

The current status of submitted media, image theft, and the internet

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A Report on copyright infringement and image theft in the current internet based market place.

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Definitions

Voluntary Outlets (Outlets):

Agents

Agents are in general commercial web based companies who represent a contributor. Agents maintain an image bank and engage in marketing activities in behalf of the Contributors in exchange for a percentage of the sales. Contributors do not have the opportunity to build a custom website or web presence. Instead, contributors have a portfolio. Sometimes links are provided (as an option) between social network sites and the contributor's portfolio and portfolio activities. There is a distinction between Royalty Free (RF) and Rights Managed (RM) agencies.

Retail Stores

Retail Stores are commercial web based companies that offer a variety of products that could be in part designed by the seller. These products are sometimes also customizable by the buyer. Some Retail Stores specialize in wall art prints with or without frames. The websites that offer this type of service are generally referred to as Print on Demand (POD) sites. Contributors have usually the option to customize their web presence to some extent. Sometimes links are provided (as an option) between social network sites and the contributor's web presence and store activities.

Image Sharing Sites

Image Sharing sites are generally non commercial sites where contributors can upload their images to share with either a selected group of people or with the general public. Although, these sites are not intended to sell images, it does happen from time to time. Contacts and price negotiations are in those cases done directly between the buyer and the contributor. In addition, there is at least one known Agent with a separate collection build around a sharing site.

Social Network Sites

Social Network Sites are generally non commercial sites where contributors can share information about just about everything within either a selected group of people or with all other contributors. Besides the typical social networking, these sites are also used to share

images within a selected group of people or with all other contributors. In most cases users, both active contributors/participants and viewers need to sign up in order to get access to the content. Signing up is a simple free of charge procedure.

Contributors

Contributors are everyone who voluntary uploads images to voluntary outlets.

Work

For the sake of simplicity, work is defined as all submitted materials in all media and file formats, such as JPEG, JPS, EPS, Tiff, etc. In general these are Photographic Images, Footage, or Graphic Designs.

Reseller

A reseller is an independent company that has an agreement of some sort with another company to resell their product offerings. Resellers are fairly common with mainly RF Agencies and some Retail Stores.

US based

The headquarters of these entities are not necessarily domiciled in the US, but these are entities with a legal presence in the USA, conduct business in the US, and are required to comply with all US laws and Internal Revenue Service's Rules and Regulations.

Other Outlets

Involuntary outlets

Involuntary outlets are outlets that contain images from contributors without the contributor's knowledge or control. Examples are public domain and some web search results.

A. Introduction

1. This report is created by Rudy Umans and Aurora Business Consults as a direct result of discussions among a small group of contributors about the growing perception of unauthorized use of submitted work. Pertaining to the issues discussed in this report, we mainly looked at US based outlets. It was not possible to look at every single aspect of this very complex business, but we did look at the main aspects of this business and entities involved. Even though we are contributors ourselves, we tried to be as objective as we possibly could. For that reason, we do not mention any names of individuals or companies. We wrote this report with the assumption that the issues as discussed are worldwide, affect everybody involved, and do not have one particular origin.

2. We looked at Agencies, Retail Stores, Image Sharing Sites, and Social Network Sites. It would have gone beyond the scope of this report to look at individual sites and blog providers as well.

B. Summary

In short, the situation is very complex and seems to get even more complex every day. All the links in the chain have weak points. The contributors, the outlets and the technical aspects leave all many things to desire. If the problem of image theft ever can be solved, it can only be done if all three links in the chain can find a way to work together.

This report was created as a direct result of complaints on numerous message boards and other sources about the enormous amount of image theft and copyright infringement of media that was submitted to the internet. The focus of this report is on just that and not so much on any other aspect of the industry.

Even though, it is practically inevitable that submitted media will be stolen or misused on the internet sooner or later in one form or another, this report tries to find out if there is a way to at least improve the situation.

