

Copyright law provides that any individual or publisher of copyrighted material without permission or license may be subject to court action, compensatory and punitive damages, including legal fees, regardless of intention, specific use, or use due to misrepresentation by the source of the material.

Large commercial photo archives now use computer technology to 'crawl the web' in search of images on the web they own or represent that are not licensed. Along with commercial usage, they find students, creative professionals and retired art directors who have posted an image on their portfolio website, viewed by a very few, maybe dozens, not thousands, of prospective employers or simply stored as souvenirs of their careers. The images may have been provided to these *perpetrators* as "with permission," or even "owned," purchased as collections commonly sold by graphic software retailers. Verification of legality is cumbersome and can be impossible, certainly for the demographic previously mentioned. Yet the letter of the law does not distinguish between intentional theft of the intellectual property and unintentional misuse of misrepresented works. Fees demanded by the copyright owners or their agents may be appropriate of broad scale commercial usage, despite the minuscule, personal scale exposure of the infringement.

The spirit of the law is unlikely to be tested by these individual *perpetrators*, however unwitting, whether able to pay the fees, retain counsel or not, when large corporations with staff lawyers legally demand usage fees in relentless and unsympathetic pursuit of return of their investment in these efforts.

The letter of the law should provide for consideration of the circumstances of a copyright infringement.

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