Kelly Leahy Radding
9 Westgate Road
Columbia, Connecticut 06237
(860) 208-2353
www.leahyraddingart.com

Contemporary Artist-Naturalist

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 (Docket No. 2015-01)

To Whom it May Concern:

My name is Kelly Leahy Radding. I am a fine artist who makes my living off of selling my original art, licensing the rights of my original work to companies whose philosophies and standards of excellence match my own, and teaching workshops based upon my reputation in the fine art world.

I am writing to address the problems both commercial and fine visual artists face in this new digital age environment.

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

As a fine artist who works in a time-consuming style/medium, I do not create many works in a years' time. This does limit my potential annual income from the sale of my original artwork. I rely on the ability to license my work to companies I choose to work with to increase my annual income. In this new digital world we visual artists are encouraged to have an internet presence both for exposure and sales, but the very nature of the internet has led to much illegal use of our own works which are protected under the current Copyright Law. There are internet companies that have already 'stolen' my work from my internet presences without my permission or financial compensation. I have worked very hard over my career to build up my reputation and the illegal use of my fine art images for cheap derivatives undermines all of that hard work over the past 30 years. I cannot believe our government would cave to the pressures of large corporations to change the Copyright Law at the expense of the thousands of artists who create the art.

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

I am very distressed to see that the proposals that the Copyright Office has made to Congress is essentially a revised Orphan Works bill, but in my opinion would be even worse. Visual artists vehemently opposed Orphan Works bills since they appeared a decade ago. A copyright law virtually built upon the foundation of orphan works law would open the floodgates of large, influental internet companies to increase their own revenue at

the expense of the artists who create the works. I can't think of any bigger challenge for us visual artists who make our living creating new works than to have to watch our images 'stolen' from us, essentially 'for free' where we would then be competing with ourselves for our own market and market share. It is a losing scenario for us as these large corporations would be able to offer our work for a much lower fee due to the shear volume of works they have available to them to create their own revenue stream. I believe that this situation is fundamentally illegal, unethical and would be insurmountable to many visual artists.

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

The proposal to reintroduce registration would become a major financial and time-consuming burden for artists. Even if the registration fees were minor to begin with (and I consider 'minor' to be a relative term) I truly believe that as the registration company(s) began to realize a profit the fees would increase and there would be extra charges, etc created to gain greater profit at the expense of the artists. I believe that there are artists who make a comfortable living but most artists I know struggle to make a decent living. Another challenge is the sheer amount of time artists would have to spend to gather all the information, fill out paperwork, and track down all the metadata for older works. That is simply not a feasible expectation. This would really add injury to insult as all works not accounted for would fall into noncompliance and would then be free to be exploited by anyone who chooses to.

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 very rarely make use of photographs for reference in my own work, but when I do, I come to an agreement with the artist for a fair use fee. The frustrations I see in this issue is the advent of 'sharing' in the internet environment, especially across social media. Images are shared across the various social media platforms with no credit given to the artist so even if someone wished to pay a fair compensation fee to the artist, it is most of the time virtually impossible to locate the artist. I do believe that most users sharing images without copyright information or even just the artists name, are doing so ignorance of copyright law and issues, but it creates an environment for rampant illegal use of artists images. I believe that the issue of 'Fair Use' will alway remain an amorphous and exploited idea, and would be a difficult issue for an artist to challenge.

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

The proposal to create a Small Claims court for artists to fight illegal use of their works is a farce. I don't believe that challenging illegal use of our art would be a simple matter. No matter how it is set up, corporations will still have copyright attorneys on retainer whose sole job is to win these challenges for their clients. Most artists take care of all aspects of their business, bookkeeping, marketing, etc all the while still trying to create their art; they will not be able to afford the lawyers fees to fight the illegal use of their works and would not be able to afford to take the time away from creating their livelihood to pursue in a court of law. This proposal is just paying lip service to artists; I believe it would only serve to validate that the Orphan Works proposal once again has been created to benefit the large corporations with strong lobbying positions and will only harm the livelihood of artists.

I thank you for taking the time to read 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.

Respectfully,

Kelly Leahy Radding