



December 1, 2012

Maria Pallante  
Register of Copyrights  
US Copyright Office  
101 Independence Ave. S.E.  
Washington, D.C. 20559-6000

RE: Notice of Inquiry, Copyright Office, Library of Congress  
**Resale Royalty Right (77 FR 58175)**

**Comments of the American Society of Illustrators Partnership**

The American Society of Illustrators Partnership (ASIP) respectfully submit comments in response to the Copyright Office’s Notice of Inquiry published in the Federal Register on September 19, 2012. We appreciate the opportunity to submit comments based on our direct observations and experiences as the potential beneficiaries of the resale royalty right.

The American Society of Illustrators Partnership is a coalition of 12 professional illustration societies representing over 4,500 of the most prolific and widely published illustrators in the world.

Recognizing the long overdue need for a collective rights administration for American illustrators, in 2001 the Illustrators’ Partnership of America founded the IPA Reprographics Coalition. American illustrators united under the coalition to protect our copyrights, promote the proper licensing of our works, establish transparent accountability of our secondary royalty streams, and foster the implementation of appropriate licensing methods to assure that American illustrators are properly represented and remunerated. In October 2007 the Coalition formalized as a non-profit corporation under the name of the American Society of Illustrators Partnership.

The members of ASIP support legislation for implementation of a 7% federal resale royalty right, with half of the royalties collected to be distributed to the artist and half used to promote the interests of living artists by subsidizing museum purchases of contemporary works. **We welcome and applaud** legislation to encourage the establishment of a collective licensing mechanism to administer the royalty payments as the most efficient and accountable means to carry out the legislative mandate.

- Illustrators’ Partnership of America
- Association of Medical Illustrators
- American Society of Architectural Illustrators
- National Cartoonists Society
- Guild of Natural Science Illustrators
- San Francisco Society of Illustrators
- Pittsburgh Society of Illustrators
- American Society of Aviation Artists
- Society of Illustrators of San Diego
- Society of Illustrators of Los Angeles
- Illustrators Club of Washington DC,  
Maryland and Virginia
- Association of American Editorial Cartoonists
- Illustrators-at-Large (nonaffiliated)

•  
*– Board of Directors –*

- Brad Holland
- Cynthia Turner
- Dena Matthews
- Frank M. Costantino
- C. F. Payne
- Dolores R. Santoliquido
- Michel Bohbot
- Ilene Winn-Lederer
- Keith Ferris
- Ken Joudrey
- Joe Cepeda
- Joe Azar
- Nick Anderson
- Donald Kilpatrick

•  
[www.asip-repro.org](http://www.asip-repro.org)  
9 Foster Place  
Pleasantville, NY 10570

## American Illustrators and the Resale Royalty Right

---

When C.F. Payne, Illustrator and Founding Board Member of the Illustrators' Partnership interviewed author and journalist Tom Wolfe for the *Illustrators' News*, Wolfe remarked:

*"I feel very comfortable predicting that art historians 50 years from now, assuming we're in a world kind enough to indulge art historians, will look back upon illustrators as the great American artists of the second half of the 20th century."*

The time is right for the US to implement the resale royalty right for its artists. The sale of American illustration paintings and drawings is an emerging market attracting sophisticated collectors worldwide. American illustration is evocative of a unique type of American artistry as well as treasured Americana.

One auction house alone has reported more than \$40 Million in sales of American illustration in the last five years.<sup>1</sup> Auction prices are on an upward trend as this market expands. Bringing the US into compliance with Article 14ter of the Berne Convention will finally bring equity to these artists *for the value their talents have brought to the US art market and abroad*. Article 14ter reciprocity would allow American illustrators to benefit from the market for American art in any of the 46 countries that have implemented the resale royalty, including the major art markets of the UK and the European Union. Likewise, overseas artists would finally begin to receive resale royalties when their works are resold in the US.

Illustrators are at a well-known disadvantage in initial leverage for the commission of illustration created for publication, and they are at a distinct disadvantage for pricing the sale of their originals. *In some cases, the original art was never sold, but simply retained by publishers, advertisers and printing houses.*<sup>2</sup>

The resale royalty right restores a measure of equity by allowing the artist to share in the increased value of his or her works. It also recognizes the ongoing stake an artist has in the economic value of their work. Royalties received within an artist's lifetime help sustain a career to continue creating new works. A lifetime spent creating a body of work also means the burden of creating and maintaining an archive. This burden is inevitably passed onto the artist's estate. A resale royalty stream can help support the considerable work that heirs contribute to the creation and maintenance of an art market, including preservation and cataloguing, promotion, and establishing provenance and authenticity.