The current situation is that there is room for improvement with all parties involved. It is easy to point a finger, but that is not the purpose of this report. For that reason we do not mention names and tried to keep identities hidden. Pointing fingers will not solve anything.

It is not feasible, or even possible, to eliminate image theft by the occasional blogger or message board poster. However, it must be possible to take appropriate measurements against the professional and semi-professional thief and copyright infringer. It seems helpful in this quest to keep track of these people one way or the other by the agents and the retail stores. Without their help, every attempt will work only as a band-aid and does not solve anything long term.

Contributors need to get smarter, outlets need to get clearer in their communications to the contributors, and current, and future, technology needs to be more utilized whenever possible.

Contributors need to educate themselves about the outlets they submit to. Reading and understanding Contributor's agreements and learning about the offerings of the Outlet, contributors can prevent unexpected "surprises"

Contributor's Agreements and Terms of Use or Service need to be written in an easy to understand language and need to be easy to find on the web sites.

This report is divided in three main sections: Definitions, Analysis, and Recommendations.

C. Analysis

Voluntary Outlets

1) Agents

Royalty Free (RF) agencies

- a. Contributor's agreements are in general user unfriendly and difficult to understand for people without a legal background. Unless somebody is a top contributor that has special consideration of an agency, these agreements are virtually useless. Very much like an on-line 30 page software license agreement that says "click here" or "cancel". How many people actually read that and when was the last time somebody clicked "cancel"? Do we really call Adobe and try to negotiate clause 31-b-VII on page 24 of the Photoshop Software Licensing Agreement? (The clause and page number are made up to illustrate a point)
- b. Most agencies offer contributors to opt out of certain license types, but again, it is confusing and very user unfriendly. To make things worse, many sites use default settings for the different options and because of the confusing sites many contributors might just give up and leave every option at its default settings. Although no study had been done, this might be particularly true for contributors for whom contributing to RF sites is not their main source of income.
- c. One particular, and potentially very damaging, option that is offered by some agencies is the Print on Demand (POD) option. Certain license types include the permission for POD. Unfortunately, these clickable options ("Opt-in" or "Opt-out") are usually expressed with an acronym or abbreviations. A contributor would have to go back to the original agreement to find out what those options mean.
- d. Many agencies have the tendency to change and modify contributor's agreements unilaterally from time to time. Sometimes they tell the contributor, sometimes they do not. Besides that the legality of this practice is questionable, it is also unfair to the contributor. A contributor that has been uploading and selling images for a substantial period of time with a particular agency that changed the agreement is pretty much stuck.
- e. Another problem is the use of resellers. Many RF agencies have a pool of resellers located all over the globe. Most of the RF agencies publishes a list of these resellers. The level of control of these resellers is also unknown to contributors. There is no way of knowing if the license types offered by the main agencies are any different from what the resellers offer or if the reseller makes (allowed or not) ad-hoc business decisions that could influence the level of

protection the main agency offers. In other words, even if a contributor is very familiar with the different license types the main RF agency offers and the contributor makes a conscience choice what options to sign up for and which ones to opt out, these choices are worthless if an image is sold through a resellers with different license types and options without control of the contributor.

- f. Some agencies offer the option to opt out of the reseller program, some agencies however do not.
- g. There is no national or worldwide office or business association that regulates the issues and affairs of the RF Agencies.
- h. With RF agencies it is very difficult for contributors to submit work that is not created by the submitting contributor or is in any other way potentially threatened by copyright violations and infringement. Each individual work is reviewed for quality, commercial value and copyright violations or potential copyright violations.
- i. All agencies require a model release, a property release, or both, depending on the subject. These releases are even required when the model is the contributor or the property is owned and/or created by the contributor. Some agencies are however, much stricter in their requirements than others.
- j. Some agencies offer additional protection by disabling right click, adding watermarks, and/or offer only small previews, but despite their best intentions, none of these levels of protection is 100% satisfactory.
- k. Most agencies have a procedure in place for complaints about alleged copyright infringements. In most cases, the work is removed if the agency agrees with the complaint on their discretion. In some cases, the account of the perpetrator is closed and the complete portfolio removed.
- l. Signing up and uploading is Free of Charge
- m. Some US based agencies require the completion of IRS form W-9 or W-8BEN immediately at sign-up, others with the first pay-out.

