



# Ultimate Onboarding Guide

Everything You Need to Know to Engage and Retain New Hires. Go to [silkroad.com/Onboarding](https://silkroad.com/Onboarding)

TECHNOLOGY | LEADERSHIP | MAGAZINE | MOST INNOVATIVE COMPANIES | MOST CREATIVE PEOPLE | **SIDESCRIPT** 

8 MINUTE READ

## How Herman Miller Has Designed Employee Loyalty

Those famous Herman Miller chairs are comfortable—and apparently working for the company is too. The average Herman Miller employee has 14 years of service. Last year turnover was only 3.5 percent—and even that was inflated by Herman Miller standards due to a recent buyout. What makes people stick around? In this Q&A, CEO Brian Walker explains the company's unique approach to leadership, why openness breeds loyalty, and why good stewardship makes good business. He also explains how an accountant wound up at the helm of a creative design firm.



KERMIT PATTISON | 09.22.10 | 12:35 AM



**Kermit**

**Pattison: Herman Miller often makes lists of best employers. Why is it considered such an employee-friendly place?**

Brian Walker: People feel like they can bring their whole person to Herman Miller. Combine

**ARE YOU  
REGISTERED TO  
VOTE?**

Register now to make sure  
you have a voice in the  
election.

that with a creative culture that always seems to be trying to reinvent itself in almost anything that it does. People find it's exciting from that standpoint—it always feels like a place that's becoming something.

### **What do you mean by employees bringing their whole person to work?**

Our ultimate goal is to create a better world around you, whether you're an employee, customer, dealer, or part of the neighborhood in which we live. If you have great carpentry skills, you can find yourself building a home for Habitat for Humanity for two weeks. In that case, you may actually be the leader telling somebody from senior management to lift that bag of cement. The next day, maybe you're working back on the line or working in engineering and that same person is now your leader. We try very hard to let people bring their passions to work.

### **What's an example of Herman Miller's creative culture reinventing itself?**

We often talk about our work in lean manufacturing. Herman Miller wasn't really thought of as great manufacturer 15 years ago. We used many of the same design principles that helped us create great products to rethink how we actually ran the business day in and day out. Today, manufacturing folks are as involved in

everyday problem solving as much as building products. That keeps them excited, rejuvenated and rethinking what they're going to do in the future.

**How does Herman Miller think differently about its human assets compared to mainstream companies?**

All of our people have gifts and talents and are capable of doing more than their job classification. Our constant drive is to figure out how to mine that hidden talent and capability so we can use it to its fullest and so our people get the greatest enjoyment out of what they do.

**Does that ethos go back to the earliest days of the company?**

Absolutely. That really started with founder D.J. De Pree. Henry Ford said, "Bring us your hands and you can leave everything else at home." D.J. rejected that idea and said completely the opposite: "I want all of you here. I want the whole person." There's an old story in our history about a millwright who died. D.J. went to visit his widow and she began reading some poetry. D.J. asked, "Wow, this is beautiful poetry, whose was it?" She said it was her husband's, the millwright. D.J. said from that day on he completely changed his view of labor. He believed there were always things people did inside and outside of work and we often didn't

see all their talents. If we could recognize and grab all those talents, we would all go much further.

### **How do you justify that approach from a business point of view?**

To me, it's really simple. If I can have 5,000 or 6,000 people who are passionate about what they do, using every bit of their capabilities in solving problems and finding solutions to our customers' problems, I'm going to be much better off than if I leave that to 10 percent of that population who tell the other people what to do. It's like a sports team: you can have one or two guys who play well, but if you can get 50 guys on a team all playing at a very high level, you're very tough to beat. That's always been our philosophy. We're not as much about superstars as having a collective of 6,000 people who are very passionate about what they do and trying to bring all their gifts and talents to it.

### **How does the company develop leaders and managers?**

Folks often get an opportunity to lead in varied situations and on a regular basis. We're big believers in putting together teams, often ad hoc teams, to solve problems. Because of that, lots of people get an opportunity to lead throughout their career. We're very willing to move folks around between departments and not believe

that your education and training will ultimately determine the spot you lead from. We also are open to pulling together ad hoc teams and watching leaders arise from within those ad hoc teams.

