

**To:** ImageRights International, Inc. ([igibson@onellp.com](mailto:igibson@onellp.com))

**Subject:** U.S. TRADEMARK APPLICATION NO. 86388906 - IMAGERIGHTS DISCOVERY - N/A

**Sent:** 12/19/2014 12:29:33 PM

**Sent As:** ECOM115@USPTO.GOV

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**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**  
**OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

|   |   |
|---|---|
| <b>U.S. APPLICATION SERIAL NO.</b> 86388906<br><br><b>MARK:</b> IMAGERIGHTS DISCOVERY                         | <br><br><b>*86388906*</b>   |
| <b>CORRESPONDENT ADDRESS:</b><br>IAN GIBSON<br>ONE LLP<br>4000 MACARTHUR BLVD<br>NEWPORT BEACH, CA 92660-2558 | <b>CLICK HERE TO RESPOND TO THIS LETTER:</b><br><a href="http://www.uspto.gov/trademarks/teas/response_forms.jsp">http://www.uspto.gov/trademarks/teas/response_forms.jsp</a><br><br><a href="#">VIEW YOUR APPLICATION FILE</a> |

|   |  |
|---|--|
| <b>APPLICANT:</b> ImageRights International, Inc.   |  |
| <b>CORRESPONDENT'S REFERENCE/DOCKET NO :</b><br>N/A<br><b>CORRESPONDENT E-MAIL ADDRESS:</b><br>igibson@onellp.com |  |

## OFFICE ACTION

### STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

**ISSUE/MAILING DATE: 12/19/2014**

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

#### Search of the Office Records

The trademark examining attorney has searched the Office's database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). TMEP §704.02; *see* 15 U.S.C. §1052(d).

However before this application can be approved for publication the applicant must address the following informalities.

#### INFORMALITIES

##### Recitation/Classification of Services Unacceptable

The recitation of services is unacceptable as indefinite because "perform internet searching and research services to identify uses of certain images on commercial websites" is unclear and may be misclassified. The applicant must further specify the nature of these services.

The applicant may adopt the following recitation, if accurate:

***Intellectual property watch services, namely,*** perform internet searching and research services to identify uses of certain images on commercial websites; legal services, namely, researching, identifying and managing copyright infringement claims, in International Class 45.

TMEP §1402.01

An applicant may only amend an identification to clarify or limit the services, but not to add to or broaden the scope of the services. 37 C.F.R. §2.71(a); *see* TMEP §§1402.06 *et seq.*, 1402.07.

#### ID Manual

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO's online searchable *U.S. Acceptable Identification of Goods and Services Manual* at <http://tess2.uspto.gov/netathtml/tidm.html>. *See* TMEP §1402.04.

The applicant is advised that the brackets and parentheses shown in the identification manual and/or in the suggested identification are in the nature of directional signals, the significance of which is explained in the introduction to the Identification Manual. Parentheses and brackets ***should not*** be included in the actual identification of goods or recitation of services adopted by the applicant.

#### Prior Pending Application

If applicant owns **U.S. Registration No. 3888230**, then applicant must submit for the application record a claim of ownership of this registration. See 37 C.F.R. §2.36; TMEP §812. See the attached copy of the registration. See TMEP §812.

Applicant may use the following format to claim ownership of the registration:

**Applicant is the owner of U.S. Registration No. 3888230.**

### **Disclaimer**

Applicant must disclaim the wording “IMAGERIGHTS” because it merely describes an ingredient, quality, characteristic, function, feature, purpose, or use of applicant’s goods and/or services, and thus is an unregistrable component of the mark. See 15 U.S.C. §§1052(e)(1), 1056(a); *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012) (quoting *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004)); TMEP §§1213, 1213.03(a).

Specifically, the term RIGHTS is defined as the authority to perform, publish, film, or televise a particular work, event, etc. The term IMAGE is defined as “a visible impression obtained by a camera, telescope, microscope, or other device, or displayed on a computer or video screen.” The mark merely describes the subject area for the legal services and also the function or purpose for the internet searching and research services. Specifically, the applicant seeks to help its clients protect authority over the visible impressions obtained by their cameras. The examining attorney has attached third party Internet evidence as well as dictionary evidence in support of the determination of descriptiveness. An applicant may not claim exclusive rights to terms that others may need to use to describe their goods and/or services in the marketplace. See *Dena Corp. v. Belvedere Int’l, Inc.*, 950 F.2d 1555, 1560, 21 USPQ2d 1047, 1051 (Fed. Cir. 1991); *In re Aug. Storck KG*, 218 USPQ 823, 825 (TTAB 1983). A disclaimer of unregistrable matter does not affect the appearance of the mark; that is, a disclaimer does not physically remove the disclaimed matter from the mark. See *Schwarzkopf v. John H. Breck, Inc.*, 340 F.2d 978, 978, 144 USPQ 433, 433 (C.C.P.A. 1965); TMEP §1213.

