

An Open Letter To The United States Supreme Court

From Daryl W. Hanson, Artist

On October 9 of this year 2002, oral arguments will take place before you in the case challenging the constitutionality of the *Sonny Bono Copyright Term Extension Act*, passed October 7, 1998. The power of your court, as the proverbial “court of last resort”, places a high burden for wisdom squarely upon your personage. As the highest ranking court in America, by nature, your actions must inherently be those of the wisest and most considered regard. It is within your hands to render ill-considered decisions null and void, in essence, to “right the wrongs”. It is with full hope of this end that I appeal to you for recourse and urge you to reverse the action of this unnecessary and poorly conceived bit of legislation.

I am an artist and, like most artists of any time and age, am engaged in endless pursuit to produce pieces of the greatest possible quality for the enjoyment and appreciation of a grand audience. For purposes of point demonstration, please consider the following: In 1998, I wrote a collection of songs for a self-released compact disc entitled *Blowtorch: Debuty*. For sake of argument, let us assume I live until age 87. The copyright for *Debuty* will be sixty years old at that point. The copyright would have, pre-*Bono*, continued to the ripe old age of 110 years. Under the *Bono Act*, it’s age will be a more excessive 130 years.

If this work ever becomes commercially viable, it will entitle myself and generations of descendants to monetary compensation, but more importantly (and the main thrust of my dissension), it will *deprive* millions more non-copyright holders to access of the work, a by-product which I find offensive and highly objectionable. I am trying to join the ranks of those artists whose works are considered “classics”. It is appalling and revolting, the deplorable thought that my work may remain forever away from the very minds that I am seeking to reach.

The dangerous precedent should be self-evident. If the CTEA is allowed to stand, sometime in 2018 we will be revisiting another money-shoveling, strong-armed action of heavy-duty pressure by those with a vested interest in keeping copyrights out of the arena of public domain and in their own tight-fisted control, exactly as they did twenty years prior in 1978. If the CTEA stands, there is nothing to stop those same slaving bit-chomper, or others of their ilk, from requesting another twenty, fifty or even one hundred more years of extension, tantamount to indefinite copyright protection.

How many millions will lose exposure to great works henceforth and how many more will not even take up an instrument or learn musical composition as a result? Can we really stand pat and idle before the creation of a cultural vacuum of this enormous scope? Once this path is begun to be trod upon, there is no turning back.

Many past works are entirely unavailable, due to the copyright holder’s disinterest in promotion or even the gesture of making available the material at all (often by reason of the proposition being too expensive to undertake themselves). Shall this reason be found sufficient to keep these historical works of art under the duress of being held hostage? Art is worthless if it cannot be enjoyed by the audience for whom it was created, the public. To defeat the nature of art is an act of supremely bad faith and runs counter to American tradition.

Every parent, creators of art included, intensely desires a “better life” for their children (and those children’s progeny) than they themselves had. As a fellow artist, I cannot concede the possibility that *any* true artist ever intended their works to be exclusively feeding the mouths of their extended family for over a century after creation of the art. The virtues of integrity and

honesty play no small part in a good upbringing. The American ideal that hard work will lead to prosperity and a strong sense of those values has been a hallmark of parenting for years beyond counting, carried over by ancestral immigrants who learned it from cultures steeped in millenia of tradition. While it is not spoken explicitly as such, the inference (at times spoken) exists that the opposite may lead to a degradation of those solid virtues. The CTEA sanctions overt and disgusting displays of societal parasitism. We should not encourage this, if anything, we should be taking every step to curb it. The leech numbers are already legion and only growing larger.

Another question must be raised. Who, exactly, beyond the copyright caretakers, is this Act helping? Certainly not the public, who are held captive and at bay while their history -- particularly those pieces in the tombs and catacombs where silent films languish in exile -- is corroding away from decay and neglect, merely because exploitation is unprofitable for the current copyright owner. Is the CTEA even helping the copyright holders? Every passing moment renders another silent film into total disintegration, without the proper care, time will rot them all to dust in the vaults and they will be lost to everyone, copyright holders included. No one stands to gain in this untenable position. Everyone loses and everyone pays the price of another death of a piece of history and art. I can understand Disney not wishing to lose exclusive royalties from the Mickey Mouse character and related product line, but is it really serving themselves to constantly chase this rainbow when they could be creating new characters and enriching their industry, themselves and the culture further?

I think here we have to look again to intent. Justice, and indeed America herself, was built and predicated on the ideals of fairness and equity. Can it be considered fair or just, an Act which *especially* provides harm to the public at large?

The checks and balances of the American system of government were created by the visionary founding fathers for the explicit reason that the American people, the country's *trust*, cannot be held by one entity due to risks of being sold upriver to those imbibed with dishonesty who would seek to undermine that trust, in this case, industry heavyweights who will parade as endlessly as needed, celebrity patsies and assorted luminaries, all trumpeting the industry line in lockstep unison, for the express purpose of Congress caving in and rolling over to their whims.

A simple trip to any music or book store will reveal the following. *Every single work in the public domain* is less expensive than any work that must devote a certain part of its price to royalties for the applicable copyright holder. It is simple economics that dictate this downward fluctuation in price, which affords the opportunity for both older aficionados and unfamiliar first-timers alike the ability to create a collection of musical history and high quality artistic masterpieces. With public domain works, the pastime of musical appreciation is readily accessible. Without this opportunity, future generations are more unlikely to spend their money on the "classics" and may not even be exposed to those engaging works at all, owing to a heightened fee for licenses, which schools and libraries may not be able to afford for excessively extended copyrighted pieces. Can this great loss of culture be conscionably permitted?

I am an artist and I urge and implore you to reverse this highly flawed Act and its present and forthcoming disastrous results. Can this Act, which helps a specific minority damage the mass good, which distorts not only the visions of the artist, but also subverts art itself, be allowed to continue unchecked? Will the dire consequences forever plague us with a haunting picture written eternally in the annals of history as a misguided plunge into the abyss, with our collective cultural throat of heritage clutched tightly in the grip of a defective Act? Will this breach of the unspoken agreement between public and artist continue to wobble and teeter on ever-shaky legs

while lawmakers and lobbyists obsessed with their own interests bolster this repugnant beast under the pretense of precedent?

As saddened as I am by the unfortunate decision Congress made in enacting this odious piece of legislature into law, I simply cannot believe they truly considered the dire implications and consequences of their action in this case. I cannot bring myself to accept they intended untold millions to suffer for the benefit of a very select few. While Congress was not blessed with sufficient fore- or hindsight in this matter, as members of the highest Court, you have all the information at your disposal. It is to you whom an entire nation looks to for guidance and intercession. I believe in your prudence and fully trust and anticipate that you will adjudicate wisely and reverse the Act that created this grievous situation.

Thank you for your time and consideration of my words.

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