---

<sup>1</sup> Heritage Auction Galleries Press Releases, 2007-2012, <http://comics.ha.com/common/search/search.php?query=illustration&stpos=0&stype=AND&instance=press-comics>

<sup>2</sup> A Connoisseur's Bounty of Pulp and Pin-Ups, The New York Times, May 14, 2009, <http://www.nytimes.com/2009/05/15/arts/design/15anti.html>

But, not least of all, a resale royalty income produced by the ongoing and increasing value of desired works is **the artist’s rightful economic legacy**. In his article, *A Right Deferred: Resale Royalties for Visual Artists*, Charles Chen writes “[T]he resale royalty is consistent with American legal traditions because it also focuses on promoting creativity – ‘the progress of Science and the useful Arts.’ See U.S. CONST. art. I. §8, cl. 8.”<sup>3</sup> Shira Perlmutter noted in *Resale Royalties for Artists: An Analysis of the Register of Copyright’s Report*, “Copyright law is and always has been considerably more disadvantageous to visual artists. Artists therefore have a good claim to some form of remedy . . . artists feel that even small amounts paid occasionally are worthwhile both psychologically and financially.”<sup>4</sup>

Henry T. Hopkins, distinguished museum director and educator who played a leading role in establishing Los Angeles’ art scene, was more direct when he testified before the Senate Subcommittee on Patents, Copyrights and Trademarks in December 1987, stating “Investors continue to profit directly from the creation of the artist. It is unfair that the artist be limited to proceeds from the original transaction while someone else reaps financial rewards from the product of an artist’s hand on into infinity.”<sup>5</sup>

**This is not an abstract discussion for us.**

Even with a brief survey, we count among our members several second-generation illustrators that are heirs to a parent’s works being resold at auction, including:

Matthew Joseph Peak, Illustrator, son and heir of Bob Peak, Illustrator  
Zina Saunders, Illustrator, daughter and heir of Norm Saunders, Illustrator  
Leslie Cober-Gentry, Illustrator, daughter and heir of Alan Cober, Illustrator

And as we write these comments we are mindful of several of our contemporary colleagues’ estates, including:

Gerald P. Hodge, (d. 2012) renowned scientific and medical illustrator  
David Grove, (d. 2012) renowned book, magazine, movie and advertising illustrator  
Dugald Stermer, (d. 2011) renowned flora, fauna and social issues illustrator  
Robert T. McCall, (d. 2010) renowned NASA space artist and muralist  
Robert Heindel, (d. 2005) internationally renowned dance and opera artist  
Thomas B. Allen, (d. 2004) expressive visual journalist, renowned for album covers  
Bernie Fuchs, (d. 2003) renowned advertising, magazine and portraiture artist  
R. G. Smith, (d. 2001) internationally renowned aviation artist  
Charles M. Schulz, (d. 2000) creator of Charlie Brown & Peanuts

*Please see Appendix 1 for a list of active supporters of the resale royalty right.*

<sup>3</sup> Chen, Charles, *A Right Deferred: Resale Royalties for Visual Artists*, American Bar Association of International Law, Summer 2012, Vol. IV, Issue No. 2

<sup>4</sup> Perlmutter, Shira, *Resale Royalties for Artists: An Analysis of the Register of Copyrights’ Report*, Columbia – VLA Journal of Law & The Arts Vol. 16:395, 1991-1992

<sup>5</sup> 35 Pat. Trademark & Copyright J. (BNA) No. 859, at 125 (Dec. 10, 1987) (Henry T. Hopkins of Los Angeles, before the Senate Subcommittee on Patents, Copyrights and Trademarks in December 1987).

## Selected examples

---

In 1943, film producer David O. Selznick commissioned Norman Rockwell to create the poster art for “The Song of Bernadette,” starring Jennifer Jones as the Maid of Lourdes. Years later, Rockwell was quoted by author Arthur Guptill in his monograph, *Norman Rockwell, Illustrator*, as saying:

*“Nothing else I ever painted was reproduced in so many ways. In addition to its being run in magazines, newspapers, and on theatre posters, I was told that it covered the entire wall of one eight-story building.”*<sup>6</sup>

The painting’s location was unknown for a number of years. It was later discovered in the private collection of the film’s producer, William Perlberg. Ownership subsequently passed to the Mount Saint Mary’s Academy in Los Angeles; thence, to the present owner. In 2005, the original was put up for auction at Heritage Galleries with an estimate of \$200,000. The buyer paid \$478,000.<sup>7 8</sup>



---

<sup>6</sup> *Norman Rockwell, Illustrator*, Arthur Guptill, p.132, Watson-Guption Publications, Inc., New York, 1946

<sup>7</sup> Rockwell's “Song of Bernadette” Painting Brings \$478,000 in Heritage Auction, News-Antique.com, November 30, 2005, <http://news-antique.com/?id=640000&keys=Rockwell-Bernadette-Lourdes>

<sup>8</sup> In the case of this painting and regarding all the subsequent art cited in this submission, the work is the exclusive copyrighted property of the artist, the artist's estate, or of those to whom the rights have been legally transferred. No reproduction may be made without the express permission of the rightsholder. The work has been downloaded under fair use provisions for this submission only and identified as to artist and publication. Any inquiries regarding further usage must be addressed to the proper parties.

