

**From:**  
**To:** [FN-OMB-IntellectualProperty](#)  
**Subject:** Comments: Prioritizing Resources and Organization for Intellectual Property Act of 2008  
**Date:** Tuesday, March 23, 2010 10:33:29 PM

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Dear Ms. Espinel:

Where to start?

As a photographer, I have found no less than about 1,901 of my photos being used improperly, outside of licensing, or being used without my authorization.

Many of my photos have had the metadata information stripped from the photographs and have been published on the internet without proper attribution, a licensing requirement.

Technology has made it too easy for photographs to be passed around without consent or permission.

Software manufactures are so worried about their software being pirated, that they neglected to put in safeguards to protect the intellectual property being worked on with the used of their software. Metadata is too easily removed, thereby making the photograph "orphaned" or by making others claim copyright to already copyrighted material.

A majority of the violations mentioned above are not from private individuals, but by large companies and corporations.

These companies and corporations are NOT bothering to check the metadata information and rely on taking someone else's word that they can use my registered and copyrighted material.

The problem is that I do not know about it until it has been published. Then, the damage has already been done – no payment and copy attribution (credit line).

In a vast majority of these situations, the companies say talk to the other company that provided "us" with the photo or just say tough, too bad. They shrug off responsibility even when evidence is provided that the photographs(s) were registered with the copyright office, prior to the infringement.

These companies, include magazines, and other publishing companies.

Getting an attorney is very expensive and any money that I would have made is lost - given to lawyers.

The damage amount for metadata removal is not adequate as stated by the copyright office – \$2,500 per occurrence. This amount alone should be increased to \$10,000 or even up to \$25,000.

It is not about collecting money. It is about determent.

All of my photographs have the rights embedded in the metadata. There is no other way to provide or include rights information on a photograph. We are not shooting color slide film, negative film or even making prints. Although a few still do, more than 90 plus percent of the professional photographers out there, in the real world now use digital technology for photography.

Dollar wise:

In the past six years that I have been using digital technology for my photography, the monetary loss of revenue is more than \$900,000. With this much of revenue lost, not only is the federal government not getting its share, but neither is the stat of Ohio, Medicare and Social Security.

The above amount is just usage and licensing fees. This does not include the loss to my business or the loss of my reputation as a photographer because of the lack of attribution.

Also, the copyright law should be amended to include a dollar amount when a photograph is not given

proper attribution. Typically, that amount, as stated on sample "terms of licensing," or "terms and conditions," states that fees will be tripled if attribution is given per usage.

Attribution is one of the reasons that licensing fees are not as much as they could be because a photographer needs to show that the work done was theirs.

Without attribution, ANYONE can claim that they were the photographer, the author, creator, of the photograph. This alone is why it is mandatory that fines and damages need to be increased.

As far as the government investigating and prosecuting copyright infringement:

I have not seen this. It has to be in federal court and one has to "hire" an attorney. Most photographers in the United States are sole proprietors. WE do not have the funds to hire lawyers. As it is, we barely get by with what the cost of professional equipment now costs – \$5,000 to \$8,000 for one camera. One lens I had been using now costs \$7,000. And, with the continuing decline of the U.S. dollar, the lower dollar has increased the prices on the equipment by almost 10 percent in the past year.

Technology has matured. People know what copyright is, but look the other way since they think they will not get caught. There are not enough safeguards out there, in the real world to prevent theft.

I have to "prowl" the internet looking for usages of my photographs. I also "prowl" local book stores and in the past six years, have found no less than three of my photographs being used without consent in books.

It was on March 12, 2010, I found an Ohio magazine had used two of my photographs in an April 2006 issue. Yes, four years later! I was never contacted regarding the usage, I did not receive photo credit, nor did I receive payment. This occurrence alone was more than \$550 in lost revenue.

The photographs used in this April 2006 issue were registered with the copyright office in July 1, 2005. This magazine is in the publishing business and knows better. They TRIED to get away with not paying for something.

So, people and businesses can claim ignorance all they want, but the law is the law and no one is trying to enforce the law. There is just so much time in any given day, let alone any given week and how much time should one be investigating trying to protect their property and livelihood?

As one can clearly see, I am only one person and then times it by tens of thousands and you will begin to see the big picture. Not enforcing the laws is costing me and thousands of others, millions of dollars, and the federal government, too.

Thank you for your time.

Name withheld because of pending litigation  
Ohio