

Section 106 of the Copyright Act conveyed the following exclusive right to reproduce, prepare derivative, display and to authorize any other persons to reproduce, prepare derivative and display his copyrighted works exclusively to Mr. Harris:

1. The exclusive right of reproduction under Section 106(1) of the Act;
2. The exclusive right to prepare derivative works under Section 106(2) of the Act;
3. The exclusive right to distribute the work under Section 106(3) of the Act;
And;
4. The exclusive right to perform the work publicly Section 106(4). (*See* 17 U.S.C. §106(1)-(4)).

“Anyone who violates any of the exclusive rights of the copyright owner as provided in Sections 106 through 122 ... is an infringer of the copyright ...” 17 U.S.C. §501(a).

Your unlawful actions of unauthorized use and/or reproduction and/or derivative work and plagiarizing from Mr. Harris’ booklet “How America Elects Her Presidents” was deliberate, willful, malicious, oppressive and without regard to Mr. Harris’ intellectual property rights and amounts to infringement as stated above.

“To state a claim for copyright infringement, ‘two elements must be proven: (1) Ownership of a valid copyright and (2) Copying of constitute elements of the work that are original”. *Warren Pub. Co. v. Spurlock*, 645 F.Supp.2d 402 E.D.Pa.,2009; *Feist Publications, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 361, 111 S.Ct. 1282, 1296, 113 L.Ed. 2d 358 (1991). To prevail on claim of copyright infringement, copyright owner must establish that it owns valid copyright in work and that defendant engaged in unauthorized copying or distribution of that work. *Warner Bros. Records Inc. v. Walker*, 2010 WL 1333147 W.D.Pa.,2010.

Mr. Harris’ Copyright Certificate for “How America Elects Her Presidents” further constitutes prima facie evidence of copyright validity of Mr. Harris’ “Copyrighted Work” and his exclusive ownership therein. *See Value Group, Inc. v. Mendham Lake Estates, L.P.*, 800 F.Supp. 1228, 1232 (D.N.J. 1992)(citing *Midway Mfg. Co. v. Bandai-America, Inc., et al.*, 546 F. Supp. 125, 138 (D.N.J. 1992), *aff’d*, 775 F.2d 70 (3d Cir. 1985), *cert. denied*, 475 U.S. 1047, 106 S.Ct. 1265, 89 L.Ed. 2d 574 (1986). Accordingly, Mr. Harris’ exclusive ownership in his booklet is clearly established.

In deciding whether defendant has “copied” protected work, in violation of federal copyright law, court considers whether defendant's work is so similar to that of plaintiff that ordinary reasonable person would conclude that defendant unlawfully appropriated plaintiff's protectable expression by taking material of substance and value. *National Risk Management, Inc. v. Bramwell*, 819 F.Supp. 417 E.D.Pa.,1993. There is seldom direct evidence of copying of copyrighted material and proof is ordinarily directed to showing that person or persons who compose particular work had access to copyrighted work and that allegedly infringing work is substantially similar to copyrighted piece. 17 U.S.C.A. § 101 et seq.

Testa v. Janssen, 492 F.Supp. 198 W.D.Pa.,1980. Further, it is well established that “as direct proof of the second element, copying, is rarely available, courts permit circumstantial and inferential proof of copying, through a showing that: (1) The defendant had access to the protected works; and (2) That the two works are ‘substantially similar’”. Bright v. Friendenberg, 1999 WL 89716, 1 (1999) (quoting Ford Motor Co. v. Summit Motor Prods., Inc., 930 F.2d 277, 291 (3d Cir.), cert. denied, 502 U.S. 939 (1991). “Substantial similarity is determined by a comparison of the works.” CSM Investors, Inc. v. Everest Development, Ltd., 840 F.Supp. 1304, 1311 (D. Minn. 1994).

“If there is substantial similarity in ideas, ‘similarity of expression is evaluated by using an intrinsic test depending on the response of the ordinary, reasonable person to the forms of expression.” CSM Investors, Inc., 840 F.Supp. at 1311 (citing Hartman, 833 F.2d at 120). “The second ‘intrinsic test’ asks whether, from a lay perspective, the copying constitutes an unlawful appropriation of the copyrighted works.” Ford Motor Co., 930 F.2d at 291. “To show substantial similarity, the Plaintiff must establish that ‘an average lay observer would recognize the alleged copy as having been appropriated from the copyrighted work.” Original Appalachian Artworks, Inc. v. Toy Loft, Inc., 684 F.2d 821, 829 (11th Cir. 1982).