Norman Rockwell's "Breaking Home Ties" was voted the public's second favorite of all of his works. It was painted for the September 25, 1954 cover of *The Saturday Evening Post*. It was owned for years by his neighbor in Arlington, VT who was the cartoonist who drew the "Henry" comic strip in the 1940s. He purchased the painting for \$900 in 1960. In 2006, his estate put it up for auction at Sotheby's. It sold for \$15.4 Million.<sup>9</sup>



The previous auction record for a Rockwell was \$9.2 Million at Sotheby's in May, 2006 for "Homecoming Marine" painted for the October 13, 1945 cover of *The Saturday Evening Post*.<sup>10</sup>



<sup>9</sup> \$15.4 Million at Sotheby's for a Rockwell Found Hidden Behind a Wall, New York Times, November 30, 2006, [http://www.nytimes.com/2006/11/30/nyregion/30rockwell.html?\\_r=0](http://www.nytimes.com/2006/11/30/nyregion/30rockwell.html?_r=0)

<sup>10</sup> A Rockwell Record, Forbes Magazine, May 31, 2006, [http://www.forbes.com/2006/05/30/norman-rockwell-sothebys\\_ex\\_jc\\_0531potw.html](http://www.forbes.com/2006/05/30/norman-rockwell-sothebys_ex_jc_0531potw.html)

Examples abound of original art created for publication in newspapers, books, magazines, advertisements, calendars and comic strips now selling at auction for 1,000% –100,000% more than the commission price to create the art for publication rights. *Please see Appendix 2 for more examples.*

## Comments on Proposed Legislation

---

We would like to commend the intent, and the ethical and moral components, of the proposed legislation, Equity for Visual Artists Act of 2011 (EVAA), S.2000 and H.R. 3688 respectively, and confirm the legislation has our full endorsement. We would respectfully add some further suggestions.

### Qualifying a Visual Arts' Collecting Society

American illustrators have suffered greatly from the lack of a collective rights administration. Millions of dollars of royalties generated by the re-publication of our works, both in the US and abroad, have been averted from rightsholders. This has contributed to a substantial economic loss to American fine artists, illustrators, photographers and writers. The continued disarray has prevented published visual artists from the full enjoyment and exercise of their copyrights, and is fully inconsistent with the intent of authorial rights granted by US Copyright law.

As Mary Beth Peters, Register of Copyrights, wrote in a letter to Congressman James P. McGovern when he requested her views on *New York Times v. Tasini*, “Although, in the words of Barbara Ringer, former Register and a chief architect of the 1976 Act, the Act represented ‘a break with the two-hundred-year-old tradition that has identified copyright more closely with the publisher than with the author’ and focused more on safeguarding the rights of authors, **freelance authors have experienced significant economic loss since its enactment. This is due not only to their unequal bargaining power, but also to the digital revolution that has given publishers opportunities to exploit authors’ works in ways barely foreseen in 1976.**” [emphasis added]<sup>11</sup>

In her *New York Times v. Tasini* opinion, Supreme Court Justice Ruth Bader Ginsburg dismissed the publishers’ warning that a ruling adverse to them would have “devastating” consequences for the historical record. “The parties,” she wrote, “may enter into an agreement allowing continued electronic reproduction of the Authors’ works; they, and **if necessary the courts and Congress, may draw on numerous models for distributing copyrighted works and remunerating authors for their distribution.**” She further stated there was “**no basis for this Court to shrink authorial rights created by Congress.**” [emphasis added]<sup>12</sup>

---

<sup>11</sup> Mary Beth Peters, Register of Copyrights, U.S. Library of Congress, Letter to Congressman James P. McGovern re *NYT v. Tasini*, Congressional Record, February 14, 2001, at pages E182-3.

<sup>12</sup> Ruth Bader Ginsburg, *New York Times Co. v. Tasini* (00-201) 533 U.S. 483 (2001) 206 F.3d 161, affirmed Pp. 19021, <http://www.law.cornell.edu/supct/html/00-201.ZS.html>

The American Society of Illustrators Partnership was born from this inequity and has sought opportunities to implement licensing models to conform to the digital environment. Because of the vacuum created by these events, its founders suffered a baseless lawsuit in New York State Supreme Court, dismissed in its entirety as having no merit after nearly three years of prolonged litigation. *Please see Appendix 3 for a case summary.*

Because of all these reasons, we welcome the proposed legislative directive to the Register of Copyrights to develop qualifying criteria and issue regulations governing the designation and oversight of visual artists' collecting societies. We support this process, and urge that it proceed with the full input of rightsholders and our experiences.

### **No Delay of Implementation of Resale Right**

However, we also urge that the implementation of the resale right royalty should not be delayed by the regulatory process. There are already two qualified and functioning visual art societies to administer a newly implemented resale royalty, and at least one of them is amenable to supporting our members until such time that ASIP can be self-supporting. ASIP members have already designated Artists Rights Society as their collecting society for the administration of the resale right royalty. We have had a long and mutually beneficial relationship with the Artists Rights Society.

It has already been more than a decade since the courts recognized the damage to authorial secondary rights. Reprographic royalty income has, in fact, been lost to visual authors for more than 30 years. *Yet, it is a secondary royalty stream that continues to expand in both value and marketshare.*<sup>13</sup> The legislative implementation of the federal resale royalty has been in abeyance since the US joined Berne in 1983, and that *has resulted in a generation of potential resale royalties lost to artists and their heirs in the US and around the world.*

There can be no doubt that the adoption of a federal resale royalty regime would further incentivize and protect visual authors. The direct beneficiaries of financially productive works would share in the equity of the value they have created. The additional 50% of the royalty would bring much needed capital into the living visual author community, and foster living talent at a level never experienced before in the US.<sup>14</sup>

---

<sup>13</sup> November 15, 2011, Danvers, MA, Copyright Clearance Center Press Release, Copyright Clearance Center Distributes More Than \$170 Million to Rightsholders in FY'11, Reaching \$1.3 Billion over Ten Years, [http://www.copyright.com/content/cc3/en/toolbar/aboutUs/newsRoom/pressReleases/press\\_2011/press-release-11-11-15.html](http://www.copyright.com/content/cc3/en/toolbar/aboutUs/newsRoom/pressReleases/press_2011/press-release-11-11-15.html)

<sup>14</sup> “Based on 2006 auction sales as reported by Artprice, the amounts of royalties collected on auctions of works of fine art in the United States that have not yet fallen into the Public domain would be approximately \$175 million per year, a not insignificant sum that would greatly improve the well being of visual artists.” Bruce Lehman, Esq., Artists Equity Legislative Brief, Equity for Visual Artists Act of 2011 (EVAA), S.2000 and H.R. 3688, December, 2011.

