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

Ms. Pallante,

I am a self-employed photographer and have been in the business of creating images and licensing rights to those images since 1985. Copyright is the basis of my income and ability to support my business. It is the only way I have to protect my images, and to negotiate a fee for licensing of said images. 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, and/or illustrations?

Resale of my images is part of my day to day business. My images are a valuable resource that produce income for me. Any attempt to replace our existing copyright laws with a system that would benefit others would endanger my ability to make a living. Certain companies have already begun digitizing my work without my permission or financial compensation. This is theft of my personal property. It is important for my business that I control all uses of my images.

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

The biggest challenge to monetizing/licensing my images is to keep control of where it appears and who uses it, and to keep my copyright notice and contact information associated with the image. I attach metadata with my name, copyright statement, and my website URL to my image files. The metadata is almost always removed from the image by every website the image appears on. I also watermark the images posted online - but there is software and tutorials instructing users how to erase watermarks. Removal of the metadata and watermark make it impossible to prevent my images from being considered orphaned.

The only real protection for creators would be to eliminate the concept of orphan works altogether. It should be it illegal to remove a watermark, illegal to remove metadata, illegal to remove copyright information, and illegal to mass digitize any works not in the public domain without written permission from the creator.

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

A requirement to resubmit all of my work to a different registry would be devastating to my ability to claim ownership and therefore license any work in the future. I have registered much of my work with the US Copyright Office. The Copyright Office has these records and all of the associated images. If there is to be a clearing house for image searches, it should be the Copyright Office, with no additional fees or labor required of the creator. It would be physically impossible for me to re-register, scan or photograph the hundreds of images I have created over the years. As for the images I can't afford or find the time to register, those would fall into noncompliance and would 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, and/or illustrations?

I know of no challenges or frustrations in making legal use of visual art.

I am very troubled by the overall tone of the proposed language that potential users rights are equivalent to those of creators. They are not. If I as the creator do not want my image licensed beyond the original use, that is my choice. If I want to sell an image only once, that is my choice, the potential user should not be able to claim otherwise. If I want to create an image and never license it at all, that is also my choice. Potential users have no rights to my images. If a potential user wants to further their business by using imagery, and can't find an image they can legally use, then they can do what has been done for the decades before electronic file sharing - commission a new one, and keep photographers working.

Sincerely yours,

Jo Ann Aiello