Jonathan C.K.Webb
www.webbaviation.co.uk
"Villa Minimus"14 Laleham Green, Bramhall, Stockport, Cheshire SK7 3LJ
0161 439 5197 M.0776 968 8748 Email; sales@webbaviation.co.uk

7/5/2015

Copyright Protection for Visual Works

Dear Sir or Madam,

I am a full time professional photographer and ear all of my income from the sale of usage rights to my photographs.

We live in interesting times and the market has changed beyond all recognition in the last 10 years. There have been many calls for various reductions in the copyright protection of my work. I do not understand why this should be the case as currently we have the easiest access to photography in the history of the profession and also the widest choice of works for all budgets.

There have been calls for "Orphan Works licensing" yet photographers have never been easier to find, just a few minutes on a search engine and people can trace the vast majority of working photographers. Here in the UK we have recently introduced "Orphan Works" legislation and the results are open to abuse from anyone who wants to exploit high value work while paying only a nominal sum.

Proponents of Orphan Works say that it is to release historic works, for example first world war photographs and while I and most photographers have no objection to the use of very old historic works, it has to be balanced with protection of those living photographers who sell their photographs to earn a living. If there is to be Orphan Works legislation it should only cover photographs which appear to be over 100 years old and black and white. There is no legitimate reason why a recent photograph should be considered Orphan.

There are also calls for extending the principles of "Fair use", ie using work without paying for it. I find no reason why fair use should be extended as photographs are no so easy to find and licence in the normal way. There are even many photographers happy to provide work for free so photography of all types is easily accessible at all price levels. For those happy to pay for use, most professional works can easily be licensed with a few clicks of a mouse on an online shopping cart. Like many photographers, I sell my work through my own website. Customers from all over the world need only enter their credit card details and 10 minutes later they receive a high resolution photograph and licence to reproduce it. Nothing could be easier.

The current fair use and safe harbor provisions of the DMCA are already excessive and have allowed huge businesses to be built up by exploiting the work of visual artists without paying them.

I welcome calls for a small claims legal process. We have recently set up a small claims system in the UK and it works very well. Most photographs have a value in the 1 to 1000 dollar range and it is not appropriate to have a legal system costing vast sums to argue over a simple photograph. Furthermore the vast majority of copyright cases are extremely simple with very clear evidence. A typical copyright infringement might be an image taken of a photographers website, and used on another website in which case the evidence would be very clear as the infringing image has been seen on the defendants website. The only questions for the court are did they have a licence and if not what is the value of the work. The value of a work is also easy to see as most photographers sell their work through a fixed price online shopping cart.

A complex and expensive legal system for simple copyright claims serves neither the interests of the defendant nor the claimant and a small claims system would be welcomed by both.

My only recommendations for a small claims court are that it should hear cases on papers and not at an attendance hearing due to the global nature of intellectual property. Its quite likely one may have a defendant in the USA and a claimant here in the UK. Copyright is international.

Furthermore any awards for copyright infringement should be sufficiently in excess of the value of the work as to dissuade copyright infringement. If the court were to award only the value of the work then nobody would licence works lawfully but simply infringe works and pay if caught.

If copyright is to be reformed I would like to see an improvement in the procedure for copyright registration which is an excessive burden for working photographers.

The online USCO forms require too much information which is not relevant, especially in the case of published works. It should not be necessary to provide individual titles or publishing dates for work, nor to split it into published and unpublished. It is the work itself which requires registration and protection, not its title.

It should be possible to simply upload works in bulk to the USCO with no additional information regarding individual images.

Like many working professional photographers I shoot 50,000 to 100,000 photographs a year so the current procedure is very time consuming. If a title really is needed , the system should automatically use the file name during the upload. Like many photographers, the title of my work is a simple photo number which is also the file name. Trying to fill in a form with 20,000 image numbers is a complete waste of time which would be better spent creating more images.

Trying to find publishing dates for published images is even worse as those dates may now be unknown. How can a photographer be expected to remember what day he uploaded a particular photograph to his website 10 years ago and then how is he expected to write down and submit that date together with an image title for an archive of half a million individual images.

Yours sincerely,

Jonathan C.K. Webb