### Acquisition of Works by Living Artists

We applaud the 50% share of the royalties placed into an escrow account to support US nonprofit museums in their future purchases of visual art created by living artists domiciled in the US. We would like to make the further recommendation that those royalties be apportioned according to a *collection ratio by genre of fine art, illustration and photography*. For example, if 20% of the collected royalties placed in escrow have been earned by the auction of American illustration, then 20% of the royalties would be designated for a non-profit museum acquisition of a work(s) of living American illustrators. *Please see Appendix 4 for a partial list of accredited non-profit museums that acquire American illustration works.*

### Contractual Considerations

---

Contract law has a long history of abrogating US Copyright law to the detriment of the creator. What good will a resale royalty right be if gallery contracts, publishing contracts, etc. are rewritten the day the law is passed to require the surrender of the resale royalty right as a condition of a commission or first sale? We urge caution to also expect the appearance of retroactive conveyance of the resale right in contracts. Many contracts encountered by visual artists are take-it-or-leave-it. **The unequal bargaining power of the American visual artist is not trivial.**

We highly recommend the resale royalty right be **inalienable**, as designated in (1) Article 14, the Berne Convention:

BERNE CONVENTION FOR THE PROTECTION OF  
LITERARY AND ARTISTIC WORKS (Paris Text 1971)  
Article 14ter

- (1) The author, or after his death the persons or institutions authorized by national legislation, shall, with respect to original works of art and original manuscripts of writers and composers, **enjoy the inalienable right to an interest in any sale of the work subsequent to the first transfer by the author of the work.** [emphasis added]
- (2) The protection provided by the preceding paragraph may be claimed in a country of the Union only if legislation in the country to which the author belongs so permits, and to the extent permitted by the country where this protection is claimed.
- (3) The procedure for collection and the amounts shall be matters for determination by national legislation.<sup>15</sup>

---

<sup>15</sup> Berne Convention For The Protection Of Literary And Artistic Works (Paris Text 1971), Article 14ter <http://www.law.cornell.edu/treaties/berne/14ter.html>

## Duration of Term

---

We believe the duration of the term for the resale royalty right should be **concurrent** with the copyright term of life of the author plus seventy years. If the point of the royalty is to return equity to the artist – equity that often grows with compounded interest after death because no new works will ever be created – why abbreviate the potential for the artist or heirs to receive the equity just when it begins to significantly grow?

Shortening the duration of the term would also significantly starve the 50% share of the royalty that is dedicated to fostering living talent by encouraging museum acquisitions. The royalty pool subsidy for living talent will achieve its fullest potential by the funding of the **appreciated works that are actively creating high value in the art market** for collectors, dealers and investors.

## Conclusion

---

We concur with Chen that “The United States has put off implementing a resale royalty for years, and federalizing the resale royalty would help the United States comply with the International Berne Convention and continue dominating the international art market.” And we concur with Bruce Lehman, Esq., that “In other cases Congress has acted to assure that American creators would be able to benefit from reciprocity with European nations when new benefits were granted by the E.U. to its own rights holders. . . [it] is now time for the Congress to reconsider the unfinished business of the Visual Artists Rights Act of 1990.”<sup>16</sup>

As previously noted, in the case of illustrators, in many instances *the original art was never sold by the artist*, but passed into the hands of publishers, advertisers and others through the production process. As more publishing archives are mined for illustrators’ original works of art, the market for published illustration originals will continue to grow. In fact, this Thursday, December 6<sup>th</sup> 2012, “232 photos, paintings and drawings that helped to turn National Geographic into an international brand will be auctioned at Christie’s in New York to celebrate the society’s 125-year anniversary in January. . . The works for sale are part of an archive of 11.5 million images that were commissioned or purchased by the society and are stored in a giant underground library at National Geographic’s headquarters in Washington, D.C. This is the first time that the works have been put up for auction . . . The most expensive item for auction is a painting by Newell Convers Wyeth (father of Andrew), who

---

<sup>16</sup> Bruce Lehman, Esq., Artists Equity Legislative Brief, Equity for Visual Artists Act of 2011 (EVAA), S.2000 and H.R. 3688, December, 2011.



had been commissioned to paint murals at the society's headquarters that are displayed to this day. His "The Duel on the Beach," which depicts a dramatic pirate swordfight, ran in the 1999 issue and is priced between \$800,000 and \$1.2 million."<sup>17</sup>

Contemporary illustrators today are creating the Americana of tomorrow, and some, like Robert Crumb, are experiencing the market exchange of the growing value of his original art occurring in his lifetime, *and enriching only others*. On behalf of the American illustration community we thank you for taking up the effort to pass this very needed legislation, and taking measures to promote a healthy copyright system that incentivizes and protects visual authors.

