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Library of Congress
Register of Copyrights
U.S. Copyright Office

Comments: Notice of Inquiry, Copyright Office
Copyright protection for Certain Visual Works
Docket # 2015-01

To the U.S. Copyright Office Administrators,

Thank you for the chance to write to you this month in relevance to the Notice of Inquiry on Visual Works, and the changes being proposed by the 2015 Orphan Works and Mass Digitization Report. This is my first attempt in writing my concerns to the U.S. Copyright Office, and I am hoping that my input adds aid to some of the legal differences being made by the drafting of the new copyright act.

In brief background of my creative work and myself thus far, I will note that my efforts in my output of images and artworks online and for the current digital market has been minimal and recent, relative to only the past 2 years. So my knowledge on self-marketing and copyright protection online is very limited to my experience in having my images, art and ideas published for digital media and social networking, as an artistic persona.

I've personally been learning art and design for about 5-6 total years. I started comic book layout and illustration for small clients around 2009, which was never known for fair or reliable compensation. I began my understanding of digital mediums 3-4 years ago, and now have separate clients I'm developing projects for at the age of 22.

Although my development is going slow, like many creative individuals, I can't be too fond of exploitation of my creative works, in any legal situation. For me (and many other artists who own and want to own their own Intellectual Property(s)) legal regulations and copyright laws are complex topics and I alert that my information on this legislation may be respectfully misdirected.

It has been brought to my attention that the changes being considered are not healthy for my adventure as an entrepreneur or developer. Right now I feel as though everything involved in the Copyright Act that is currently set in place is perfect for me to self-publish my works, and I don't feel that should change anytime soon.

My adaptation to selling and publicly showing my works is very new and it would be unfortunate if my works were to be registered under this new act. I would not authorize the use of my creative works and photographs by secondary or third party individuals, groups, or companies. Monetization is actually also a new and complicated subject to me since I've only begun monetizing my work and having it available for commissions and print sales, YouTube, etc…

With my best interest in courtesy and knowledge I will now answer the questions posed by the Artists Alert/Notice of Inquiry:

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

I believe that there are always people out there trying to acquire something they can't develop themselves, and in that comes people and companies who would love to have the legal rights to use these developments, freely. However, that's a detriment to the artists who do accomplish these developments. Monetizing one's own publications isn't a simple task. It requires competition with falling prices. You worry about others monetizing your works on similar sites/feeds/channels. You worry about accidentally using other works, such as photographs, audio samples, etc… So being able to give them the rights to monetization is important as well. And more power is put into the work if the artist also develops his or her own audio or photo references.

There are always artists who will do certain works for lower prices because they need the job in order to provide for their expenses. It's a scaling challenge and when you monetize various publications like videos and other services like selling Gumroad or Patreon materials, or even prints of digital works, you want to be sure you are the only one getting the incoming revenue from that project. Otherwise, the person who would have free rights to publish my works might as well help me pay my bills! But they won't and they're more likely to remain anonymous. I haven't monetized my work for long, but it's been brought to my attention that keeping the rights of income to my work might be impacted and would make it harder to publish so many works, as I have until now, with the proposed Orphan Works Act.

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

If you or your work is infringed upon and exploited without consent to gain monetization, then infringement lawsuits are highly costly, and you have to hire a fair attorney, and the policies being proposed by the orphan works to Congress would have even more an impact on such bankruptcy for many artists. If all infringement cases were a practical matter under the orphan works legislation, it would be troublesome for artists to monetize and gain a valuable income form their own properties. Copyright attorneys would not take most cases if they were a possible orphan works infringement.

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

There are expenses, I believe. Again, I've been exposed to the legality of the artistic digital world for such a short time I don't know much about it! But it all depends on how MUCH work you have to register and pay for. It takes time, it takes paperwork and for the most part the current copyright law of 1976 seems to work with the economic standpoint of most artists. However, in the case that artist's works were to be legally orphaned and freely used/altered by second and third party infringers under the new legislation, the costs to register as well as to afford countless lawsuits for multiple infringements would be phenomenal. This is even coming from an artist who has a hard time monetizing a solid income and registering their works because it was never brought up as a concern until now. It would detriment my real-life living situation, without doubt and halting certain infringers from selling /altering my orphaned works would be a horribly difficult task. My first incentive would be to stop producing work all together!

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 live in a time where most photos, tools and artworks are posted online for anybody to browse or use. When I'm using photographs or other "tools" from artists (like brush sets or 3D kitbash sets) there's always a concern for them to notice your usage. And if the publications are subsequently free, then most times it's ok! The artist has given you permission to either download it for free or purchase it for a fee. But with the broad spectrum of images being on search engine platforms like Google and Bing, one might accidentally use someone else's photographs.

-Personally I try to develop my art from my imagination, strictly out of original designing. There are times that I've used photos In experimentations of my artwork but I try my best to completely modify the image to absolutely no recognition, or just take my own photos! And in terms of audio use, I try to stray away from using other people's recordings and create my own. When artists go through the trouble of "full on" development for the sake of avoiding infringement on another's part, someone else should not legally have the right to steal their original work.

While image manipulation can be done by other infringers as well, the new laws propose that even the slightest alterations to any image or artwork I post and register will be allowable and not totally an illegal case on the infringer's part. Massive commercial use of my hard works would be allowed and I would receive no income. For all I know, an anonymous infringer would be making more money from my works than me.

Because of this I believe the orphan works proposals should be dropped and copyright law preserved for rightful art usage and ownership rights to acquire an income from such.

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

I can only attest to the small bits of information I've been exposed to and I can simply speculate on what other unknown challenges might need attention with any upcoming law changes. Since those challenges (to me, as an intermediate) aren't known, I can't fully answer with a personal reference, based on experience.

As of now, my dialogue has been extracted in bits from the example letters that were provided, although my opinion on the matter matches the specific thoughts shared by those artists. I can't agree any more that we need a copyright act proposal that is in favor of benefiting individual creators first, and not secondary or third party infringers. Secondary rights licensing in the U.S. under the orphan works act should not be legislated. The technologies and accessibility to copyrighted works have expanded so much that large registries of photographs; artworks, audio files, etc… would be open to these extra parties, if they so happen to exist. Having orphaned works exist outside of a feasible registry would create more competition for both freelancers and companies. Rogue organizations and websites gaining any claimed royalties or revenue from illegal licensing would gain more over artists. Although these issues are already occurring proponents that are enacted without the consent of most artist, it would be even more difficult to keep a job or charge enough to live when making contracted commissions.

I follow the words and description given by artist, Brad Holland, who, in conclusion, supports the American Royalties Too (ART) Act of 2015. In his letter, I found a lot of information to agree with, most of which I had not known myself. But I too believe in this act as a start to finding solutions to secondary infringements and returning the royalties to the rightful creators. I'd be positively in favor for most solutions that keep the rights and income in the hands of hard working creative individuals and not legally allowed to those that "steal" or "alter" others' works on unknown or unlawful image databases.

Thank you, with deepest regards to the U.S. Copyright office, and their Notice of Inquiry, for allowing me to voice my concerns on this day. As a beginning artist, I can only hope my voice and contribution adds to the larger solutions in the passing of these laws.

Sincerely,