Rights Managed (RM) agencies

- n. Although there is an overlap with the problems found with the RF agencies, licensing is on an image by image basis and therefore many options offered by RF agencies are not applicable.

- o. There seems to be a greater interaction between agency, buyer, and contributor. Most of these agencies are geared towards the higher end buyers' market and the higher-end contributors. (Many higher-end contributors contribute to both the RF and the RM agencies).
- p. With RM agencies it is very difficult for contributors to submit work that is not created by the submitting contributor or is in any other way potentially threatened by copyright violations and infringement. Each individual work is reviewed for quality, commercial value and copyright violations or potential copyright violations.
- q. All agencies require a model release, a property release, or both, depending on the subject. These releases are even required when the model is the contributor or the property is owned and/or created by the contributor. Some agencies are however, much stricter in their requirements than others.
- r. Some agencies offer additional protection by disabling right click, adding watermarks, and/or offer only small previews, but despite their best intentions, none of these levels of protection is 100% satisfactory.
- s. Most agencies have a procedure in place for complaints about alleged copyright infringements. In most cases, the work is removed if the agency agrees with the complaint on their discretion. In some cases, the account of the perpetrator is closed and the complete portfolio removed.
- t. There is no national or worldwide office or business association that regulates the issues and affairs of the RM Agencies.
- u. There is the impression that the problems as found with the RF agencies are a lesser issue with the typical RM agency.
- v. Registration as a Contributor and uploading is Free of Charge.
- w. At the time of registration as a contributor, the contributor is required to either "agree" or "cancel" that the Contributor's Agreement has been read and understood.
- x. Some US based agencies require the completion of IRS form W-9 or W-8BEN immediately at sign-up, others with the first pay-out

2) Retail Stores

- A. Contributor's agreements are also user unfriendly and difficult to understand for people without a legal background.
- B. Unlike with the agencies it is very easy for contributors to submit work to retail stores that is not created by the submitting contributor or is in any other way potentially threatened by copyright violations and infringement.
- C. Unlike with the agencies, there are usually no proactive measurements in place. Contributors can in principle submit any work they like. In most cases, individual work is not reviewed for quality and copyright violations or potential copyright violations.
- D. With most retail stores, contributors are required to click an affidavit that they own all rights to the work at the time of submitting. However, Model and Property releases are not required until somebody files a complaint.
- E. As with most agencies, retail stores have usually a procedure in place for complaints about alleged copyright infringements as well. In most cases, the work is removed if the agency agrees with the complaint on their discretion. In some cases, the account of the perpetrator is closed and the complete portfolio removed.
- F. Some retail stores review already submitted work on a regular basis, but that is after the fact.
- G. Some Retail Stores offer additional protection by disabling right click, adding watermarks, and/or offer only small previews, but despite their best intentions, none of these levels of protection is 100% satisfactory.
- H. There is one known retail store that charges a small dollar amount per upload.
- I. There is no national or worldwide office or business association that regulates the issues and affairs of the Retail Stores.
- J. Registration as a contributor and uploading is Free of Charge
- K. At the time of registration as a contributor, the contributor is required to either "agree" or "cancel" that the Contributor's Agreement has been read and understood.
- L. Some US based retail stores require the completion of IRS form W-9 or W-8BEN immediately at sign-up, others with the first pay-out.
- M. Like with the Agencies, many Retail Stores have a pool of resellers as well, that contributors have no control over

