

From: [REDACTED]
To: FN-OMB-IntellectualProperty
Cc: info@copyrightalliance.org
Subject: my thoughts on my rights as a creator
Date: Wednesday, March 24, 2010 11:51:48 AM

Dear Ms. Victoria Espinal,

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

If I find a child in the street, why should the government sanction my assuming this child is an orphan? Shouldn't the government insist I do everything in my power to locate his/her parents/legal guardians?

I am a professional photographer, and a member of many professional associations, including ASMP, SAA, EP, NPPA. It is crucial to my professional livelihood and professional legacy that you strengthen copyright laws to prevent infringements of my copyrighted photographs, including the right to ask the courts to award statutory damages and attorneys' fees. In the publication world, the reality is that most photographs will easily become considered orphaned, depriving me of a significant part of my much needed income.

In this digital age photographers and all creators need more protection not less!! A personal example. I did a Google search of my name, both web and images, something I do on a regular basis. Then I did a Google image search of photographer "André Kertész" whom I photographed in 1983. Much to my shock I found my photograph of him on several websites including his entry in Wikipedia under a Creative Commons license. ALL UNATTRIBUTED.

I have licensed this image: as the frontispiece of a book, "Kertész on Kertész" published in 1985 and to the NY Times for his obituary in 1985. Both uses appeared with my name and © notice. My investigation determined that a university student scanned my Kertész image from the book and posted her "term paper" on the web -- without seeking my permission and without bothering to even contact and/or credit me. By doing this, this student effectively "orphaned" my work and made it fair game to anyone with access to a computer.

If this student had done this in the pre-digital age, it would have been just a typed term paper that might have ended up lost in the stacks of a school library -- and the possibility of it ever been seen again would be tiny. This is not the case in the digital age. I repeat: In this digital age photographers and all creators need more protection not less!!

I have been a professional full-time photogrpaher for more than 25 years, worked in more than 30 countries and photographed thousands upon thousands of people, places, events. I assume responsibility for my photographs and how they can and cannot be used. There is also no way I could monitor the many thousands of my images.

I have photographed sunsets. There are more than 3 million sunsets on Flickr. If someone wants to use/publish a sunset - let them find one whose legal guardian they can identify.

I do not know why the responsibility/onus of policing usage should be on the creator. I do not understand the urgency to change the © rules and responsibilities now during the digital age. Not only has it become easier for potential infringers to do so but this law gives themn the road map how to do it.

I urge you to strengthen copyright laws.

Respectfully yours,

SUSAN MAY TELL

Photographs of Space, Silence & Solitude

ASMP/NY - Fine Art Chair
<http://www.susanmaytell.com>

New York, NY