Respectfully submitted,

Cynthia Turner

A handwritten signature in cursive script that reads "Cynthia Turner".

Co-Chair, American Society of Illustrators Partnership

Brad Holland

A handwritten signature in cursive script that reads "Brad Holland".

Co-Chair, American Society of Illustrators Partnership

---

<sup>17</sup> A Lens on the World, The Wall Street Journal, November 30, 2012, [http://professional.wsj.com/article/SB10001424127887323330604578145061719900972.html?mod=WSJ\\_Books\\_LS\\_Books\\_5&mg=reno-wsj](http://professional.wsj.com/article/SB10001424127887323330604578145061719900972.html?mod=WSJ_Books_LS_Books_5&mg=reno-wsj)

## APPENDIX 1

### **American Illustrators' Societies Support Resale Royalty Right Legislation September 1, 2010**

American Society of Illustrators Partnership

*Illustrators' Partnership of America*

*Association of Medical Illustrators*

*American Society of Architectural Illustrators*

*National Cartoonists Society*

*Guild of Natural Science Illustrators*

*San Francisco Society of Illustrators*

*Pittsburgh Society of Illustrators*

*Society of Illustrators of San Diego*

*Society of Illustrators of Los Angeles*

*Illustrators Club of Washington DC, Maryland and Virginia*

*Association of American Editorial Cartoonists*

• • •

### **American Illustrators Support Resale Royalty Right Legislation**

Brad Holland

Cynthia Turner

C F Payne

Terrence Brown

Frank Costantino

Keith Ferris

Michael Belknap

Michel Bohbot

Dolores R. Santoliquido

Don Kilpatrick

Joe Azar

Ilene Winn-Lederer

Kim Fraley

Nick Anderson

Keith Ferris

Edmond Alexander  
Bethanne Anderson  
Marshall Arisman  
Robert Barrett  
Kent Barton  
James Bennett  
Tim Bower  
Braldt Bralds  
Steve Brodner  
Scott Brundage  
Chris Buzelli & Soojin Buzelli  
Seymour Chwast  
Ellen Cober for and on behalf of Alan Cober  
Gil Cohen  
John Collier  
Ray-Mel Cornelius  
Doug Cowan  
Kinuko Y. Craft & Mahlon Craft  
Franky Cruz  
Myrna & Paul Davis  
Jack Davis, Creator of Garfield  
Etienne Delessert  
Carol Donner  
Eric Drooker  
Ken Dubrowski  
Mark English  
John English  
Randy Enos  
Bart Forbes  
Babe Fuchs for and on behalf of Bernie Fuchs  
Chris Gall  
Bob Giusti  
Milton Glaser  
Richard Goldberg  
Roy Grinnell  
Christopher Grubbs  
James Gurney  
Rudy Gutierrez  
Eddie Guy

Rose Heindel for and on behalf of Bob Heindel

Steve Heller

Jody Hewgill

Kristin Hill

Sterling Hundley

Robert Hunt

Jane Hurd

Tyler Jacobson

Frances Jetter

Stephen Johnson

David Johnson

Gary Kelley

Vicki Khuzami

Edward Kinsella

Jon Kleitzien

Jerelle Kraus

Dongyn Lee

Dave Lesh

Greg Manchess

Hal Mayforth

Robert T. McCall, The Robert T. McCall Family

Teri McDermott

Wilson Mclean

Mark McMahan and Franklin McMahan

Jim McMullan

Robert Meganck

James Miller

Goni Montes

Yan Nascimbene

John Jude Palencar

Roberto Parada

Matthew Joseph Peak, and also on behalf of Bob Peak

William S. Phillips

Jerry Pinkney

Dave Plunkert

Mark Podwal

David Rhodes

Edel Rodriguez

Zina Saunders, and also on behalf of Norm Saunders

Jeannie Schulz for and on behalf of Charles Schulz, Creator of Charlie Brown & Peanuts

Mark T. Smith

Owen Smith

Elwood Smith & Maggie Pickard

R. G. Smith, The R. G. Smith Family

Richard Solomon

Dugald Stermer

Glenda Rogers Stocco

Mark Summers

Steve Tack

Gary Taxali

Cathleen Toelke

Jon Twingley

Jack Unruh

Dan Vasconcellos

Mort Walker, Creator of Beetle Bailey

Chris Whetzel

Mark Wiener

Tom Wolfe

Ted Wright

Andrew R. Wright

• • •  
•

**APPENDIX 2**  
**Auction Examples of American Illustration**

*"Sugar Hill, Late Afternoon / Plainfield, New Hampshire" (1930) [view art](#)*

**Maxfield Parrish**

Calendar art

\$310,000 (May, 2007)

*"A Poet's Dream" (December, 1901) [view art](#)*

**Maxfield Parrish**

Century Magazine illustration for John Milton's Poem, *L'Allegro*

\$346,550 (November, 2006)

*"Harvesting the Wheat" (October, 1908) [view art](#)*

**Harvey T. Dunn**

Outing Magazine frontispiece for "Harvesting the Wheat" by Agnes C. Lout

\$38,837 (October, 2010)