ADVERTISEMENT

Learn More

✕

**You're a financial guy by training. How did an accountant wind up leading a creative design company?**

I always had a passion for learning. I was fortunate, especially early in my career that I worked for some of our smaller business units

and got connected with leaders who were willing to do what Herman Miller is known for, which is giving me a lot of opportunities to get involved in areas beyond my functional job title. That nurtured my personal passion for learning.

I don't believe that my job is to lead design at Herman Miller. My job is to make sure we have great design leaders, continue to listen and try to learn from them along the way. My job is not to be the creative guy; my job is to create a culture that allows and promotes creativity. When you're a business based on innovation and creativity, you're going to have to take risks. It's not all going to work. You have to be able to tell people great job on things that didn't work.

**The Herman Miller design process is known for deliberately creating tension. How do you manage it?**

First of all, we get the majority of our design inspiration from our external creative network. Our job is to define a problem that needs to be solved, canvass our creative network for ideas on how to solve that and surround the best idea with people from Herman Miller who can help bring that idea to life. Our job in some ways is like being a conductor for a jazz orchestra. How do you bring all of those individual players together so you create music and not noise?

The tension often comes when you put together a

cross functional team that includes manufacturing people, finance people, research folks, ergonomists, marketing and salespeople. The manufacturing guys want something they know they can make easily and fits their processes. The salespeople want what their customers have been asking for. The tension comes from finding the right balance, being willing to follow those creative leaps to the new place and convincing the organization that that it's worth the risk and effort to go there.

It takes humility. You have to be willing to follow someone on the outside who is your partner. Most of the folks in our creative network would also say Herman Miller often makes their original ideas better than what they originally brought to us.

**Herman Miller has gone through some painful periods of economic contraction in recent years. What did that experience teach you about leadership?**

There have been a couple of those, unfortunately. In 2001, we faced a dramatic drop in the business and we learned that the more open and vulnerable we got as leaders, the more people followed where we needed them to go. There's an old saying a Herman Miller: the first thing you have to do make sure you tell folks

thank you. The second thing is you have to tell them what day it is. Then you have to give them a picture of where you're going so they have hope and do the work necessary to get to the other side. You will often be surprised by the resiliency and the ability of people to deal with that.

When the global economy took the recent set of hits, we felt it in fairly big way. We saw the emerging signs of trouble in housing and banking and actually were able to talk earlier, even though, to be frank, it caused us some consternation because the economy hadn't fallen yet. The entire management team stood up and said, "Look, we understand it's going to be difficult for everyone. We probably can't do all of this with employment reductions." We did short work weeks, we took salary reductions at all levels of the company and we did all kinds of things that were rather unusual. But I think they saw leadership doing those things first and that gave people confidence that we had plan of how to get to the other side.

**Herman Miller is known for initiatives like social responsibility and being green. How do you think about leadership beyond the walls of your company?**

To me, it's about attracting great people. Great people want to work for organizations that make a difference. A lot of what we do is put together things that enable our folks to feel like we're

touching their soul, that they're creating something that will live beyond them, and has a purpose beyond simply trading dollars and cents.

We strive to be a leader in the sense that people look to us as a company who leads by doing well and by doing what's right. We don't necessarily try to lead in social responsibility; I don't think D.J. De Pree knew what green was in 1953. On the other hand, he believed that if he did the right thing it would stand the test of time and ultimately create a great business. That's really the underpinning of Herman Miller.

Ultimately, our responsibility is to make sure this business is here 100 years from now. The underpinning of almost everything Herman Miller thinks about is stewardship—stewardship of the environment, of people, of communities, and stewardship in the broader society. We believe if we stay on that course, ultimately we will find great things and be a good business.

## NEWSLETTER

Get the latest Leadership stories delivered to your inbox daily.

☒ I'd also like to receive special Fast Company offers



8 MINUTE READ | MOST CREATIVE PEOPLE

---

# The Billion-Dollar Copyright Lawsuit That Could Legalize A New Kind Of Scam

If a court rules that photographer Carol Highsmith must pay to publish her own work, it sets a scary precedent for public-domain art.

