

Open letter to Australian and Polish authorities

requesting them to stop Aboriginal violence against non-Aboriginal artists, in Australia as well as overseas, and to investigate organisations which directly or indirectly condone, encourage or participate in Aboriginal harassment, such as the Arts Law Centre of Australia, Mowanjum Art Centre, and Viscopy in Australia, and Gessel legal firm in Warsaw, Poland.

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ABORIGINAL HARASSMENT OF INTERNATIONAL ARTISTS

From September 2012 a Polish artist and interior designer Ewa Smuga was harassed by an Aboriginal artist and organisations which form part of the “Aboriginal industry”, for using repetitive geometric patterns in her interior design of the Eclipse Hotel in Poland.

The Aboriginal artist tried to claim ownership of the seamless-triangle-pattern, and started making demands and threatening legal action. The harassment went on for several months, supported by the Arts Law Centre of Australia, Viscopy Copyright Agency and Corrs legal firm in Melbourne.

That matter was detailed in our complaint to Australian authorities published in April 2013, attached to this article.

Ewa Smuga requested an apology from those who wrongly accused her and kept vilifying her in Australian media. No apology was received, but the harassment stopped.

However, in October 2013 the harassment was resumed, this time through a Polish legal firm Gessel.

The firm’s solicitor Dorota Bryndal sent threatening letters, on behalf of the Aboriginal artist, to both the Polish designer and the Eclipse Hotel. The Gessel firm threatened with legal action over “unlawful use” of the triangle-pattern, unless a number of demands were met. The threats were fashioned in the same manner as the initial threats six months previously, again based on false claims that Aborigines hold copyright over the repetitive triangle pattern. The list of demands included:

For the designer:

- To pay compensation for the ‘unlawful’ use [of geometric triangle-pattern] in the amount of 50% of the fee received for the design and implementation of the design hotel within 14 days of receipt of this letter to the following bank account number of my client: [account details].

For the Eclipse Hotel:

- To provide accounting records specifying the value of the investment involving the construction of the hotel and all the documentation showing the revenue generated by the hotel since it was built.
- To provide accounting records showing the value of equipment of the hotel, including in particular the carpets in the hotel rooms, the design in the reception, the quantity and value of tables and chairs used in the restaurant, and the value of open screens and installations in the restaurant.
- To enter a license agreement to continue the legal use of the [triangle-pattern] elements of the design... the fee to be calculated on the basis of the documentation referred to in [the above] paragraphs.
- The license agreement for the legal dissemination of advertising materials showing the [triangle-pattern] interior design of the Eclipse Hotel.
- Payment of the redress in the amount of 70 000 PLN in connection with the wrongful copyright infringement of my client within 14 days of receipt of this letter to the following bank account number of my clients: [account details].

- The payment of 50 000 PLN for the organization "Copyrights Agency's Cultural Fund" (www.copyright.com.au), in connection with a 'culpable violation of copyright laws' of my client within 14 days of receipt of this letter to the following bank account number of the indicated organization: [account details].
- the payment of legal costs that [Aboriginal artist] incurred in connection with the investigation of her rights. Table cost will be passed at a later date.

Legally unfounded threats and attempts at extortion are unethical bullying and a form of violence.

In Australian law, definition of violence includes many types of violence: so called 'hard' or behaviour involving physical force, as well as various forms of 'soft' or non-physical violence.

Definition of non-physical violence includes verbal abuse, intimidation, threats, stalking, harassment, as well as psychological maltreatment and sadistic and intimidating behaviour, humiliating the victim, spreading lies, inciting hate, demanding money and any other form of behaviour that causes fear and psychological harm to its victim.

The Gessel firm letters, much like the earlier letters sent from Australia, based on false claims that someone holds a copyright over patterns in the public domain, are also a breach of the professional code of ethics for legal practitioners. The code of professional ethics for Australian lawyers clearly states they are not allowed to make legally unfounded threats.

