Portfolio Media. Inc. | 101 Park Avenue 24th Floor | New York, NY 10178 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Henry Darger's Landlord Saved His Art. But Who Owns It?

By **Ivan Moreno**

Law360 (November 3, 2026, 6:06 PM EST) -- The fate of the extraordinary body of artwork Henry Darger created over decades living alone in a rented Chicago room may depend in part on the meaning of a few words attributed to him shortly before he died in 1973 — a question now scheduled for a federal jury trial in March.



Henry Darger's rented room in Chicago, where he privately created the writings and artwork that brought him international recognition after his death. (Court Documents)

When a neighbor who visited Darger at a care facility told him his paintings were found while his room was being cleared, Darger's eyes widened, and he took a deep breath, according to a letter written 26 years later.

"It's too late now," Darger said, before adding softly, "They belong to Mr. Lerner."

Nathan Lerner was Darger's landlord and, according to accounts of Darger's final years, one of the few people who helped care for him. U.S. District Judge Thomas Durkin set a weeklong trial beginning March 8 after ruling in September that the evidence could support competing conclusions about whether Darger gave away his artwork or merely believed it was too late to reclaim it.

The trial could determine not only who owns Darger's physical art and writings, but also who holds the copyrights governing their reproduction, publication and licensing. The dispute pits Darger's distant relatives, acting through his estate, against his landlord's widow, Kiyoko Lerner, over works that have sold for hundreds of thousands of dollars and made Darger one of the most celebrated figures in "outsider art," a label applied to self-taught artists.

Copyright ownership can also affect the market for the physical works because reproduction exposes an artist to a wider audience and can increase demand at auction, said Elyssa Westby, a Ropes & Gray LLP attorney whose 2019 law school article questioning the Lerners' ownership helped inspire a search for Darger's relatives.

"You totally control the narrative if you hold the copyright around that artist, their work, their life," said Westby, who is not involved in the litigation.

In Darger's case, however, control of the narrative followed an act of preservation. Nathan and Kiyoko Lerner kept the work, introduced it to the art world and helped build the reputation now entwined with the ownership fight.

"There wouldn't be anything without Nathan Lerner," said Debra Kerr, president and CEO of Chicago's Intuit Art Museum, which preserves a recreation of Darger's room using furniture and other belongings Kiyoko Lerner donated in 2000.

A Life in Obscurity

Darger was born in Chicago in 1892 and his mother died when he was 4, shortly after giving birth to his sister, who was placed for adoption. After his father became disabled, Darger was sent to a Catholic orphanage when he was about 7 or 8 years old, and at 13 to an institution in Central Illinois. He escaped three years later and returned to Chicago.

Darger spent much of his adult life working as a janitor and dishwasher in Chicago hospitals. In the Lincoln Park room he began renting in 1932, he created the sprawling imaginary world of "In the Realms of the Unreal," a roughly 15,000-page epic about seven young princesses called the Vivian Girls, who battle a nation that enslaves children. The manuscript has never been published in full.

His writings were accompanied by hundreds of panoramic drawings and paintings — some extending nearly 10 feet — that combined brightly colored landscapes and domestic scenes with unsettling depictions of violence.

Some neighbors regarded Darger "as odd and unkempt," and complained "that he was an eyesore," according to Kiyoko Lerner's summary judgment brief. Nathan Lerner resisted calls to stop renting to Darger, and reduced his $40 monthly rent to $30 when he was injured. By late 1972, when declining health made it difficult for Darger to climb the stairs to his third-floor room, the Lerners helped arrange his move to a care facility months before he died at age 81.

What happened as Darger's room was cleared and what he intended to leave behind are now central to the ownership dispute. Kiyoko Lerner testified in a deposition that when her husband asked Darger whether he wanted anything brought to the care facility, he replied, "I don't need anything. It's all yours. I give everything in the room, it's yours. Throw them away for cleaning purposes."

The only other principal account of Darger's intentions was recorded 26 years after his death in a letter from David Berglund, the neighbor who helped clear Darger's room. Judge Durkin conditionally considered the letter in his September summary judgment ruling, but said the defense must establish that Berglund had died before relying on it at trial.