Only where the combination of descriptive terms creates a unitary mark with a unique, incongruous, or otherwise nondescriptive meaning in relation to the goods and/or services is the combined mark registrable. See *In re Colonial Stores, Inc.*, 394 F.2d 549, 551, 157 USPQ 382, 384 (C.C.P.A. 1968); *In re Positec Grp. Ltd.*, 108 USPQ2d 1161, 1162-63 (TTAB 2013).

In this case, both the individual components and the composite result are descriptive of applicant’s goods and/or services and do not create a unique, incongruous, or non-descriptive meaning in relation to the goods and/or services.

If applicant does not provide the required disclaimer, the USPTO may refuse to register the entire mark. See *In re Stereotaxis Inc.*, 429 F.3d 1039, 1040-41, 77 USPQ2d 1087, 1088-89 (Fed. Cir. 2005); TMEP §1213.01(b).

Applicant should submit a disclaimer in the following standardized format:

**No claim is made to the exclusive right to use “IMAGE RIGHTS” apart from the mark as shown.**

For an overview of disclaimers and instructions on how to satisfy this disclaimer requirement online using the Trademark Electronic Application System (TEAS) form, please go to <http://www.uspto.gov/trademarks/law/disclaimer.jsp>.

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. **PLEASE NOTE: All of the issues raised can be resolved by telephone. The applicant may telephone the examining attorney, instead of submitting a written response, to expedite the application.**

/Kathryn E. Coward/  
Trademark Examining Attorney  
U.S. Patent & Trademark Office  
Law Office 115  
(571)-272-9468  
Kathryn.coward@uspto.gov

All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. See 37 C.F.R. §2.191; TMEP §§304.01-.02, 709.04-

.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. See TMEP §§705.02, 709.06.

**TO RESPOND TO THIS LETTER:** Go to [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp). Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

**All informal e-mail communications relevant to this application will be placed in the official application record.**

**WHO MUST SIGN THE RESPONSE:** It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov) or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

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## Image Rights

### [Copyright](#)

### [Moral Rights](#)

### [Resale Right](#)

The law gives artists certain rights in their creations. William Fisher, "[Theories of Intellectual Property](#)," in Stephen Munzer, ed., *New Essays in the Legal and Political Theory of Property* (Cambridge University Press, 2001) is recommended for those who want to explore a sophisticated introduction to why the law recognizes property interests in intellectual products. These interests can be economic or non-economic, personality rights.

## Copyright

### Basics

- [Copyright Crash Course](#): University of Texas. Includes very useful "Rules of Thumb" developed at UT.
- [Copyright: an overview](#) from the Cornell Legal Information Institute
- Note particularly the Visual Artists Rights Act (VARA), §§[106](#), [106A](#), [107](#), and [113](#) of the Copyright Act
- [Berne Convention](#) [Roam around in this site; don't feel obliged to read the whole thing]
- [U.S. Copyright Office](#), a useful site for basic information.
- A very extensive [online collection](#) of intellectual property laws is maintained by [WIPO](#), the World Intellectual Property Organization.

### Works-for-hire

- [Community for Creative Non-Violence v. Reid](#), 490 U.S. 730 (1989)
- [The Government Wants Its WPA Art Back](#). See also Jeanette Hendler, [The W.P.A. Artists Project](#).

### Originality

- [Bridgeman Art Library](#)
- Barry G. Szczesny, American Association of Museums, Government Affairs Counsel, April 1999 American Association of Museums Annual Meeting [Presentation](#) on Bridgeman Art Library v. Corel Corporation.
- The Bridgeman Art Library, Ltd. v. Corel Corp., 25 F. Supp. 2d 421 (S.D.N.Y. 1998) ([LEXIS](#) | [WESTLAW](#))
- [Bridgeman Art Library v. Corel Corp.](#), 36 F. Supp. 2d 191 (S.D.N.Y. 1999) ([LEXIS](#) | [WESTLAW](#))

### Web Rights

- [Kelly v. Arriba Soft Corp.](#) [See also <http://www.ditto.com/>]
- [Art, Copyright, and the Web Bibliography](#) compiled by Jeanette Mills and Cynthia Caci (links updated August 2001)

### Appropriation art

Raphael's [Judgment of Paris](#) (c1515) triggered one of the most sustained and substantial sequences of copying and counter-copying in Western Art. Raphael's painting became lost but his employee, Marcantonio Raimondi, made an [etched copy](#) of it which survived. A few years after the copy was made, the general demand for copies of the original work was so great that Marco Dente da Ravenna made a [slavish copy](#) of it. Three centuries later, Manet used part of Raphael/Raimondi's original as the basis for his work [Le Déjeuner Sur L'Herbe](#). Manet used the group of three figures in the bottom right-hand corner of the original work as the heart of his new work.

