

Copyright Preregistration: A Study of the First Seven Years

Dotan Oliar & Nicholas Matich
University of Virginia Scholl of Law
Berkeley School of Law, April 19, 2013

Origins of the Preregistration System

- *The problem: prerelease infringement (Hulk)*
- *The solution: preregistration*
 - The Family Entertainment and Copyright Act of 2005
 - 17 U.S.C. § 408(f)

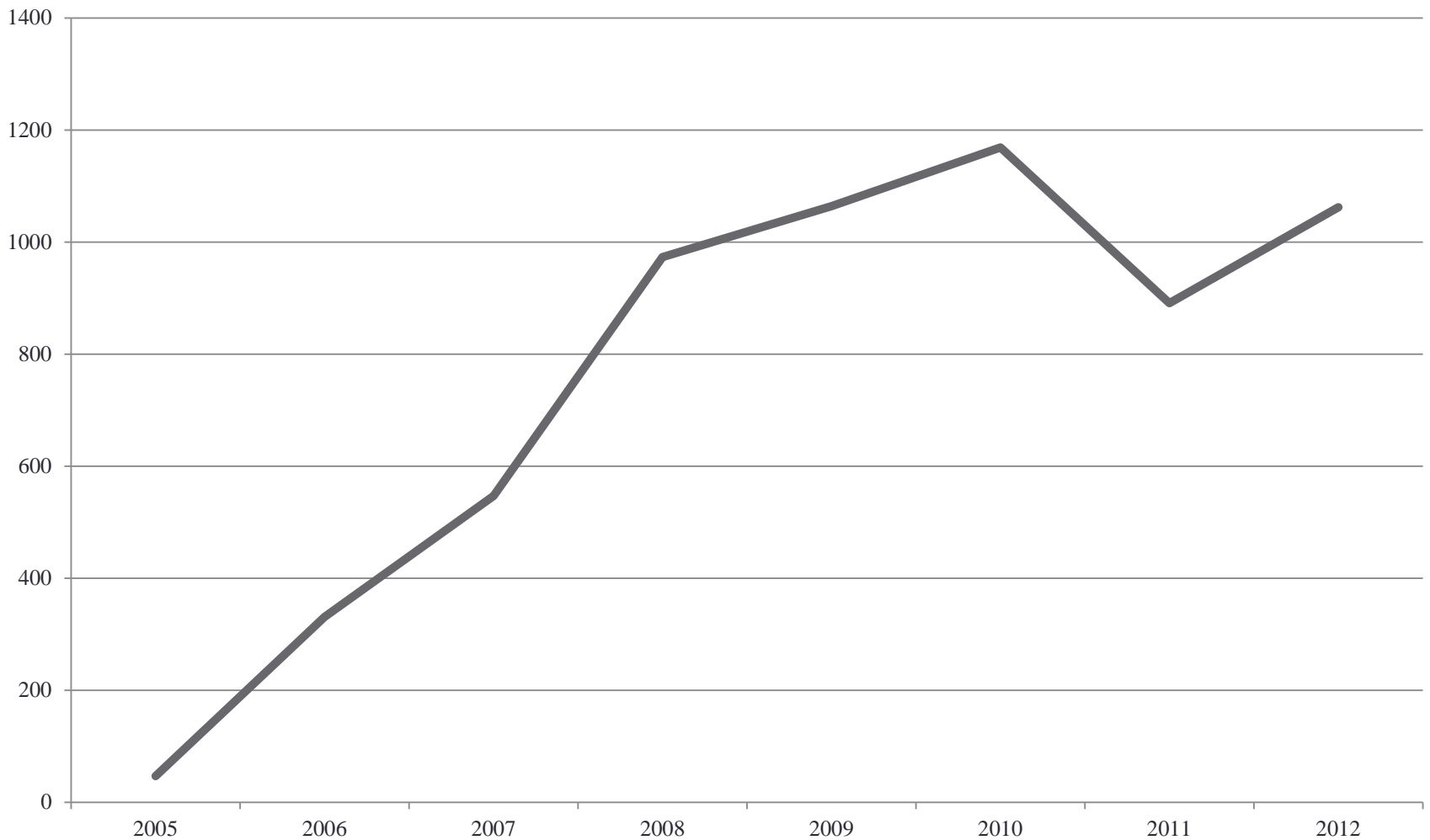
The Preregistration System

- Requirements
 - Six eligible categories
 - motion pictures
 - sound recordings
 - musical composition
 - literary works to be published as books
 - computer programs and games
 - advertising photographs
 - Must be unpublished, intended for commercial distribution
 - Exclusive online application
 - No deposit requirement