Carol Highsmith's *Inner Tubing* (2014)  
[Photo: [Library of Congress, Carol M. Highsmith](#)]



[GLENN FLEISHMAN](#) | 10.04.16 | 5:00 AM

Could a copyright lawsuit involving a renowned photographer of American iconography enable a new kind of scam in which ne'er-do-wells send out threatening letters demanding licensing fees for public-domain works—and that those actions are both legal and unstoppable? It could, in the form of an unintentional side effect that has cropped up at the edges of copyright law.

ARE YOU  
REGISTERED TO  
VOTE?

Register now to make sure  
you have a voice in the  
election.

The case involves photographer Carol Highsmith, whose work you'd recognize even if you've never heard the name. Sometimes called "America's photographer," she's taken iconic photos of scenes from the White House to the saguaros in the Sonoran Desert to oversized roadside attractions. She was surprised to receive a letter in December 2015 from a company called License Compliance Services on behalf of the photo-licensing agency Alamy demanding that she pay a licensing fee for the use, on her foundation's website, of one of her own works.

The surprise was twofold: Not just that it was her photograph, but also that, since she'd turned over her photographs for free use by the public years before, to her mind, nobody could charge for them, much less insist on a license.

Highsmith had dedicated her work to the public starting in 1988, which was formalized through an agreement signed in 1991 with the Library of Congress (LOC). In the intervening years, she has supplemented the initial offer with additional gifts.

Her shock wore off after she spoke with a representative of the firm attempting to collect payment—and it turned into ire. So she called her attorneys and filed suit on July 25 of this year, demanding statutory copyright damages from several companies that list her work for resale or issue demand letters for rights

payments. This includes a claim against Getty Images that could go well over a billion dollars, since the agency offers 18,755 of her photos for licensing. Highsmith's suit seeks substantial but far lower sums against Alamy and the licensing contractors. (An amended filing from August 17 throws in more: Allegations of "false advertising and unfair competition" under federal and New York state law, which involve additional potential damages, though not on the scale of the alleged copyright violations.)

But can Highsmith sue for copyright damages if she donated her work to the LOC? The suit largely hinges on the ineffability of the public domain.

And should Highsmith be unable to sue effectively, it might open the door to much broader, more illicit attempts to demand fees—not by Getty Images and other legitimate stock-photo firms, but by those who know they have no right to collect them.





A Carol Highsmith photo of Little Round Top in Gettysburg, Pennsylvania. *[Photo: [Library Of Congress, Carol M. Highsmith](#)]*

## CAN YOU CONTROL WHAT YOU SAID YOU DON'T OWN?

In her 1991 LOC agreement, Highsmith wrote: "I hereby dedicate to the public all rights, including copyrights throughout the world, that I possess in this collection."

Jennifer Jenkins, the director of the Center for the Study of the Public Domain at the Duke University School of Law, says that there's no specific statutory language that lets a copyright holder define something as free of copyright. The general convention, she says, is that there has to be "an intent to abandon copyright and an overt act of intent to abandon copyright." Jenkins says that the initial portion of Highsmith's contract clearly encompass both.

If so, it's impossible for her to prove infringement, because "there can only be infringement if there's copyright," Jenkins notes. The Library of Congress even notes on a rights and restrictions page for the Highsmith collection that "Carol M. Highsmith's photographs are in the public domain," which would back that interpretation.

"It sounds to me like she successfully dedicated her copyright to the public, in which case she has nothing left as leverage," says Robert Brauneis, a copyright and constitutional expert and professor at George Washington University Law School, [whose 2010 research into the ownership of "Happy Birthday to You" contributed significantly to that song finally being deemed effectively in the public domain.](#) (Brauneis is currently consulting on suits filed by the "Happy Birthday" plaintiffs' attorneys to have two other classic songs declared free of copyright.)

In a motion to dismiss filed September 6, Getty Images noted, "Plaintiffs' four claims against Getty Images . . . are all an attempt to regain some measure of legal protection for the Highsmith Photos that Plaintiff Highsmith relinquished years ago." (When asked to comment, Highsmith referred *Fast Company* to her attorney, who didn't respond to questions about the suit. Getty declined to comment due to active litigation.)

