

Subject: Re: From unitedmedialicensing.com

From: Jim Gottstein <jim.gottstein@psychrights.org>

Date: Mon, 30 Mar 2009 21:43:28 -0800

To: "Davis, Laura" <LDavis@unitedmedia.com>, Jim Gottstein <jim.gottstein@psychrights.org>

Hi Laura,

Thank you for your prompt response. I have removed the image from the PsychRights Cause, not because we believe it is not permitted, but because we don't want the PsychRights Cause to be taken down by the provider for even a short amount of time. I have not removed it from the PsychRights website because it is permitted under the Fair Use provisions of the United States Copyright Laws.

By way of background, the doctor was "fooled or complicit" transformation of the work was derived from a recent article about a University of Minnesota psychiatrist researcher's financial payments from a drug company combined with his inaccurate reporting of research results. See,

<http://psychrights.org/Articles/090319SchulzSeroquelFraudPioneerPress.htm> The following is at the very end of the article:

Dr. Carl Elliot, a U bioethics professor, said the conflicting AstraZeneca studies are suspicious, but it's difficult to know if Schulz is at fault.

"Was Schulz fooled?" Elliott asked. "Or was he complicit?"

17 USC § 107 sets forth the criteria for Fair Use as follows:

§ 107. Limitations on exclusive rights: Fair use

Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include--

- (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- (2) the nature of the copyrighted work;
- (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the potential market for or value of the copyrighted work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

There is no doubt that the current use is fair, as would be its inclusion on protest signs. It is both a criticism and comment, it is for non-profit non-commercial educational purposes, it is less than a trifling portion of the copyrighted work and it would have an infinitesimal, if any, effect on the potential market for or value of the copyrighted work, although I suppose it might increase the potential market and value in a small way.

As I wrote to you, my only concern is that its inclusion on T-shirts potentially has a commercial aspect and therefore conceivably might not be a fair use. However, even then, it seems to me such a use is not necessarily infringing. For example, if there was a protest of the American Psychiatric Association's Annual Meeting in May

and participants were given (not sold) a T-shirt with the following image, that would clearly be a fair use:



Perhaps less clear, but still well inside the Fair Use category, would be if people were asked for the direct cost of producing the T-Shirts.

Under the §107 criteria, even selling a small number of them at a profit is probably a fair use. I don't know what the customary licensing fee is for the use of a PEANUTS image on a T-Shirt, but it seems likely it is \$1 or less per T-Shirt. We are willing to pay that for any use for which payment is received.

I understand that you are charged with protecting the commercial value of the PEANUTS franchise and wouldn't normally consider licensing on such a small scale. Mr. Schultz was just so brilliant in his PEANUTS creations and the above transformation of the Lucy "The Dr. is in" booth is just so perfect for our comment on and criticism of the current state of psychiatry that we insist on our right to use it under the Fair Use provisions of the copyright laws. What we would like to do, however, is obtain a license.

On the assumption that will not be forthcoming, however, we will use our best judgment on what will not infringe the copyright. Of course, we are open to being persuaded our analysis is wrong, but your "we cannot allow" the use is not adequate.

Again, I understand you are charged with preventing unauthorized uses, and no criticism is intended towards your response.

Davis, Laura wrote:

Hi Jim,

Thank you for your inquiry. Unfortunately, we cannot grant you permission to use the image you currently have on your website. It is altered from its original form and in violation of our copyright. We request that you remove it immediately. Because of various restrictions on the use of our art, we cannot allow you to use the image in its

original form on your website, facebook or t-shirts. I'm sorry to disappoint.

Thank you for your interest in PEANUTS.

LAURA DAVIS
Brand Associate
United Media

-----Original Message-----

From: anonymous@dv3.expandtheroom.net
[<mailto:anonymous@dv3.expandtheroom.net>]
Sent: Friday, March 27, 2009 3:35 PM
To: Mak, Allison
Subject: From unitedmedialicensing.com

From: Jim Gottstein

Company: Law Project for Psychiatric Rights

Job Title: President/CEO

E-Mail: jim.gottstein@psychrights.org

Subject: peanuts_domestic

Property: Adaptation of "The Dr. is In" Peanuts Lucy Booth

Comments:

The Law Project for Psychiatric Rights (PsychRights(r)) is a non-profit, tax exempt public interest law firm whose mission is to mount a strategic litigation campaign against forced psychiatric drugging and electroshock. We are currently displaying an adaptation of Peanuts' Lucy "The Dr. Is In" booth at <http://psychrights.org> and also on a Facebook Cause

I am confident it complies with fair use under the copyright laws and perhaps one or more other permitted uses, but we are also thinking of using the image on t-shirts. I believe if we don't sell them, the use will still be permitted, but wanted to alert you to this use.

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James B. (Jim) Gottstein, Esq.
President/CEO

Law Project for Psychiatric Rights
406 G Street, Suite 206
Anchorage, Alaska 99501
USA
Phone: (907) 274-7686) Fax: (907) 274-9493

jim.gottstein[at]psychrights.org
<http://psychrights.org/>

PsychRights®
Law Project for
Psychiatric Rights

The Law Project for Psychiatric Rights is a public interest law firm devoted to the defense of people facing the horrors of forced psychiatric drugging. We are further dedicated to exposing the truth about these drugs and the courts being misled into ordering people to be drugged and subjected to other brain and body damaging interventions against their will. Extensive information about this is available on our web site, <http://psychrights.org/>. Please donate generously. Our work is fueled with your IRS 501(c) tax deductible donations. Thank you for your ongoing help and support.