July 20, 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:

I am a freelance illustrator. I work from my home in central Ohio. It has always been my personal dream to be a professional artist; it's what I've worked towards my whole life. And now, at age 25, I am following my dreams. I am just at the very beginning of my career as a freelance artist, having only started December of 2012 right after graduating. Since then, I have managed to become full-time, and I have clients across the nation. Though I may be small, and though I may be just at the very beginning of what is hopefully a long and successful career, I feel that my voice is valid and should be taken seriously.

Though the internet has it good sides and bad sides in relation to visual artists like myself, I can't deny that the internet is the largest contributor to my success. With the internet, I can showcase my work, and gather clients that I would otherwise never be able to meet under normal circumstances. Without the internet, and social media especially, I would not be where I am today. I would not exist in this industry. I would be working a 9-5 desk job somewhere, or working in retail, instead of following my artistic dreams.

Because the internet has been absolutely *vital* to my success, and because the internet has also, in general, been a very hot topic in regards to art, artists, copyright, art theft, and so on, I am writing to address the important issues we visual artists now face in the digital environment.

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

As a freelance artist, I need to maintain various outlets of income to support myself. The resale of my past images is one of my main outlets. My collection of work is a valuable resource that produces income for me. It is essentially my business's inventory. Any attempt to replace our existing copyright laws with a system that would benefit internet companies would endanger my ability to make a living. It would be the equivalent to someone else stealing my inventory from my warehouse, claiming they don't know who owns it ("orphaned"), and then proceeding to sell for themselves in their own store. And the government would essentially be saying that is legal.

In any other circumstance, that would logically be seen as illegal. Why is art, or digital art, seen so differently? Certain companies have already begun digitizing artists' work without their permission or financial compensation. Why would the government be in favor of this? Why would the government want to support corporations like this instead of those of us who are the actual creatives?

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

The very proposals the Copyright Office has made to Congress deeply concern me. It is essentially a rehashed Orphan Works bill from 2008, but worse. Orphan Works bills have always been firmly opposed by artists in the past. A copyright law built on the foundation of orphan works law would allow internet companies to steal revenue from artists, that those artists are rightfully entitled to, with the hopes of creating an even better revenue stream for themselves. Not the artists. There can be no bigger challenge for those of us who make our living creating new works than to have to compete with giant corporations that can get artwork, without enlisting artists, and compete with us for our own markets. We already have to fight giant corporations now, I can't imagine it getting any more impossibly difficult than it can be now. The big guys (corporations) would be able to effortlessly crush us (the little guys). We artists wouldn't even have a fighting chance.

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

The idea that I have to *pay* to register my own work *as my own,* is baffling to me. It doesn't make sense. Saying that I don't have inherent ownership of the artwork I create, simply by creating it, would be like saying to a mother who just gave birth to her child that just because she made it doesn't mean it's hers. It's absurd. Also, the proposal to reintroduce registration would become another financial burden for artists. No matter how little registries might charge it would still be a cost that shouldn't have to be paid. The costs will add up, and those of us who are really struggling financially will not be able to pay. In the end, if the government succeeds in passing this legislation, the end result will be that artists like myself will find ourselves paying through the nose to maintain our own images while the registries profit from what *should* be our *right* to own what we ourselves create. As for the images we can't afford to register, or those we can't find the time to register, or those who can't find decades old metadata to register, will all fall into noncompliance and a lifetime of images created at great expense and effort will be free to be exploited by others.

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 don't have these challenges or frustrations, personally. I make most of my own imagery and branding myself, so I don't have a need to find work I can legally use for commercial purposes.

On the rare chance that I do need to find work I can use, such as font faces, I make sure those items are available for free commercial use; which does happen. There are places on the internet that showcases work that is free to use with no charge, but it is very clearly designated as such. If I cannot find work that is *clearly* designated as “free” I will **never** use it without permission or without compensation. In the instance that I can’t figure out if it’s free or not I pay for it. Because I **should** pay for it. Because someone put time into creating that item and they should be compensated for their hard work.

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

Artists have already seen their foreign reprographics royalties diverted away from them for at least 20 years. I fear this is exactly what is going to happen with the proposals the Copyright Office has made to Congress.To prevent this unjust conflict of interest, it is essential that no artists group that supports this legislation be allowed to receive any financial benefit from the creation of copyright registries or notice of use registries. These artists organizations have failed artists and should not be allowed to use this legislation to profit even further off the artists they were created to help.

Overall, this Orphan Works Copyright Act looks like a giant, fancy loophole for lazy, uncaring corporations and companies who don’t respect artists to get away with using any artistic resource they want without having to pay for it. It would be all too easy for any company to lie, and say that they “legitimately really did put forth effort to find the artist who made the artwork they want to use, but they just couldn’t find them”. The artwork would be “orphaned” and free to use. How would we regulate this? How could they prove that the artwork is truly “orphaned”? How very subjective this all seems - this would be extremely easy to abuse. What if there *was* a lawsuit? The company or corporation would have millions of dollars and loyal lawyers to back them up in court and the time to spend on a lawsuit. Compared to the humble freelancer making a couple thousand dollars a year (more, if they’re really lucky), by themselves, who would be paying out of pocket with a hired lawyer, going to court with what little if any spare time they have. It all seems very unrealistic.

It would be terrible for artists if it goes through, and it will almost certainly put me out of business and destroy and chance I have at a successful freelancing career. I believe that this Copyright Act truly outlines how little companies and corporations understand and care about art, artists, and our entire industry.

I 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.

Thanks,

- A concerned artist