

From: [REDACTED]
To: FN-OMB-IntellectualProperty
Cc: info@copyrightalliance.org
Subject: Obama Administration Seeks Advice and Stories from Creators.
Date: Friday, March 19, 2010 10:58:58 AM

RE: Obama Administration Seeks Advice and Stories from Creators/

The Obama Administration is asking to hear from YOU, the creative backbone of our country, about how intellectual property **infringement** affects YOUR livelihood

You will get no 'stories' from me; merely simple sensible facts.

I am puzzled that it is not abundantly clear that 'infringement' -- that is the use of material without compensation to the owner (theft) -- is deleterious to the livelihood of the owner.

Does a farmer need to explain how the theft of cattle that he has raised over time is deleterious to his livelihood?

Does a building owner need to explain how the use of his property by a non-paying tenant is deleterious to his livelihood?

Does a musician who has spent thousands of man hours in writing, re-writing, composing, arranging, rehearsing and recording a sound track really need to explain why the use of that sound track without compensation to the owner is deleterious to the livelihood of the owner?

Does a photographer who has spent thousands of man hours in their craft and discovers that one of their images is being used commercially or editorially to promote someone else's agenda really need to explain why if they are not compensated for the use of their image their livelihood will be adversely effected?

That these things are not "abundantly clear" from the outset informs me that perhaps many simply do not have a proper conception of the amount of time, care and seriousness with which "creatives" pursue their work, to say little of the sometimes very high production costs. Perhaps if more people were more aware of the scale of work and effort which is involved in the making of "creative products" the matter of "infringement" or "use without compensation" or "theft" would become clearer.

Below you will find a link to a page of a company which represents photographers. They also can manage the production of the images which will be used by the clients/ advertisers.

As you click on the various productions cited you will note the very extensive list of support services involved; stylists, hair & make up, location scouts, models etc. It becomes clear that these productions are not inexpensive ventures and the thought that these images would be used without compensation is ridiculous !
<http://www.lebook.com/gb/index.php?numFiche=NY1481>

You also will note that foreign contacts often are listed and that is because the creative industry in this country "exports" its' product to overseas markets. Our talent, our domestic production and often our 'export' product as well.

New York City is a major producer of 'creative work' which has a domestic as well as an international market. Even the Mayor's Office is acutely aware of this and looks to assist us when they can with permits, locations and police assistance. [See, <http://www.nyc.gov/html/film/html/home/filmcredits.shtml>].

With this as an overview we can now return to the initial question of ... what was it again ... something about "intellectual property infringement" . Very simply put "creative work" is classified as "intellectual property" (probably because it is less 'tangible' than a farmer's cow) ; but it is property nevertheless. "Ownership" of "Intellectual Property" (as opposed to tangible property such as a cow) is governed by US Law under the Copyright provisions; and there is a large body of legal experts involved solely in issues related to "intellectual property" , "copyright" and "international law governing copyright". This is big business with billions of dollars involved. Every so often suggestions are brought forth to tweak "Copyright legislation" this way or that. Sometimes these suggestions are sound, sometimes as can be the case in all things, they might be ill conceived.

As an overarching theme regarding "Copyright Legislation" I recommend the protection of the "Creative Artist". Taking this approach is the safest and the soundest. Let the Artist own the work and let the artist negotiate its' use (often through the Artist's Representative) to the wider public. If the Artist makes a bad deal -- tough luck; but at least they had made the deal themselves! Any other approach simply makes less sense. There already are 'work for hire' arrangements in which for a given sum the artist will relinquish ownership of the work; its' use and re-use , in any and all media, in any and all markets whether domestic or abroad, in perpetuity, to the party contracting the artist.

In summary:

"Intellectual property" is property.

It has owners who charge fees for its' use.

This is a global international business with billions of dollars in revenues.

Matters of 'ownership' of "intellectual property" are defined by legislation, domestic and international.

Any change in US Copyright legislation should be taken only with the greatest of care and only after deliberation and consultation with legal experts in the field.

The creative industry in the US is large, vigorous, incredibly productive, employs thousands, contributes to the GNP and is a net 'export industry' .

I hope you have found this helpful.

Sincerely,

Theodor Feibel.

--

.....
Mr. Theodor Feibel

Founder & President
THEODOR FEIBEL, PHOTOGRAPHER
222 Park Avenue South, Apt 3A
New York, New York 10003-1505

Tel : 212.260.3798
Fax : 212.260.6112

<http://www.theodorfeibel.com>
<mailto:theodor@theodorfeibel.com>
.....