Jenkins says, "It seems like Getty did something wrong. They took photos that are not theirs and put their watermark on them and charged people for them . . . [but] it's not illegal to charge people for public domain works." Getty cited a number of examples, including public-domain books sold on Amazon.com.

However, the public domain is a slippery place. It's more readily defined by an absence: work that no longer has copyright protection. Work that has fallen into the public domain includes all published items in the U.S. up to 1922, and an increasingly smaller amount of work over the next 64 years. Almost nothing since has entered the public domain without intent. Everything else requires research.

The U.S. Copyright Office, a division of the LOC, won't provide any guidance to those asking whether a given book, photograph, movie, or other work remains under copyright, be it donated or lapsed. It doesn't register donated works, either, so there's no central registry for work like Highsmith's. The Library of Congress specifically declined to comment about Highsmith's copyright, citing pending litigation.

It might seem that this situation is crystal clear, since Highsmith signed an agreement that she appended to her lawsuit. But after the seemingly unambiguous statement that she signed in 1991 to donate rights to her photos, things get murky

in that document. Jenkins notes that the public domain dedication "could plausibly be contradicted by other parts of instrument of gift that placed restrictions that indicate she still is retaining other rights."

And that's what Highsmith's amended lawsuit argues: She never intended to abandon her copyright at all, because following the dedication noted in her 1991 contract, she also required attribution:

The Library will request, through its standard procedures, that when material in the Archive is reproduced by those who have obtained reproductions credit be given as follows: The Library of Congress, Carol M. Highsmith Archive.

Highsmith added in her amended suit in August that she didn't have the benefit of counsel while writing her 1991 agreement, implying that it's not legally precise enough to constitute a dedication. Jenkin says, "There's going to be a lot of room for interesting arguments."





A Carol Highsmith photo of the Golden Gate Bridge, 2012. *[Photo: Library Of Congress, Carol M. Highsmith]*

## I HAVE A PICTURE OF A BRIDGE TO SELL YOU

Assuming that the judge in the case doesn't agree with Getty Images that the Highsmith suit should be dismissed, the court will ostensibly decide whether she retains any rights before this even reaches a jury stage. If so, the case proceeds in a fairly straightforward way. For the billion-dollar-and-change alleged misuse of copyright that Highsmith levies, she has to prove that the photo agencies not only falsified the copyright notice for her images (by labeling some of them as oddly as "Photo by Carol M.

Highsmith/Buyenlarge/Getty Images" or omitting her name altogether), but also that they did so with the intent to infringe on her rights, rather than by lack of attention to detail. In the other non-copyright allegations that have lower damages attached, there's less need to prove intent.

But here's where things once again get tricky. A

court decision could spawn a new email and snail-mail scam that would be tacitly legal and impossible to fight.

If a court finds Highsmith did dedicate the work into the public domain and that because she has no ownership of the work, she has no grounds to pursue action for "false advertising and unfair competition," "deceptive acts or practices," and so on, as alleged in the suit, then anyone can send out demand letters for licensing fees for any public-domain work without any basis in reality. For instance, a publishing house could receive a licensing-fee demand for printing an edition of Shakespeare's *Macbeth* or, more insidiously plausible, one of the 46 Sherlock Holmes short stories that have lapsed into the public domain in the United States.

Someone receiving such a letter would have no way to know whether or not it could be safely ignored. And if the recipient researched the copyright and hired an attorney, there might be no way to have a lawsuit heard, should the Highsmith case set a precedent.