Gessel also acted unprofessionally, without due care and due diligence, when agreeing to make threats on behalf of someone in Australia. In what was clearly an Australian matter, the appropriate response for Gessel firm would be to establish the facts first, and advise their Australian counterparts to lodge a claim in any Australian court.

Such behaviour, by taxpayer funded lawyers in Australia, is nothing new. Over the last 30 years, Australian lawyers have been inventing an Aboriginal culture that does not exist (*Emeritus Professor John Mulvaney, 2012*), for political purposes. Engaging overseas lawyers seems to be a relatively new trend. When failing to make a case acceptable to any Australian court, Aborigines and their collaborators in the Aboriginal industry organisations resort to intimidating international artists by vulgar attacks in the media and, as in this case, by hiring the lawyers in foreign countries.

In the case of Ewa Smuga, the Gessel lawyers are duplicating the unethical behaviour we often see in Australia. Even though any Polish court would most likely refuse/decline such a malicious and frivolous claim, it can cause the accused parties lot of grief, fear and anxiety.

In the long history of Aboriginal harassment of non-Aboriginal artists, claims like this were seen before. Harassment, violence and vandalism in response to a work of art are usually explained as a consequence of artwork being "offensive", "unlawful" use of "sacred" motifs, without "permission" by "traditional owners". Those "sacred" motifs usually include references to Australian prehistoric cave art, patterns and styles, all of which are in the public domain and any artist is free to use them.

While waiting to see how much further the Polish firm is going to keep up this harassment, it is appropriate to inform the public of recent cases against artists overseas, as it is in the public interest.

International artists in the United States, Great Britain, Croatia, Russia, and Poland, should not suffer the same fate as Australian non-Aboriginal artists. We urge the authorities in those artists' respective countries to send a clear message to Australian authorities that Aboriginal harassment of their citizens is unconscionable and will/can no longer be tolerated.

These are some of the recent examples of Aboriginal harassment of international artists, which have made Australia a laughing stock in art circles abroad.

“Rodarte” American fashion designers harassed over use of stone age motifs



In March 2012 “Rodarte” designers were attacked for using a hand-print motif and other prehistoric geometric decorative patterns in their collection. Even though these patterns are found in any Lower Palaeolithic culture on every continent, Aborigines claimed it is their “copyright”, and demanded to be paid “royalties”. Rodarte owners made a statement that they were fully aware there is no copyright on prehistoric motifs, but have decided to throw some money Aboriginal way, in order to stop the harassment.

Russian skaters' harassed over Aboriginal-inspired costumes



Oksana Domnina and Maxim Shabalin [Photo: Ivan Sekretarev/AP]

At the Winter Olympics in Vancouver in 2010, Oksana Domnina and Maxim Shabalin, world champion figure skaters, have been accused of “demeaning” Australia's Aborigines with their dance routine using Aboriginal motifs. The Guardian commented on the violent reactions by Australian Aborigines, who accused the skaters of “ripping off” Aboriginal culture and “unlawful use” of Aboriginal symbols. An Aboriginal representative called the routine “insensitive”, “offensive” and “unacceptable”. In January 2010, the Sydney Morning Herald published this story, and some of its readers appeared unimpressed, commenting: “What a pathetic attitude taken by the ‘indigenous community’ to a perfectly legitimate performance, probably choreographed as a compliment and with no offence intended.”. But the Aboriginal detractors were still enraged, and demanded to meet with the skaters to discuss issues of “cultural sensitivity”.

The skaters refused to engage in any debate, and continued to use their Aboriginal routine.

