

October 18, 2012

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The Focus Group PC
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Re: Proposal to add resale royalty rights to original works of art.

The proposal of adding royalty rights to original works of art must address the issue of digital original created works as well.

I am an oil painter who also creates original works of art that begin in the digital realm. The digital artworks are printed and sometimes manipulated and modified after being printed out. Others are not manipulated after the print. Each of these digital works are originals. They are not reproductions. Using the model being discussed by the US patent office would and should render each digital work of art created an original subject to resale royalties.

I also create original oil paintings that combine motion either behind them or next to the oil painting. The motion portion of the artwork is created digitally and displayed either through a projection or on a screen. The motion portion is an essential element to the completed work. The issue of combined original and digital enhanced artwork must also be addressed.

The idea of original art resale royalties could be used as a weapon against the resale of much current and future artwork and thus dampen the price buyers would be willing to pay for original art. This would be especially true for lesser known artists. The cost of maintaining record keeping and accounting details would be shifted to the buyer and re-purchaser of art. There is no simple method of keeping the provenance and record of resale royalty payment for every original artwork. It is unclear where the burden of royalty payment ultimately would rest. Another issue to consider is the responsible party on a piece of artwork that is sold multiple times and is subject to back royalty payments.

After considering these potential issues and as an artist and Certified Public Accountant, I am strongly against this proposal. It appears to be an extreme restriction on trade and would place an enormous contingent liability and accounting burden on both the creator and purchaser of future artwork.

Very Truly Yours;

George S. Caramanna II