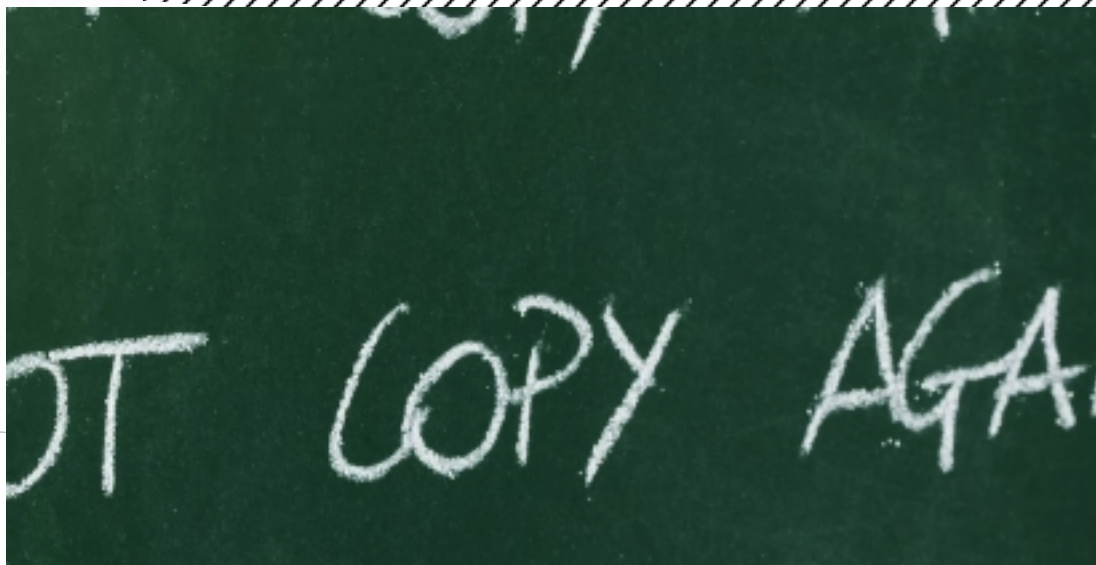
Brauneis says that if a court finds copyright law is paramount, and that without a violation under a section of the Copyright Act, "there's no other cause of action that can be brought, that essentially declares anybody can go into the business of selling the Brooklyn Bridge to people."

A victim of such seeming fraud would have no recourse because without an owner to pursue action under copyright law, there wouldn't be any other basis. Brauneis finds this potential "morally abhorrent," but sees it as an unfortunate possible outcome. He notes, "All those emails that come from Nigeria about cash someone had discovered, would all be about: You need to license from me."

This case received a lot of attention at its initial filing because of Highsmith's reputation and her stirring photos of U.S. symbols. Both Jenkins and Brauneis agree that it's not the cold legal facts that have provoked so much public discussion and outrage. "It makes a case emotionally," Jenkins says. Furthering that idea, Brauneis notes, "It generates sympathy to say, 'I was trying to give this to the public, and you greedy people reprofitized.'"

Highsmith certainly didn't intend this potential outcome, and a savvy judge should be able to avoid creating a path for enabling scams. But it reveals the amorphous borders of the public domain: An inexhaustible commons that could have fraudulent toll booths erected all around it.

RELATED VIDEO: FROM APPLE TO ZARA, DESIGNERS LIKE TO STEAL. SO WHAT?



### NEWSLETTER

Get the best stories from our Most Creative People series delivered to your inbox weekly.

SEND

☒ I'd also like to receive special Fast Company offers



8 MINUTE READ | MOST CREATIVE PEOPLE

# The Billion-Dollar Copyright Lawsuit That

# Could Legalize A New Kind Of Scam

If a court rules that photographer Carol Highsmith must pay to publish her own work, it sets a scary precedent for public-domain art.

Carol Highsmith's *Inner Tubing* (2014) [Photo: [Library of Congress](#), [Carol M. Highsmith](#)]



[GLENN FLEISHMAN](#) | 10.04.16 | 5:00 AM

Could a copyright lawsuit involving a renowned photographer of American iconography enable a

new kind of scam in which ne'er-do-wells send out threatening letters demanding licensing fees for public-domain works—and that those actions are both legal and unstoppable? It could, in the form of an unintentional side effect that has cropped up at the edges of copyright law.

The case involves photographer Carol Highsmith, whose work you'd recognize even if you've never heard the name. Sometimes called "America's photographer," she's taken iconic photos of scenes from the White House to the saguaros in the Sonoran Desert to oversized roadside attractions. She was surprised to receive a letter in December 2015 from a company called License Compliance Services on behalf of the photo-licensing agency Alamy demanding that she pay a licensing fee for the use, on her foundation's website, of one of her own works.

The surprise was twofold: Not just that it was her photograph, but also that, since she'd turned over her photographs for free use by the public years before, to her mind, nobody could charge for them, much less insist on a license.