Manet used part of Raphael's original as the basis for his work [Le Déjeuner sur l'herbe](#). Manet used the group of three figures in the bottom right-hand corner of the original work as the heart of his new work, updating their clothing to contemporary garb and adding the naked women. Nearly a century later, Picasso paraphrased Manet's work in an extensive series of paintings, drawings, sculptures and linocuts he executed between 1959 and 1961, [Les Déjeuners](#). How original were Raphael's imitators? See [Henry Lydiate's review of Dear Images](#) at Artquest.org.uk. Grant Wood's iconic [American Gothic](#) is perhaps the most often copied modern American work. It has been treated [referentially](#), [educationally](#), [commercially](#), [pornographically](#) (perhaps), in [parody](#), and [combinations](#) of the above.. Is appropriation inevitable for the modern artist? For one artistic justification read Negativland's [Tenets of Free Appropriation](#) on the Negativland [IP page](#).



Art Rogers  
Photograph:  
Puppies  
1980



Jeff Koons  
Wood painted sculpture:  
String of Puppies  
1998

Perhaps the classic case of appropriation art in recent years is *Rogers v. Koons*, 751 F. Supp. 474 (S.D.N.Y. 1990) ([LEXIS](#) | [WESTLAW](#)) aff'd 960 F.2d 301 (2d Cir. 1992) ([LEXIS](#) | [WESTLAW](#)). Jeff Koons' commissioned sculpture of Art Rogers' postcard was adjudged a violation of Rogers' copyright. Blue puppies! See commentary from Mary Ann Fergus, [Derivative Works And Copyright: Painting from Another's Photograph](#), for the [American Society of Portrait Artists](#). But Annie Leibovitz's suit against Paramount for stealing the basic idea of her Vanity Fair cover photograph of the pregnant Demi Moore runs a close second. See [Leibovitz v. Paramount Pictures Corp.](#), 137 F.3d 109 (2d Cir. 1998) for the original and [Pregnant Men](#) for the parody. William M. Landes, [The Arts and Humanities in Public Life: Copyright Protection and Appropriation Art](#) discusses *Rogers v. Koons*, 751 F. Supp. 474 (S.D.N.Y. 1990), among others. William M. Landes, [Copyright, Borrowed Images and Appropriation Art: An Economic Approach](#), (December 2000). University of Chicago Law & Economics, Olin Working Paper No. 113, contains a more extended analysis from a law and economic approach. Britain, which lacks a fair use defense, appropriation artists have an even harder row to hoe. See Simon Stokes piece in the Art Newspaper, [The right to copy in the UK: the public domain and free flow of ideas are under threat](#), commenting on Glenn Brown's Turner Prize entry "The Loves of Shepherds 2000".

### Parody

The exhibit and website [Illegal Art: Freedom of Expression in the Corporate Age](#) argues that copyright law is inhibiting rather than encouraging artistic innovation. Their links to [video](#) and [visual](#) art contain interesting examples of artists pushing the boundaries of legal restrictions, usually from the viewpoint of parody. Other parody links:

- [Cartoonist Kieron Dwyer Sued By Starbucks](#)
- [The Evolution Control Committee's parody of CBS Evening News](#)
- [Another CBS Digital Furor](#)
- [Law Suits Involving Fakes And Celebrity Photographs](#)
- [MasterCard threatens rec.humor.funny over satire \[rec.humor.funny\]](#)
- ['Photoshopping' grows into a subculture art form](#)
- [Parody and Fair Use](#)
- [That's Not Funny! - The Limitations on Parody as a Defense to Copyright Infringement in International Forums](#)
- [Stormtroopers - The rescue of Elian](#)

### Moral Rights

Thomas F. Cotter, [Pragmatism, Economics, and the Droit Moral](#), 76 N.C. L. Rev. 1 (1997) provides a decent introduction to this topic. Also useful might be the module on [Respect and Integrity](#) in Professor William Fisher's mini-course [Intellectual Property in Cyberspace 2000](#). The case of Napier's [Distorted Barbie](#) is fun. Kant and Hegel provided the theoretical justification for an author's "moral right", but James MacNeill Whistler's refusal to provide Sir William Eden with a portrait of his wife and Eden's subsequent suit in 1989 provided the political impetus for France to pass legislation on the subject. [France](#) now has the strongest laws supporting the rights of artists. For Whistler's own take on this case, see [Eden versus Whistler: The Baronet and the Butterfly](#). A Valentine with a Verdict, Paris and New York, 1899 (reprinted by Notable Trials Library, 1997) Call Number: FRA 996 WHI78 1997. France recognizes four moral rights:

- droit de divulgation, or right of disclosure;
- the droit de repentir ou de retrait, or right to correct or withdraw works previously disclosed to the public;
- the droit de paternite, or right of attribution, which includes
  - right against misattribution,
  - right against nonattribution,
  - right to publish anonymously or pseudonymously,
  - right to void a promise to publish anonymously or pseudonymously;
- and the droit au respect de l'oeuvre, literally "the right to respect of the work," usually translated as the right of integrity.

