

Art World News

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THE INDEPENDENT NEWS SOURCE

ART BRAND STUDIOS ACQUIRES WILD WINGS

MORGAN HILL, CA—Art Brand Studios (ABS), publisher of branded art programs, has acquired Wild Wings, representative of 50 of America's top wildlife and Americana/nostalgia artists. Wild Wings has a long history of specializing in art and art-related products that reflect a healthy outdoor lifestyle, with genres that include big game, waterfowl, songbirds, Native American, and nostalgic Americana,

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WHAT'S HOT IN OPEN EDITION PRINTS

The best-selling prints from leading open edition print publishers are presented on pages 30 and 31.

IN THIS ISSUE: FOCUS ON FRAMING

The impact of framers' design choices is explored in an article based on the winners of Tru Vue's sixth annual framing competition, page 20–22. We also highlight New Framing Products on pages 24–25.

ARTEXPO NEW YORK: STRONGER ECONOMY FUELS OPTIMISM

Artexpo New York, SOLO, and FOTO SOLO was a better show for a number of exhibitors, although with some unevenness. A stronger economy helped fuel positivity, and many remarked on the more elegant look of the show that featured some 400 exhibitors. Turn to page 14.



ADC Fine Art, a 10,000-square-foot 5th floor gallery in Cincinnati.

GREG YOUNG PUBLISHING WINS COPYRIGHT INFRINGEMENT SUIT

Greg Young, owner of Greg Young Publishing Inc., has been awarded \$350,000 in damages by a California federal judge in a case in which Greg Young Publishing (GYP) claimed Zazzle Inc. infringed copyrights on about 35 Kerne Erickson paintings by allowing its users to replicate images of the paintings on mugs and other items. Erickson is well known for his vintage-inspired travel- and beach-themed paintings which have proved to be some of the most popular works licensed by GYP. The case is a lesson on the absolute importance of all copyright owners, including publishers who have exclusive rights, filing all copyrights correctly with the Copyright Office (www.copyright.gov) in order to protect themselves against potential costs on litigation, which are not recoverable if the copyright has not been properly registered and are usually partially recoverable.

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QUOTE OF THE MONTH:

"An investment in the arts is an investment in our future. LA/LA attracted millions of visitors, supported thousands of good-paying jobs, and helped drive another year of record-breaking tourism."

Mayor Eric Garcetti, page 16

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among others. Since the publication of its first print in 1970, Wild Wings and its artists have donated a portion of each year's print editions to conservation organizations across North America.

ABS is owned by Art Brand Investor LLC, which is owned by M2 Investment Management LLC, and managed by Next Point Capitol (NPC). Mark Mickelson, managing partner at NPC, says, "Through a broad range of products, from fine art prints to home décor, we are looking forward to marketing and promoting an artistic genre that celebrates wildlife and Americana, and doing it with a company with the same values and creative commitment that ABS was founded on." Randy Eggenberger, president of Wild Wings, notes, "This union brings together the creative talents of some of the most respected names in art including **Thomas Kinkadee, Terry Redlin,** and Wild Wings. The combined companies will build on the respective strengths of each organization resulting in exciting new directions and opportunities for our customers, artists, and employees." Visit: www.artbrandstudios.com or: www.wildwings.com.

CONTACT INFORMATION FOR BILL TOMA SCULPTURE CORRECTION

In the March–April issue of *Art World News* we published an incorrect e-mail address to inquire about Bill Toma's sculpture collections. To request information on his work, e-mail: Steve Morris of ACES Art at: smorris@rockstreamcapital.com.

GREG YOUNG WINS COPYRIGHT INFRINGEMENT SUIT

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able if the action is successful by the claimant.

Greg Young Publishing Inc. of Santa Barbara, CA, had brought this copyright infringement action against Zazzle Inc. of Redwood City, CA, an e-commerce vendor that allows users to upload images of artwork, slogans, and designs for printing by Zazzle on products such as coffee mugs, travel posters, T-shirts, mousepads, and more. These products are then offered for sale to the public. The plaintiff, GYP, alleged that some of the designs uploaded by third parties and printed onto products by Zazzle infringed 35 different copyrighted works by Erickson, owned by the plaintiff.

During the proceedings, Mr. Young made the decision not to accept a confidential out-of-court settlement, but to push forward and go to trial, so that the settlement would be on public record and benefit the whole industry of artists, publishers, manufacturers, and the public. The case was tried on August 8 and 9, 2017, in the U.S. District Court, Central District of California in Los Angeles. Mr. Young felt able to do this because he had registered all of the copyrights, proving copyright ownership, at the time of first publishing.

In court documents it was stated that Mr. Young actively protects these copyrights.

When licensing to manufacturers, GYP requires a visible attribution that notices Kerne Erickson as the artist and GYP as the copyright owner. Court documents state, "Despite this fact, and because of Mr. Erickson's popularity, GYP is constantly required to protect its rights in and out of court against willful infringers who believe that they can do

ability based solely on the unauthorized display of copyrighted images on Zazzle's website.

At trial, it was noted that Zazzle has an express policy against infringing activity. It was shown that Zazzle:

- (1) Adopted a policy against copyright infringement.
- (2) Required its users to contractually warrant that each design's use was authorized.
- (3) Employed a large team to help enforce its policy.
- (4) Responded to every one of plaintiff's takedown requests, and
- (5) Made an effort to try to locate and remove additional infringements from plaintiff's catalogue.

Evidence showed that every time Zazzle was notified of an alleged infringement, it removed that product from its

website. At one point in time, Zazzle made a specific effort to try to remove all products that might potentially infringe plaintiff's copyrights by using keyword searches to try to find those products and remove them. However, Mr. Young's ongoing concern was that other third-party users continued to upload his images to Zazzle and Zazzle did not proactively takedown the images. Plaintiff had to send a total of nine takedown notices to combat these new images.

The jury found in favor of Greg Young Publishing and Mr. Young was awarded



Greg Young, fourth from left, with his team of four attorneys and artist Kerne Erickson on the steps of the U.S. District Court in Los Angeles after the first day of the trial. From left, the attorneys are Jacob Ainciart, Jeffrey Young, and Jason Aquilino, and far right, Darren Quinn. Erickson is on Mr. Young's left.

as they please without any consequences and in violation of the law."

One aspect that is noteworthy of what is protected under the Digital Millennium Copyright Act (DMCA) came to light in the judge's ruling on the defendant and prosecution's motions for summary judgement. Judge Stephen V. Wilson, United States District Court, Central District of California, concluded that, to the extent Zazzle manufactured and sold physical products bearing infringing images, Zazzle was not protected under the DMCA. But, Zazzle could invoke DMCA safe harbor to the extent GYP sought to impose li-

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