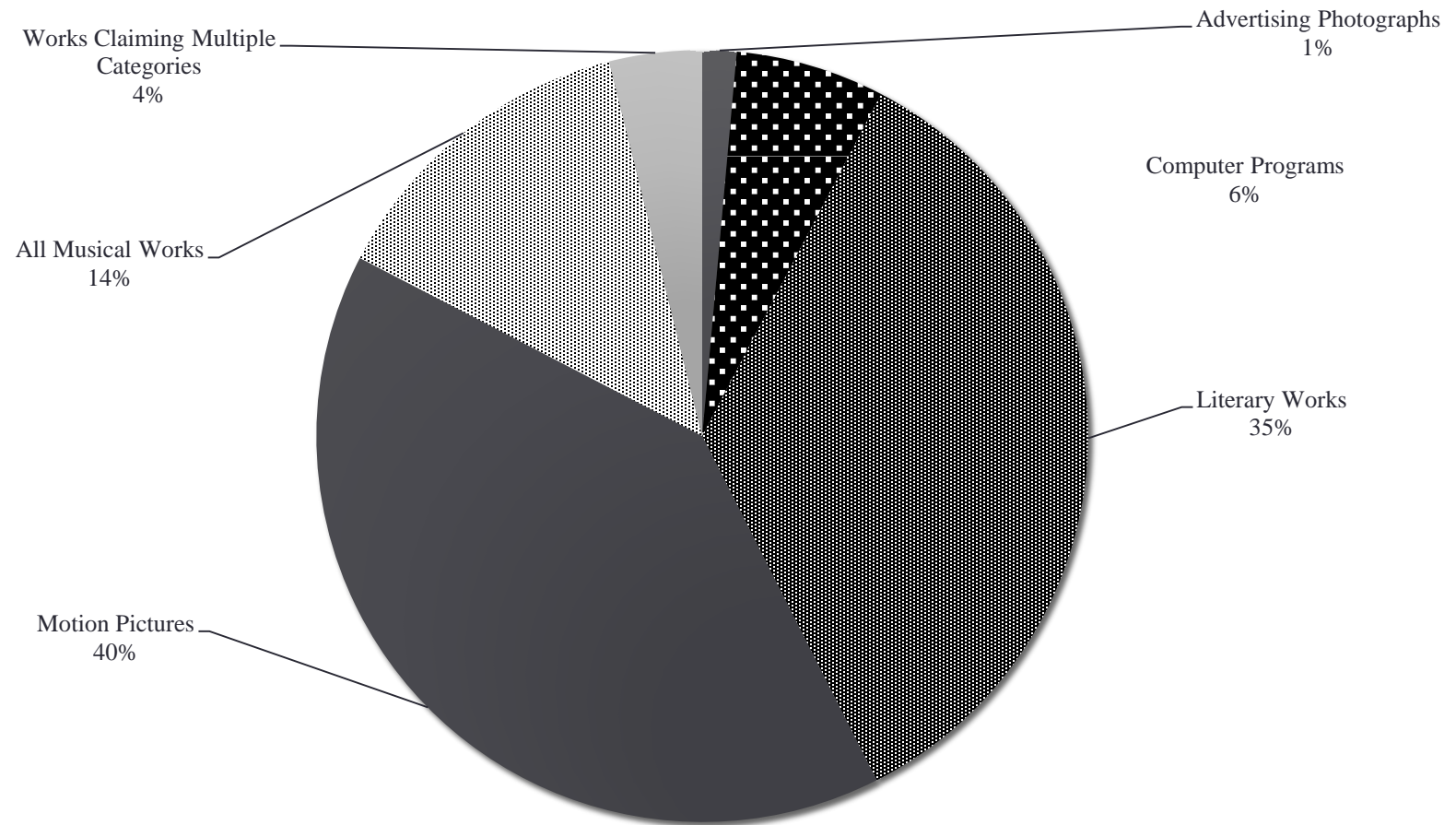
The Preregistration System

- Benefits
 - Remedies: statutory damages, attorney fees
 - Immediate access to the courts
- Costs
 - Must eventually register for preregistration to be effective
 - \$115 fee

