist and fitting into the 21st century as an economic unit. It means that only you can make the things that you make, and if people want them, they need to pay. With this new legislation, I fear that the 'artist' will become a quaint relic of the past, or exclusively a non-for-profit hobby. If artists do not own their work, then 'artist' ceases to be a financially viable profession. The prior work of professional artists will be subject to relentless theft, and the damage cannot be overestimated. Visual culture will stagnate.

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.

- James