

INTRODUCTION

I am an embroidery historian specializing in the study of embroidery and social history of 16th and 17th century embroidery of Western Europe. I teach classic embroidery techniques and design embroidery for execution by others. I market my copyrighted designs to individual consumers, to needlework shops and to needlework distributors in the US and internationally. My work has been published in Piecework Magazine, amongst other periodicals. My fiberart has been exhibited in London and I have appeared on BBC Radio on the issue of needlework aesthetics.

In the Summer of 2000 I became entangled in the morass of copyright infringement of needlework designs on internet sites. At that time a concerned consumer contacted a designer to make the designer aware of a photo site (freecharts) where scans of commercially published needlework charts were being uploaded and distributed to any and all who cared to download them.

An enthusiastic participant in these infringing activities, Carla Conry of Palmdale, California created a series of e-groups hosted by egroups.com. She later (May 2002) consolidated these groups into an omnibus pattern uploading group named "Pattern Piggies Unite" because of their avowed greed for infringed needlework charts. This group, and those following in its wake, transmit designs primarily as scanned e-mail attachments sent as messages to the host group. By July 2002 this group had

already posted 12,364 messages (most having infringed material as attachments) and other groups had begun to form as the infringing community hustled to have the largest, best and most “sharing” of groups.

E-group services for affinity groups are a boon to many honest hobbyists. They can be found on Yahoo, MSN, Topica, AOL and other sites. However, they are a haven for infringers.

Infringers often post messages on groups requesting specific patterns and they are soon uploaded to not only one group but multiple groups increasing the loss immensely.

Infringers were soon storing needlework designs on photo sites, e-groups, websites, and even family history groups.

Some infringers simply list their entire pattern collection that is available upon request. Charts are sent as e-mail attachments to requesting fellow infringers. Some infringers such as ATiggerhouse@aol.com offer lists of designs they will e-mail upon request or provide on a CD by mail. Some infringers sell the CD's of infringed material.

At first the affinity e-groups were public and open and designers joined the groups demanding that they remove infringed material. These designers were deemed by infringers to be “Trolls”. “Trolls” were seen as “the enemy” and list owners constantly tried to make their groups “safe” from these disturbing copyright fanatics.

Although groups were occasionally being closed (mostly through annoyance) they simply “morphed” into a new group and continued on their merry way. The new group was normally closed to general membership and required approval to join. Even if a hosting site occasionally closed an entire group, the average time for getting back online with the previous membership was approximately four hours.

I, and other designers and consumers, believed that we needed to make the effort to maintain membership in these clandestine groups and began joining them using an alias. Yahoo staff encouraged this sort of monitoring of groups by designers. Several of us created alias personae and joined several groups. As time went on groups were added and I soon was a member of 60+ infringing groups using several languages and located on several host services.

Most infringing groups soon began requiring infringing activity of prospective members. I created a PhotoPoint and a Picture Trail site and some designers allowed use of a design for uploading so that I could remain a member of infringing groups. I

was required to create a photo site to bolster my credibility with infringing groups. Running some of my vacation snapshots through a stitch design program and uploading the resultant charts and a few crochet patterns from an 1886 publication kept them at bay until I revealed myself to the groups.

In the Summer of 2001 a group of needlecrafters (mostly crocheters and knitters) joined in the battle. I felt that we needed more than anecdotal evidence of the infringement problem and asked for volunteers to completely survey one public Yahoo group that had been active for nearly a year, had not been called to task by designers and had a representative membership for the groups of that time. Ten volunteers from the UK, the US, Australia, Canada and Israel looked at 35,000+ messages posted to the group and identified 49,500+ pages of infringed material.

The group identified insofar as possible the owner of each of these uploaded pages and compiled a list of the designers/publishers furnishing them with thousands of URL's so the owners of the intellectual property identified could file a complaint under the provisions of the DMCA. A CD was created with the results of the survey and educational materials for designers concerning internet piracy of designs. (The contents of the CD can be found at www.skinneristers.com/copyright) Copies of the CD were provided to members of the needlework industry at a trade show in July 2001.

By May 2002 I was discouraged and tried battering at any door no matter how unlikely any attention would be paid to the issues facing designers. These contacts included the Library of Congress and the FBI. The Library of Congress did at least respond saying “not our job” but I have to date not received a response from the FBI.

By 2002, I was convinced watching the groups and trying to encourage designers and publishers to act was futile and two remaining volunteers (Barbara Horton and Su Poole) and I unsubscribed from a number of infringing groups after sending them a swan song “gotcha” message. The pirates remained unrepentant.

When I stopped following the groups, I offered my identity and archives to those I felt might have resources available to make use of these tools, but there was no interest evidenced.

I am not silly enough to believe that all infringement of needlework designs is within reach nor do I believe putting a halt to all internet piracy of needlework designs is an achievable goal. Widespread infringement is too well entrenched. I do believe that criminal enforcement of well written legislation can deter infringers and help contain piracy to a great extent. I am most hopeful that providing the criminal justice system with resources by way of staff and expanding their knowledge of the issues of

intellectual property, will achieve a decrease in piracy online and that they can take on this task that is far beyond any industry or individual. Cease and desist letters from rights holders are simply ignored by infringers and civil litigation is far beyond the means of 98% of needlework designers.

I am encouraged by the enforcement provisions of H.R. 2517 (as contained in Sections 3, 4 and 7) and the Educational component (contained in Section 5) and support its enactment. Stronger criminal enforcement of the copyright laws is absolutely necessary, particularly to protect individual creators like needlework designers. We simply cannot afford to undertake civil litigation. The rampant infringement and the unrepentant nature of the infringers makes criminal enforcement the only credible deterrent.