



October 9, 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
Mass Digitization Pilot Program (Docket No. 2015-3)

Dear Ms. Pallante,

Thank you for the opportunity to comment on the critical issues visual artists face concerning the proposed mass digitization changes and the current marketplace.

I am a professional architectural and historical illustrator and a member of the Society of Architectural Illustrators in good standing. I have been a self-employed artist for 41 years. My work is seen in numerous suites of historical illustrations done for numerous historical sites/museums, scholastic books/websites as well as many architectural presentations for marketing, permitting and funding.

All my work has been copyrighted and therefore copyright **law affects me 'right in the pocketbook'** from the ability to make (or not make when infringed upon) a reasonable living, pay bills and taxes, own a home and collect royalties for granted uses. It is becoming all but impossible to protect my work against infringers/unauthorized uses and collect compensation for those infringements when I find them. My artwork has been my primary source of income for four decades. Proposed changes would endanger my ability to earn a living from my art and collect a revenue stream from it. At this time, the market is forcing small business people like me, a sole proprietor, to compete against large corporations who mostly demand non-**negotiable 'work for hire' contract conditions of any artist who wants to do business with them.** In addition, **existing 'registries' are not protecting their artists as they should and are not paying already collected royalties to their artists as they should.**

The situation at hand is a national disgrace and not benefitting most artist/creators. I urge you not to adopt the proposed changes, **continue to protect our artist's rights as stated in the January 1, 1978 copyright law and support Congressman Jerrold Nadler's American Royalties Too (ART) Act of 2015.**

COMMERCIAL INSTITUTIONAL INDUSTRIAL RESIDENTIAL
FINE ARCHITECTURAL ILLUSTRATION
331 Ridge Rd, Queensbury, NY 12804 PH/FX: (518) 792-0879

Request for Comment

1.a Qualifying Collections

Pictorial or graphic works published as illustrations, diagrams, or similar adjuncts to literary works. My work falls in this category, especially my historical educational paintings. I feel the creator/author (or their heirs/estate) should provide authorization to have their work brought into any ELC pilot on a case by case basis. This is our property and I don't see how anyone else can blanketly okay the use of our property! I cannot walk into any business and okay the use of their property; it should be no different for copyright holders. No one has the right to use, restrict, sell or take our property away without our explicit permission.

1.b Eligibility and Access

I work on numerous projects that require research. I understand the need for access to important material to scholars, higher education etc. My concern is once collections are mass digitized, the digitized collections will quickly become monetized, possibly shutting out those who need access to them the most. I have seen this happen over and over again on the web. Once open research libraries and data banks now require subscriptions or pay as you go. These fees are often unrealistic for already budget strapped projects. A comparable business model would be Adobe software. One used to be able to buy an Adobe program, use it as often as necessary for many years, and update it regularly at no extra fee. Adobe has now split their programs into micro programs available through annual subscriptions. One cannot purchase a one-month subscription to one software program if that is all that is needed.

If the mass digitization pilot goes through against most visual artists wishes, I strongly feel material should available to the public, online, period. It is our tax dollars supporting all of this, so we have paid for it and should be able to use it.

1.c Security Requirements

I am very doubtful any adequate security measures will be completely effective. The largest, richest corporations get hacked regularly. Even the United States SAM (System for Award Management) system was compromised several years ago-I was on the list of those whose information may have been compromised & had to have 12 nerve racking months of (provided by SAM) constant credit watch. If SAM can't remain secure, who can I ask?

2. Dispute Resolution Process

My only comment is that my experience with mediation normally results in splitting the goods or averaging. If a party is clearly in the wrong, this is not an effective way to collect damages or get justice for the person seeking justice.

3. Distribution of Royalties

Royalty distribution for visual artists in the US is not working now. A huge amount of royalties are being collected but not distributed. The agencies collecting these royalties often claim the author has not been located or identified. I believe it has been already documented that those attempts were

mostly very poor attempts to locate the author. By claiming this, the existing collection agencies have enriched themselves, not the artists they are supposed to be protecting and acting on behalf of. I fear the same situation would occur in the proposed pilot. Should this pilot go through, payment royalty should be monthly. Please remember this is income for the use of property of the creator. I ask: how long would the staff of the Copyright office be willing to wait for their paycheck of work done? Quarterly? Annually?

4. Diligent Search

I would say a visual search should be available, so if the signature, date or other information has been removed, one could reclaim their work by visual recognition. Having vital information removed is a very common and increasingly dangerous threat to creative property identification. It has happened to me many times with copyright written material.

I am running out of time. I would like to mention I also responded in much greater detail in the Visual Works Notice of Inquiry Comment. My pdf is included in the **"Direct Initial comments" PDF** under **"L.H.Barker" pdf**.

Thank you for allowing my voice to be heard. As I stated in July 2015 Visual Works comments, **please continue to protect our artist's rights as stated in the January 1, 1978 copyright law.** As artists, we seem to be losing this battle to protect our property and our guaranteed rights and I find this very disturbing.

Sincerely,

A handwritten signature in black ink that reads "Les Barker" followed by a horizontal line.

Les Barker
L.H.Barker
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Queensbury, NY 12804
518 792-0879