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Maria Pallante
Register of Copyrights
U S Copyright Office
101 Independence Ave SE
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 Office Staff,

Thank you for this opportunity to respond to your invitation to comment on the affects of copyright law on my career as fine artist, illustrator and photographer.

I am an award winning professional illustrator, photographer and fine artist, have shown created works in solo, invitational and juried exhibitions, authored written texts and my works have been published in books, magazines, newspapers and most recently in a scientific journal.

As artists and other creatives, as mentioned in the Constitution of the United Staes, Article 1, Section 8 and further copyright protection given in the Copyright Act of 1976, effective for works after 01 January 1978, giving the author/artist/creator the exclusive right to control his/her copyright for life plus seventy years, without registration.

Our copyrights serve as our source of income far beyond their first licensed use. Our copyrights are as valuable as a bank account and amounts to very valuable personal property. They are our assets and licensing these copyrights is how we make our living. The only way the creator could lose his/her copyrights is to transfer them to someone else in writing.

Any effort to allow third parties to exploit these rights other than through exercise of the artists exclusive right to do so would be theft of his/her property, resulting in the theft of money belonging to the artist. It is important for the successful business of art that we voluntarily control all uses of our art.

1. The most significant challenges related to monetizing and/or licensing photographs, graphic artworks, and or illustrations presented are: a) publishers demand that artists sign away their digital and secondary rights as a condition of accepting assignments and
b) predatory competition from large image banks that may steal artists imagery and sell for their profit. Existing copyright law has enabled abusive business practices by permitting work-for-hire that deprives the artist of authorship and designates the commissioning party as the arts' creator. Work-for-hire undermines the very principles of authorship as stated in Article 1, Section 8 of the United States Constitution.

2. The most significant enforcement challenges for photographers, graphic artists and illustrators are: a) the high cost of legal fees in an infringement lawsuit and b) the orphan works policies now being proposed again in Congress. Currently, when we register our works through the Copyright Office, we may or may not be able to get a lawyer to sue an infringer on a contingency basis, thus to receive statutory damage and attorney fees (the copyright owner does not have to pay the lawyer). With orphan works, unless all copyright lawyers were required by law to handle these cases pro bono, they would have no incentive to take any infringement case; thus a decisive legal advantage to all infringers. This is theft!

3. The most significant registration challenges for photographers , graphic artists and illustrators are: volume, expense, paperwork and time - and if the USA returns to the old days of registration, there would be ruthless competition from the registries themselves. The 1976 Act was a significant improvement. The best solution would NOT be to re-introduce registration, but to do away with it entirely. We artists created these works, they are our property and our income. Any plan that reverses current law and requires registration of an artists entire inventory of copyrights to avoid exposing them to potential infringement would be unconscionable. For artists with huge bodies of work, this would be a total disaster. Few, if any artists will have the time and/or financial assets available to register their entire extensive inventories.

Mandatory registration with a commercial entity would place that entity between the artist and the buyer and would remove the artists' exclusive right to control his/her intellectual property guaranteed under current law. Such a government action would dampen creativity (the exact opposite of the primary purpose of copyright law) while reducing the ability of the nation's artists to make a living in the arts. I ask, what about all of the inventors, scientists who created and who will create technologies to improve our quality of life?

4. The most significant challenges or frustrations for those who wish to make legal use of photographs, graphic artworks, and or illustrations are: to stay strictly within the boundaries of reference and inspiration, which I use. These references, my imagination, sketches, sketchbooks and textural notes serve as the "mixing bowl" of my creativity. With mass digitization use by libraries and museums, these institutions must be held accountable for strict enforcement of copyright by the artist/author. Like most of my colleagues, the orphan works crusade should be dropped and copyright law strengthened to "promote the useful arts".

5. Other issues or challenges that the Copyright Office should be aware of regarding photographs, graphic artworks, and or illustrations are: a) the claim that there is already a viable visual arts registry that would benefit artists - of which there is none. Within the Copyright Office 2015 Report, there is a claim that: "…there is already a credible visual arts registry that functions as a hub connecting registries in eighty eight countries and provides both literal and image-based searches". There is no such registry. b) the "black hole" that is reprographic and other secondary rights licensing in the USA. There is massive secondary licensing taking place in the reprographic rights markets that has been ongoing for the past 30 plus years with combined revenues of roughly $300 million annually. USA artists are not receiving any of this royalty money and the amounts are growing dramatically. Unless something is done to correct the current system, we fear that the creation of an extended collective licensing program will only serve to lock artists out of their secondary rights income forever.

I also support Congressman Jerrold Nadler's American Royalties Too (ART) Act of 2015. It may not be the perfect solution to the current "black hole" that is reprographic licensing in the USA, but it contains a provision that would create an honest visual arts collecting society that would begin returning lost royalties to artists This would at least start to bring transparency, accountability and justice to artists' secondary licensing rights. I thank the Copyright Office for recommending this bill to Congress.

My university art education includes a BFA degree in scientific illustration and a BA in Interdisciplinary studies (photography, graphic design and illustration). Some of my awards include the Joshua Laerme Award for Excellence in Scientific Illustration (Lamar Dodd School of Art, University of Georgia), two Professional Photographer Association (New Mexico) awards for photography and several Georgia photographic exhibition competition awards. My most recent journalist and illustration works were published in Southern Distinction magazine. I re-designed, contributed art, photography and illustrations to the Washington DC Region, Sports Car Club of America (an educational, competition and volunteer motor sports organization) monthly publication. Additionally I have delivered seminars and presentations on publication, layout and design, the process and illustration of an insect/botanical and photographic composition and style. I am a member of the Guild of Natural Science Illustrators (a world wide organization), the Athens Art Association and the Athens Photographic Guild.

Respectfully,

C Olivia (OC) Carlisle