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Maria Pallante
Register of Copyrights
U.S. Copyright Office
1001 Independence Avenue 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)

Dear Ms. Pallante and Copyright Office Staff

Thank you for this opportunity to further express my concerns on the affects of possible copyright law changes on the fine artist and the illustrator.

I am a successful illustrator and fine artist who has for past 68 years served the advertising, editorial, public relations and historical documentation needs of the aerospace industry, publications, the military services and air and space museums. I have great concerns over the possibility of changes in copyright law which will greatly reduce the value of my and other artist's inventories of past and future intellectual property.

My entire career has relied on the protection and licensing of intellectual property and the careful managing and control of copyrights.

The most important event assuring the viability of a career for creators of art and other intellectual property in my lifetime was the enactment of the Copyright Law of 1976. This Law made earning a living through the creation, sale and licensed use of art much more likely for America's artists.

In accordance with Article 1, Section 8 of the Constitution of the United States which gives congress the power, among the many listed to: "promote the Progress of Science and the useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries", automatic copyright protection bestowed on the author (artist) in the 1976 act without the requirement for registration guaranteed the author of works created after January 1, 1978 the exclusive right to control

his/her copyrights for life plus seventy years. The only way the creator can lose his/her exclusive rights to his/her intellectual property is to transfer them to someone else in writing.

The Constitution having encouraged congress to bestow these rights on the creator of intellectual property I see no words allowing congress to remove these rights by government action.

An artist's copyrights are infinitely divisible. They are valuable personal property providing a source of income far beyond that realized in their first licensed use. One's inventory of copyrights is a critical asset and a valuable part of the artists' business plan. The advent of rapid communication provided by the internet has added considerable value within our personal inventory of copyrights.

Any law bestowing rights on third parties to infringe the exclusive rights of creators of intellectual property would appear to be an abdication of congress' duty under the Constitution to "promote the Progress of Science and the useful Arts".

Government legalization of copyright infringement would remove the artist's exclusive right to control his/her copyrights and amount to *government openly encouraging* theft of the artists' personal property. This would be the same as government encouraging stealing of money belonging to the artist.

Such a law would also remove artists' current remedies for infringement under Chapter 5, section 501. These allow the grant of court injunctions; the impounding and disposition of infringing articles; the recovery of damages and profits and Statutory Damages for willful infringement. The threat of legal action has served as a serious deterrent to willful copyright infringement.

Any plan which reverses current law and requires registration of an artists' entire inventory of copyrights to avoid exposing them to potential infringement would be unconscionable. For artists with huge bodies of work

this would be a total disaster. Few, if any artists will have the time and/or financial assets available to register their entire inventories.

Mandatory registration with a commercial entity would place that entity between the artist and the buyer and would remove the artist's exclusive right to control his/her intellectual property guaranteed under current law.

I expect such a government action would serve to dampen creativity (the exact opposite of the primary purpose of copyright law) while reducing the ability of the nation's artists to make a living in the arts.

There are many contractual arrangements in place across the art industry in danger of being negated by government action. Entire business models are in jeopardy.

Art Collectors around the World own valuable limited edition prints created by our nation's artists. The majority of these editions are long out of print, their value deliberately designed by their business models to increase in value through planned scarcity, a business model which has created a valuable after-market for thousands of signed and numbered limited reproductions. These limited prints are accompanied by Certificates of Authenticity which legally bind artist and publisher in guaranteeing the buyer that there will never be another fine art edition created of the work. If the copyright law were to no longer honor the creator's control of his/her copyrights promised for life plus seventy years, it will no longer be possible for artists to guarantee the integrity of the limited edition print. Owners of these limited editions will lose the value of their investments if unauthorized copies were to come on the market. That is exactly what would happen if artists lose control of their copyrights and infringers are encouraged by law.

The artist creating the work and purchasers of the work mutually rely on the integrity of these certificates and limited editions as do the many States with laws requiring the inclusion and honoring of Certificates of Authenticity.

I am personally honored to have 62 major paintings in the Air Force Art Collection. Any law that were to compromise my copyrights in those paintings would undermine their value to me and all the other artists who, in good faith, have donated their work to the country while retaining the

copyrights in the works. Any change in copyright law which would remove artists' exclusive control of our copyrights retained in these donated works would greatly impact our future income streams, and amount to theft of this vital source of income.

Removal of this opportunity for return on art donated under the Air Force Art Program could also have an adverse effect on artist interest in participation in this important program.

A few final thoughts:

Artists and creators of intellectual property who are aware of these potential threats to their livelihood hope that the government will decide to continue constitutionally mandated protection of the rights of our nation's artists.


Everyone must understand that the theft of value in an artist's inventory of copyrights will also adversely impact his/her potential retirement income.

It is also worth noting that the freelance artist is engaged in an unpredictable vocation without employer provided health insurance, maintains his/her own retirement plans and carries no unemployment insurance. The self employed shoulders full responsibility for all of these requirements while carrying full social security contributions and all of the usual requirements of family.

It makes no sense for the government to support a bill designed to reduce the taxable income and potential savings of artists, destined to adversely impact the business and livelihoods of this entire segment of America's industry.

I am grateful that my own successful career has been made possible by the exclusive right the exploitation of my intellectual property as guaranteed by the Copyright law in effect since January 1, 1978.

Very respectfully,



Keith Ferris

Career Freelance Artist/Illustrator

Founder, American Society of Aviation Artists