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It has recently come to our attention there is strong evidence that a screenplay that was written by myself and my partner and submitted to an Australian film finance company in the year 2000 for production financing may have been taken to be an ‘orphaned work.’

Two weeks ago while visiting the internet movie data base (imdb.com) I ran across a finished film that was first filmed in 2002 first shown in 2004 and now just been released and is currently slated for a National release in June 2005. This film bears the same title as our screenplay “THE CROP”. While certainly not unusual and understood by us that ‘titles’ are non-copyrightable we didn’t think much of it at the time but upon further investigation we found a highly disturbing number of parallels. In fact the number of coincidental story elements, dialogue, story premise, characters, plot points, are far too copious to ignore, leading us to believe this rises above the surface of an inadvertent happenstance. Further raising our suspicions are the abundant claims by the alleged author for his ‘first time’ screenplay to be exclusively original up to himself and in many recent reviews and interviews (easily found on any Search Engine) Albeit this gentleman is of certain fame and notoriety he also bears with that notoriety an alleged predilection for risk taking and questionable behavior.

We are aware that the U.S. Copyright Office does not adjudicate in these matters. It is interesting however that our investigation in this matter leads us here to the orphaned work matter currently under review.

The Australian film finance company that originally received a copy of our script in 2000 is now apparently “defunct” and it would have been an easy matter for our script to become disseminated into any number of information networks, as the submission was originally made online and in good faith.

‘THE CROP (our version) has also competed in a screenplay competition and was ranked in the Top Ten and elevated to Hall of Fame status out of over 1000 screenplays after surviving 50 peer reviews at TriggerStreet.com in 2003

We currently hold the WGAw registration #788887 for “THE CROP” dated May 2000.

We have submitted this letter to you in the hopes that if we find this independent Australian Production and privately owned distribution company that may have illegally laid claim to our work and find their claim of original authorship false we feel they may make an effort to fall back on an “Orphaned Work” status in this matter.

Within the last week we sent in our U.S. copyright registration for 'THE CROP' and it should presently be in process of review and it would be our hope that you could notate or make reference to our concerns of being potentially misused or misclassified as an Orphaned Work and include in tandem to our filing some reference to a potential Orphaned Work connection even though at this time the AU writer claims otherwise.

Upon U.S. registration acceptance: One potential outcome upon the delivery of a demand and notification letter to the aforementioned individuals by the attorneys filing the impending copyright infringement suit on our behalf may be a claim of using an Orphaned Work and of a good faith effort to locate authors – this very well could be sought by the Australian company or their insurance agents (if any) to try and protect their interests. We have never been contacted by anyone in this matter.

In conclusion and in response to the questions your Office and others have raised over Orphaned Works: should our case prove out in court it could be strong evidence that allowing Orphaned Works to be disseminated without tight controls in any capacity could easily translate into an infringement free for all for those that would attempt to abuse it such as the alleged aforementioned producer and others involved in our current matter very well may have done.

Thank you for your interest in this matter.

Best regards,

Jonathan H. Coder  
James Hunt Garcia Jr. Atty.

5/9/2005

j/c