How inalienable, non-waivable, and perpetual these rights are vary by country. The US only recognizes the last two, and those weakly.

The United States attempted to harmonize its copyright laws with those of European and other countries by joining the Berne Convention and enacting the Visual Artists Rights Act of 1990 (VARA). See especially 17 U.S.C. §§[106](#), [106A](#), and [113](#). Cynthia Esworthy in the general counsel's office of the NEA provides a short introduction to US moral rights law in [From Monty Python to Leona Helmsley: A Guide to the Visual Artists Rights Act](#). Check the sidebars as well. However, some assert that the US will have to expand its moral rights protections to achieve its alleged goal of harmonizing its intellectual property laws with those of the European Union. See Jowita Wysocka, [Imposing Moral Rights on an Immoral System: An Analysis of the Further Legislative Reform Required for U.S. Compliance with the Berne Convention](#), Suffolk Journal of High Technology Law (Spring 2000).

- Henry Hansmann & Marina Santilli, [Authors' and Artists' Moral Rights: A Comparative Legal and Economic Analysis](#), 26 J. Legal Stud. 95 (1997)
- [Carter v. Helmsley-Spear, Inc.](#), 71 F. 3d 77 (2d Cir. 1995).

The video excerpt showing the misuse of Frederick Hart's sculpture Ex Nihilo by Warner Bros. in the film The Devil's Advocate can be found [here](#). This case used a copyright claim to settle a moral rights problem.

The destruction of Diego Rivera's mural [Man at the Crossroads](#), commissioned for Rockefeller Center but offensive to the patrons because of its inclusion of the image of Lenin, predated any effective moral rights statute. The PBS site [Culture Shock](#) has other interesting examples.

Moral rights apply to a somewhat expanded list of the traditional fine arts. Alfred [Stieglitz](#) is now an artist but [Giorgio Armani](#) is not. See Christine Magdo (JD '00), [Protecting Works of Fashion from Design Piracy](#) (2000). See also Matthew Rimmer, [Crystal Palaces: Copyright Law And Public Architecture](#). 14(1) Bond Law Review (2002).

## Resale Right (Droit de Suite)

California is the only state to have a droit de suite statute [Cal.Civ.Code § 986]. Summaries can be found in [The Artist's Right to Share in the Resale of Art](#) by Ann Avery or [The California Resale Royalties Act](#) prepared by Greg Johnsen. Caslon Analytics Has a short summary of droit de suite in [Analysphere](#), 18 June 2001.

Jeffrey C. Wu, [Art Resale Rights and the Art Resale Market: A Follow-up Study](#), 46 J. Copyright Soc'y U.S.A. 531 (1999) [available on Westlaw], written for Professor Merryman's [art law course](#) at Stanford, provides a good argument against the usefulness of resale taxes for artists. See also

- John L. Solow, [An Economic Analysis of the Droit de Suite](#) (1991)
- Martina Supper, [An Analysis of droit de suite from a Law & Economics Perspective](#) (10 August 2000)

However, resale rights are common in Europe. A [European Parliament and Council Directive](#) on the resale right for the benefit of the author of an original work of art is attempting to get all EU members to harmonize their laws by legislating such rights. The European Commission [welcomed the adoption of the Directive](#) on resale rights for the benefit of the authors of original works of art. European artists [support the Directive](#). The trade and the [government](#) in the UK opposed to introducing such legislation, but the UK government has been forced to go with Europe, although [not right away](#). Perhaps the support for droit de suite has to do with law's expressive function. See

- Lawrence Lessig, [The Regulation of Social Meaning](#), 62 U. Chi. L. Rev. 943 (1995)
- Cass R. Sunstein, [On the Expressive Function of Law](#), 144 U. Pa. L. Rev. 2021 (1996)

## Ask Anything – Simple Image Rights Explanation

A Photo Editor - October 8, 2010 - Ask Anything

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Former Art Buyers and current photography consultants [Amanda Sosa Stone](#) and [Suzanne Sease](#) have agreed to take anonymous questions from photographers and not only give their expert advice but put it out to a wide range of photographers, reps and art buyers to gather a variety of opinions. The goal with this column is to solicit honest questions and answers through anonymity.

### QUESTION:

I'm coming across a pretty common problem (and finding a lot of my peers are as well) with the subjects I photograph not understanding basic image copyright laws. In the last three months I've had my copyright infringed multiple times. Or, a previous subject has asked for high resolution files assuming they have the right to use the images for marketing or advertising purposes when those rights were not a part of our initial agreement.

