

Letter to the US copyright office to support resale right introduction in the U.S-Pictoright

November 29th 2012

Dear Sirs,

Pictoright is the Dutch copyright organization for visual artists. We administer the copyright and resale right on behalf of thousands of Dutch visual creators; painters sculptors, art photographers, etc. These artists have all mandated Pictoright directly. Besides, we represent tens of thousands visual creators from all over the world through reciprocal agreements with sister organizations abroad. We are happy to contribute to the informational request on the Equity for Visual Artists Act of 2011, introduced by Mr. Nadler to the House of Representatives.

Since the introduction of the right in the Netherlands, in 2006, Pictoright has built up six years of extensive experience in the collection and distribution of resale right on behalf of our members. Thousands of sales in the Netherlands have been administered by Pictoright on behalf of hundreds of artists, and starting this year, their heirs.

Pictoright is strongly in favor of the introduction of a resale right in the U.S. Resale rights will enable a right holder to participate in the economic success of their work as other creative individuals, as writers and composers, already do. We believe in the concept that a resale right royalty is a much needed way to address this perceived inequity.

If the U.S. will adopt a resale right comparable to Europe, U.S. artists will enjoy the benefits from the sale of their works in Europe in the same way as Dutch artists will from sales in the U.S. A quick survey shows that Pictoright will be able to increase its resale right collection from contemporary art auctions substantially when including U.S. right holders. At the same time, we have experienced increasing sales from our member artists in U.S. auctions during the last 5 years. And it is important to keep in mind that our quick survey shows that not only rich authors would benefit.

In the Netherlands, as in the whole of Europe, there have been several arguments against resale rights;

- *The introduction of the right will cause a shift in the art market to countries where the right is not yet introduced;*

Pictoright has not found any evidence of such a shift, and this has been backed by a study from Dutch art market professionals and also by the 'The Report on the Implementation and Effect of the Resale Right Directive' given by the European Commission in December 2011¹.

- *The introduction of the right will cause a large administrative burden;*

For Pictoright it was relatively easy to set up an efficient scheme with auction houses to collect and distribute resale rights. In this way organizations like Pictoright are able to maintain a low cost structure, thus maximizing the revenue for our visual artists. Likewise, the administrative burden for art market professionals can be kept at a minimum.

¹ http://ec.europa.eu/internal_market/copyright/docs/resale/report_en.pdf

In the Netherlands there is no compulsory collective management of resale rights. This may cause the resale right being collected by the art market professional without being claimed by the right holder. We therefore would like to stress the importance of mandatory collective management. This type of rights management allows the society appointed to manage the right, to indemnify the debtor and it makes sure that the right collected will be distributed to the right holder. Implementation without such legal backing for mandatory collective management will likely cause, as we have experienced ourselves, disputes between auction houses and visual artists or societies representing them about for instance chain of title.

On behalf of Dutch visual artists we would like to express our hope that the bill will be passed. Pictoright will be available for further inquiries on your part if necessary.

Yours truly,

Vincent van den Eijnde

Director
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