In this case, intrinsically, the facts clearly establish that a layperson would necessarily conclude that the questions and/or content read out by you from the Q cards in “Oprah Winfrey Show” are not only substantially similar but verbatim. The fact that Mr. Harris had sent you 10 copies of booklets for consideration of his offer clearly bolsters the allegation that you had easy access to Mr. Harris’ booklet to plagiarize the questions verbatim from his booklet and use them for your show which constitutes infringing work. Value Group, Inc., 800 F.Supp. at 1233 (“In determining whether a work is substantially similar, the Court should “record [its] impressions as they would appear to a lay person viewing the works [side by side] ... [and] concentrate upon the gross features rather than an examination of the minutiae”. Midway Mfg., 546 F.Supp. at 138 (citing Universal Athletic Sales Co. v. Salkeld, 511 F.2d 904, 908-909 (3d Cir. 1975) cert. denied, 423 U.S. 863, 96 Sup. Ct. 122, 46 L.Ed.2d 92 (1975)).

Thus, your copyright infringement has caused and will continue to cause Mr. Harris and Unique Products to suffer substantial injury, loss and damage to its property and exclusive rights to the copyrights in “How America Elects Her Presidents”, and further has damaged Unique Products and Services’ goodwill, diverted its trade and has caused a loss of profits all in an amount not yet completely ascertained.

Mr. Harris and Unique Products are entitled to recover actual damages if trial ensues, plus an award for your profits resulting from the unlawful use of and infringement on Mr. Harris’ “How America Elects Her Presidents”; or alternatively, statutory damages for each act of infringement in an amount provided by law, as set forth in 17 U.S.C. §504 for damages of up to \$150,000 per each incident of intentional unlawful use by you and HARPO. If a suit is instituted, Mr. Harris is further entitled to recover prejudgment and post judgment interest and for an award of Mr. Harris’s reasonable attorney’s fees pursuant to 17 U.S.C. §505 together with costs of suit.

2. Tortious Conversion

In the alternative, you and HARPO are liable under the theory of tortious conversion. You and HARPO have tortiously converted questions and/or contents of Mr. Harris' "Copyrighted Work" by virtue of your unauthorized appropriation thereof and incorporation of the same in your Q cards for the "Oprah Winfrey Show". This unauthorized conversion of Mr. Harris' "Copyrighted Work" has occurred without legal justification and Mr. Harris' consent.

See *Stenograph, L.L.C. v. Sims*, No. Civ. A. 99-5354, 2000 WL 964748, at 3 (E.D. Pa., 2000). (Granting summary judgment on claims for copyright infringement and conversion). Mr. Harris has suffered actual, incidental, and consequential damages on the basis of your tortious conversion of Mr. Harris' "Copyrighted Work" together with loss of value and the benefits thereof.

You and HARPO remain solely, jointly, or jointly and severally liable and indebted to Mr. Harris for and in the amount of all actual, incidental, and consequential damages that Mr. Harris has suffered and will likely suffer in the future as the direct and proximate result of your tortious conversion.

You and HARPO additionally remain solely, jointly, or jointly and severally liable and indebted to Mr. Harris and Unique Products in the amount of all gains, benefits, and advantages that they have individually and/or collectively derived and will likely derive in the future by virtue of your improper and unauthorized conversion.

3. Unjust Enrichment

Alternatively, you and HARPO are also liable under the theory of Unjust Enrichment. You have unjustly secured and will likely continue to unjustly secure economic gain and advantage on the basis of your unauthorized use and plagiarizing of Mr. Harris' "Copyrighted Work".

