

From: [REDACTED]
Sent: Wednesday, March 24, 2010 4:13 PM
To: FN-OMB-IntellectualProperty
Subject: Response To Request For Feedback On IP Enforcement Strategy

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Victoria Espinel
Intellectual Property Enforcement Coordinator
Office of Management and Budget
Executive Office of the President
Filed via email to intellectualproperty@omb.eop.gov

Dear Ms. Espinel:

I am a professional stock and travel photographer in California and make my living producing and licensing images for use in editorial, commercial, and advertising publications and products. I am also a member of ASMP (American Society of Media Photographers) and on the Advisory Committee and for Stock Artists Alliance, the international trade association for stock photographers.

In response to your request for comments from the public regarding development of an intellectual property enforcement strategy, several key concerns are outlined below

Photographs and videos are unique among content in that they are not only produced and licensed by professionals like myself, but are also produced in far, far greater numbers by the general public, amateurs, citizens, families who are not interested (in general) in copyright considerations. Recent figures suggest that the number of online images is over 100 billion and increasing by billions every month (ref <http://www.fastmediamagazine.com/?p=4362> and <http://techcrunch.com/2009/04/07/who-has-the-most-photos-of-them-all-hint-it-is-not-facebook/>)

Professional photographers produce and are concerned with only a small subset of those images. In order for copyright protection to work in practice there must be some way to simply and effectively distinguish and identify images being used in commercial enterprise, and then to facilitate the licensing of such images.

Books have ISBN numbers, recorded music has ISRC codes and the motion picture industry tracks released films, but there is no such distinguishing standard for photographs and images.

What this means in practice is that there is no easy way for a prospective photo buyer, or a consumer, to know if a particular image is copyright, whether they might need a copyright license to use the image, and if so, whom to contact.

Recommendation 1. Simplify Copyright Registration and Deposit

Even though professional photographers register images with the Copyright Office and submit copies as deposits, the process is cumbersome and time consuming, particularly with images that have already been published. This process should be significantly streamlined so that all images in the commercial photography market can be easily uploaded and identified.

Recommendation 2. Encourage development of permanent Metadata in Images

One principal way of identifying images is by embedding metadata using various IPTC schemas. Key information such as copyright status, copyright holder contact info, captions and keywords is stored inside an image file and can be easily retrieved and displayed. Stock Artist Alliance was recipient of a Library of Congress Preservation Program grant for photographer metadata education. Joint Strategic Plan support for ongoing development of metadata standards and practices plus file formats to support permanent metadata will further help identify images of commercial concern and connect photo buyers with copyright holder.

Recommendation 3. Facilitate Image-matching identification of Images

At present it is not possible for a user to search the Copyright Registration database and find out if a particular image they have in hand has been registered and who the copyright holder is. Database technology already exists to support comprehensive visual search (i.e. not text-based search e.g. <http://www.tineye.com> by Idee, Inc.). Implementation of visual search by the Copyright Office and/or other registries, will make it much easier for a prospective photo buyer to contact the copyright holder and arrange a license.

Recommendation 4. Provide simpler remedies for resolution of Copyright Disputes.

The present process of resolving copyright disputes by filing suit in Federal District court is inordinately complicated and often prohibitively expensive for individual photographers. As a result many copyright infringements are not pursued. A simpler dispute resolution process for smaller claims should be developed. Such a process was proposed by Professional Photographers of America (PPA) in 2005 as part of the Copyright Office's notice of inquiry regarding orphan works (ref <http://www.copyright.gov/orphan/comments/OW0642-PPA.pdf>). A simpler alternative to expensive court cases will significantly help photographers with enforcement of their IP rights.

The advent of the internet and digital media is transforming the world of photography and copyright law and practice will no doubt change. By addressing the issues outlined above the Joint Strategic Plan can help professional photographers better manage and protect those commercial images and licenses we rely upon for our livelihood

Sincerely

David Sanger

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