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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)

Dear Ms. Pallante and the Copyright Office Staff:

I would like to first thank you for the opportunity to comment on this important issue. I am a professional artist and have been working as an artist and furthering my education as an artist for the past ten years. Since 2011 I have worked from home as an artist full-time and feel that I can provide a valuable perspective on how copyright law actually works, and why it does not need to be changed.

In 2008 when the Orphan Works Act was first proposed, I was completely appalled. As a student in art school at the time, I wondered if there was a point in continuing my education. Certainly I cannot live in a country where anyone would even consider allowing a corporation which makes many thousands of times more money than I do

each year to use my artwork without pay, license, or even measly recognition. But apparently, I do. And not only has this been considered once, but here I find myself puzzled over the fact that it is being considered twice.

I began working towards my dream of being a self-employed full-time artist when I was 15 years old. I lived in rural Washington and there were not many local resources for a budding artist, so I spent much of my time with my nose buried in technical books and scouring the Internet for advice. At the age of 17 I began selling my art, and have ever since. Now at 27 years old, the sales of my art helps to provide food, shelter, clothing, and education for my family. Like many families in America, we depend on two incomes to get by. Because of this it is of the utmost importance that I protect my work, and specifically the value of it, so that I can continue to create it for my fans and for my family. However, I fear that the changes being proposed yet again will threaten, and perhaps destroy, my ability to continue supporting my family and creating my art, and will destroy any opportunity for younger artists to get started.

Now, for the questions that you have posed:

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

To be frank, the most significant challenges are copyright infringement from companies who could pay but choose to steal instead. I no longer have the time to go after individuals who misuse my artwork, because theft of intellectual property is so rampant and widespread. I don't understand why the government would favor this kind of behavior from corporations who could and should pay when they use material created by others. It seems fairly black and white to me that what is being proposed is legalized theft, and is wrong.

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

Currently, enforcement is often out of the question. As I mentioned previously, abuse is so widespread I can no longer go after each individual who misuses my art and must focus my attention instead on companies, publishers, and corporations who are able to cause more damage to my sales based on their ability to reach more people than your average individual. I already cannot compete with these corporations, and giving them the ability to take my artwork from me and sell it in my own market would make it a hopeless, and pointless, endeavor.

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

What is being proposed would create such a massive financial hurdle for many self-represented artists that few would attempt to jump it. For an artist like myself, who creates over a hundred sketches, studies, miniature paintings, and full-scale finished works a year, registration would be impossible. I would have no choice but to increase the prices of my works astronomically to recoup my registration costs, which would significantly lower my audience and my ability to sell my work to anyone.

In addition, retroactively registering my previous works - of which there are well over 700 that I can recall, would be impossible. I would have no choice but to leave those works unregistered, and any hope of a revenue stream from the licensing and sales of my previous works would vanish. That revenue stream, those royalties, make up a huge chunk of my annual income. For many artists, retirement depends on having a huge pile of intellectual property that they can sell and resell for the duration of their lives. For many artists, the estates we will leave our children consist of royalties from this intellectual property. The proposed changes would obliterate that completely. Over 700 of my own works, representing thousands of hours of sacrifice and study, thousands of dollars in materials and educational costs, would now be free to others who made absolutely no sacrifice of their own to gain the use of them.

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 frequently purchase stock photographs from photographers to use as reference materials for my paintings. I have encountered no frustrations in doing so. The process

is simple and often I do not even need to interact with the photographer to purchase their work. Even as an independent artist, I am able to afford to buy hundreds of these photographs per year.

When licensing my work out to others, there is usually a contract that must be signed, and then the digital high-resolution scans of my artwork are delivered either by myself or my agent. This is also not a difficult process and I don't see any issues with it or any possible way it could be improved.

Furthermore, this gives me the ability to choose which companies I want my artwork, name, and brand associated with. Taking this away from me would mean that groups who hold beliefs that I find abhorrent would be able to take my art from me and slap it all over products I want nothing to do with, the profits from which could be used to further their own impact in the world. Companies who refuse to treat their workers with dignity and respect have already printed my artwork on t-shirts in Chinese sweatshops. If copyright law were changed, nothing would stop them from doing this anywhere they could get away with it.

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

I have been alarmed to hear the representations made by the Copyright Office to Congress about a supposed "registry" which already exists. There is NO such registry that myself or any of my colleagues have ever heard of. This is a disgusting misrepresentation and over-simplification and frankly it makes me sick to my stomach to consider the number of hours I or my husband/assistant would have to spend at a computer, registering my entire body of work - if it were even financially feasible, and it's not. This registry is complete make-believe and I wonder who would pay for putting such a thing together. The system we have currently for registering works is fine and one of the best in the world. Creating a new system would be a waste of tax-payer dollars, and would be designed only to bilk millions of dollars out of an industry that is already under-appreciated and underpaid.

I am concerned that this will kill American art. I am concerned that this will damage artists' First Amendment rights to free speech, since the only ones who will have free

speech if these changes are made are those who can afford to use it. It will deter artists from posting their works online, as if current infringements weren't enough deterrence in the first place. I am concerned that those who can, will leave our nation for greener pastures where the government is still protecting artists' work.

I worry that the financial burden will be too much and a generation of artists will be wiped out. Perhaps the Copyright Office and Congress are not aware, but most artists do not have the luxury of an employer who provides insurance, retirement plans, and other benefits. We work in an industry that is unpredictable and can be a "feast or famine" environment. We alone carry full-responsibility for our insurance, retirements, and social security, plus all of our living expenses. Leveraging massive registration fees against our art would make the creation of art a lose-lose pursuit for many, if not most, artists.

Ultimately, tax dollars from our businesses would dry up, our art would disappear, and our society would lose the most of all. America has a rich heritage of illustrators and fine artists, and has often been a haven for foreign artists seeking a society that would allow them to pursue their artwork without the threat of religious or puritanical persecution. We will not be that anymore if the government stops protecting our artists.

Independent artists already have many challenges to face when it comes to earning a decent living. The proposed changes would erode earnings not just for American artists, but potentially for artists worldwide, and would reward morally corrupt corporations and individuals, who have already devalued creative and intellectual property with their past exploitations of artists. This proposal is unconstitutional and criminal, and should be dismissed for being the protection racket it truly is.

Sincerely,

Tiffany Toland-Scott