

From: [REDACTED]
To: [FN-OMB-IntellectualProperty](#)
Subject: IP Protections, Copyright Law & me
Date: Tuesday, March 16, 2010 10:37:42 PM
Attachments: [AOP_logosymbol_sm2.jpg](#)
[ATT102006.htm](#)
[Ketra Oberlander.vcf](#)
[ATT102008.htm](#)

As a blind artist stymied by the simple logistics of showing and selling art I realized that licensing art and design could circumnavigate the physical limits of a physical disability for me and other artists with disabilities. In 2008 I founded Art of Possibility® Studios to exclusively represent our work for licensing, creating a path for us to enjoy the dignity of earning a living rather than depending on charity.

My hope is to steadfastly move toward profitability and help as many artists as possible who are waylaid by health problems.

As the manager of an IP portfolio that will bolster the company and support the important, socially relevant work we're doing I'm careful to track and enforce all infringements. I spend time in prophylactic pursuits like registering our brands with social networks to prevent confusion in the marketplace if someone else unwittingly uses our trademark, I spend fees for cease & desist and DMCA take down notice issuance. As a nascent company, most our infringement situations have been by other artists, interestingly, all too eager to appropriate our work.

Sadly, simply asking permission first could alleviate many of those administrative pursuits that suck my time out of growing my business and out of the studio. I believe the problem is cultural:

- the arrogant sense of entitlement we see in many aspects of our society
- the thought that if there's not a sign posted that says "you can't ..." then therefore clearly you *can*
- the amateurization of whole industries (I'll be interested in citizen journalism about the same time I'm interested in a citizen physician)

It's the third point I believe is the core of the problem. Amateurs and hobbyists don't have a sense of the value of creative work. Bloggers actually blog for FREE. As a former writer and editor, publishing content for free never once occurred to me. But just because the price tag on their work is \$0 doesn't mean I price my work at \$0.

Out of the box software and shareware coexist and although there are many skirmishes over IP rights, generally the parties are better equipped to protect and defend their work. With artists and writers we face a far more arduous task due to laws that could in no way predict our connectivity zeitgeist. It's a difficult problem.

One solution might be an ISO-style standard compensation table for infringers, \$x per day of use, multiplied by hits and/or revenue. By simplifying the remedy we might reduce the harm. Make no mistake: you're in the harm reduction business.

Locks and fences were invented a long time ago, but people still walk across my yard, straight up to my fruit trees and help themselves. We'll always have thieves. The goal of good governance should be making those thieves responsible to

compensate their victims, to both dissuade future action and remedy harm done.

Thank you for letting me share my perspective. It's great to be heard. You're welcome to contact me if you want to do any brainstorming or idea mapping to plan real solutions for today's IP protection challenges. Contact info. below.

-Ketra