In many cases, because I'm still in the fledgling stages of my career, a lot of my clients, or subjects, are not well versed in how image licensing works. Therefore, I don't believe that they are purposefully trying to steal the images or use them inappropriately, I just think they don't know the rules. So, what I think would be really helpful is a simple, non biased, explanation of how copyright for photography works. One that explains photographer's ownership of their images, and more specifically why we own our images. Most of the literature I've tried to find on the subject is either A. too complicated with dense legal terminology which bores me, and most likely will not be thoroughly understood by clients. Or, B. documents that photographers have written up that are condescending, accusatory and confrontational. I find these to be just as bad, and alienate clients.

So basically I'm wondering if there is such a thing out there, or maybe with your vast readership, something can be made that fairly, clearly and nicely says, "This is how photo images rights works, this is the reason, and when in doubt please contact the photographer prior to using these images."



### RESOURCES

- ▶ [The Agent List](#)
- ▶ [Photography & Architecture](#)
- ▶ [Photography Consultant List](#)

### ABOUT

A Photo Editor (APE) is edited by Rob Haggart, the former Director of Photography for Men's Journal and Outside Magazine. Contributors include fine art photographer Jonathan Blaustein ([@blauphoto](#)), Creative Director Heidi Volpe,



**Amanda and Suzanne:**

In regards to Image Rights it's an area we have all dealt with or will deal with in our careers in this industry. We can't expect our customers to always have knowledge about our careers. So we as professionals must first educate ourselves on the topic, second find a way we feel comfortable expressing the limitations of the artwork and lastly making sure it's in writing and agreed upon by both parties. It doesn't always mean the problem is solved or problems will not arise, but you have to do your best in the beginning to set boundaries with your clients.

**ANSWERS:**

**ESTABLISHED PHOTOGRAPHER 1:**

I have a foot both in the consumer portrait world and the fashion/commercial world. While the commercial clients who commission a lot of photography usually have a decent understanding of copyright, this is not always the case. And consumers generally have very little understanding. But to be fair, a lot of photographers don't have a clear understanding of copyright either!

So here's copyright law in a nutshell: whenever a photographer takes a photograph, he/she usually owns that image, and can decide what to do with it. It doesn't matter if someone hired the photographer to take the image...the client pays for the service, not the copyright. Generally the client and photographer have agreed on how the client may use that image. But the client is only 'borrowing' the image, and doesn't own it. Even if the image is actually of the client! The person who creates the image owns it, unless he/she gives up that ownership.

Portrait/wedding clients will often assume that, because they hired the photographer, and the pictures are of them, that they must own the images and can do what they want with them. Not so. They have paid for the services of the photographer, and whatever rights the photographer specifically gives them as part of the transaction.

The one exception to this automatic copyright is if the photographer has agreed contractually to give up copyright, or has created the images under a 'work for hire' of employment situation. That is a relatively rare occurrence though.

**CELEBRITY PHOTOGRAPHER 2:**

Yes, it's simple, anyone requesting the file should be educated. If a photographer gives over a high res-file, and does not mention licensing, they are remiss.

**ESTABLISHED PHOTOGRAPHER 3:**

Simple answer is NO.

**Part A:**

I need to state I don't believe we have any real copyright protection (points 1 through 5).

photography consultant  
[Suzanne Sease](#) and  
Production Director Jess  
Dudley of [Wonderful  
Machine](#).

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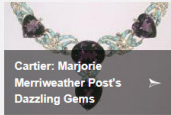
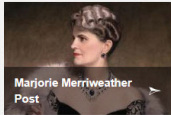
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## Image Rights in the Wild West — Hold 'Em if You Got 'Em

[aNewDomain.net](#) — On the Internet, image rights and usage are a little wild west-y in terms of a copyright showdown. Think of it this way: You're like Black Bart — knees bent with your hand hovering over your holster ready to appropriate an image. And at the opposite end of the square is the sheriff, the guy who created and owns the image.

Once an image is transferred into a commodity, it becomes a fragile thing. Even if you know what you're doing, your pictures can be the object of a bitter showdown.



Image credit: *Viki Reed*

**There is No Artistic Merit to a Phonebook ...**

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But it's my image, you might say. Surely I own the rights to it? Yes you do, said Michael Grecco in an article at [EditorialPhoto.com](#). And maybe you don't.

*In most cases the photographer is the copyright holder. The exceptions are employees where the company owns the work, and photographers who have signed a work-for-hire agreement. Since the work is copyrighted at the moment of capture, work-for-hire agreements are not enforceable unless they are signed BEFORE the capture of the image."*

Oh, and the photo must have stand-alone artistic merit. Grecco clarifies:

*A copyrightable work must be ... an 'original work of authorship.' The example that is often given is that you can not copyright a phone book. There is no artistic merit to a phone book. There must be some sort of value to it, however minimal ... You can NOT copyright a concept. The look and feel of the image is what is copyrightable."*

**License and Registration, Please, Ma'am ...**

True dat, the image is yours upon shutter release. Without the work being registered with the U.S. copyright office, however, you'll find that violators don't have much to fear. The burden is on the artist to prove the value of their work. As Grecco says, "Without registration there is no mechanism for triple damages." Don't forget you're paying the lawyers to fight for you, too. Someone using your image unlawfully has better odds at winning than a gambler does at the Borgata Casino. It'll cost you more to get your ounce of flesh than it would cost the thief to license it up-front.




