

Rose O'Neill

The Case of the Telltale Trademark



Kewpie & the Little Browns, July 1912, Rose O'Neill





Many art or business students have never heard of Rose O'Neill.

A child prodigy, multi-talented artist, and advocate for women rights and racial equality, O'Neill amassed great wealth only to see her work plagiarized by countless others, including a famous department store.

Today a Japanese corporation owns the rights to what was once in the 1930's a million-dollar product...the Kewpie doll.

Rose O'Neill's experience as an artist-business woman holds several takeaway lessons for aspiring artists entering the world of commerce or art.

Rose O'Neill started her Kewpie comic strip in 1909 but did not apply for trademark protection until 1913 and 1937 for Dolls, Games, Toys & the Kewpie Cartoons. Probably because no one foresaw the global appeal of the Kewpie comic strip.

By the late 1930s, the artist, activist millionaire was

experiencing financial trouble. O'Neil hired a law firm to battle infringers such as the national U.S. department store chain that issued a Kewpie camera.

But the department store was just the tip of the iceberg, according to letters sent to O'Neill's attorney, companies overseas had flooded the U.S. market with Kewpie dolls and her royalty payments had been reduced to tiny checks, including \$100 + monthly from manufactures who had legal rights to produce her work.

To make matters worse, O'Neill had allowed her trademark to expire while she was living in Italy a few years earlier, and her trademark re-application was denied. So in many cases, O'Neill could not stop infringers in court because it would have revealed she had no legal control of her trademark.

An examination of letters to O'Neill's lawyer, hints at a lack of attention to business paperwork on the part of the artist. That she allowed her trademark to lapse is factual.

That was a huge business mistake.

Lack of attention to business details is a pattern that would be repeated. For example, Rose O'Neill's work is not copyrighted. Compare and contrast that circumstance with O'Neill's friend Tom Hart Benton. His estate has protected his artwork.

O'Neill died in 1944 and her heirs sold her rights two years later, although there is a dispute over why the rights were ever sold.

What products on the following list were not granted a Kewpie trademark?

Asteroid
Sandwiches
Hotels
Fresh grapes
Motion picture
Tomatoes
Dress company
Hosiery
Canned beef, pork, chicken
Chewing Gum
Laxative candy
Toilet powder
Sears , Roebuck & Company...camera

Note: The list does not even include the countless illegal items being manufactured with the Kewpie imagery in the 1930's.

References

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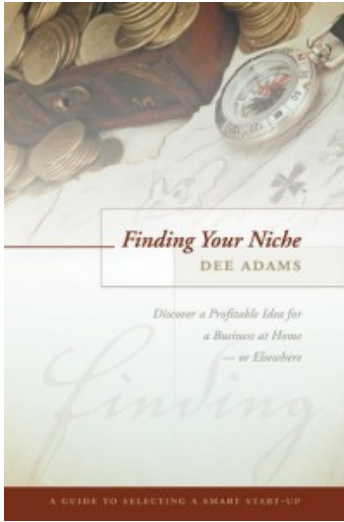
Thomas Hart Benton

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