Legal Crisis: Splattershmup

Last yar, our company released one of its first games, *Splattershmup: Jackson Pollock's Space Adventure*. This game was based on an original code base created entirely within our company by the owners and employees at the time. However, it was based on IP held by Shelden Wrapp, one of the original owners of our company. Wrapp left during the recent corporate transition amidst some chaos. Wrapp's contract giving rights to make a game based on Jackson Pollock's art was with the Pollock Institute, which holds the rights to Jackson Pollock's likeness, his biography, and any residual rights to his name, his work, or other IP. The Pollock Institute vigorously defends the name and work of Pollock from unauthorized use. However, it has been willing to build relationships with particular artists to create new media developments aligned with Pollock's vision and work. It was in this spirit that Shelden Wrapp, an artist and programmer, contracted with the Pollock Institute to have *exclusive* rights to use Pollock's name and facsimiles of his work in conjunction with new media projects that would "bring greater awareness and appreciation to Pollock's work". One of the reasons Wrapp joined the company was to bring some of this work to reality.

Today we received a letter from Wrapp's lawyers. In the letter the lawyers contend that due to the dissolution of the company in its previous form, and because Wrapp personally owned the IP rights to New Media products using Pollock's name, likeness and work, he is entitled to a lion's share of any profits from Splattershup and that he is owed $50,000 in one time rights to use Pollock's name and work style. It includes a cease and desist order stopping the production and distribution of Splattershmup until the issues of rights can be resolved.

The game is in final stages of production and is ready for distribution in November. Any delay in release will miss the core Christmas rush. We can predict that if we cannot release by mid-December, we will lose 30% of total sales. In that case it is highly unlikely that we will be able to do more than recoup our costs in making Splattershmup, and may take a loss if total sales are low. Not releasing the game at all will risk bankrupting the company. It seems likely that the letter was strategically timed to put us in a bind.

The task: You are not responsible for the legal arguments around rights, that will be in the hands of the upper management of the company in consultation with corporate and IP lawyers. However, they need help. We will need to come up with areas of concern, based on the information above. We need some creative scenarios for what the outcomes of this case might be, and how that might affect our ability to release the game, our profit from the game, and ways we might change the game, our advertising and marketing, etc. to minimize the damages. The point here is not to find one answer, but to propose possible problems this may cause and how we might respond to those problems. The management will then use these ideas to help form a corporate strategy to deal with Wrapp's claims.