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 (80fr23054)

Dear Ms. Pallante,

My name is Blythe Russo and I am an illustrator. I am writing to you today to speak out against the Orphan Works provisions being proposed and to ask for your help in protecting the rights of artists to their ideas and the work they create.

1. What are the most significant challenges related to monetizing and/or licensing.

Any career in the visual arts is very difficult to break into and it takes a lot of work to remain a working artist once one manages to get a foot in the door. Most artists are independent contractors, thus are essentially self-run businesses that earn their living by licensing the copyrights to their work. I have spent my whole life practicing art; I have a MFA in illustration. I know many artists with low paying jobs and lots of student loans. Artists are in charge of their own health care and retirement plan. Plus they are in charge of finding their own clients/work. Artists have to balance all of this business time with time for creation; therefore, getting paid on time and in full is vital.

In my budding career as an illustrator, I have noticed people aren't very willing to pay artists. And if they are, there seems to be an increase of work-for-hire contracts where the client buys the copyright from the artist. Once that happens, that piece of work is no longer the artist's and that stream of revenue is gone. Since these kinds of contracts are becoming more common, artists unfortunately have to accept them in order to obtain work. Work-for-hire contracts should not be permitted, because as I've mentioned, licensing their work is how an artist makes money. Without the copyright to license, the artist's way of earning a living is gone.

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

Art theft is already a problem. Artists have no choice but to use the web for self-promotion and finding work - which means putting their work out there for all to see. However, many people think that because it's on the Internet, it's fair game to use. Which obviously should not be the case.

Artists make art as their JOB and should be compensated for its use. But with the wide-scope of the Internet, it is difficult to keep tabs on who is viewing your art and what they may be doing with it.

Therefore, the biggest challenge would definitely be financially. Comparatively, visual artists don't make a lot of money. Affording a lawyer to help with any infringement lawsuits would be a hefty burden on an artist. I also don't think many lawyers would take on a case because it wouldn't profit the lawyer enough.

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

With the new Orphan Works provisions, registration of all visual work would definitely be a challenge - regarding both time and money. In order to register ALL future and past work would not only be a burden financially to artists but would take up a lot of time in which they wouldn't be getting paid to make art. Many artists have been working for 30+ years. They would have to register all their work in order to keep the copyright and that could take years. Artists are very prolific - and that just included finished work, not preliminary work and sketches. Also, as proposed in the Orphan Works provisions, the new registries where artists would have to get their work copyrighted would be in the private sector. There is no telling whether or not these private registries would be regulated or if they could just put any price tag on the amount a copyright would cost to register.

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?

Personally, I have never had to make legal use of other visual art. If I do use other artists' work, it's for inspiration or reference only, but I mainly try to rely on my own photos, sketches and/or imagination. As an artist I know the ramifications of infringement and will happily pay what is owed to an artist if I needed to use their work after securing permission/working out a contract with said artist.

Bloggers and various websites have used some of my images, but I haven't minded as long as I am asked for permissions and/or credited. Most importantly, as long as they are not making a profit off my work.

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

Art has value and worth. Art is an artists' currency. That's how we make our money - by creating and owning the copyright to our art. Look anywhere around you and you will see the hard work of artists. The provisions being suggested devalue visual art. And even more so the creators of visual art.

I think the Orphan Works provisions could ultimately discourage people from wanting to become artists and the world needs more creative thinkers not less. However, if there were legislation that says that an artist must pay a registry and file lots of paperwork in order to keep the copyright of all of their work - I wouldn't blame people from being turned off. I am just starting my illustration career and I know I wouldn't have the money or time to register each piece of work I create. Would I not be able to post my work to promote myself as an artist in order to find jobs just because I couldn't afford to register it?

I believe the Orphan Works provisions would make it even easier for people to steal art from its creator. From what I understand is that these provisions are basically saying that if I make an illustration I have to pay to keep it as my own. If I don't do that, what I make - with my own time and years of schooling and a masters degree - then someone else take my hard work and use it for their own purpose without compensating me.

I hope the Copyright Office will read and take in this letter and all the other letters from visual artists. I hope the Copyright Office can work together with visual artists to protect and support the rights to the artists' work.

Sincerely,
Blythe Russo