3) Image Sharing Sites

- A. There are a large number of opportunities on the World Wide Web to share images on sites that are specifically designed for the purpose of sharing images.
- B. The largest and most well known site has “Community Guidelines” and “Terms of Use” as two separate agreements, contributors must abide by. The Community guidelines are in the “fine print” on the bottom of the home page and written in an easy to understand language. The Terms of Use is a link in the community guidelines and written in a typical legal language.
- C. This particular site makes the distinction between copyright infringement and illegal or prohibited content. They do not however explain what the difference is. They do state the Illegal or prohibited work might be reported to the authorities, they do not state that about copyright infringement cases, which is remarkable.
- D. These sites also have usually a procedure in place for complaints about alleged copyright infringements. In most cases, the work is removed if the Image Sharing Site agrees with the complaint on their discretion. In some cases, the account of the perpetrator is closed and the complete portfolio removed.
- E. It is very easy for contributors to submit work to Image Sharing Sites that is not created by the submitting contributor or is in any other way potentially threatened by copyright violations and infringement.
- F. There are no proactive measurements in place. Contributors can in principle submit any work they like. In most cases, individual work is not reviewed for quality and copyright violations or potential copyright violations.
- G. Some Image Sharing Sites review already submitted work on a regular basis, but that is after the fact.
- H. AT least one RF/RM agency utilizes a major Image Sharing Site where contributors can add images to a specific group for review by this agency to include in a special collection on their own site.
- I. With some Image Sharing Sites, Contributors have the choice to share uploaded work with either, the general public (community), family and “friends”, or keep it private.
- J. Registration as a contributor and uploading/posting is Free of Charge
- K. At the time of registration as a contributor, the contributor is required to either “agree” or “cancel” that the Terms and Conditions of the site and/or Contributor’s agreements have been read and understood.

4) **Social Network Sites**

- A. According to Wikipedia, there are 202 Social Network Sites. 183 of these sites are open to the public. At least 25 or so are in the top 100 of most popular websites (per Alexia)
- B. Despite (or maybe because) the immense popularity of Social Networking Sites, user agreements are just as unfriendly to contributors as the agreement of agencies, retail stores, and image sharing sites
- C. Contributor's agreements are usually presented at the time of signing up in a similar manner as with Software License agreements (agree or cancel).
- D. Considering the millions of contributors and the large number of big Social Network Sites, it would be safe to assume that contributors in general do not care about contributor agreements.
- E. For the contributors that do care, contributor agreements are usually hard to find.
- F. We did not check all 183 sites, but with the ones we did check, contributor agreements are unclear about their copyright policies. For untrained contributors, it might even seem that some contradict themselves. We found at least one site claiming a "non-exclusive, transferable, sub-licensable, royalty-free, worldwide license to use any IP content that you post on or in connection with (name of site)" At the same token, they claim to honor all applicable copyright laws and those contributors accounts will be closed when other people's intellectual property rights are repeatedly infringed upon by a contributor. This particular site also states that contributors are not allowed to do anything unlawful, misleading, malicious, or discriminatory.
- G. It seems safe to assume that other Social Network Sites have the same or similar provisions in their contributor agreements.
- H. Like with Agencies, Retail Stores, and Image Sharing Sites, there are no uniform rules governed by an overseeing national or global association.
- I. With some Social Network Sites, Contributors have the choice to share uploaded work with either, the general public (community), Family and "friends", or keep it private.
- J. Registration as a contributor and uploading/posting is Free of Charge.
- K. At the time of registration as a contributor, the contributor is required to either "agree" or "cancel" that the Terms and Conditions of the site have been read and understood.

5) Involuntary Outlets

Public Domain

- A. According to the definition created by the US Copyright office, the public domain is not a place. A work of authorship is in the “public domain” if it is no longer under copyright protection or if it failed to meet the requirements for copyright protection. Works in the public domain may be used freely without the permission of the former copyright owner.
- B. The problem with this is that copyrighted work might end up in public domain, while it should not be there and ended up in Public Domain beyond the control of a contributor. There are also certain circumstances where work that might still be eligible for copyright protection can be used freely by either the general public or a specific group. It goes however beyond the scope of this analysis to be concerned with those circumstances.

