

A Case of Theft of Copyright

Mark O'Shea

In an earlier article I mentioned that one of my photographs had appeared on a stamp before I was asked to provide photographs for the Dangerous Snakes of Papua New Guinea issue, but that the image had been used without my permission.

The Federated States of Micronesia (FSM) is a widely scattered federation comprising four groups of atolls and islands in the north Pacific, stretching over more than 2,000 nautical miles. These states, Yap, Chuuk, Pohnpei and Kosrae, were part of the U.S. Trust Territory of Pacific Islands, and before that they were known as the Caroline Islands. The FSM, which became independent from USA in 2000, is located between Guam and the Marianas Islands in the north, and Palau and New Guinea in the south. The most place in the FSM is probably Chuuk, formerly Truk, Lagoon, the scene of a WWII sea battle which sent thousands of tonnes of Japanese battleships to the bottom and now attracts divers and film crews from all over the world.

In February 2005 the Federated States of Micronesia (FSM) issued what is known as a mini-sheet, a set of six stamps on a single perforated sheet with a picture border around the outside. Whether such things are intended for genuine postal use or simply as a means of generating revenue from the many thematic philatelists is open to question.

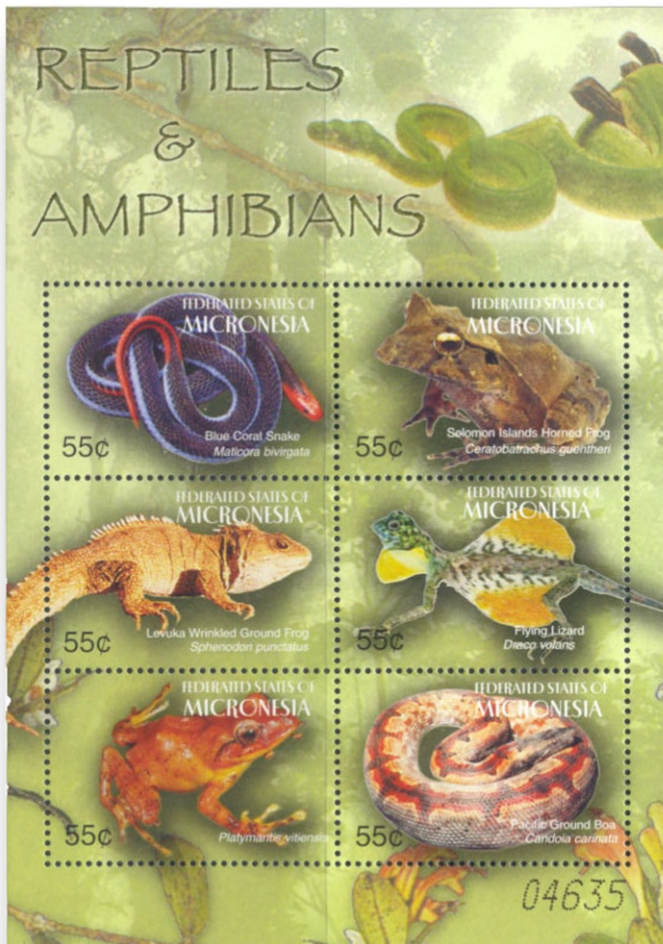
Whatever the FSM's reasons for producing this mini-sheet, featuring Reptiles and Amphibians, the first I knew about it was when I saw it on the internet, whereupon I immediately went "Hang on..... that's my photograph!"

Photographers inherently know their own images when they see them, even if they have taken thousands of photographs and even if they have not viewed that particular image recently. It may be that having looked at that unique view through the viewfinder we have logged it indelibly in the brain, the angle, the subject, who knows what it is, *gestalt*, we just know. In fact I knew this particular image very well, it had been published on page 96 of *A Guide to the Snakes of Papua New Guinea*, and since it was not lodged in a photographic library anywhere it could not have been used legitimately, it had to have been scanned from the pages of my book. It is fair to say I was not very pleased at this flagrant breach of copyright and I determined to find out more about where I stood and what action I could take.

