

Comments: Gwen Winter-Neighbors

The Copyright Office has been asked by Congress to review how the current copyright legal system affects and supports visual artists.

I respond as a visual artist with over 65 years producing visual art and 35 years plus teaching in that field. I hold an earned J D and I know basic copywriters laws. I attended a review at LOC during the 4<sup>th</sup> session in July 2012 where teachers were given an excellent update of Copywrite laws in education. The First Sale Doctrine codified in and [17 U.S.C. § 109](#) require a lifetime of learning the law. The other sections give visual artists a bundle of rights. [17 U.S.C. 101](#) et seq.

I support the thesis that visual artists work is often hijacked. In today's global economy instant visual art display can occur. An example is when an artist's visual image of Steve Jobs was instantly seen around the world resulting in high demand for that visual image. As a teacher in the arts, I am permitted to use a visual for that purpose. I am presumed to know the law. As a holder of J D, I am held to a higher standard. Any law requires study.

Fortunately, that visual image is a type that I rated a Mona Lisa experience for fans of Steve Jobs. I ponder the question. Did the original artist that created this image actually receive their First Sale Doctrine rights?

Issues facing visual artists seem to be different and are not greatly protected by the First Sale Doctrine unless the artists at the initial offering require a reasonable percentage of future use of their visual images and the bundle of rights. Many visual artists give away and relinquish their rights and the value of their future image by their initial low offering price. Some images provided in gaming sell for \$.15 each.

A visual artist does not have the money or the knowledge to catch a thief. Their pocket power and brain power focus is not engaged. However, their creative power is traveling at light speed. I visualize the amazing gifted visual artist with two brass bull rings chained together at their wrist. They make visual art. The artists must do the business work on the receipt that the visual artist keeps the Copywrite; they pay for the use of this one item. The buyer's obligation is to pay. Visual artists' notify that buyer this is a copy # 150 in series of 200 prints. The laws are a moving target for the visual artist to learn.

Thief of art on the internet may be commonplace. It is easy to download an image. No form of law can police the mass hijacking on the internet international free market. Smart agents cherry pick the massive visual artist's treasure.

A flaw of the visual artist occurs when others take their offer for pennies. Fast forward that visual art in a public offering years later when that artists work becomes famous and his Original work brings 2 Million at auction in the open marketplace. Then only the marketing experts scoop up the value. The expert knows the market and they get the lions share. The IRS tax take their fair share and rightly so. The visual artist's gets only the

small sum of money bargained for many years ago when values were different. The status as artists then was non-existent and Copywrite laws keep changing.

What if an artist personal DNA is flawed and they do not seek wealth and riches for this creative gift? Some artists may see their art products as a gift from the Creator and do not want to sell the original work. Visualize and listen to the clawing sounds at their actual door and then reverse their opportunity when laws that keep them in check offering those key laws to unlock the burden of bull rings delivered too late.

Is art theft another issue of visual artists or the same issue? Artists may keep their work, or pass them on to immediate family members. Some work arrives at the landfill without recovery. Visual artists' rights are trampled and lost to the race to the Copyright Office.

Aggressive smart marketing people from NY or LA for example may have discovered the work, offered a price and then hijacked it anyway. They take it without permission and returned to the big city and wait a while for the right price to increase. It is like the stock market. They wait for the price to go up, and then they sell it and made a huge profit.

Display visual artists show their ideas and another hijacked it and presented in their presentation at I Am GoodTimes News [IAGTN] instantly they own it. Again the Copywriter business is a race to the Copywrite Office and the first to record wins first rights. That's the rub.

Another interesting legal event: Naive artists enter art contests and the publishers get them to sign away their rights. The publisher takes that image and makes copies and publishes it, and then the visual artist earns no real pay for it. The original visual idea is hijacked by a wise publisher. The winners of the contest did all the work, handed in the visual art using digital processing and the bonus goes to the ...publisher of the contest. The visual artist actually paid the publisher a fee to enter their own work. The duped visual artists then order copies of their own work and so do the other 100 winning contestants. The publisher takes orders and all their visual art rights. Is this just a way to short change or cheats our naive youth or a new hippy? The publisher takes the whole work and kicks the can to another contest. When the visual artist sign away their copyright, the publisher keeps their right and the artist get the boot. Shame on these hazy hijackers hacking handily at the publishing stall and the publishers win and take all and that's not fair! The visual artist looks at their work and discovers they signed away their bundle of rights. The publishers say, "Have a nice day". -30-

Steve Jobs the creator of the Apple and other amazing visual graphic technological creativity dies. A visual artist uses the same image without the bite, and substitutes Steve Jobs image. Aha! A creative genius hitches a ride to the Stars. That's the cartoon red version of ...I reserve the right to Copywrite it first. Who understands this?

[17 U.S.C. 101](#) et seq please have a look at this. Laws at best are difficult to understand.

So, catch a falling star and put it in an Apple basket ... adding the image of Steve Jobs and all earthlings find our next famous artists. That image is worthy of more than a mere 1,000 words. He left big footprints. Truly, that visual artist arrived with all the splendor of the Good Life; now add the diversion of the United Nations at the Copywrite door.

Laws have to be tried and decisions are never final. They may be decided by the Supreme Court in DC and Congress can enact laws with the correct balance of power works if it is applied. Both close that door and open another one in legal order that is sequenced with the laws on record.

Are all of the Apple's workers in China? Why did our government ask the advice of the U. N.? Do we pay twice for IPod's? Common sense has to win out. Walk a mile, smile, and what would you want to happen if you were a visual artist in the USA? Seek your answers first. U.S.A. Copywrite laws should stay centered in the U.S.A. Why would the Supreme Court or Congress write laws favoring the UN that decide laws for our sovereign states? Did the Presidential pen skip Congress and ask the UN to decide America Copywrite law? Will the new laws governed by the UN rule and why? When will we learn or hire a Copywriter attorney? Attorneys keep changing the laws also? We are presumed to know the law. That's truth. Everyone except the creative artist gets paid.

We are all in the same situation, and we are either Grandfathered or done? We know the answer by processing down the 24K yellow brick road of litigation. Fairness in the *new world* of law is not always understood or appreciated. The pen that writes the laws overrules the brush that creative artist master. Neither the legal pen nor the creative brush may even touch on the issue experienced by another. We all talk with legal minds humming law and creative mine fields where visual artists seek fairness. Their rights are trampled and lost in a race to the Copyright Office. Now add UN telling the USA world law. This is just going in the wrong direction for American visual artist.

We need to stop, look and learn from an artist's brush prospective. A great beginning has a happy ending, but time restrains score their negative results. Millions of starving artist's future rest in the hands of Congress willing to start the journey and the Library of Congress' duty to seek and find hard copy answers. Shut the door that is out of step with American values. Do not invite the world to decide U.S.A. Copyright laws. They did not earn that right. Seek wisdom and fix laws that work for the United States of America.

Respectfully submitted by Gwen Winter Neighbors 11/18/2012