6) Types of Perpetrators

Casual perpetrators

- A. Casual perpetrators are usually Forum and Message boards’ participants. These instances are also subject to the US copyright laws and might or might not be considered infringement depending on a number of factors.

Bloggers

- B. Bloggers are in two principle categories; professional bloggers and casual bloggers. Most professional bloggers abide by the copyright laws and purchase the images they need from either the creator or an agency. Some professional bloggers do not abide by the applicable laws and copy and paste images they “find somewhere on the internet”. This could happen occasionally if an image was found in public domain while it should not have been in public domain. Repeat offenders however, are a different story.

Professional Scam Artists

- C. Here too are two principle categories: Individuals and Organizations. These are individuals or organizations that make a living of fraud. They use willingly and knowingly a contributor’s work for their own personal gain. The purpose of doing so is usually to make money. These people are driven by making money at the expense of somebody else.
- D. For what we can see this can be accomplished two ways (There might be more ways, but we are not “smart” enough to be a crook). Either the image was simply stolen from an outlet somewhere and technically processed to make it suitable for their purpose or

the image was purchased under a cheap and restricted license and they breached the conditions of that license. This work is then uploaded and offered for sale elsewhere under a different (fictitious?) name.

Competitors

- E. Perpetrators that are also competitors are the worst kind. These are people that obtain images from other contributors and use these images as their own for profit.

7) Types of Offenses

It goes beyond the scope of this analysis to have an opinion about what type of offense would be applicable and in what situation, but we do like to point out that we can imagine that in some cases the offense seems to go beyond copyright infringement. False pretenses or representation, false advertising, tax evasion, or even identity theft comes to mind.

8) Current Prevention

- A. There are several technical measurements currently available, and in use, such as a visible watermark, an embedded watermark, embedded EXIF data, disabling of the right click feature for copy and paste, and “safe as” or “safe Image”, small files with a low resolution as previews or thumbnails
- B. Visible Watermarks do not work because software advances makes it real simple to erase watermarks without traces. There are even numerous instructional videos on the internet about how to accomplish this in a few minutes.
- C. Embedded watermarks do not work either in most cases. People can still copy and paste these images. These invisible watermarks come only into play when proof of ownership is necessary.
- D. Small Previews have also limitations preventing copyright infringements. Like with visible watermarks, there is sophisticated software available that allows the image to be upsized to a reasonable size and with sufficient quality for a small print, a coffee mug or a T-shirt.
- E. Disabling the right click feature is a reasonable and fairly effective way to prevent theft. It is not 100% proof, but what is? Disabling this function kind of works like a car alarm, it will not stop the professional thief, but it will stop the casual one.

- F. In addition, property and model releases can work as a deterrent, but this prevention method is only utilized by Agencies and not really with the other outlets. The same as with the car alarm, it will not stop professional thieves, but it most likely will work as a deterrent for the more casual potential perpetrator. On the other hand, one can also ask if the main purpose for these releases is to prevent lawsuits and the deterrent effect is just a coincidence. A fringe benefit so to speak.
- G. The overwhelming number of uploaded and downloaded works on the internet, and the internet in general, did not stay unnoticed by the authorities. In 1998, the USA implemented the “Digital Millennium Copyright Act” (DMCA) as a direct result of the 1996 World Intellectual Property Organization Copyright Treaty. This treaty has the main goal to *“maintain a balance between the rights of authors and the larger public interest, particularly education, research and access to information”*.
- H. Considering that this Act is about 14 years old now and that the problems of copyright infringement and image theft did not go away, we can assume that this act, despite its best intentions, is not working as anticipated or even hoped for. As a matter of fact, the right to access to information did not make the problem clearer. The practical use and correct interpretation of the Act is most certainly non existence for the average contributor with maybe the so called “DMCA Takedown Notice” as an exception to the impracticality of the Act. (More about this under “Current Corrections”)
- I. The problems are so severe that even the FBI came up with a very practical idea to introduce another layer of crime deterrent pertaining to copyright infringement and media theft.
- J. On August 13, the FBI released (with conditions) the “FBI Anti-Piracy Warning Seal”.