*"Freight-Car-Hawk" (circa 1920s) [view art](#)*

**Theodore Seuss Geisel (Dr. Seuss)**

Editorial cartoon

\$13,145 (June, 2008)

*Original Pin Up (Circa 1950s) [view art](#)*

**Haddon Sundblom**

Shaw-Barton Calendar Company

\$89,625 (December, 2007)

*"Amelia Earhart" (February 1, 1933) [view art](#)*

**Howard Chandler Christy**

Town and Country Magazine cover

\$107,550 (February, 2010)

*"Peanuts" (September 8, 1957) [view art](#)*

**Charles Schulz**

United Features Syndicate Sunday comic strip

\$101,575 (August, 2008)

*"The Beautiful Mid-Wife, the Baby and the Beautiful Mother" (September, 1923)*

[view art](#)

**Dean Cornwell**

*Goodhousekeeping Magazine* for I.A.R. Wylie's story, The Perfect Marriage

\$16,730 (February, 2010)

*"Romantic Couple Seated by the Piano" (March, 1922)* [view art](#)

**Dean Cornwell**

*Hearst International Magazine* for F. Britten Austin's story, One Night in Venice

\$50,787 (October, 2009)

*"Rescue Dog Team and US Mail" (December, 1915)* [view art](#)

**Frank Earle Schoonover**

*Popular Magazine* cover

\$56,762 (October, 2010)

*"Warrior with Ball and Chain, Flashing Swords #1" (1973)* [view art](#)

**Frank Frazetta**

Paperback cover, Flashing Swords #1

\$150,000 (May, 2010)

*"Tarzan and the Golden Lion" (1962)* [view art](#)

**Frank Frazetta**

Canaveral Press

\$41,400 (March, 2002)

*"It's a Snap" (1958)* [view art](#)

**Gil Elvgren**

*Glamour Pin Up*

\$215,100 (July, 2009)

*"Mrs. Van Anden Sings, A Story of the North Country" (December, 1913)* [view art](#)

**N. C. Wyeth**

*Scribner's Magazine*

for Mary Synon's short story, A Story of the North Country

\$107,550 (June, 2008)

---

*"Charlotte's Web" (1952) [view art](#)*

**Garth Montgomery Williams**

Harper & Brothers book cover, *Charlotte's Web* by E. B. White

\$155,350 (October, 2010)

*"Wilbur's Looped Tail Echoes the Loop of His Exuberant Back Somersault" (1952)*

[view art](#)

**Garth Montgomery Williams**

Harper & Brothers, *Charlotte's Web*, Pg. 100

\$33,460

*"There Was the Handsome Pig, and Over Him, Woven Neatly in Block Letters,  
Was the Word TERRIFIC" (1952) [view art](#)*

**Garth Montgomery Williams**

Harper & Brothers, *Charlotte's Web*, Pg. 95

\$95,600

**(The lot of Charlotte's Web artwork sold for \$780,245)**

---

*"Catcher in the Rye" (1953) [view art](#)*

**James Avati**

New American Library/Signet paperback cover  
for *Catcher in the Rye* by J. D. Salinger

\$21,510 (October, 2010)

*"Reefer Girl" (1953) [view art](#)*

**Rudy Nappi**

Cameo Books #330, paperback cover for *Reefer Girl* by Jane Manning

\$26,290 (February, 2010)

*"On the House" (1958) [view art](#)*

**Gil Elvgren**

Glamour Pin Up

\$191,200 (October, 2009)

*"Traffic" (1959) [view art](#)*

**Thornton Utz**

*Saturday Evening Post* cover, May 30, 1959

\$89,625 (October, 2010)

*"The Corpse Was Beautiful"* [view art](#)

**Tom Lovell**

Story illustration

\$13,145 (July, 2009)

*"Covering Up"* (1983) [view art](#)

**Patrick Nagel**

Glamour Pin Up

\$56,250 (October, 2012)

*"Brooke"* (1984) [view art](#)

**Patrick Nagel**

Playboy Collection from *Playboy Magazine*

\$33,460 (February, 2010)

*"Mr. Natural"* (1970) [view art](#)

**Robert Crumb**

San Francisco Comic Book co./Apex

Mr. Natural #1 Cover

The key-line for the logo and border color is drawn in ink on the back side of the page [view art](#)

\$101,575 (November, 2007)

*"Write-In Candidate for President, Alfred E. Neuman"* (1956)

**Norman Mingo**

*Mad Magazine* Set of cover paintings for front cover [view art](#)

and back cover [view art](#)

Alfred's first full cover appearance, with additional crowd scene artwork by Jack Davis [view art](#)

\$203,150 (November, 2008)

*"The Hulk"* (1990) [view art](#)

**Todd McFarlane** (Canadian)

The Amazing Spider-Man #328 Cover Art, Marvel 1990

\$657,250 (July, 2012)

*"Calvin and Hobbes"* (October 19, 1986) [view art](#)

**Bill Watterson**

Universal Press Syndicate Hand-Colored Sunday Comic Strip

\$203,150 (November, 2012)

## APPENDIX 3

### Summary

#### ***Graphic Artists Guild, Inc. v. Brad Holland, et al., Case/Index No. 109149/2008***

On April 18, 2011 the New York State Supreme Court, New York County, dismissed all claims in a million dollar lawsuit brought by the Graphic Artists Guild (GAG) against the Illustrators' Partnership of America (IPA) and five named defendants. In the lawsuit, GAG asserted claims for defamation and alleged that efforts by the Illustrators Partnership to create a collecting society to return artists reprographic fees to artists "interfered" with GAG's "business" of appropriating those fees.