You and HARPO remain and shall remain unjustly enriched in the future unless you pay full and complete restitution to Mr. Harris for and in the amount of the value of all gains, benefits, and advantages that you have derived and will likely derive in the future there from. See *Hustlers Inc. v. Thomasson*, 253 F. Supp. 2d at 1293, N.D.Ga., 2002 ("As mere violation of the exclusive rights of section 106 does not constitute unjust enrichment alone, Plaintiff's claim is not preempted."); *Weigel Broadcasting Co. v. Topel*, No. 83 C 7921, 1985 WL 2360, at 5 (N.D. Ill. Aug. 21, 1985) ("An action for unjust enrichment is not the equivalent of the exclusive rights protected by the Copyright Act.").

4. Quantum Meruit

You and HARPO has had use of Mr. Harris' Copyrighted Work" in "Oprah Winfrey Show" for the display of around 40,000,000 viewers without paying for it.

Mr. Harris is entitled to the reasonable value of the cost for the use and display of his "Copyrighted Work" to the estimated 40,000,000 viewers.

The reasonable value of the cost of such use is at and in excess of \$40,000,000 (Forty Million Dollars)

DAMAGES

Unique Products initially offered the booklet as an inclusion in then Senator Obama now President Obama's campaign for President of the United States. Unique Products in its offer had made it clear that the booklet could be mixed or matched, omissions or deletions can be made to make it suitable for the show. Unique gave HARPO the opportunity to properly acquire the booklet - which you passed on and stole the information.

Therefore, Mr. Harris and Unique Products are entitled to statutory damages for each act of infringement in an amount provided by law, as set forth in 17 U.S.C. §504 for damages of up to \$150,000 per each incident of intentional unlawful use by you and HARPO.

Corporately, Unique Products sells the booklet, "How America Elects Her Presidents" for \$5.00 each. It sells them to civic and community groups for \$4.00 each, and educational institutions for \$3.00 each, depending on the volume.

Unique Products had decided to sell HARPO, the booklet for \$3.00 each given the volume they would have needed to distribute them to their audiences throughout the Obama campaign.

If the booklet was properly publicized and credited on the "Oprah Winfrey Show", given the popularity of your show, a copy of the booklet could have been sold to everyone of your 40,000,000 daily viewers during the Presidential Campaign. Thus, it has resulted in a loss in an amount more than 120,000,000 (One-hundred and twenty Million Dollars) to Unique Products and Services.

Additionally, HARPO maintains a book club. If Mr. Harris' booklet was offered in HARPO's Book Club, with the proper campaigning of interesting historical facts, Senator Obama on the cover, and the convenience of transporting the booklet (3x6 will fit in any pocket or carrying devise), the booklet certainly would have been competitive. The majority of the author's in your book club go onto be famous, and wealthy and their products are endorsed by you.

Unique Products were denied any of the successes mentioned because you preferred to plagiarize and copy what Unique Products had to offer. Consequently, Unique Products has suffered a loss which in monetary terms would exceed more than \$20,000,000 (Twenty Million Dollars)

Further, Mr. Harris is also entitled to damages in the value of all gains, profits, benefits, and advantages that you have derived from the use of Mr. Harris' "Copyrighted Work" that amounts to **\$20, 000,000** (Twenty Million Dollars)

Mr. Harris and Unique Products are therefore entitled to a total damages in the amount of \$200,000,000 (Two-Hundred Million Dollars) .

DEMAND

Demand is hereby made that you and HARPO immediately stop infringing Mr. Harris and Unique Products copyright and immediately deliver all originals and copies of Mr. Harris's booklet "How American Elects Her Presidents" including any infringing copies. It is my firm belief that the facts and circumstances of this case, if presented before a jury will likely far exceed the estimated amount of damages in this demand letter; however, I will give you the opportunity to settle this case fully and finally.

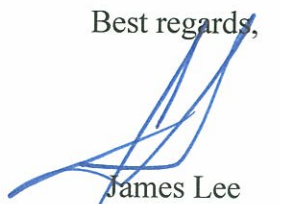
I am authorized to provide a settlement offer on behalf of Mr. Harris and Unique Products. From the damages that I have presented, it is my opinion that any fair, objective evaluation of this claim would lead a reasonable person to conclude that it has a value of \$100,000,000 One-Hundred Million Dollars. This demand is non-negotiable and is very reasonable considering the facts and circumstances of the case.

This letter is not a complete statement of Mr. Harris and Unique Products and Services' rights in connection with this matter, and nothing contained herein constitutes an express or implied waiver of any rights, remedies, or defenses of Mr. Harris and Unique Products in connection with this matter, all of which are expressly reserved.

