To:

Catherine Rowland
Senior Adviser to the Register of Copyrights
U. S. Copyright Office

RE: Notice of Inquiry, Copyright Office, Library of Congress
Copyright Protection for certain Visual Works (Docket No. 2015-01)

Dear Ms. Rowland:

Thank you for allowing visual artists such as myself the opportunity to comment on the proposed changes to current copyright law. I've listed my opinions, experiences and answers to the five questions posed to us.

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

Art buyers such as book and magazine publishers and any other type of company that uses art in a major way such as notecard/greeting card companies etc who want to use an artist/illustrator's images in multiple ways without compensation for those extra uses. For example a book publisher might publish a book in a foreign language and not pay the illustrator an extra fee for re-use of the cover illustration. 'Secondary' rights and royalties have slowly been chipped away from illustrators over the past 30 year period. Another example: a note card company that hires an artist to produce a series of illustrations as notecards also wants to use the images as wrapping paper without paying a secondary fee for the extra use of the image. The companies doing this are making extra profit from those products they are producing but they don't want to pay the artists anything extra. They wouldn't have the images if it weren't for the artist in the first place. The artists should be given a secondary fee and royalties in those cases.

There have been underhanded changes during the past 30 years… and I am very skeptical of the trustworthiness of large Image Bank companies.

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

It's very expensive and time consuming to hire a lawyer. I have a friend who's a Potter. The designs of her cups were stolen and re-used by a Korean company. She hired a lawyer to write them a letter, it cost her $600 for that letter alone and this was around 2001. The Koreans stopped using her work and subsequently the cups they had made and the molds had to be destroyed which was part of the settlement agreement. From what it basically sounds like, the Orphaned Works Act would only allow cases to be brought into small claims court. That's hardly an effective deterrent. Any punitive damages would be small. The image-thieves would need a final remedy that would stop them from continuing their practices. The Orphaned Works Act would actually make it easier for people to get away with stealing images.

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

The attempted registration of ALL of an artist's work is absurd! The amount of time AND expense for doing so would be ridiculous. The present system we have is if an artist has the copyright symbol, name and date on the illustration then it is legally copyrighted, that works fine! Isn't it obvious that paying some 'registration company' to register hundreds of images is another scheme by these companies to rake in money over someone else's hard 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?

The existing Fair Use rule in the current Copyright Act works the way it should. This means that the use of an image by a critic in a review published in a newspaper or perhaps on a blog now-a-days is a legitimate use of an image not being used for commercial purposes. Fair Use would also cover the use of an image by a museum, or library, and once again the way Fair Use currently works, this works well for museum and libraries as well.

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

The following is from your website: "The Office has also looked extensively at the problem of orphaned artworks, and how best to facilitate an exchange between a good faith user and a rightful owner."

There's another VERY simple answer to the use of an 'Orphaned Work' found online. Simply don't use work that is orphaned. If a corporation for example wanted to use an online image for a product they're creating hire an artist to create something new. They won't be stepping on anyone else's toes and they won't be sued. There's no risk.

The Copyright Act we presently have isn't perfect but it works fairly well. I've read that lobbyists and corporation lawyers have "testified" that once our work has been published it has virtually no further commercial value and should therefore be available for use by the public. If an artist's work has no further value after it's been published then why would the authors of this act so vigorously want to use them? The Orphan Works Act strikes me as being nothing but legalized thievery.

Thank you,

Richard Salvucci