In her decision, Judge Debra James ruled that GAG's lawsuit had no merit. Citing evidence before the court, she ruled that public statements by the defendants regarding GAG's "surreptitious" collection and "gross mismanagement" of artists' royalties were "truthful and accurate" statements: and therefore not defamatory, as GAG had alleged. Furthermore, she noted that all rightsholders have a "common interest" in "being compensated" and in knowing how their collective fees have been used or mis-used; and she concluded that IPA's exposure of GAG's conduct arose from a "duty" to make such information public:

"The duty need not be a legal one," she wrote, "but only a moral or social duty. The parties need only have such a relation to each other as would support a reasonable ground for supposing an innocent motive for imparting the information. Here the plaintiff Guild's factual allegations demonstrate that the defendants' statements were both true, and fall within the parameters of the common-interest privilege." – Page 11, Judge's Final Order (Emphasis added.)

Furthermore, the judge stated (page 11): "The plaintiff Guild has conceded that it received foreign reproductive royalties and that it does not distribute any of the money to artists." GAG's steadfast refusal to disclose what its officers have done with over one and a half million dollars in royalties is documented in IPA exhibits B, C and D, on record with the New York State Supreme Court: Final Order of Judge Debra James/New York State Supreme Court in the matter of *Graphic Artists Guild, Inc. v. Brad Holland, et al.*, Case/Index No. 109149/2008,

<http://iapps.courts.state.ny.us/webcivil/FCASSearch?param=P>

## APPENDIX 4

### Partial List of Accredited Non-Profit Museums That Acquire American Illustration Works

#### Architectural Illustration

##### **Architecture, Design and Engineering Collection at the Library of Congress**

The Architecture, Design, and Engineering category covers about 40,000 drawings (described in more than 3,900 catalog records), spanning 1600 to 1989, with most dating between 1880 and 1940. The designs are primarily for sites and structures in the U.S. (especially Washington, D.C.), as well as Europe and Mexico.

##### **The Art Institute of Chicago**

The Department of Architecture and Design focuses on progressive thinking and practice across all design disciplines. Grounded in works by Frank Lloyd Wright, Ludwig Mies van der Rohe, and Le Corbusier, the department's 250,000 works also include contemporary objects by innovators working at the forefront of current practice.

<http://www.artic.edu/aic/collections/arch>

##### **Columbia University Libraries**

Drawings and Archives Collection in the Avery Architectural and Fine Arts Library at Columbia University – Columbia's Libraries, with over 10 million volumes, over 100,000 current journals and serials, and an extensive collection of electronic resources, manuscripts, rare books, microforms, and other nonprint formats, ranks as one of the top five academic library systems in the nation.

**The Architecture & Design Collection (ADC) in the University Art Museum at the University of California, Santa Barbara (UCSB)** is a growing repository of architectural records containing over 750,000 original drawings as well as specifications, office correspondence, manuscript material, historic photographs, scrapbooks, sketch books and three-dimensional objects (architectural models, fragments, and furniture) representing the work of over 350 designers from 1890 to the present. The ADC is significant because it is both a substantial collection of original drawings by national and internationally active architects and designers as well as an important archive of regional material.

### ***Aviation Illustration***

**The National Air & Space Museum of the Smithsonian Institution, Washington DC**

**The National Museum of the United States Air Force in Dayton, Ohio**

**The National Museum of Naval Aviation in Pensacola, Florida**

**The Museum of Flight in Seattle, Washington**

**The Mighty Eighth Air Force Museum in Savannah, Georgia**

**The San Diego Air & Space Museum, San Diego, California**

**The Pima Air Museum, Tucson, Arizona**

**The C. R. Smith American Airlines Museum in Fort Worth, Texas**

### ***Cartoon Illustration***

#### **Library of Congress**

Swann Collection of Caricature and Cartoons and the Art Wood Collection of Cartoon Art

<http://www.loc.gov/rr/print/swann/>

<http://www.loc.gov/rr/print/swann/artwood/>

#### **Michigan State University, Comic Art Collection**

<http://comics.lib.msu.edu/index.htm>

#### **The Ohio State University Billy Ireland Cartoon Library & Museum**

Includes the International Museum of Cartoon Art Collection (formerly the National Cartoon Museum) and the San Francisco Academy of Comic Art Collection

<http://cartoons.osu.edu/>

#### **International Museum of Cartoon Art, Florida**

## **Medical & Scientific Illustration**

**National Museum of Health and Medicine in Washington, D.C.**

**American Museum of Natural History**

**Mütter Museum**

**The Dittrick Medical Museum**

**Lloyd Library and Museum**

<http://www.lloydlibrary.org/>

The Library holds, acquires, preserves, and provides access to both historic and current books and journals, as well as archival materials, on a wide variety of disciplines that fall under the subjects of natural history, botany, pharmacy, and medicine.

*Pending Partnership to Acquire Archive of Original Medical Illustrations:* An ongoing collecting project within the Association of Medical Illustrators, fiscally sponsored by the Vesalius Trust, intends to acquire, conserve, and exhibit, for purposes of study, education, research and enjoyment, material evidence of scientific and medical illustrations created to illuminate discoveries, knowledge, and principles of the scientific and medical communities.

