

## **Souillac II - Final Report - 4**

### **Artists' Rights in the New Communication Space**

During Souillac II a discussion was held on the question of artists' rights and a presentation made by Danielle Cliche, senior researcher at ERICArt in Bonn and Stefaan Verhulst, director of the Programme in Comparative Media Law and Policy, Centre for Socio-Legal Studies, University of Oxford. The discussion included a conference call with professor Monroe Price (PCMLP - Oxford) and Mark Stephens (Stephens Innocent-London).

The following is a summary of that presentation and a proposal for approaching the question systematically and from the point of view of the artists.

#### Background:

Increasingly artists – visual artists, performance artists and others – are using new digital multi-media technologies to create and disseminate their work. Organisations in Europe and the United States, including cultural entities, have committed themselves to fostering an international community of artists via the Internet, providing for a digital era of creativity and innovation. How the new technology will affect the content and distribution of artists' work is still unknown, but what is clear is the following: because digital media such as CD-ROM and the Internet have made copying and adapting artists' work easier and less expensive than ever before, the relationship between the economics of creation, production, and distribution may be radically altered. Not only artists, but authors and publishers, the music industry – all those involved in the creation and distribution of information- are concerned with this issue. Since artists are often the most fragile aspects of the creative cycle and the most vulnerable to economic abuse, special attention must be paid to the way they fare in the world of multi-media and modern technology.

Technology firms, Internet rights groups, lawyers, and government officials have raised the discussion of how to reformulate traditional copyright law to protect the rights of large scale players in the digital era. An increasing place must be found, as well, to locate the rights of artists. In addition, artists, like all creators, are consumers as well as producers of images. The new technology provides access to an extraordinary new collection of possibilities, and the danger exists that rules that guarantee exclusivity serve to inhibit creativity.

Governments have attempted to address copyright issues in a digital age domestically, such as the Working Group on Intellectual Property Rights in the US or the EU proposal attempting to harmonise aspects of rules on copyright and related rights in the Information Society. Such initiatives have addressed, for example, right holders in industry concerned about data base protection, and are built on traditional concepts of copyright law. It is now time to also address the manner in which media artists deal with the existing or new copyright regulations or issues. It would be especially important for national, regional or international bodies working on digital media and copyright law (including Commissioner Monti's new proposal) to integrate the needs of all rights holders, including artists, in their policies, if these are to survive in the future.

Against this background, the following ideas for an empirical study were proposed and endorsed by the participants of Souillac II.

### Artists' Rights Issues Raised by Digital Technologies:

A legal system for protecting artists' rights in the digital era must address the following issues:

- ∑ What specific problems do multimedia and the Internet pose for artists' rights?
- ∑ Who should own the copyright for a multi-authored hypertext document?
- ∑ Should there be protections for new works created from derivative use of copyrighted material?
- ∑ What legal framework will protect artists' rights, encourage creativity, and also protect the public domain?
- ∑ What type of international copyright scheme can address both economic and moral bases of copyright law?

### Proposed Methods for Protecting Artists' Rights:

Some of the following means to protect artists' rights in the digital era have been proposed, however no research has explored the relative merits or feasibility of these systems:

- ∑ Technical devices such as embedded "identifiers" within digital artworks and legislation prohibiting removal of such identifiers.
- ∑ Public relations campaigns to create a culture of respect for artists' work, and increase awareness of the need to prevent copying.
- ∑ Alternative royalty mechanisms such as taxing Internet use for all users, rather than licensing fees for only those detected users of copyrighted images.
- ∑ Improved international registration systems to facilitate copyright clearance and strengthen artists' rights collecting societies.

### Proposed Methodology and Research Design:

- ∑ Provide an artist-centered survey that examines the national regimes and proposals for change across Europe and compares them to approaches being taken elsewhere, including the United States.
- ∑ Survey ways in which the critical international institutions, including the World Intellectual Property Organisation, are structured to take artists' rights into account.
- ∑ Provide a summary of codes of practices that have been suggested for artists, and a synthesis of such surveys, in terms of protective and assimilative practices of artists.
- ∑ Suggest means of encouraging a digital environment hospitable to artists' rights and needs.
- ∑ Create a Website for interaction and distribution of the information gained from executing the proposal.

### Budget:

Researchers	50 000 ECU
Travel	30 000 ECU
Web Site/Diffusion/Communication	15 000 ECU

Study	30 000 ECU
General expenses	<u>10 000 ECU</u>
Total:	125 000 ECU

Partners:

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