Copyright Protection for Certain Visual Works (Docket No.2015-01)

Maria Pallante
Register of Copyrights
U.S. Copyright Office
101Independence Ave. S.E.
Washington, DC 20559-6000

July 19, 2015

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

Greetings Maria,

My name is Kendra Minadeo, I am a freelance watercolorist and illustrator working in Los Angeles. I am a self taught artist relatively new to the professional world of illustration. Currently I work with small pop culture galleries to create licensed or tribute work for shows and releases. Most recently, working with **Marvel** and **Hero Complex Gallery** to celebrate their latest **Avengers film "Age of Ultron".** With every show and online release, my work becomes more desirable and my fan base grows. My aim is to expand into children's books and produce my own works.

Though online is how I meet most of my fans and share and sell my work, I am writing to address the problems visual artists face in the new digital landscape.

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

As a freelance illustrator, I need to **maintain multiple revenue streams** in order to make a living for my family. The resale of my past artwork is a large part of how I do business. **My collection of work is a commodity that clients, galleries and fans appreciate, find valuable and are willing pay money for.** Any attempt to replace our existing copyright laws with a system that would benefit internet companies would **endanger my ability to make a living and provide for my family.** Certain companies have already begun digitizing the work of my fellow artists without permission or financial compensation. Why would the government favor corporations like this instead of those of us who actually create new work?

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

The very proposals the Copyright Office has made to Congress concern me. It is essentially a revised Orphan Works (OW) bill, but would be even worse. Orphan Works bills have been resoundingly opposed by artists since they first appeared a decade ago. **A copyright law built on the foundation of orphan works law would allow internet companies to syphon off revenue from artists with the hopes of creating an even better revenue stream for themselves.** 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 free from artists and compete with us for our own markets.

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

The proposal to reintroduce **registration would become a huge financial burden for artists, the death of my freelance business, if not, my profession.** No matter how little registries might charge in the beginning, like banks, they would soon begin to introduce charges and fees that would grow as they gain a greater and greater competitive advantage over freelance artists such as myself. Anyone who says this won't happen is not living in the real world. 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 images in somebody else's for profit registries. As for the images we can't afford to register, or those we can't find the time to register, or those we 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.

What are the most significant challenges or frustrations for those who wish to make legal use of photographs, graphic art works, and/or illustrations?

Like most artists, I use photographs and works by other artists as reference or inspiration but my work has always been the work of my own hands. My only public use of other people's material is the fair use I make of it on social media. On it, I occasionally write about the work of some artist I admire, or pay tribute to the work of a colleague. In those cases where I include images, I credit the sources and provide links where available. If I can't credit some work that I'd like to use, I use a work I can credit.

In a similar vein, I'm aware of multiple blogs where other people have used my work in similar non-commercial postings. In every such instance of which I'm aware, the authors of these blogs have credited me, and I have never objected to such uses. So, based on this experience, I would suggest that where **the current copyright law is working, it is working as intended,** compelling a certain rigor regarding the use of work that I fear will be lost entirely if the laws currently being proposed are liberalized to permit massive commercial infringement.

Libraries and museums, of course, would probably require more latitude than I should be given, for archival and preservation purposes. But it is my understanding that in their most recent filings with the Copyright Office, they believe that recent legal decisions expanding fair use exceptions are all they need for their purposes. If that's the case, then the original justification for orphan works legislation has vanished and the cause stands exposed as simply a drive to permit the commercial infringement of copyrighted art by working artists. And since there can be no just excuse for that, I, like most of my colleagues, believe that the orphan works crusade should be dropped and copyright law strengthened to "promote the useful arts."

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

The kind of system the Copyright Office has proposed to Congress seems all too familiar to me. **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 imperative 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.

Thank you kindly 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.

Best,

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