Highsmith had dedicated her work to the public starting in 1988, which was formalized through an agreement signed in 1991 with the Library of Congress (LOC). In the intervening years, she has supplemented the initial offer with additional gifts.

Her shock wore off after she spoke with a representative of the firm attempting to collect payment—and it turned into ire. So she called her attorneys and filed suit on July 25 of this year, demanding statutory copyright damages from several companies that list her work for resale or issue demand letters for rights payments. This includes a claim against Getty Images that could go well over a billion dollars, since the agency offers 18,755 of her photos for licensing. Highsmith's suit seeks substantial but far lower sums against Alamy and the licensing contractors. (An amended filing from August 17 throws in more: Allegations of "false advertising and unfair competition" under federal and New York state law, which involve additional potential damages, though not on the scale of the alleged copyright violations.)

But can Highsmith sue for copyright damages if she donated her work to the LOC? The suit largely hinges on the ineffability of the public domain.

And should Highsmith be unable to sue effectively, it might open the door to much broader, more illicit attempts to demand fees—not by Getty Images and other legitimate stock-photo firms, but by those who know they have no right to collect them.





A Carol Highsmith photo of Little Round Top in Gettysburg, Pennsylvania. *[Photo: [Library Of Congress, Carol M. Highsmith](#)]*

## CAN YOU CONTROL WHAT YOU SAID YOU DON'T OWN?

In her 1991 LOC agreement, Highsmith wrote: "I hereby dedicate to the public all rights, including copyrights throughout the world, that I possess in this collection."

Jennifer Jenkins, the director of the Center for the Study of the Public Domain at the Duke University School of Law, says that there's no specific statutory language that lets a copyright holder define something as free of copyright. The general convention, she says, is that there has to be "an intent to abandon copyright and an overt act of intent to abandon copyright." Jenkins says that the initial portion of Highsmith's contract clearly encompass both.

If so, it's impossible for her to prove infringement, because "there can only be infringement if there's copyright," Jenkins notes. The Library of Congress even notes on a rights and restrictions page for the Highsmith collection that "Carol M. Highsmith's photographs are in the public domain," which would back that interpretation.

"It sounds to me like she successfully dedicated her copyright to the public, in which case she has nothing left as leverage," says Robert Brauneis, a copyright and constitutional expert and professor at George Washington University Law School, [whose 2010 research into the ownership of "Happy Birthday to You" contributed significantly to that song finally being deemed effectively in the public domain.](#) (Brauneis is currently consulting on suits filed by the "Happy Birthday" plaintiffs' attorneys to have two other classic songs declared free of copyright.)

In a motion to dismiss filed September 6, Getty Images noted, "Plaintiffs' four claims against Getty Images . . . are all an attempt to regain some measure of legal protection for the Highsmith Photos that Plaintiff Highsmith relinquished years ago." (When asked to comment, Highsmith referred *Fast Company* to her attorney, who didn't respond to questions about the suit. Getty declined to comment due to active litigation.)

Jenkins says, "It seems like Getty did something wrong. They took photos that are not theirs and put their watermark on them and charged people for them . . . [but] it's not illegal to charge people for public domain works." Getty cited a number of examples, including public-domain books sold on Amazon.com.

However, the public domain is a slippery place. It's more readily defined by an absence: work that no longer has copyright protection. Work that has fallen into the public domain includes all published items in the U.S. up to 1922, and an increasingly smaller amount of work over the next 64 years. Almost nothing since has entered the public domain without intent. Everything else requires research.

The U.S. Copyright Office, a division of the LOC, won't provide any guidance to those asking whether a given book, photograph, movie, or other work remains under copyright, be it donated or lapsed. It doesn't register donated works, either, so there's no central registry for work like Highsmith's. The Library of Congress specifically declined to comment about Highsmith's copyright, citing pending litigation.

