July 23, 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)

Dear Ms. Pallante and the Copyright Ofice Staff:

As a lifelong visual artist and musician I am very concerned regarding the proposed changes to the current copyright law.

As a musician, producer and composer I've seen the value of my recorded copyrighted works plummet to practically nothing over the past couple of years with the rise of International Corporate distribution streaming services such as Spotify, Pandora and now even Apple, as if Apple needs more income at my expense. I used to derive a nominal income from my recorded music but recently my total income for 2 quarters of music streams was $3.90. This is unsustainable for me in the long run. It's interesting that CD Baby, my distribution manager, recently changed it's distribution agreement to include all streaming services for my music even though I did not want this. They do offer a way however to change this but it's not a simple process and requires time and energy to research all of the options.

Regarding the proposed changes to the current copyright law regarding visual arts, I'm still able to make a modest living creating illustrations, medical illustrations, photographs, animations and motion graphics. However, I fear if the proposed legislation, as I understand it, is passed I will see the same diminished value in my visual work as I've had with my music recording work.

I will try to address your questions as directly as possible.

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

I've found that many of my clients expect me to "work for hire" for a reduced fee. Many are unwilling to negotiate a licensing fee and offer a take it or leave it proposition.

I've avoided uploading my full animation works to youtube because Google's monetization program offers similar fees to the music streaming services.

At this point I refuse to let any stock houses represent my work. I can manage better on my own, with fewer opportunities, than with greatly reduced fees and control with the stock houses.

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

At present the two major challenges to enforcing copyrights are the high cost of legal fees in an infringement lawsuit and the orphan work policies now being proposed AGAIN to Congress. At least under the present system if an artist registers their work with the Library of Congress and an infringement occurs the artist can seek statutory damages plus attorney's fees but if the orphan works legislation passes an artist's whose work has been infringed can expect to receive the "going rate" which will not cover pay the artist's legal fees. This scenario, the orphan works, will actually reward the infringer and encourage the theft of individual artists' works.

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

I have a library of works spanning over 40 years. To say that it would be a challenge for me to re-register all my work with a commercial registration agency would be an understatement. The time, expense and paperwork alone would be a full time job and would effectively end my creative working career.

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?

I teach computer graphics at the college level. For some projects I ask the students to create digital collage of a theme of their choosing. Almost none of the students use their own photographs and instead choose to acquire images online for their school projects. I also see in my medical graphics work younger scientists routinely taking copyrighted images from the internet and using them in their corporate presentations. When I ask if they received permission to use these images often they will ignore my concerns until the company attorney confronts them and then they will either get permission or not use the image.

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

The claim that there is already a viable visual arts registry that would benefit artists and the reprographic and secondary rights licensing agency that pays artists royalties are both incorrect.

Currently this is NO viable visual arts registry, only stock houses which in my opinion do NOT best represent artists' interests.

To verify the fact that artists never receive royalties for reprographic rights all one would have to do would be to review the case of the lawsuit brought by the Graphic Artists Guild (GAG) against the Illustrators' Partnership of America (IPA) concerning the fact that the IPA stated that the Graphic Artists Guild had conceded that it received foreign reproductive royalties and that it does not distribute any of the money to artists. The GAG sued the IPA for defamation and lost the case.

Thank you for the opportunity to comment on the problems visual artists face in the marketplace.

Sincerly,

Scott Staton