Carolyn E. Wright. Image credit: [PhotoAttorney.com](#)


**Okay, I'm Gonna Be Sick ...**

Now you know. You perused TinEye and Google Images and found one of your shots on someone's website or magazine article. Black Bart took his shot. You're not dead yet, but what do you do? How do you find an attorney specializing in all things photography? Carolyn E. Wright, a fantastic photographer and lawyer whose site [PhotoAttorney.com](#) is THE first stop for photographers who

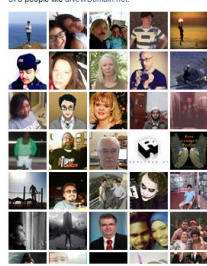
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photographer and lawyer whose site [PhotoAttorney.com](http://PhotoAttorney.com) is the first stop for photographers who start getting serious about their intellectual property, told aNewDomain.net:

*The best way to find a lawyer is to get references. Talk with other photographers and business colleagues to solicit their recommendations. You may be able to review an attorney's credentials at LexisNexis Martindale-Hubbell (a national listing of lawyers at [www.martindale.com](http://www.martindale.com)). Just as with doctors, many lawyers practice or specialize in certain areas, so it is best to find one who has experience with your particular issues. For photographers, issues can range from copyright and trademark to employment and contract law. While you may hire one attorney to help you with certain needs, that attorney may refer you to another lawyer for help in a different area of practice. When you hire your lawyer, make sure that the agreement is in writing and that the agreement specifies what work is to be performed."*

She also makes it clear that keeping someone from crossing the line is your duty:

"It's not Getty's, Google's or Bing's responsibility to protect photographs! Instead, photographers must do everything possible to protect their photographs. The first step is for photographers to learn as much as they can about the issues related to copyright." For more information, check out Wright's article, "[Five Things You Can Do to Protect Your Online Images](#)."

Wright continues the good fight with an article on Naturescapes.net called, "[Help! I Found an Infringement! Now What do I do?](#)" She admits that the documentation procedure for returning fire is more complex, but it is as crucial as the registration process. Ultimately, you have a couple of options. You can keep your response simple and request a credit be attached to your photo. Or you can escalate things further by filing a Digital Millennium Copyright Act (DMCA) Takedown Notice. Once again, Wright has a lot to say about your options in an article called "[Using the DMCA Takedown Notice to Battle Copyright Infringement](#)."





Image credit: John C.H. Grabill and Viki Reed

#### A New Sheriff's in Town

The Digital Millennium Copyright Act was enacted in 1996. It was the Clinton Administration's attempt to address copyright issues specific to the Internet. Back then, the world was a much simpler place with just Yahoo, AOL, Prodigy and Alta Vista.

The comparison to a creative high noon is accurate. Today's high school graduation class is older than the first effort to organize the digital wild west. (Fortunately a work at this time doesn't have to be registered in order for you to take advantage of the DCMA.)

Sometimes the law is a renegade. For example, attorneys who rightly and wrongly practice hardcore copyright assertion. [Matthew Chan](#), a self-professed web tumbler, publisher, speaker and consultant, has declared war on lawyers who are "technically right but morally wrong" by chasing every registered copyright violation they can find and extorting money from the violator. Chan mentions Getty Images almost exclusively on his website's discussion forums. One can imagine that he "technically violated" a lot of Getty Images copyrights.

Despite being a stomping baby about his own wrongdoing, there is a kernel of worry about which direction tort is going when we're still in a gunslinger's paradise. (For examples, check out Chan's obnoxious [forums](#) at his website.)

Chan is not alone, however. In 2011, WebCopyPlus! (a content provider offering SEO/keyword rich copy) used an image without paying. The [story](#) of how this growing company had to cough up \$4,000 for a \$10 image license emphasizes the power of registration.

WebCopyPlus! had a stock photography account, but one of its indie-acting copywriters snagged a shot from Google Images. Seven months after using the image on a client's site, WebCopyPlus! received a cease-and-desist letter from an attorney.

The photographer's lawyer skipped the I-want-a-photo-credit request. Nor did he invoke the DMCA Takedown Notice. Instead, he shot clear through the heart by issuing a cease-and-desist letter. The next step was a lawsuit. The photog wasn't happy with mere removal of every remnant of the picture from servers, sites and client pages: he wanted \$4000, too.