**Hunt Botanical Library**, part of the Hunt Institute for Botanical Documentation, Carnegie Mellon University, 5000 Forbes Ave, Pittsburgh PA 15213-3890

<http://huntbot.andrew.cmu.edu/>

The Hunt Institute, a research division of CMU, specializes in the history of botany and all aspects of plant science and serves the international scientific community through research and documentation. To this end, the Institute acquires and maintains authoritative collections of books, plant images, manuscripts, portraits and data files, and provides publications and other modes of information service.

*Initial collection:* Rachel McMasters Miller Hunt private collection of rare books, related artworks, portraits, and manuscripts related to botanical history

**International Museum of Surgical Science**, part of the International College of Surgeons, 1524 N. Lake Shore Dr., Chicago, IL 60610 <http://www.imss.org/>

Mission: The mission of the Museum is to enrich people's lives by enhancing their appreciation and understanding of the history, development, and advances of surgery and related subjects in health and medicine. *Initial collection:* through the efforts of Dr. Max Thorek (founder of International College of Surgeons), the Museum received donations of objects and artwork from many of the national sections of the ICS, individual surgeons and collectors, and other institutions. *Fine art* is featured in the collections through over 600 paintings, prints and sculptures, primarily portraits of individuals and historical depictions of specific procedures or events. "*Anatomy in the Gallery*," a rotating exhibition program at the International Museum of Surgical Science in Chicago, showcases medically themed contemporary art within the unique context of the Museum's historical collections and exhibits.

## *American Illustration*

### **Brandywine River Museum**

<http://www.brandywinemuseum.org/>

A major portion of the region's heritage is American illustration. The first illustrator of note was the famous F.O.C. Darley, who left New York in 1859 to settle just north of Wilmington, Delaware. A few decades later, Howard Pyle, who is often called "the Father of American Illustration," also began to work in the Brandywine Valley. Pyle established an extraordinarily influential art school in Wilmington and Chadds Ford, where he trained dozens of artists, including major illustrators such as N.C. Wyeth, Harvey Dunn, Jessie Willcox Smith and Frank Schoonover. Pyle and many of his students are represented in the Brandywine River Museum.

American illustration is a major component of the museum's collection. Among the hundreds of illustrators represented are early 20th-century giants such as Edwin Austin Abbey, Winslow Homer, Howard Chandler Christy, Charles Dana Gibson, Rose O'Neill, Maxfield Parrish and Rockwell Kent; late 20th-century cartoonists, such as Al Hirschfeld, Charles Addams, Edward Gorey and Charles Schulz; and other illustrators such as Theodor Geisel (Dr. Seuss), Charles Santore and Nancy Eckholm Burkert. These are only some of the diverse talents revealed in an illustration collection that also includes Reginald Marsh, George Bellows and Frederic Remington.

### **Delaware Art Museum**

<http://www.delart.org/>

Wilmington-native Howard Pyle (1853-1911) filled his riveting pictures with drama and emotion and inspired generations of illustrators and movie directors. His iconic pirate figures come alive through his use of historical and folkloric details and serve as the inspiration for pirates in popular culture to this day. His rapid rise to popularity was due to his remarkable gift for seizing and expressing the dramatic gist of a story. An articulate and demanding teacher, he communicated this skill to his many students, teaching them to put themselves "in the picture." The Museum also displays a number of works by Pyle's students, including N. C. Wyeth, Maxfield Parrish, Frank E. Schoonover, and other famous illustrators.

### **National Museum of American Illustration - Newport, RI**

The NMAI, a private, nonprofit organization, is an independent, educational, and aesthetic organization with the goal to present the best venue for the public to appreciate the greatest collection of illustration art. The NMAI restores, conserves, researches provenance, exhibits and interprets its unique collection of original art works in order to preserve this rich and significant part of our American heritage. These art works include many of the milestone pieces created by artist/illustrators such as Norman Rockwell, Maxfield Parrish, Charles Dana Gibson, Howard Pyle ('Father of American Illustration'), NC Wyeth, Jessie Willcox Smith, JC Leyendecker, Violet Oakley, and other Illuminaries. The works were originally created to be reproduced in magazines and newspapers, as posters, in advertisements, on products (fine art prints, greeting cards, and the like), and in books. In addition to their technical execution, their creativity, the context in which

they were created, and the purpose of their commission, they remain a poignant bookmark of our shared history, our American civilization. With an ever-increasing recognition of illustration as a meaningful part of the fine arts spectrum, these works have earned a lofty role in art history.

**Mazza Museum: International Art from Picture Books - Findlay OH**

The Mazza Museum is the world's first and largest teaching museum devoted to literacy and the art of children's picture books. Founded in 1982, the Mazza Museum now contains more than 3,000 original artworks. *Mission:* to promote literacy through its educational programs and to collect, exhibit and preserve original art from children's books.

**Norman Rockwell Museum - Stockbridge, MA**

**Bartlesville Area History Museum - Bartlesville, OK**

**Belskie Museum - Closter, NJ**

**Clymer Museum and Gallery - Ellensburg, WA**

**Jane Voorhees Zimmerli Art Museum - New Brunswick, NJ**

**New Britain Youth Museum - New Britain, CT**