July 21, 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 Joy Toltzis Makon. I am a nationally known New York City based graphic designer, art director and fine-art painter. Since 1976 I have produced and published work for many mass market and trade publications such as *Family Circle, Scientific American, Harvard Business Review, The New York Times, Hearst Magazines, Ms Magazine.* I have been a member of the Society of Publication Designers and The Art Directors Club and have been an advocate for protecting, collecting and distributing long-overdue foreign royalties to artists.

I am writing to address the problems visual artists face in the new digital environment.

1. What are the most significant challenges related to monetizing and/or licensing photographs, graphic artworks, illustrations and fine art?
As a painter and designer, I need to maintain revenue streams in order to make a living for my family. The resale of my past images is part of my day to day way of doing business. My collection of work is a valuable resource that produces income for me and my family. Any attempt to replace our existing copyright laws with a system that would benefit internet companies would endanger my ability to make a living. Certain companies have already begun digitizing my work without my permission or financial compensation. Why would the government favor corporations like this instead of those of us who actually create new work?

2. What are the most significant enforcement challenges for photographers, graphic artists, illustrators and fine artists?
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 tocompete with giant corporations that can get artwork free from artists andcompete with us for our own markets.

3. What are the most significant registration challenges for photographers, graphic artists, illustrators and fine artists?
The proposal to reintroduce registration would become another financial burden for artists. 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.

4. What are the most significant challenges or frustrations for those who wish to make legal use of photographs, graphic art works, illustrations or fine art?
In my work I make fair use of photographs and other graphic artworks for reference, and obtain permissions and give credits for other contributor work, but that is about all.

5. What other issues or challenges should the Office be aware of regarding photographs, graphic artworks, illustrations and fine art 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.

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.

Thank You,

Joy Toltzis Makon

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Joy Makon Design
specializing in art direction and graphic design
on paper + online

NEW: watercolors @ joymakon.wordpress.com

email: joy.makon.design@gmail.com
studio: 718/499-8370
cell: 917/535-3949
fax: 719/466-9091 (yes, 719)
41 Fuller Place, Brooklyn, NY 11215
www.joymakondesign.com/about.html
www.linkedin.com/in/joymakon