

**From:** [REDACTED]  
**To:** [FN-OMB-IntellectualProperty](#)  
**Subject:** INTELLECTUAL COPYRIGHT PROTECTION  
**Date:** Tuesday, March 23, 2010 5:40:07 PM

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DEAR MS. ESPINEL:

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.

I am a professional photographer living and working in New York City, I have been published worldwide and my photographs have ongoing value to me in terms of sales of original prints and licensing of images for publication. I

I have had my copyright infringed at least 3 times that I know of. In the first instance I found out about the infringement from a friend and sued the infringer. I won the case, but it involved an image produced prior to the 1979 Copyright Law, and since the damages that were allowable prior to 1979 were minimal because of the stringent proof of loss requirements, the lawsuit cost me more than the damages awarded.. By suing, however, I did preserve my copyright, which apparently would have been lost had I not sued.

The 2nd and 3rd instances are more recent, within the last 3 years. In the 2nd instance copies of my photographs were being sold on Ebay. I complained and had the postings removed. I chose not to sue in that case because I felt that the infringer made an honest mistake.

In the 3rd instance a major University has put several of my images on their website without my permission or attribution. . When I called to complain, they said that since they were not offering the photos for sale they were therefore not prohibited from making such a use of my images. I believe they are wrong but I don't have the resources to hire a lawyer and go up against a large institution with significantly more resources than I have to engage in a lawsuit.

Unauthorized publication, and sale of unauthorized copies of my photographs, poses a direct loss of potential income for me, and if I understand the copyright law correctly may also cause me to lose my copyright altogether if I do not challenge the unauthorized use.

The potential loss of income stemming from unauthorized use of my images certainly has a dampening effect on my motivation to continue to produce high quality images....and I am sure this is true for all other creative people. By negatively affecting creative incentive in this way we all suffer a loss, because uninhibited creative incentive and innovation is what keeps a society vibrant. Not only is progress in all areas slowed because of inadequate copyright protection leading to declined incentive to innovate, but when artists also lose incentive because of inadequate copyright protection, the society loses the unique vision of its artists, who reflect the society back to itself and by the power of the image and word bring about changes in attitudes, understanding, and self-knowledge to people in that society, all of which are

necessary to the building and maintaining of a just society.

Thank you for the work you are doing in the area of copyright protection.

Sincerely,

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