But before I go into any of that I would draw your attention to the offending mini-sheet and ask you if can you see anything wrong with it?

Of course, due to its remoteness the FSM has a fairly limited herpetofauna comprising sea turtles and a few Pacific island skinks and geckos. None of the species portrayed on this mini-sheet have come with several thousand miles of its shores.

The blue coralsnake *Maticora bivirgata* is from S.E. Asia and should now be referred to as *Calliophis bivirgata*, but in all honesty I cannot expect the designer to have known that.



**Reptiles and Amphibians
mini-sheet issued in 2005 by
Federated States of Micronesia
in 2005**

The Solomon Islands horned frog, *Ceratobatrachus guentheri*, is correctly identified.

The supposed Levuka wrinkled ground frog is quite obviously not a frog at all, the scientific name is correct however, *Sphenodon punctatus*, the tuatara, from New Zealand.

Nothing much wrong with the flying lizard, *Draco volans*.

The other frog is captioned simply as *Platymantis vitiensis*, correct since this is a Fijian treefrog, one of two endemic Fijian frog species, the other being *Platymantis vitianus*, the Fijian wrinkled ground frog. Could this account for the incorrect common name on the tuatara stamp?

And finally, my picture of a Pacific ground boa, *Candoia carinata*, although to keep the record straight, the subspecies represented here has been elevated to species status and is now known as *Candoia paulsoni*.

I don't know about you but I am sure I have seen some of those other images somewhere else, particularly the tuatara moving away from camera and the flying lizard, so I can only assume that other photographers have had their photographs lifted for this rather miserable and disorganised stamp issue.

So coming back to the unauthorised use of my ground boa photograph on a stamp issued by the FSM. Does copyright extend to use of images on stamps?

Yes it does, because such matters are covered by the Berne Convention, which enforces and protects copyright, and to which the FSM became a signatory on 7th October 2003, over a year before they, or their agents, decided to use my photograph without permission.

Could I do anything about it?

Now that is more difficult because to pursue the postal authorities of the FSM for reparations would mean taking them to court, on the other side of the world. Having spoken to a solicitors specialising in copyright law I decided the best course of action was to bring the situation to the attention of the FSM authorities and hope they would do the proper thing and make some sort of offer of compensation.

So I sent an international registered letter to the Postmaster General of the Federated States of Micronesia, asking for an explanation as to how and why they had used one of my photographs without permission, but perhaps it got lost, because from that day to this I have not received a reply.

References:

- O'Shea, M.** 1996 *A Guide to the Snakes of Papua New Guinea*. Independent Group, Port Moresby. 239pp.
- O'Shea, M.** 2006 The Dangerous Snakes of Papua New Guinea. *The Herptile* 31:4: 132-140.

Popondetta, Lego and Owen Stanley Mts. M.BAY: Cape Vogel, Biniguni, Samarai Is., d'Entrecasteaux Is., Goodenough, Fergusson, Dobu and Normanby Is., Trobriand Is., Kiriwina and Kitava Is., Woodlark Is., Rossel and Tagula Is. N.SOL: Buka and Bougainville Is., Tinputz.

Possible intergrade populations - MOR: west of Lae. N.IRE: Tabar Is.

C. carinata (long-tailed phase) - M.BAY: Misima Is.

C. carinata (undetermined phase) - MAD: Crown and Long Is. N.IRE: Babase Is.

Distribution outside PNG: *C. carinata* '*carinata*' occurs in Irian Jaya and on the Indonesian islands to the southwest eg. Ceram and Tanimbar Islands. *C. carinata* '*paulsoni*' occurs in the Solomon Islands and Santa Cruz Islands and on the Indonesian islands to the west of Irian Jaya eg. Sulawesi and Halmahera.



Pacific tree boa – *Candoia carinata* '*carinata*'
(Jais Aben, Madang Province)



Pacific ground boa – *Candoia carinata* '*paulsoni*'
(North Solomons Province).

Candoia carinata carinata

BBM 2942 Gaulim, ENB Prov.

(after McDowell 1979 *J. Herp* 13(1))

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