It might seem that this situation is crystal clear, since Highsmith signed an agreement that she appended to her lawsuit. But after the seemingly unambiguous statement that she signed in 1991 to donate rights to her photos, things get murky

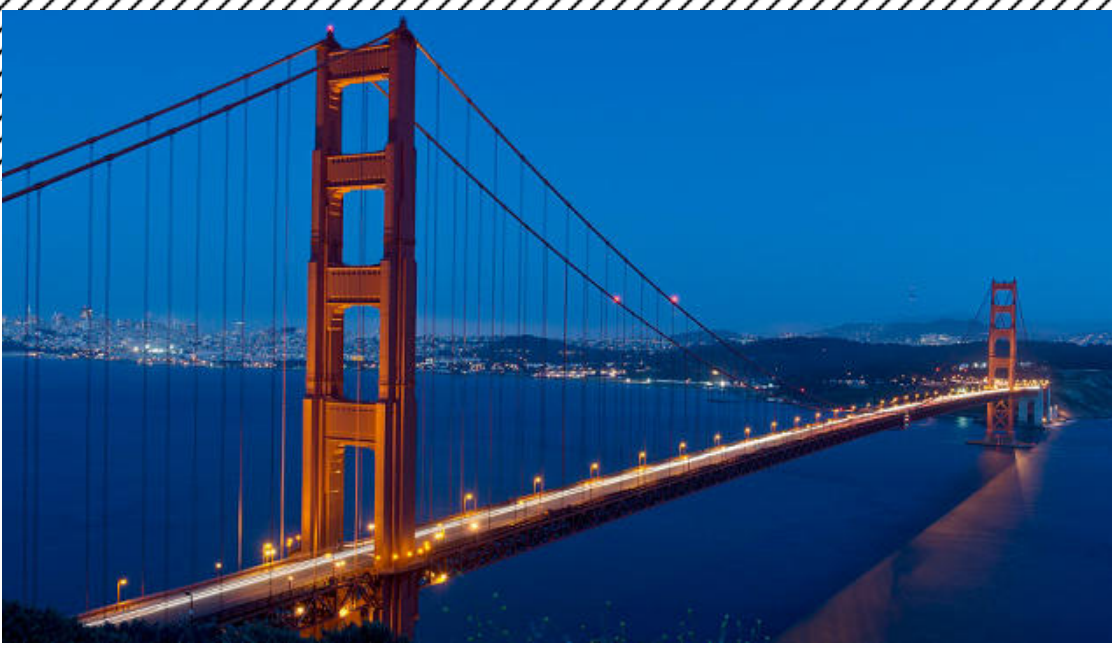
in that document. Jenkins notes that the public domain dedication "could plausibly be contradicted by other parts of instrument of gift that placed restrictions that indicate she still is retaining other rights."

And that's what Highsmith's amended lawsuit argues: She never intended to abandon her copyright at all, because following the dedication noted in her 1991 contract, she also required attribution:

The Library will request, through its standard procedures, that when material in the Archive is reproduced by those who have obtained reproductions credit be given as follows: The Library of Congress, Carol M. Highsmith Archive.

Highsmith added in her amended suit in August that she didn't have the benefit of counsel while writing her 1991 agreement, implying that it's not legally precise enough to constitute a dedication. Jenkin says, "There's going to be a lot of room for interesting arguments."





A Carol Highsmith photo of the Golden Gate Bridge, 2012. *[Photo: Library Of Congress, Carol M. Highsmith]*

## I HAVE A PICTURE OF A BRIDGE TO SELL YOU

Assuming that the judge in the case doesn't agree with Getty Images that the Highsmith suit should be dismissed, the court will ostensibly decide whether she retains any rights before this even reaches a jury stage. If so, the case proceeds in a fairly straightforward way. For the billion-dollar-and-change alleged misuse of copyright that Highsmith levies, she has to prove that the photo agencies not only falsified the copyright notice for her images (by labeling some of them as oddly as "Photo by Carol M.

Highsmith/Buyenlarge/Getty Images" or omitting her name altogether), but also that they did so with the intent to infringe on her rights, rather than by lack of attention to detail. In the other non-copyright allegations that have lower damages attached, there's less need to prove intent.

But here's where things once again get tricky. A

court decision could spawn a new email and snail-mail scam that would be tacitly legal and impossible to fight.