Although still not ideal and it will still not stop the professional perpetrator, we do applaud this initiative. It most definitely shows the seriousness of copyright infringement and media theft

From the FBI's website:

Begin Quote:

A new federal regulation regarding the FBI's Anti-Piracy Warning (APW) Seal took effect on August 13, 2012. The new 41 CFR Section 128-1.5009 authorizes use of the APW Seal by all U.S. copyright holders, subject to specific conditions of use. Copyrighted works can include, but are not limited to, films, audio recordings, electronic media, software, books, photographs, etc.

The purpose of the APW Seal is to remind media users of the serious consequences of pirating copyrighted works. Use of this seal does not indicate that the FBI has reviewed or validated copyright interests in the particular work and does not provide greater legal protection to the

work. It simply serves as a widely recognizable reminder of the FBI's authority and mission with respect to the protection of intellectual property rights.



The APW Seal can only appear on works that meet all of the following:

- *Are copyright-protected (no registration of a work is required to use the seal);*
- *Are subject to protection under U.S. Criminal Code provisions; and*
- *Would not violate federal law if produced, sold, publicly presented, or distributed by mail or in affecting interstate commerce.*

End Quote

9) Current Corrections

- A. Some outlets research their image banks for violations or potential violations on an ongoing basis. This seems a very time consuming and daunting task. Many image databanks have many millions of works. Nevertheless, it is done by some. The normal procedure is that the submitter of potential violations receives a notice that the suspected work has been taken down if it a simple matter of Company policy. In addition, there is usually a procedure in place for complaints about alleged copyright infringements. In most cases, the work is removed if the agency agrees with the complaint on their discretion and in some cases, the account of the perpetrator is closed and the complete portfolio removed.
- B. The complaints as described above are usually submitted with a so called "DMCA Takedown Notice". These notices need to comply with certain requirements such as the identification of the work, the location of the work, a statement of good faith, and a statement that the provided information is accurate and that the complainer is the legal copyright holder.
- C. Although DMCA Takedown notices are successfully used to requests take downs of suspected work with the outlets, these DMCA Takedown notices are really designed to be submitted to search engines and the hosting companies of the sites where the infringed work was discovered.

- D. In compliance with the DMCA, Search Engines and Hosting Companies have a DMCA Agent on staff who handles and records the complaints. If these complaints are found to be justified, the web sites are notified and the infringed work is either disabled or removed. The websites receive in turn an opportunity to respond.
- E. We did not find any legal obligation to comply with the DMCA Takedown notices directly by the Outlets as discussed in this report.
- F. The assumed copyright holder with a complaint can write a so called "Cease and Desist Letter" in which the contributor can request an immediate take down of the infringed or stolen work.
- G. Once a takedown of a work was deemed justified, the work is deleted and so is most likely the evidence.
- H. We did not find that in these cases any further legal action was taken.
- I. On the FBI website is a section for victims to file complaints about internet related crimes. Although that is a great initiative, the FBI also states on their sites that they get thousands and thousands of complaints and there is basically no way they are able to get to them all.
 - a. In order to assist the FBI with the processing and investigations of these internet related crimes, the complaint forms go to a company called NW3C. The FBI has a partnership with NW3C d/b/a/ "the National White Collar Crime Center". NW3C is a member based not for profit that assists government agencies and law enforcement with all internet based crime investigations. Including copyright infringement and Identity theft. One of the methods they use is the tried and proven money trail. Only government agencies and Law enforcement can become a member. NW3C receives funding from the Department of Justice.
- J. At least one (very large) agency actively "hunts" for perpetrators who are presented with an invoice that includes penalties. It is unclear what happens to these monies if and when collected.

