Library of Congress
U.S. Copyright Office
Docket #2015-01

Ms. Rowland, et al:

As an artist in the entertainment industry and as a graphic designer for more than thirty years, much of my art has been Work For Hire, but many photos and other visual art I have produced independently, or may produce in future, that currently are protected under copyright law could be, to put it bluntly, stolen if the proposals the Copyright office has made to Congress were to be put into effect. Artists' exclusive right to their own work, like other creative output, is protected in Article 1, Section 8 of the U. S. Constitution, with very limited exceptions, on which Article 9.2 of International Copyright Law has put strict limits. Even now these limited exceptions are being exploited by organizations who do not have any right to the work whatsoever, for licensing or otherwise. Under the proposed rules, such companies, registries, individuals, etc. could sell any and all works as their own unless, for a fee, the Artist who created them had the time and financial ability to go through a rigorous registration process. Since the exclusive rights are guaranteed by the U.S. Constitution, the U.S. Government is obligated to protect those rights, not hand off some dubious registration process to some pirate contractors. Oops, did I mistakenly say "pirate" instead of "private"? No, no mistake; that's what the proposed process would engender - piracy.

Let me address your questions briefly.

1. What are the most significant challenges related to monetizing and/or licensing photographs, graphic artworks, and/or illustrations?
Digitization and sale by unauthorized others of my work for their own profit, and/or use that I might deem inappropriate, that might defame myself or my art.

2. What are the most significant enforcement challenges for photographers, graphic artists, and/or illustrators?
In the current digital climate, artists often have trouble even knowing if their work is being exploited by others, but at least current Copyright Law give us some recourse, whereas the proposed changes would, in effect, take away the ability to challenge ownership of said work. Orphan Works bills give agencies, companies, etc an open door to steal material, as there would be no incentive to find the owner of the art, and every monetary incentive to steal it.

3. What are the most significant registration challenges for photographers, graphic artists, and/or illustrators?
Simply put, time and money. A complicated and fee-based registration process puts an undue burden on an artist who is trying to produce art to make a living. And privatizing (pirating) registration will lead where other privatization efforts in other areas has led - to exploitation. Like government contractors that charge the government (ie. the taxpayers) outrageously inflated fees for goods and services, private registries would be incentivized to profit from artist's work, directly contravening the protections of exclusive right of the creators to their work in the Constitution.

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?
If he/she/they can't find out who made it and be willing to make an offer of payment, a person, company, agency, etc. should not be allowed to use the Art. It is not theirs to steal, whether or not they can track down the source.

5. What other issues or challenges should the Office be aware of regarding photographs, graphic artworks, and/or illustrations under the Copyright Act?
Any so-called "registries" or artist's "groups" that claim to represent artists must be completely transparent and prosecutable, and must dispense a reasonable measure of any profits they might acquire by sale or "licensing" of art they purport to represent. Royalties on other works, literary, musical, pharmaceutical and so on are an accepted international norm. Artwork should be treated equally fairly. It is in the public interest to protect the rights of creators of art, and allow them to earn a living from their art, free from competition with pirates and corporate syndicates. Otherwise, Art with a capital "A", will vanish from our cultural landscape.

Thank you for considering my input. I urge you to recommend that there are no "Orphan Works" provisions that apply to the Visual Arts in any new Copyright Act produced by Congress; and that it furthermore supports the production and just stream of compensation for art provided to other creators of intellectual property, etc.

Sincerely,

Toni Vian