

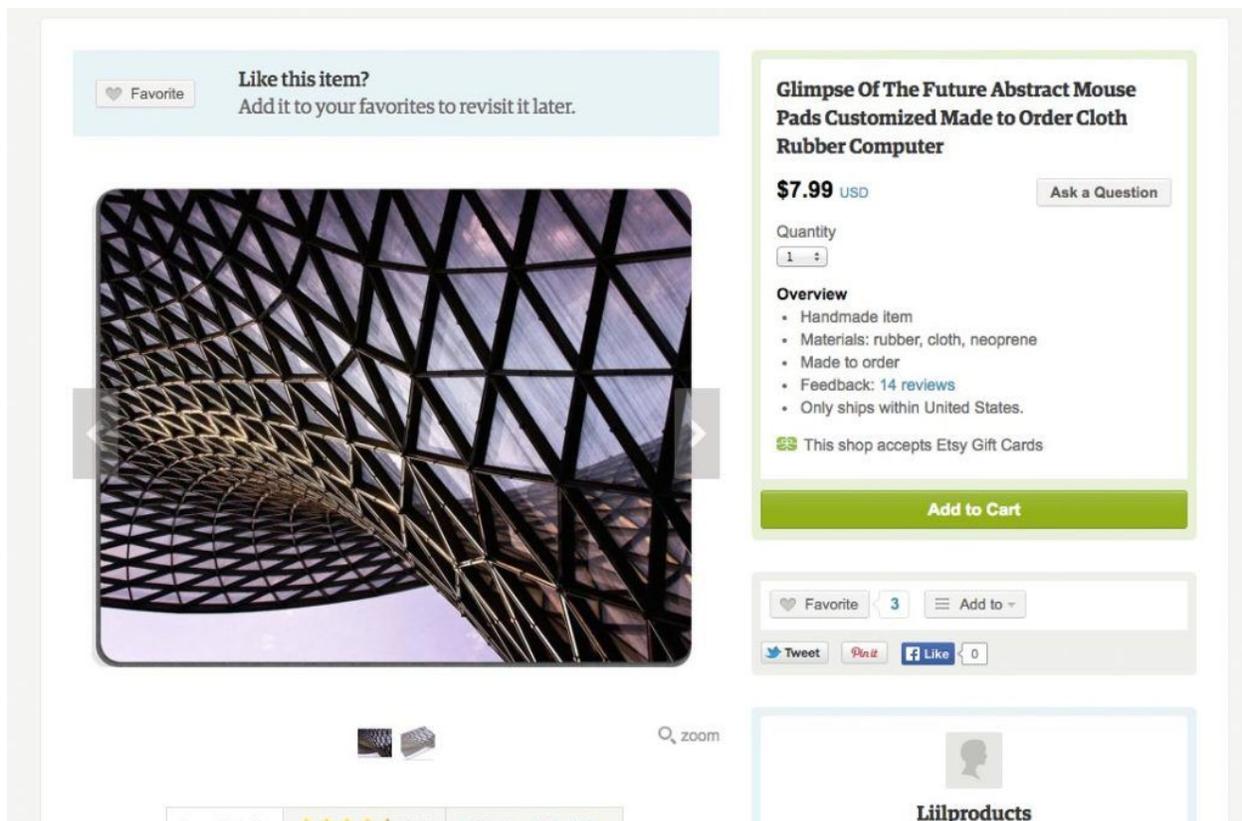
September 26th, 2014 - FOR IMMEDIATE RELEASE

Is Etsy The New Silk Road For Copyright Infringement?

“When Pixsy’s founder Daniel Foster found his work being sold on Etsy, he decided to investigate”

[September 26th, 2014, Walnut, CA] While browsing through my image search results on Pixsy (*our new service that finds and invoices image theft for you*), I was surprised to see my picture for sale on Etsy (above). My immediate reaction:

1. What an ugly mousepad. I’d never print my photo like this.
2. The seller seems to be stealing thousands of photos. How could Etsy let this happen?
3. Who had the nerve to think they could do this?



So my picture was the party and I wasn’t invited. I decided to see what I could do to notify the seller and contact Etsy about the problem.

What did I find out? Etsy is selling thousands of stolen photos and doesn't seem to care. Their system lets sellers hide their contact information, and Etsy will not disclose the identities of sellers stealing work even after being presented with clear evidence.

Etsy is, in essence, the new Silk Road for copyright infringement

Meet Kharma Lu

"Lilproducts," better known as Kharma Lu, is the Etsy seller who decided my photo would make a nice mousepad (not all Etsy sellers have good taste). Her profile contains no contact information whatsoever. What's even scarier is that she seems to be stealing thousands of photos from other photographers, and Etsy is letting her get away with it.

Shop Sections

- Shop home 3188 items
- Office Product 1638
- Tablet Product 1186
- Wireless Snap Case 364

Shop Owner

Kharma Lu

Have a question?

Contact Shop Owner

Shop Info

Lilproducts
Opened on May 30, 2014

About

Policies

Reviews
★★★★★ (14)

98 sales

44 admirers

Actions

Add to favorites

Lilproducts Favorite

This shop accepts Etsy Gift Cards.