Please respond to Mr. Harris and Unique Product's settlement demand no later than August, 2010. **Please call, (267) 702-2026 if you wish to discuss or if you have any questions.**

I appreciate your time and prompt attention to this claim and look forward to working with you to reach a timely and equitable resolution.

Best regards,



James Lee
Attorney at Law

EXHIBIT 1

CERTIFICATE OF REGISTRATION



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

FORM 1A
For a Nondramatic Literary Work
UNITED STATES COPYRIGHT OFFICE

REGIS

TXu 931-707



#TXU000931707#

EFFECTIVE DATE OF REGISTRATION

1 6 2000
Month Day Year

Marybeth Peters

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1 TITLE OF THIS WORK ▼

United States of America

HOW AMERICA ELECTS IT'S PRESIDENTS

PREVIOUS OR ALTERNATIVE TITLES ▼

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

2 a NAME OF AUTHOR ▼

CHARLES HARRIS

DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼
1940

Was this contribution to the work a "work made for hire"?
☐ Yes
☒ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country

OR { Citizen of ► **UNITED STATES**
Domiciled in ►

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ No
Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP ENTIRE TEXT Briefly describe nature of material created by this author in which copyright is claimed. ▼

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?
☐ Yes
☐ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country

OR { Citizen of ►
Domiciled in ►

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ No
Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?
☐ Yes
☐ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country

OR { Citizen of ►
Domiciled in ►

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ No
Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

3 a YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED
1999

This information must be given in all cases.

DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Complete this information ONLY if this work has been published.

Month ► Day ► Year ►

Nation

4 COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

CHARLES HARRIS
2200 BEN FRANKLIN PKWY - E1805A
PHILADELPHIA, PA 19130

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

APPLICATION RECEIVED

ONE DEPOSIT RECEIVED

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

MORE ON BACK ►

- Complete all applicable spaces (numbers 5-9) on the reverse side of this page.
- See detailed instructions.
- Sign the form at line 8.

DO NOT WRITE HERE

Page 1 of 2 pages

NOTE

Under the law, the "author" of "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was made for hire, check "Yes" in the space provided, give the employer's name and address (person for whom the work was prepared) as "Author" of the work, and give the date of birth and death blank.

See instructions for completing this space.

☐ CORRESPONDENCE
Yes

FOR
COPYRIGHT
OFFICE
USE
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☒ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ▼

☐ This is the first published edition of a work previously registered in unpublished form.

☒ This is the first application submitted by this author as copyright claimant.

☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ►

Year of Registration ►

DERIVATIVE WORK OR COMPILATION

Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

a 6

See instructions
before completing
this space.

Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

b

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.
Name ▼ Account Number ▼

a 7

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ▼

CHARLES HARRIS
200 BEN FRANKLIN PKWY - E 1805A
PHILADELPHIA, PA 19130

b

Area code and daytime telephone number ► (215) 569-1936

Fax number ► (215) 557-7627

mail ►

CERTIFICATION* I, the undersigned, hereby certify that I am the

Check only one ►

- ☒ author
☐ other copyright claimant
☐ owner of exclusive right(s)
☐ authorized agent of _____

If the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

8

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

CHARLES HARRIS

Date ► 1/3/2000

Handwritten signature (X) ▼

X Charles Harris

Certificate
will be
mailed in
window
envelope
to this
address:

Name ▼

CHARLES HARRIS

Number/Street/Apt ▼

2200 BEN FRANKLIN PKWY E 1805A

City/State/ZIP ▼

PHILADELPHIA, PA 19130

YOU MUST:

- Complete all necessary spaces
- Sign your application in space 8

SEND ALL 3 ELEMENTS IN THE SAME PACKAGE:

1. Application form
 2. Nonrefundable filing fee in check or money order payable to *Register of Copyrights*
 3. Deposit material
- MAIL TO:
Library of Congress
Copyright Office
101 Independence Avenue, S.E.
Washington, D.C. 20559-6000

9

As of
July 1,
1999,
the
filing
fee for
Form TX
is \$30.

17 U.S.C. § 506(e): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

Form 1999-200,000
EB REV: June 1999

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