D. Suggestions

Considering the complexity of the situation, the vested interest of all parties involved, the infancy of the internet from a global legal and organizational point of view, the technical limitations, and lack of education in general about published work on the internet, it is extremely difficult to offer solutions to the issues and problems as described in this report. However, in addition to the preventive measurements already in place, there are a few things that can be done to reduce copyright infringement, other forms of fraud, and image theft even more in the long run.

Suggestions:

1. List of resellers need to be clearly posted. This way, contributors know, or can know, where their work might end up.
2. A greater control of resellers is desired. If a particular reseller has many cases of copyright infringements and takedown requests, the agreement with the reseller in question should be reconsidered.
3. It should (if not done already) be mandatory for resellers to report to the main agent takedown requests and copyright infringements and image theft.
4. A better communication between the contributor and the outlet is recommended. This communication should be both ways.
5. Contributors need to be stressed to educate themselves. It is in the best interest of both the outlet and the contributor if the contributors know what they sign up for.
6. Contributors also need to be educated about the proper procedures to follow in case an infringement or theft has been discovered. It happens all too often that contributors act on impulse that might do more harm than good in the long run. If the proper authorities and internet service providers are not notified, no further action is possible in order to take preventive measurements.
7. In that light, contributor's agreements need to be simpler and in a language that non legal professionals can understand.
8. Right clicks should be disabled, period. No matter how small the preview is, there are more than enough application for which a small image size does not matter, such as web applications, T-shirts and other small merchandise. There is also very sophisticated software on the market that allows upsizing (interpolation) of images without too much damage.
9. A more stringent check of new contributors is recommended. All new contributors should complete IRS form W-9 or W-8 at the time of uploading their first images. These W-9's and W-8's need to be cross checked with the ones that are already on file. It seems that this would be helpful in detecting the professional and semi-professional perpetrators. For instance, somebody could use the same Social Security number or TIN number for different names. Eventually, this will most likely be detected, but it seems better to detect it before it becomes a problem.
10. The same with PayPal or Moneybookers accounts. There can only be one person be associated with these accounts.

11. A better communication system is desired between the commercial outlets, Law Enforcement, the IRS, Contributors and payment processing companies like PayPal and MoneyBookers.
12. Cease and Desist notices only work short term, if at all, In the long run, they not very effective. In case these notices are send out by contributors, these contributors have the tendency to jump into the conclusion that the image was posted illegally without the proper research first. As this report shows, there are many cases and opportunities in which the presumed illegal image might not have been posted all that illegally after all. In the cases the posting was illegally and the image was taken down, all physical evidence was taken down with it. My suggestion is to make print screens, to record as much data as possible about the incident, to notify the website owners, the hosting company, and the search engines in accordance with the DMCA. This is also to avoid internet based “public lynchings” as happens so often if people act on emotional impulses.
13. A back-up of work that was taken down is needed. Even if back-ups are being made, they are only kept for so long before the back-up is replaced or lost in the archives. Work that was taken down needs to be back-upped in a separate file with no time constraints.
14. Probably the most effective way to keep these incidents to a minimum in the long run is accurate record keeping. It would be great if there was a national (International?) database with all incidents big and small. This database would not focus on the occasional blogger or message board poster, but would be limited to the more blatant perpetrators. The database can be periodically rendered to the authorities for further analysis.
15. The database as described in #14, can only be maintained by agencies and retail stores. At some time in the distant future, there might be a way for the general contributors to reports incidents and (potential) violations, but for right now only the agencies and retail stores have the knowledge and expertise to maintain such a database.
16. This database can also be crosschecked with other databases that might be in existence. For instance with databases maintained by Law Enforcement and hosting companies.
17. A national or international association for each outlet type as described herein is recommended. Some of the goals of this association could be setting guidelines for outlets and contributors, function as a “Think Tank” for the industry, and promote communications.

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You can reach Dave at: <http://www.davidsmithphotography.net>

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Or you reach them both at: www.rindersmithphotography.com



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