Search in this shop Search Sort by: Most Recent

 Owl barn window wooden pre... Lilproducts \$28.99 USD	 cat pets animal Kitten portrait... Lilproducts \$28.99 USD	 Eiffel Tower Paris France To... Lilproducts \$7.99 USD	 Pug Dog puppy pet animal g... Lilproducts \$7.99 USD
 Mammalia Canidae Gray Wol... Lilproducts \$7.99 USD	 Panorama Santorini Greece ... Lilproducts \$7.99 USD	 Abstract Music Tool Grey Ps... Lilproducts \$28.99 USD	 France paris alexander bridg... Lilproducts \$7.99 USD
 Tropical Fish And Coral Reef ...	 Abstract Music Tool Grey Ps...	 Birds blue flamingos flock mo...	 Squirrel wildlife animal pine b...

I wanted to identify Kharma's contact details so I could bring my issue to her directly. Taking a quick glance at her profile, we can see that a) she's been in business since May 30, 2014 (perhaps she earlier had an account that was closed) b) Lilproducts has made 98 sales and c) based on the positive feedback, she's delivering the products.

Unfortunately, I wasn't able to find much else about Lilproducts or "Kharma Lu" on the Internet. It's quite possible that both names are entirely fictitious. Having concluded my research in vain, I

had no choice but to order the product and see if that would give me a hint. Perhaps the invoice or return address would reveal something.

A few days and \$12.94 later, my beautiful new mousepad arrived in the mail. I was hoping an enclosed invoice would reveal the identity and address of the culprit, but one was not included. The return address of the package was a nondescript warehouse in California:

Shipping Dept
5590 E Jurupa st#B
Ontario, CA 91761

I'd have to try a bit harder to find out who stole my photo.

Contacting Etsy

My next step in my quest for copyright nirvana was to contact Etsy. I sent both a DMCA takedown request (which Etsy complied with) and a separate message to Etsy about the situation. I made sure to provide a copy of the photo source as well as a copyright registration certificate so that Etsy could be sure I am the rights owner. Maybe they would be able to identify the name and address of the seller?

My first email:

Hi Jessica,

Thanks for your message. As stated in my DMCA notice, I'd like to know the name and contact information of the seller. The sample I ordered contained no invoice and the return address is some warehouse in California with no apparent ties to the seller. I can only assume that any entity acting in good faith would be more than willing to provide this basic information to a customer.

Best regards,

Daniel Foster

Danny from the Etsy legal department responded. He suggested that I start an Etsy Conversation with Kharma Lu. Citing the Etsy privacy policy, he refused to disclose Kharma's contact details. Since when were online sellers given complete anonymity?

While I respect online privacy, things change when you engage in commerce. As a consumer, I have a right to know who I'm buying from. Would Etsy take the same stance if I were electrocuted by one of their lamps or the mousepad was printed with dangerous chemicals? I guess starting an Etsy Conversation would take care of things, too.

Hello Daniel,

Etsy has a strict Privacy Policy, https://www.etsy.com/help/article/1262?utm_source=compass&utm_medium=email. Based on the information you provided, Etsy is unable to disclose personal information of a user of Etsy's services. However, Etsy will comply with a proper formal legal request (e.g., a subpoena, court order). We sincerely hope you can resolve this directly with the other party, which you may do via Etsy Conversations. This page from our Help site provides information about using the Conversations feature on Etsy to contact another member: https://www.etsy.com/help/article/71?utm_source=compass&utm_medium=email.

*Regards,
Danny
Etsy Legal*

My response to Danny:

Hi Danny,

I've provided a valid copyright registration and proof of actionable harm. I can only assume that Etsy wishes to assume liability for the infringement if it will not disclose the seller's contact information.

Best regards,

Daniel Foster

According to Danny, I would have to file a lawsuit and obtain a subpoena before Etsy would disclose Kharma Lu's contact information. Yes, that's right. In order to simply find out who is stealing my photo, I would have to a) hire an attorney, b) go to court and c) request a subpoena for Etsy. Assuming Etsy did not challenge the subpoena, it would cost at least \$3,000- \$5,000 just to get Kharma Lu's address.

Hello Daniel,

Thanks for getting back to me. Etsy will comply with a proper formal legal request. If you have further questions, you may wish to speak with an expert, such as an attorney.

*Regards,
Danny
Etsy Legal*

LiilProducts' shop is still active, even after I reported the copyright infringement to Etsy. Kharma Lu appears to have gotten away scot-free thanks to Etsy's protection. This just isn't right.

Etsy has created a system where copyright infringement is almost encouraged. Kharma Lu has not had her account shut down and has not suffered any ill effects for printing and selling my photo without permission. Who knows how many other sellers are doing the same thing? Is Etsy now the Silk Road?

It's time to clean up your act, Etsy. You can't let your sellers steal from other artists and get away with it. At least have the decency to shut down seller accounts when the law is broken.

Recommended reading: Attorney Steve Schlackman has a great post detailing how many other artists have had problems with copyright infringement at Etsy. Etsy has created amazing opportunities for artists around the world, but they've also created easy opportunities for artists to be screwed over.

Addendum: Several attorneys on Reddit have mentioned that a subpoena can cost as little as several hundred dollars. Rather than editing the original text I decided to make a note of this information here. This is good news, but still, an unreasonably difficult obstacle to surmount in my opinion.

About Pixsy:

Pixsy is the leading copyright legal-tech service for online image protection. Founded in 2014 by photographer Daniel Foster, Pixsy is an award-winning startup with over 30,000 photographers & artists in its community. Pixsy has processed over 50,000 copyright infringement cases and works with more than 26 partner law firms across the globe to bring justice for creatives.

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Sources:

Pixsy Inc: www.pixsy.com

