

Mary Rasenberger, Policy Advisor for Special Programs, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024-0400. Telephone (202) 707-8350; telefax (202) 707-8366

Dear Ms. Rasenberger:

3-24-05

Torode Design Associates agrees with the Graphic Artist's Guild position on the right of the creator to hold ownership in the form of copyright protection, a concept that is written into the Constitution. A big percentage of the U.S. GNP is now 'intellectual property', which includes software code. It would be seriously destructive to the economy to eliminate the concept of ownership. It would also be at variance with international law. The U.S. has required that China institute copyright and patent protection of both domestic and foreign rights of ownership in order to be a 'trading partner.'

Torode Design has run into both these "orphaned works" problems:

#1 Works created by individual living authors who still own their copyright, or are deceased and their copyright has passed to their heirs, and are unlocatable either

because they have not kept their contact information current with the US Copyright

Office, their name is not on their work, or they never registered their work at all. These

copyright owners are simply unlocatable.

The (rare) image in question was reproduced in a book; our legal position was that a good faith effort had been made to find the photographer and therefore if a claim was made, payment would follow, based upon amounts paid for other work used in the book.

#2 Works created under a Work-For-Hire agreement (or where the author's rights

were bought out in full), where a business or corporation owned the copyright, and that

business or corporation is defunct and its assets- including intellectual property rights-

were not sold or assigned to anyone else. In this circumstance, these works are truly

orphaned in that no one owns the copyright although the term of copyright has not

expired, and therefore these works are not in public domain.

The Philadelphia Evening Bulletin, a mass-circulation newspaper, ceased operation years ago; the company that bought the assets no longer exists. All the executives were killed in a plane crash.

The WFH author, not being able to gain permission, has not reprinted any of the articles written for the Bulletin because of the confusion about the copyright and threat of financial problems.

The Canadian model does not address the common trade practice extended by

publishers, free to authors, for use of their own works.

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The Copyright Clearance Center was set up to centralize copyright clearance and permissions for text book publishers. Individual artists may register there, as I understand it. An effort should be made to get all copyright holders to stay on file with this office. Most artists don't know this exists. Maybe a check-off box on the income tax 1040, per the checkoff box for donation to political campaigns could be employed to keep address records current.

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Every year the Philadelphia Inquirer (newspaper) runs pages of lists of 'abandoned property', much of it cash, in an effort to locate owners before the State confiscates the property. In that list are names of prominent banks, political officials, doctors offices, many easily found (phone books, filers of State taxes numbers) businesses and individuals. The State is seriously remiss in its responsibility to find owners. A good faith search for owners of copyright might be strenuously defined, as the Guild suggests.

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Yours truly,

Barbara Torode
Torode Design Assoc.