If a court finds Highsmith did dedicate the work into the public domain and that because she has no ownership of the work, she has no grounds to pursue action for "false advertising and unfair competition," "deceptive acts or practices," and so on, as alleged in the suit, then anyone can send out demand letters for licensing fees for any public-domain work without any basis in reality. For instance, a publishing house could receive a licensing-fee demand for printing an edition of Shakespeare's *Macbeth* or, more insidiously plausible, one of the 46 Sherlock Holmes short stories that have lapsed into the public domain in the United States.

Someone receiving such a letter would have no way to know whether or not it could be safely ignored. And if the recipient researched the copyright and hired an attorney, there might be no way to have a lawsuit heard, should the Highsmith case set a precedent.

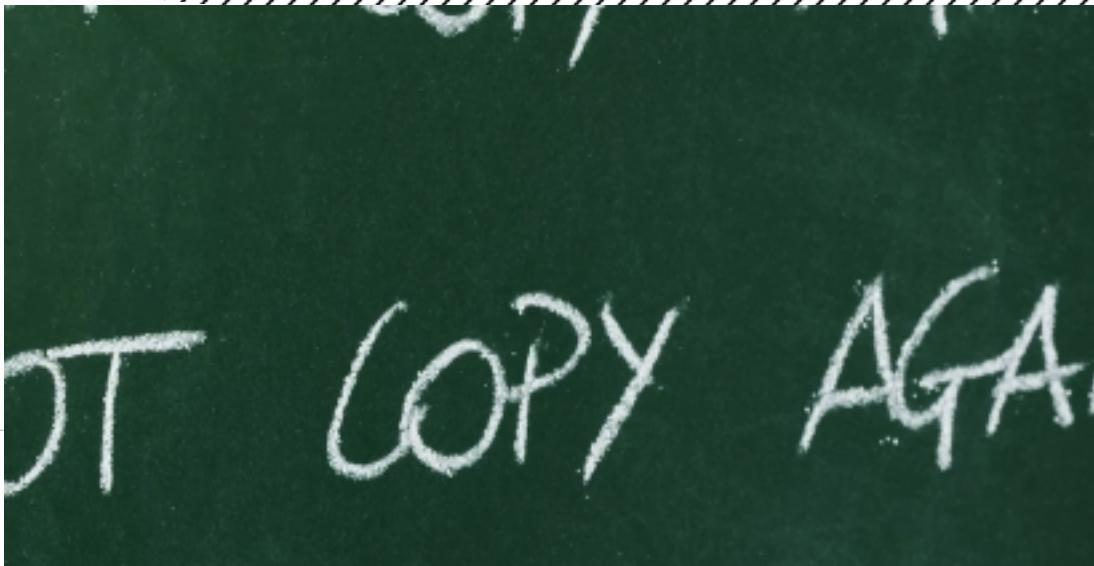
Brauneis says that if a court finds copyright law is paramount, and that without a violation under a section of the Copyright Act, "there's no other cause of action that can be brought, that essentially declares anybody can go into the business of selling the Brooklyn Bridge to people."

A victim of such seeming fraud would have no recourse because without an owner to pursue action under copyright law, there wouldn't be any other basis. Brauneis finds this potential "morally abhorrent," but sees it as an unfortunate possible outcome. He notes, "All those emails that come from Nigeria about cash someone had discovered, would all be about: You need to license from me."

This case received a lot of attention at its initial filing because of Highsmith's reputation and her stirring photos of U.S. symbols. Both Jenkins and Brauneis agree that it's not the cold legal facts that have provoked so much public discussion and outrage. "It makes a case emotionally," Jenkins says. Furthering that idea, Brauneis notes, "It generates sympathy to say, 'I was trying to give this to the public, and you greedy people reprofitized.'"

Highsmith certainly didn't intend this potential outcome, and a savvy judge should be able to avoid creating a path for enabling scams. But it reveals the amorphous borders of the public domain: An inexhaustible commons that could have fraudulent toll booths erected all around it.

RELATED VIDEO: FROM APPLE TO ZARA, DESIGNERS LIKE TO STEAL. SO WHAT?



## NEWSLETTER

Get the best stories from our Most Creative People series delivered to your inbox weekly.

☒ I'd also like to receive special Fast Company offers



