

**From:** [REDACTED]  
**To:** [FN-OMB-IntellectualProperty](#)  
**Subject:** Why intellectual property rights are important to me  
**Date:** Thursday, March 18, 2010 5:34:47 PM

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Ms. Victoria Espinel,

As a creative professional I represent the kind of individual Charles Pinckney and James Madison had in mind when they drafted Article 1, Section 8, #8 under Powers of Congress in the U.S. Constitution. I create valuable images that can be and have been a commodity for businesses. Madison knew that in order to keep creative people's ideas coming the law would need to reflect some kind of protection afforded to those who create, invent, and discover new ideas that are valuable to commerce. What I make is valuable because, there is strong need for it, I can sell it, and very few people have the ability and background to produce what I create. I need copyrights to protect my authorship and ownership in the commodity I produce. Without stronger copyright protections I cannot adequately guard against infringers (people who don't respect my rights or know my authorship is protected by copyright.) Copyright protections have become too weak for the authors that Pinckney and Madison intended to promote.

As suggested above, the biggest problem facing copyrights is the cavalier attitude toward copyrights and ignorance of why copyrights are important to authorship. To augment this problem is the history of how the legal system has ignored copyright law. Protections have steadily been whittled away by mounting erroneous legal precedence in the court systems. Now, anytime a copyright infringement is claimed, defense lawyers have numerous court decisions as reference that defy the copyright law by simply ignoring the intent and in some cases the letter of the law. Most of these cases seem to have been decided rather subjectively by officers of the court without concern about the purpose of copyrights for the author. Every case of copyright infringement must be viewed from the perspective of the author. Has the author's rights to distribute (copy) their own work been usurped by anyone? That should be the first and most pertinent question. The author is the only person that has that right. If the use is clearly and without question a prime example of one of the seven fair use clauses there should also be no dispute. But when the use is murky, a non-author using it is obligated to at least ask permission from the author. This is true even if fair use is crystal clear. Anything less is infringement because the intention of the infringer can never be known. The adage, better safe than sorry, should be the standard for anyone seeking to use artwork they don't own. Ask permission. Please examine the cases of infringement that were lost by the author—a legal scholar should find these cases to exhibit misunderstanding of the law. The author's legal rights will be shone to be ignored.

In my position as a Medical Illustrator for Mayo Clinic the problem of image piracy is


rampant. I produce images that are the intellectual property of my employer. The medical image bank we have of 60,000+ drawings is the largest in the world and seemingly everyone wants to use them. We try to protect authorship to this collection and new artwork for several reasons beyond the resale value of the images. 1) we frequently reuse these medical images for publishing and presentations. If someone else uses these images without our permission, we lose control of them and soon they are dispersed widely and used inappropriately. Some publishers actually extort copyrights to our images from our authors as a condition for being published in their journals, books, etc. 2) we attach a copyright notice to each image to help anyone find the original by: a) signify it is a Mayo Clinic image b) putting the year the image was produced, and c) putting the name of the illustrator who created it on the drawings. These three components of our copyright notice enable anyone (especially us) anywhere to track down the owner (Mayo Clinic), the year it was made, and the illustrator who produced it. 3) copyright protection: we don't want anyone using these images inappropriately and without Mayo Clinic's oversight. Some publishers insist we remove our copyrights for their purposes and the image then becomes exposed to being orphaned. Orphaned works are those images without identification and they can become nearly impossible to track down. Bolstering laws keeping publishers from tampering with an author's notice of copyright would go a long way toward strengthening copyrights. Publishers have no authority to eliminate our copyright notice any more than they do to change the artwork. It does not belong to them! Make it a crime to remove an author's copyright.

If copyrights don't protect the author of music, art, or the written word, then there will be less impetus for more authors of these three forms of art to create. We have talents to produce creative tangible products that have infinite value in terms of commerce and intellectual stimulation. Protecting these rights as Pinckney and Madison were intending to in the Constitution, would not only induce creative people to produce more, it would necessarily enhance the economic boon these products create in the marketplace.

Please, strengthen artists rights and make authorship of anything a viable profession. It will only make America stronger.

Thank you!

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