Preregistrations



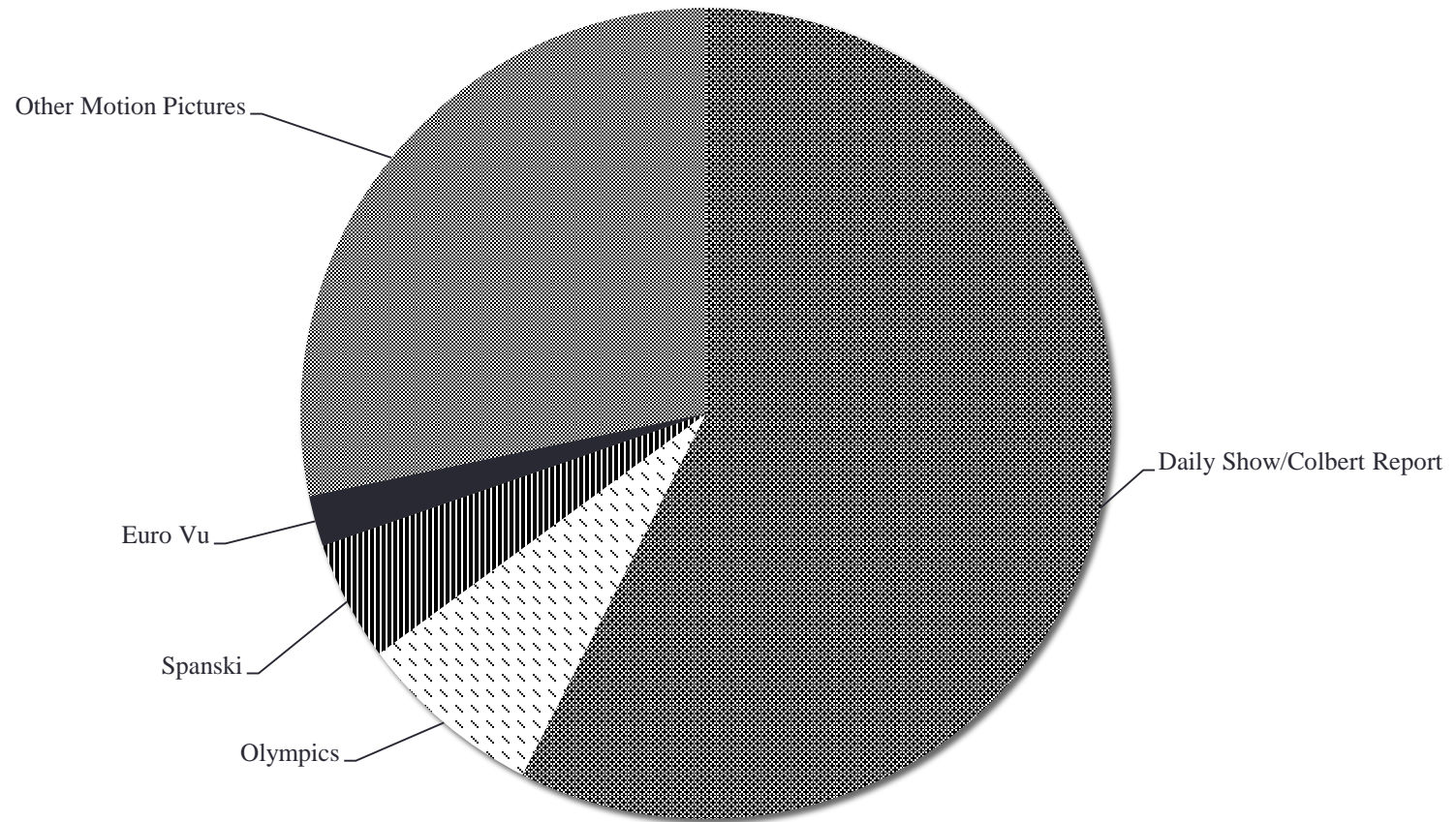
Preregistrations By Category



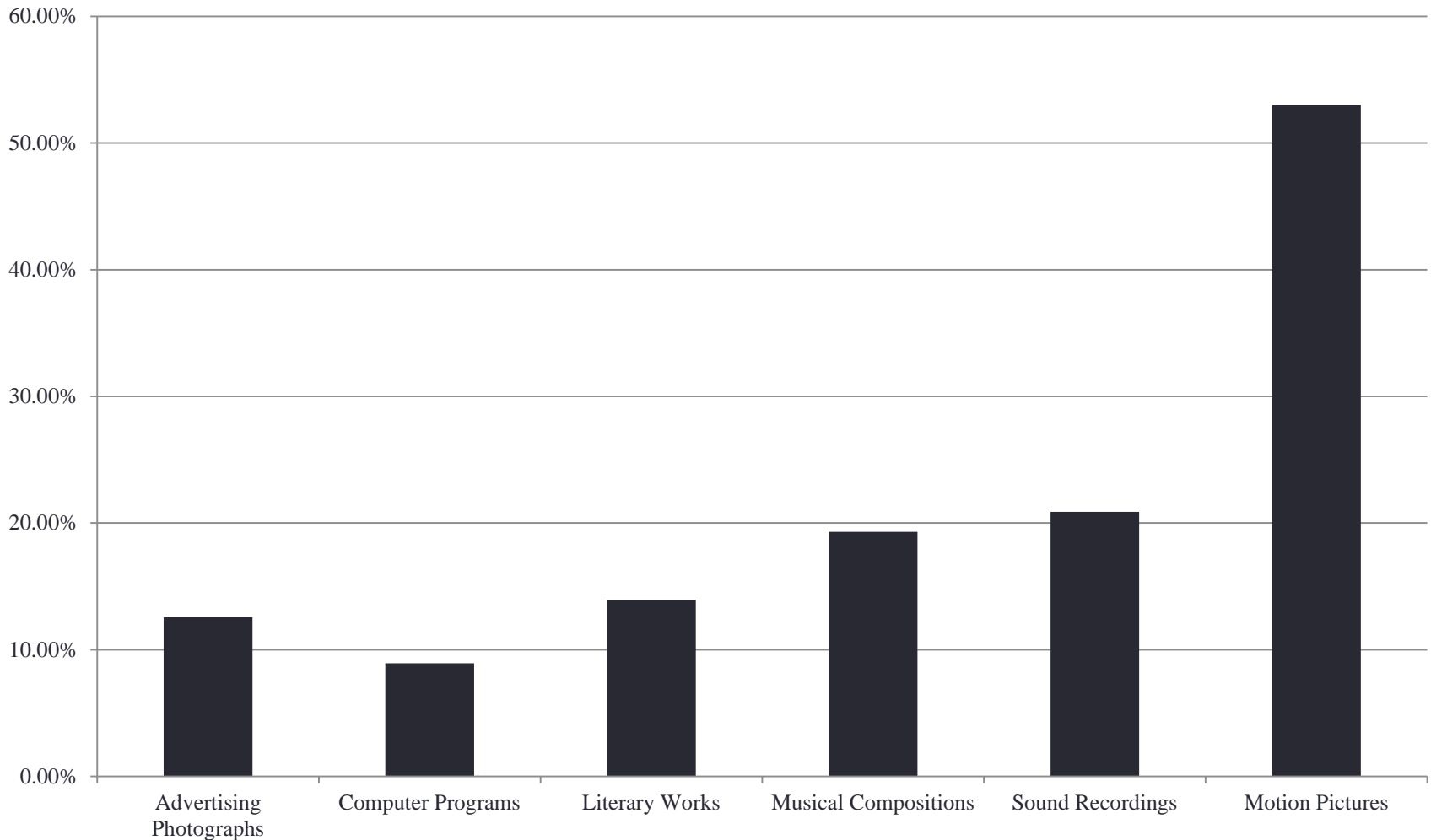
Use of the System by the Majors

- Motion Pictures
 - Less than 1/3 of major studio films are preregistered
 - 30% of the top 10 grossing films for 2006-2012 are not preregistered
- Music
 - No use by major record labels
- Book Publishing
 - Only a handful of preregistrations for high profile biographies and memoirs

Motion Picture Preregistrations



Registrations Rates of Preregistered Works by Category



Implications

- 1 – Copyright Office's agency
- 2 – Distributional effects of formalities
- 3 – Follow on registration rates data can be used in policy making
- 4 – Effect on the public domain
- 5 - Lobbying