

## GRANT HONORS BARBARA BROCK, FIFDA, PAST NATIONAL PRESIDENT AND EF CHAIR



**Largess, literally:** Arizona President Karen Sugarman presents a hefty check to EF Chair Linda Mariani in memory of Barbara Brock, who had served as president of the chapter, President of IFDA national, and as Chair of the Educational Foundation. The Barbara Brock Memorial Grant will support an IFDA speaker program at design industry events.

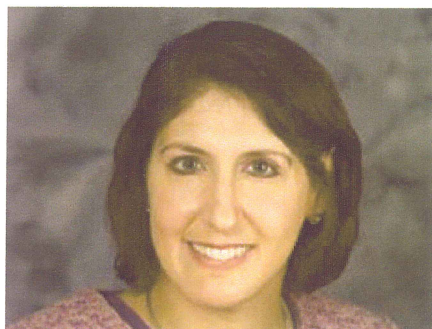
Renowned for her "grace, style, warmth, and humor," the late Barbara Brock, FIFDA, will also be known as the inspiration for an important Educational Foundation outreach program supported by her admirers in the Arizona Chapter.

The ongoing Barbara Brock Memorial Grant, launched with a \$10,000 donation in her memory, will be used to finance two accredited speakers, representing IFDA expertise at industry markets, design centers, and other venues.

Karen Sugarman, Arizona President, presented the Chapter's check – hefty in both size and amount – to EF Chair, Linda Mariani, FIFDA, during the EF luncheon at the LA Conference. The event honored Barbara's myriad of contributions to the Chapter where she served as President before becoming national IFDA President and Chairman of the Educational Foundation.

Acknowledging the tribute, a warm letter from Barbara's four daughters and their families confirmed, "She would be honored that others will benefit from the largess of the IFDA."

## ALERT TO DESIGNERS PENDING 'ORPHAN WORKS' BILL MAY IMPERIL YOUR DESIGN RIGHTS



**By Jeanne Hamburg, IFDA-NY.**

The U.S. Congress is proposing legislation known as the "Orphan Works" bill that would provide a "safe harbor" for anyone who copies or otherwise exploits creative works – including designs for textiles and wallpapers – without permission because they are unable to determine the owner of the copyrights to such designs. Hence, the term "orphan" works, because their parentage is unknown. Lamar Smith (R-TX), Chair of the House Subcommittee on Court, Internet and Intellectual Property introduced the proposed legislation two years ago and it has been the subject of debate and amendment since then.

As long as the copiers can prove that they searched for the copyright owner in good faith and with reasonable diligence, the pending legislation would reduce the penalties for infringements. Currently the U.S. Copyright Act provides pre-set ("statutory") damages as high as \$150,000 for each infringement (that is, a copy or substantially similar copy) of a creative work, such as a textile or wallpaper design.

The proposed legislation would limit recovery for "orphan" works whose authorship/copyright owner cannot be determined to "reasonable compensation." Moreover, the copyright owner of an "orphan" work will no longer be able to recover attorneys' fees when the case is successful, standard procedure in a "regular" copyright case. As a result, the incentive to litigate against an infringer will all but disappear since it likely would cost more in attorneys' fees than could be won in court.

The bill has practical consequences insofar as a designer may wish to license his or her design on an exclusive basis. The infringer faces minimal downside risk in a court action brought by the designer if the infringer can prove that he or she could not identify the owner of the copyright of the design.

However, there is an important exception. If the design is "fixed" by the infringer "in or on a useful article that is offered for sale or other distribution to the public" then the limitations on damages are not available. That is, if the copy is used for useful articles such as furniture, then the limitation on damages does not apply.

Works become "orphaned" for a variety of reasons. For example, the copyright owner fails to register copyright with the U.S. Copyright Office. Or the owner sold the rights and the purchaser did not record the transfer with the U.S. Copyright Office.

What's a designer to do? Should the Orphan Works bill become law, designers should take practical steps to protect themselves:

- First, register copyrights for designs. Although such registrations are not a prerequisite to copyright protection, they become an essential tool in holding those who copy the designs accountable. The registrations are available on-line to the public and, if the designs have been offered for sale, the designs themselves are available at the Library of Congress. Therefore, the copyright owner can argue that those who copy his or her designs were on notice of the owner's rights.
- Another smart safeguard would be to create a digital inventory of the designs and make it available publicly. The copyright owner / designer could then argue that the infringer should have been able to identify the designer whose work it exploited without permission.

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## MARK A MILESTONE, HONOR A MEMBER WITH ONE-TIME EF DONATION

Do take important people and events for grant-ed, urges EF Chair, Linda Mariani. One-time donations to EF grants and scholarships make fitting memorials and tributes to

individuals and offer important recognition of a chapter milestone or departed chapter member, she points out.

"Chapters have indicated that they would like a special way to honor an IFDA member with a one-time gift," Linda says. "Their donations will become a fine tribute, as the individual will be mentioned in the Website newsletter and throughout the year in connection with the scholarship."

There are several channels for donations, for example, \$1,000 helps support the Part-Time Student Scholarship, or the newly established Green/Sustainable Scholarship. A donation of \$2,000 will help support the IFDA Student Member Scholarship.

For more information, reach Linda at [linda@westonstudiodesign.com](mailto:linda@westonstudiodesign.com).