

March 24, 2010

Office of Management and Budget
Executive Office of the President
Office of the Intellectual Property Enforcement Coordinator (IPEC)

RE: Request for written submissions from the public

Dear Victoria Espinel and the Obama Administration:

The Volunteer Lawyers for the Arts of Massachusetts (VLA), a program of the Arts and Business Council of Greater Boston, Inc. (A&BC) is pleased to respond to your request for written submissions from the public regarding the Joint Strategic Plan for a federal effort against intellectual property infringement.

The A&BC is a nonprofit organization dedicated to strengthening the artistic community with its business and legal needs. The mission of the VLA, a cornerstone program of the A&BC, is to provide *pro bono* legal services, advice, and education programming to artists and cultural organizations throughout Massachusetts that could not otherwise afford legal services. The VLA accomplishes its mission through the work of its panel of over 450 attorneys who volunteer their time and services to provide legal counsel, education, and organizational support to the arts community in Massachusetts.

Artists and arts organizations greatly contribute to healthy communities, improve the local economies, enrich society in their pursuits, and often embody the spirit of self-definition. The VLA works with the segment of the artistic community that is comprised of artists of limited means and smaller arts organizations. Working with this segment has shown that this group is particularly vulnerable to violations of their intellectual property rights. These artists and organizations are often unaware of their intellectual property rights or how to protect them and lack the bargaining power necessary to enforce their rights. Instead of seeking counsel, which is often too costly for them, they do not enforce their rights, do not seek legal recourse, or handle situations in a manner that is ill-advised and possibly leads them into larger and more costly disputes. However, if these artists are unassisted with legal issues related to infringement of their works, their creativity may be chilled and their existence threatened. Thus, an avenue of proper legal support is paramount to encourage the arts by adequately protecting their rights.

Due to the economic downturn, artists and organizations are facing more financial difficulties. With increasing frequency, our applicants are requesting to have the application fee waived because they are unable to afford it. Other artists who would not have qualified for *pro bono* assistance in prior years are now qualifying. By providing legal resources to assist artists, we are able to help those artists in the most economic danger and to help avoid the need for more extreme legal measures.

Our staff and volunteer attorneys frequently respond to artist concerns about intellectual property infringement. We have represented a number of artists who have suffered financial and emotional harm from the infringement of their IP rights. For example, one artist who sought our assistance was concerned when she discovered that a couple who bought her painting used the image on the cover of a book. The artist did not authorize the use and was disappointed that she was not credited or consulted on the use. She was unsure what her rights were, but she could not afford to hire an attorney. She came to us and was successfully placed with an attorney to help her assert her rights.

Although a number of mechanisms and government agencies exist to enforce the rights of larger groups, nothing protects the smaller, more vulnerable artist population from infringement. One way to address this oversight would be to provide individual artists with a venue that will allow them to submit possible infringement complaints to enforcement agencies. Similar mechanisms exist for addressing cyber criminal complaints. The Internet Crime Complaint Center (IC3) accepts complaints from Internet users and refers them to appropriate (local, state, federal and international) law enforcement and regulatory agencies.

Another way to protect this venerable group is through the funding and support of legal and educational programs that target art students, artists of limited means, and smaller arts organizations. Educating individuals on their rights and avenues of legal recourse allows these artists to alleviate the fear of infringement which, in turn, will permit them to create without restraint.

Given our commitment to protecting the rights of artists, we would be pleased to convey our knowledge, share our statistics about IP infringement cases that we have handled, and provide further comment to the Administration regarding this important strategic planning effort.

Please be in touch if we can be of any assistance in this planning process.

Most Sincerely,

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