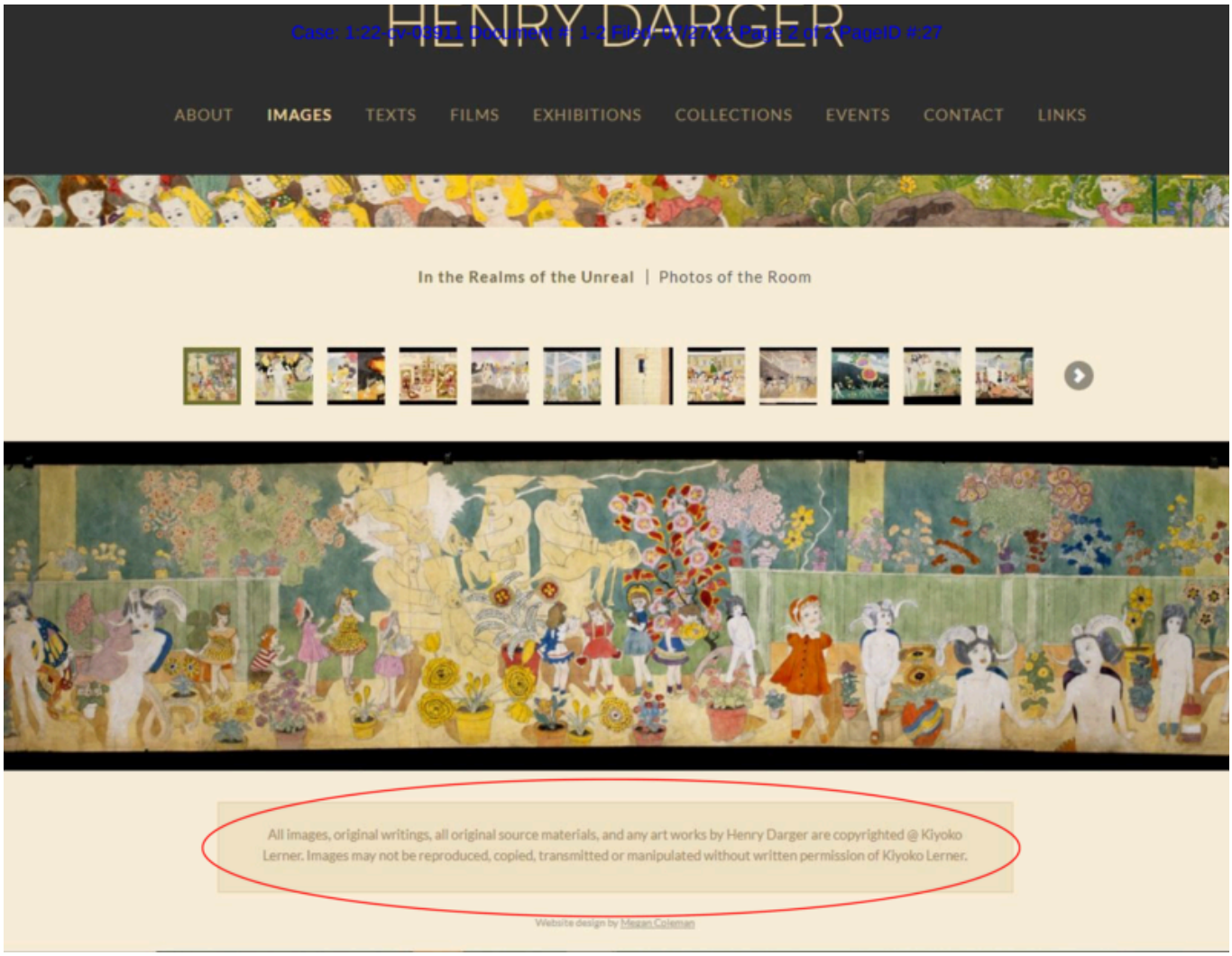
In the letter, Berglund described telling Darger that people clearing his room had "come across some paintings," while Kiyoko Lerner testified that his work was discovered after his death. The estate argues that the conflicting accounts, along with Darger's declining health, leave unresolved whether he knowingly relinquished his rights.

Kiyoko Lerner maintains that Darger gave the room's contents to her husband, or, alternatively, abandoned them by leaving them behind. The second theory could be difficult to prove, said Judith Wallace, chair of the art law department at Carter Ledyard & Milburn LLP.

"I would not call this the strongest case for abandonment. He was ill, he moved to a nursing home and he died," said Wallace, who is not involved in the case. "If that were the case, everybody who dies and has property in their home would have abandoned property, and that's just not the law."

Counsel for Kiyoko Lerner and the Darger estate declined to comment.

The Legacy in Dispute



A panoramic work by Henry Darger depicts children moving through the brightly colored imaginary world of "In the Realms of the Unreal." The image appeared on a website operated under Darger's name by Kiyoko Lerner, whose claimed ownership of the work and copyrights the Darger estate disputes. (Court Documents)

Nathan Lerner applied to copyright "In the Realms of the Unreal" in 1995, saying he had acquired the rights through a "transfer of all rights by author," according to Judge Durkin's September ruling. He assigned his claimed copyright interests to his wife in 1996, and she obtained additional registrations after his 1997 death.

