

From: [REDACTED]
To: FN-OMB-IntellectualProperty
Cc: info@copyrightalliance.org
Subject: How intellectual property infringement affects my livelihood
Date: Wednesday, March 24, 2010 11:38:29 AM

Dear Ms. Espinel and the Obama Administration,

ASMP and the Copyright Alliance have informed me of this welcome invitation from the Obama Administration to share my thoughts on my rights as a creator.

As a self-employed photographer, in Chicago Illinois, I am seeing a dramatic decline in my ability to make a living these last many years. This has been largely because, since the advent of the internet, there has been both an expansion in the volume of creative work people are involved in and a lessening in recognition of artists' copyrights. The existing laws are clear about what should or should not be protected, but if I were to seek to change anything it would be in how those laws can be enforced by those of us who are the victims of infringement.

The biggest single problem, in my opinion, is that a copyright infringement action is only effective if the work in question is worth a substantial amount of money and a lawyer is available who will pursue such relief on some kind of contingency basis. In my experience, infringement tends to happen more frequently on a smaller level, with people using images of mine for their websites or in derivative works on a similarly small scale. It is difficult to be the victim to such infringement, over and over again, and not be able to effectively respond. Such infringement causes damage. When I shoot a wedding and the newlyweds post my images on the internet for their friends to copy, for example, I do not get the licensing fees I am entitled to. When a company circulates my images without even noting my copyright, the image slowly loses its long-term value.

I can and do try to address these problems in my contracts, including provisions which confirm the limited license I am granting in images I produce for my clients and noting that the client may be liable for my attorneys fees in the event of a court action. But, to my knowledge, these are not cases I can readily file in a small claims court so, if I do decide to pursue a claim for infringement, I currently have to file a federal court case which the federal judges are not likely to be happy about (particularly when the damages involved are in the thousands rather than in the hundreds of thousands of dollars).

I therefore think that, if there is anything that should be changed, it is the law which makes copyright infringement a federal question. Copyright and trademark infringement actions should be possible to pursue in state court where the cost of filing is often less prohibitive and the courts are set up to handle larger volume (like collection cases). This would give me access to the courts when I need it which would, in turn, make it much easier for me to ensure people honor my copyrights as they should.

Thank for your interest in my view. I hope this is responsive to your inquiry.

REP3

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Artist/Photographer: specializing in photographing the creation process with insight and passion. www.ren3.com

Piccolo Theatre: ensemble theatre company with foundation in Commedia dell'Arte. www.piccolotheatre.com

American Society of Media Photographers (ASMP): ethics based International Trade Association. www.asmp.org