

From: [REDACTED]
To: FN-OMB-IntellectualProperty
Cc: info@copyrightalliance.org
Subject: Welcome Invitation
Date: Wednesday, March 24, 2010 1:18:13 PM

March 24, 2010

WASHINGTON DC 20515

Re: Intellectual Property Enforcement

Dear: Ms. Espinel:

First I want to thank you for taking on this very important role. ASMP and the Copyright Alliance have informed me of this welcome invitation from the Obama Administration to share my thoughts on my rights as an image creator.

I am an architectural photographer with over 28 years experience interpreting architectural environments across the United States. I don't want to sound like I am interviewing for a position or commission but I feel it is important that you realize, I have a very unique approach to my work not only creatively but philosophically. Architecture is one of the most historically significant subjects anyone can photograph, it's our generations legacy to preserve for future generations to study, admire, mimic and protect. Many of the subjects I photograph will be gone someday so the images we create as architectural photographers will be vital in preserving our generations history. This fact alone is evidence enough for the need to protect the rights of all intellectual property creators especially when their work preserves our history.

My process requires elaborate lighting productions to ensure the viewer not merely "see" the structure but experience, in minute detail, the textures, depth and dimension throughout the entire scene. Achieving this result requires a genuine dedication to the subject, the craft and having clients with similar passion for their work are essential. Unfortunately for passionate artists and photographers, there are too few of these clients to consistently support this level of work. Because of my creative and philosophical aspirations and the economic realities of the production, I often invest along side my clients (allocate funds from my professional fees to pay for additional crew and expenses) in order to make the images the best they can be, thus preserving these structures in their best light for all to enjoy and learn from for centuries. Because of copyright protection I own all publication rights to my images, I have great potential to recoup my investment and profit from residual licensing fees. This is a great scenario, I can pour myself and even my own money into each image I create and by owning the rights, I can potentially profit from my work indefinitely. However, the problem is so many individuals, companies and organizations seem to like to use my images, often without permission or payment even when they know it is wrong to do so. I have been forced recently to file a Federal suit against my own city's convention and visitors bureau that licensed a one-time use but then continued to use my images over and over again without my knowledge or authorization. As if that isn't disturbing enough (this is a government sponsored organization), they proceeded to distribute my images on their web site to be used freely by others, courtesy of this organization. This act has resulted in numerous infringements throughout the USA and the world including postcards, advertising and many other unauthorized uses. I have now invested over a year and more than ten thousand dollars (and counting) fighting to protect my rights with no real end in site. They have much deeper pockets and are certainly much better connected than I am so who knows how this will end. However, I have much more to loose if I quit so I am moving forward with faith and hope the law will ultimately protect me or until I deplete my savings whichever comes first. If there were an option for swifter action that would have an immediate solution, for instance a mandatory settlement meeting within 30 days of notice of a contested infringement. This could be a deterrent to infringers as well as free up the court dockets because most cases would be settled within 30 days not 2 years or more.

Intellectual property creators are under constant pressure by many firms, corporations and organizations to relinquish our copyrights as a term of doing business. I work with clients that enter design competitions in order to gain recognition for their design work. These competitions are good for all involved, the problem is many of the organizers insist on gaining all rights to the photography of these projects, stripping the artist of their rights, allowing the organizer to profit from the artists creations while adversely affecting the artists ability to profit in the future. This pits artist and client against each other creating friction that has ended more than one business relationship. I would like to see a huge campaign to get the word out, copyright infringement is illegal. One problem is the costs are so high to pursue a case, most don't even try, they feel defeated before they start, simplifying the process would be very helpful. Some kind of immediate solution to keep large corporations from bleeding the plaintiff into submission or taking a case all the way to court then settle on the courthouse steps. It seems we currently have a system that deters artists from pursuing an infringement case and incentive for an infringer to infringe knowing the artist can't afford to pursue a case so they infringe with impunity. Not fair.

ASMP and the Copyright Alliance are currently engaged in a campaign to educate members, nonmembers, emerging photographers alike in the value of copyright registration. ASMP has created and given us wonderful tools to work with and even more, ASMP's General Council has defended many of our members in landmark cases. The 1976 Copyright Act was created for an author or creator's protection. I appreciate your help and President Obama's Administration, in taking a serious interest in defending our intellectual property and the potential for keeping our industry and profession alive. Without these protections, the enormous challenges that we face will certainly accelerate.

Thank you for your willingness to take on this very important issue, I look forward with eager anticipation to see where this leads. President Obama had my vote in the last election, so far, I have no doubt he will have my vote in the next one.

Respectfully yours,

Jeffrey Jacobs

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