However, ownership of Darger's physical works does not necessarily carry their copyrights, Judge Durkin ruled. Although no written transfer from Darger has been found, the law governing his unpublished works when he died did not necessarily require one. But intent is still required, which a jury could find or reject based on the accounts of Darger's final statements.

Darger died without a will. After his relatives demanded the return of his art, writings and copyrights in 2020, a Cook County judge appointed one of those relatives, Christen Sadowski, to administer the estate in 2022. The estate sued the same year, accusing Kiyoko Lerner and the Nathan and Kiyoko Lerner Foundation of wrongfully claiming ownership of Darger's works and intellectual property rights.

The challenge came after the Lerners sold, donated, exhibited, reproduced and licensed Darger's work for decades. The summary judgment record shows Kiyoko Lerner agreed to sell at least 22 Darger works to the American Folk Art Museum for $1 million in 2000.

The lawsuit echoes an earlier dispute over Chicago photographer Vivian Maier, whose work became famous after thousands of negatives surfaced through storage locker sales in 2007. Her estate asserted that ownership of the physical negatives did not confer the copyrights to reproduce her photographs. **Litigation** that ensued against two collectors ended in confidential settlements.

Westby drew parallels between Maier and Darger in the paper she published in the Northwestern Journal of Technology and Intellectual Property in 2019.

Ron Slattery, a vintage photo collector who helped search for Maier's relatives, called Westby on the day of her law school graduation to tell her the article she wrote sparked his interest, she said. Slattery, who died earlier this year, helped locate some of Darger's relatives, showed them Westby's article and explained that the rights to the artist's work might

belong to his estate, according to Westby.

"For better or worse, my article inspired an heir hunt," Westby said.

What Was Saved

Nathan Lerner did not rent Darger's room again and kept it largely as it was, allowing collectors, artists and others interested in Darger to visit, according to court documents. Darger's work received its first public exhibition in 1977 at Chicago's Hyde Park Art Center.

Remnants of Darger's private world are now preserved at the Intuit Art Museum, which showcases self-taught artists. The recreation of his room contains his typewriter, art supplies and scrapbooks. Other objects include jars of tempera paint, newspaper clippings, a laundry hamper filled with twine, a crucifix and the room's stained-glass window.

Kerr, the museum's president, said it has never questioned the Lerners' ownership of the materials they donated.

"And frankly, we don't question it now," she said.

The litigation has nevertheless changed how the museum uses Darger's images. The Artists Rights Society, which has handled licensing for Kiyoko Lerner, suspended issuing licenses after the lawsuit, Kerr said. Intuit has generally paid nominal fees to reproduce the images for educational purposes, spending about $3,000 to $4,000 during a full year of Darger exhibitions in 2021, Kerr estimated.

"There's no big bucks there," she said.

The case could still be resolved before trial. Kiyoko Lerner has asked Judge Durkin to reconsider his September ruling and dismiss the estate's claims as untimely, arguing in an Oct. 22 motion that decades of publicity should have prompted Darger's relatives to investigate their potential rights long before they filed their complaint. Kiyoko Lerner also asked the judge to dismiss the estate's cybersquatting claim, arguing that there was insufficient evidence that she acted in bad faith by operating a Darger website.

The estate countered on Oct. 30 that the relatives had no reason to investigate ownership until Slattery contacted them in 2019. It also argued that some claims are timely because they concern recent conduct, including Kiyoko Lerner's November 2019 sale of a Darger work for more than $800,000 and licensing activity continuing into 2025.

Whatever the outcome, the litigation could shape how Darger's art reaches future audiences. Kerr said Kiyoko Lerner has been careful about how Darger's work is reproduced, generally favoring licenses for museums and educational institutions.

"I mean, the stuff didn't go on mass T-shirts," Kerr said.

Westby, who noted that she has never been able to find a tote bag with Darger's art, said greater certainty about ownership could bring his work to new audiences. But first, a jury may have to decipher Darger's intentions from what he reportedly said near the end of his life.

"Fifty years is a long time to reconstruct anything," Westby said.

The case is Estate of Henry Joseph Darger v. Kiyoko Lerner et al., case number 1:22-cv-03911, in U.S. District Court for the Northern District of Illinois Eastern Division.

--Editing by Alanna Weissman.

All Content © 2003-2026, Portfolio Media, Inc.