

# ARCHER OFFICE

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To the Productivity Commission Inquiry,

My name is Tomek Archer. I'm the director of Archer Office, an Architecture and design practice, and co-founder of NOMI, an Australian online furniture company. My furniture design work has been recognised with numerous accolades including an Australian DesignMark at the Australian International Design Awards, and is held in numerous public and private collections including the Art Gallery of Western Australia.

I have also been actively involved in the music industry as an international performer and recording artist for over a decade with Van She and other groups.

I am concerned by the shortcomings of intellectual property protections as they apply to the design industry and hereby submit the following comments for your consideration.

**1. The design industry should match the music industry model: Free copyright protection.**

In my opinion, the design industry is confronted by challenges faced by the music industry 20 years ago. The music industry had to go through a flashpoint with the introduction of the internet and digital formats. It became easy for consumers to listen to and download the sounds of music via the internet, just as it is now easy for people to view and purchase design through social media and online sources that in turn source through a newly globalised and connected economy. Digital formats and the internet were to music like what social media and globalisation is to design, and the design industry in Australia is in crisis as a result.

The main difference however, is that the music industry has a much more robust framework with regards to intellectual property. Copyright protects authors and performers of works, who are each represented by industry bodies such as APRA and AMCOS to collect and distribute royalties. In the music industry, new works are protected by copyright ON CREATION, whereby a work merely needs to be registered at a later date, FOR FREE. Furthermore, the music industry separates and recognises the value of both the songwriter (author) of the work, and the producer (performer) of the recorded artifact. This attitude should be considered with regards to the separate and collective value held in both the design (author) and manufacturing (producer) components in the furniture industry.

**APRA / AMCOS HOMEPAGE HEADLINE:**

*"We're here for the music. We help music creators get paid for their work and give music users easy ways to legally play ... what they like. Royalties keep the music coming and ensure the industry's future. And that's what we all want to hear. ([www.apraamcos.com.au](http://www.apraamcos.com.au))"*

## **2. We must recognise the value of design with protections that match those of the UK and EU**

In a global economy and in order to maintain an Australian economy built on innovation, it is important that our legislation to protect intellectual property is in line with international standards. If our legislation does not offer comparable protections, it is inevitable that those who would invest in research and the creation of new work will invest their work overseas, and those overseas will not invest in expanding their markets into Australia. **For these reasons, intellectual property protections in the design industry should be for the life of the designer, plus 70 years at a minimum, in line with legislation in place in the European Union / United Kingdom.**

It can take a lifetime to produce work of cultural significance. Even so, for many designers, despite conscientious efforts, it may never happen. **In recognition of the skill required and the investment and risk involved in the creation of new works, this work should be protected by suitable legislation (such as copyright) on creation, and for free.**

## **3. All media platforms must be held accountable for copyright infringements presented on their platform.**

Self publishing has created new situations whereby intermediaries are responsible for taking individuals' content to a broad audience. It is essential that search engines, social media platforms, websites and traditional media ensure that all accounts, advertisers, subsidiaries and partners provide warranties that no material presented breaches any intellectual property of any other party, including copyright, moral rights, trademarks or personality.

If corporations cannot use a Fleetwood Mac song (whether original recording or new recording) on an advertisement without permission, why is it ok to use an Eames chair image to advertise 'replica' furniture?

## **4. My personal experience**

As an example of the challenges faced by the industry, I have personally experienced what it is like to have a work copied. I designed the Campfire Table in 2002 and immediately protected it with a design registration, at considerable expense for a 19 year old. The registration was subsequently renewed several times at further expense. It is unfortunate timing that within months of the 10 year expiry, a company called Milan Direct that imports furniture (rather than investing in Australian design or manufacturing) announced they were producing what appears to be a copy of the table (pictured in attachment, above an image of the original Campfire Table.) It is important to note that the Campfire Table was not ever a generic design, and as such was recognised with several awards including an Australian DesignMark at the Australian International Design Awards in 2005, and in 2009 the table was acquired into the State Collection of the Art Gallery of Western Australia. As demonstrated by the delay in these recognitions, it took time and considerable investment to bring the product into the public sphere. It cost further money and time to take the product to market.

The barriers to entry in the furniture industry are considerable, and innovation is not assisted by the further barriers to entry presented by the expense of protection, which barely lasts long enough for a designer to benefit from their design. In fact I would argue that the costs of protections and further costs to defend against breaches make the protections economically unviable. I continue to produce the Campfire Table in Australia, and I continue to invest in designing new products, but despite many successes it is very difficult to make a living from these well recognised designs. If the Australian Government wants to encourage competitive practices they should lower the barriers to entry for innovation by protecting new work on creation with copyright.

Milan direct production announcement on Facebook:

Timeline Photos

Like Page

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Like Comment



Milan Direct

We have listened to you and are having the table made that many of you admired in a post weeks ago! It is in production right now and will be for sale in about 10 weeks.

Album: Timeline Photos

Shared with: Public

The original Campfire Table, designed and protected with design registration in 2002:



## **5. 'Substitutability'**

There is an argument circulating that it is important to allow consumers choice and therefore there should be an opportunity for 'substitutability', whereby a cheaper alternative should be made available. No-one would deny that the market should consist of products at various price points, however there are many reasons for why some products are cheaper than others. Product design and development is a significant investment and risk, often borne by individuals rather than corporations, and if there is limited benefit then no-one will design products any more.

Manufacturers should be encouraged to commission original designs that are cheaper to produce. Simply watching the market to see what is popular and then copying that design without participating in the investment and risk of product design, development or marketing is simply not fair and this practice must be comprehensively addressed in Australia as it now has been in the UK and EU.

Regards,

Tomek Archer