British Prince Harry harassed over “Aboriginal” art



In 2003 The Guardian reported the attacks on Prince Harry, for “offending Aborigines”, when creating an Aboriginal-inspired artwork, which sparked Aboriginal anger. Aboriginal artists claimed the prince has no right to paint the lizard motifs and claimed he has “stolen their culture” and was “ripping them off”. Aboriginal lawyers and Aboriginal art curators accused him of “cultural exploitation” and were rubbing their hands in anticipation of what they announced might turn into a “large test case about indigenous intellectual property”. According to them, “The prince was using important symbols which represent lightning, stars and waterways... without permission!”

Buckingham Palace dismissed the matter, and said the paintings do not “purport to be an aboriginal piece of work”, had nothing to do with Aborigines, requires no “permission”, and that was the end of that.

Imelda Almquist vilified for paintings inspired by pre-Aboriginal Wanjina art



British artist Imelda Almquist was a target of Aboriginal hate for creating art referenced to Australian prehistoric rock art images, created by pre-Aboriginal race of Abrajanes. She is one of a number of European artists who have been receiving offensive, insulting, vulgar and threatening emails from detractors in Australia. Most of European artists decided to ignore the attacks and continue to use anthropomorphic images as found in pre-Aboriginal Australian rock art.

Not one of these artists had any intention to “offend”, but the violence in all its forms follows every time when any Aborigine starts complaining how “offensive” a painting, an article, a dress, or a carpet is. Any such claim promptly sets the Aboriginal industry in motion. Being “offended” is a standard excuse to keep up bad behaviour, with the taxpayer funded Arts Law Centre of Australia and a few “Aboriginal art” curators always eager to oblige and support Aboriginal irrational claims and ludicrous demands.

We advise the artists overseas to keep creating art, ignore the detractors, and report any threat to the authorities and Australian Embassies in their respective countries.

Following our earlier complaints, the Office for the Arts in August 2013 decided to stop funding the Arts Law Centre of Australia. We urge other funding bodies to follow this example, to investigate the taxpayer funded organisations and individuals who misuse the public money to harass non-Aboriginal artists. We urge them to defund the organisations and individuals who engage in unethical practices, to set up a public enquiry into corruption within Aboriginal industry.

Further references

“Holy rats and sacred cows” – update on Aboriginal violence against Australian artists, December 2013

Earlier submissions regarding problems in Australian art and archaeology (www.modrogorje.com)

Open Letter to the incoming Liberal Government, with request for defunding of the Arts Law Centre, August 2013

“Aboriginal Violence against International Artists”, April 2013

Complaint to the Office of Legal Services Commissioner (OLSC) about the Arts Law Centre breach of the Code of Professional Ethics and the OLSC response, with commentary by an art and political science expert, April 2013

“Aboriginal Violence against Australian Artists”, February 2013

“Forbidden Art, Politicised Archaeology and Orwellian Politics in Australia”, October 2012:

The way that art, science and politics were used to create our present, dominated by Aboriginal political goals was explored in *“Forbidden Art, Politicised Archaeology and Orwellian Politics – about Aboriginal violence, art censorship, and legally-sanctioned scientific fraud in Australia”*, available for free download:

https://docs.google.com/file/d/0B6a_Uxy44-BwSUVmQUhPZGFYms/edit?pli=1

Request for de-funding the Arts Law Centre of Australia and Mowanjum Aboriginal centre, and for scrapping of the Australia Council for the Arts “Protocols for producing Indigenous Australian visual arts”, March 2012

Complaint against discrimination, harassment and vilification of non-indigenous artists and other ModroGorje art-project participants and supporters in Australia, with a request for the Australian Government to enquire into the conduct of the Arts Law Centre of Australia and Blue Mountains City Council, January 2012

Request for enquiry into the conduct of the Arts Law Centre of Australia and Blue Mountains City Council, in relation to censorship of the *Wanjina Watchers in the Whispering Stone* sculpture by artist Benedikt Osváth and attacks on the “Dreamtime Set in Stone” book by Vesna Tenodi and “Wanjina Watchers” paintings by Gina Sinozich, November 2011

“The Problem with Aboriginal Art”, Quadrant 2008