Counter offers were rejected. The unintentional outlaw had no bullets left.

Now a client was entangled in an ugly legal mess and the attorney and photographer had a copyright registration number which entitled them to triple damages. Naturally, the photographer was within his rights to demand more from WebCopyPlus! but the whole thing felt a little bit like opportunism, like those skeezy commercials you see on TV late at night: "Have you ever been hurt in a traffic accident? Call us now. We'll get you what you deserve!"

This is a concern with merit. In May of 2013, The Electronic Frontier Foundation, along with the Digital Media Law Project, filed a brief in federal court urging [protection for victims of abusive DCMA Takedown Notices](#). Ultimately, it's your bad, no matter how ugly it gets.

#### Okay, I Won't Use ANY Images, I'm Scared!

It's only scary if you go down the wrong road. The right of way isn't so treacherous. Depending on the circumstances, free images are available for your professional and personal use.

First the toll roads: these are images that come with terms and/or a price. In an article on her site called "[Copyright Fair Use and Online Images](#)," attorney Sara F. Hawkins beautifully defines it thusly: "Stock photo services require you to pay for a license, creative commons licenses confer the right to use an image under certain circumstances and public domain images are not subject to copyright in the first place."

Wherever you find an image, take a trip down the rabbit hole to find the original source and verify its terms of use. If asked, many copyright holders are happy to allow bloggers and non-commercial entities to use an image with a credit. You must confirm permission to use any image. These are hangin' words.

#### Well, Except For ...

Fair use: it's the term meant to acknowledge the copyright holder while protecting the public's interest to know. If you have questions concerning fair use, [Wikipedia](#) covers the minutiae serviceably. [The Electronic Frontier Foundation](#) defines fair use by what it isn't — as a limitation on copyright instead of another version of it.

The fair use saloon: a joint where everyone is okay with the copyrighted image being used. Product review, criticism, comment, news reporting, teaching, scholarship or research are all forms of fair use.

According to [APhotoEditor.com](#), you still need a top-off: "Always include the photographers name and links to both the image(s) you are writing about and their portfolio in your story or in the caption to the image. The destination of the anchor link for the image should be the page where the image was found (most blogging platforms have the anchor link to a larger size image so this has to be changed manually)."

There are finer points involved with fair use that include whether the copyrighted work was used to create a new work, was published versus not, etc. Be clear on how you view an image you're using.

Public domain: start with [PDIImages.com](#) for a list of public domain image resources. Images become public domain if their copyright has expired or if they were never eligible for copyright in the first place. For work created after 1978, copyrights lapse after the death of the creator plus 70 years. But copyright law is tricky and is characterized by many subtle points. Be sure to go directly to the official [U.S. government site](#) if you need copyright clarification.

Holster your sidearms, Black Bart. If you play it right, nobody has to get hurt.

For more information:

- Refer to [PhotoAttorney.com](#)'s no-gray-area lay down of what a copyright holder owns.
- The easiest way to copyright your work is via electronic registration at the [U.S. copyright office](#). However, this process (which costs \$45 per filing) limits you to registering images "within the same unit of publication." For solid footing, it's best to register the old-fashioned way, via paper.

- same unit of publication. For some reason, it's best to register the old-fashioned way, via paper. This will allow you to cover your pictures as a "group registration of published photographs."
- For a definitive how-to guide to help you navigate the registration process at the Electronic Copyright Office, take a look at Carolyn E. Wright's step-by-step [tutorial](#).
  - For the paper trail version, photographer [Chris Martino](#) does an equally thorough job.

Based in New York, [Viki Reed](#) is a senior photographer and pop culture commentator at [aNewDomain.net](#). She's worked with SubBrilliant News, Anti-Press and Thewax. Check out her work at [vikireedphotography.com](#) and email her at [Viki@aNewDomain.net](mailto:Viki@aNewDomain.net) or [viki@vikireedphotography.com](mailto:viki@vikireedphotography.com).

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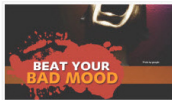
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Written by: [Viki Reed](#) on July 2, 2013.  
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HOME > US ENGLISH > RIGHT

# right

Top 1000 frequently used words

Syllabification: right

Pronunciation: /rɪt /



Definition of *right* in English:  
ADJECTIVE

1 **Morally** good, justified, or acceptable:

*'I hope we're doing the right thing'*

[WITH INFINITIVE] *'you were quite right to criticize him'*

MORE EXAMPLE SENTENCES

SYNONYMS

2 **True or correct** as a fact:

*'I'm not sure I know the right answer'*

*'her theories were proved right'*

MORE EXAMPLE SENTENCES

2.1 [PREDICATIVE] **Correct** in one's opinion or judgment:

*'she was right about Tom having no money'*

MORE EXAMPLE SENTENCES

2.2 Used as an **interrogative** at the end of a statement as a way of inviting agreement, approval, or confirmation:

*'you went to see Angle on Monday, right?'*

MORE EXAMPLE SENTENCES

2.3 **According to what is correct** for a particular situation or thing:

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MORE ON RIGHT

Nearby words

rigging

riggish

**right**

right-about

'is this the right way to the cottage?'  
'you're not holding it the right way up'

MORE EXAMPLE SENTENCES

2.4 The best or most suitable of a number of possible choices for a particular purpose or occasion:

'he was clearly the right man for the job'  
'I was waiting for the right moment to ask him'

MORE EXAMPLE SENTENCES

SYNONYMS

2.5 Socially fashionable or important:

'he was seen at all the right places'

MORE EXAMPLE SENTENCES

2.6 (PREDICATIVE) In a satisfactory, sound, or normal state or condition:

'that sausage doesn't smell right'  
'if only I could have helped put matters right'

MORE EXAMPLE SENTENCES

3 On, toward, or relating to the side of a human body or of a thing that is to the east when the person or thing is facing north:

'my right elbow'  
'her right shoe'  
'the right edge of the field'

MORE EXAMPLE SENTENCES

4 (ATTRIBUTIVE) informal, chiefly British Complete, absolute (used for emphasis, typically in derogatory contexts):

'I felt a right idiot'

MORE EXAMPLE SENTENCES

5 Of or relating to a person or political party or grouping favoring conservative views:

'are you politically right, left, or center?'

MORE EXAMPLE SENTENCES

ADVERB

Back to top

1 (WITH PREPOSITIONAL PHRASE) To the furthest or most complete extent or degree (used for emphasis):

right angle

See also

right field  
in US English

by rights  
in US English

film rights  
in US English

gay rights  
in US English

animal rights  
in US English

civil rights  
in US English

Result list for rights

Translate right

into Arabic

into French

into German

into Italian

into Spanish

WORD OF THE DAY

terpsichorean

Pronunciation: ˌtɜːpsɪkəˈreɪn

ADJECTIVE

of or relating to dancing

See full definition

SIGN UP TO WORD OF THE DAY

emphasis):

'the car spun right off the track'

'I'm right out of ideas'

MORE EXAMPLE SENTENCES

SYNONYMS

1.1 Exactly; directly (used to emphasize the precise location or time of something):

'Harriet was standing right behind her'

MORE EXAMPLE SENTENCES

SYNONYMS

1.2 informal Immediately; without delaying or hesitating:

'I'll be right back'

SYNONYMS

1.3 [AS SUBMODIFIER] dialect Or archaic Very:

'It's right spooky in there!'

MORE EXAMPLE SENTENCES

2 Correctly:

'he had guessed right'

MORE EXAMPLE SENTENCES

SYNONYMS

2.1 In the required or necessary way; properly; satisfactorily:

'nothing's going right for me this season'

MORE EXAMPLE SENTENCES

SYNONYMS

3 On or to the right side:

'turn right at Main Street'

MORE EXAMPLE SENTENCES

NOUN

Back to top

1 That which is morally correct, just, or honorable:

'she doesn't understand the difference between right and wrong'

'the rights and wrongs of the matter'

|     |   |  |
|-----|---|--|
|     | <div>MORE EXAMPLE SENTENCES</div> <div>SYNONYMS</div>   |  |
| 2   | <p>A moral or legal entitlement to have or obtain something or to act in a certain way.</p> <p>[WITH INFINITIVE] 'she had every right to be <i>angry</i>'</p> <p>'you're quite <i>within your rights</i> to ask for your money back'</p> <p>'there is no <i>right of appeal</i> against the decision'</p> <div>MORE EXAMPLE SENTENCES</div> <div>SYNONYMS</div> |  |
| 2.1 | <p>(rights) The authority to perform, publish, film, or televise a particular work, event, etc.</p> <p>'they sold the <i>paperback rights</i>'</p> <div>MORE EXAMPLE SENTENCES</div>  |  |
| 3   | <p>(the right) The right-hand part, side, or direction:</p> <p>'take the first <i>turning on the right</i>'</p> <p>(one's right) 'she seated me on her <i>right</i>'</p> <div>MORE EXAMPLE SENTENCES</div>  |  |
| 3.1 | <p>(In football or a similar sport) the right-hand half of the field when facing the opponent's goal.</p> <div>EXAMPLE SENTENCES</div>  |  |
| 3.2 | <p>(right) <i>Baseball</i> short for right field.</p> <p>'a <i>looping single to right</i>'</p>   |  |
| 3.3 | <p>The right wing of an army.</p>   |  |
| 3.4 | <p>A right turn:</p> <p>'he made a right in <i>Dorchester Avenue</i>'</p> <div>MORE EXAMPLE SENTENCES</div>   |  |
| 3.5 | <p>A road or entrance on the right:</p> <p>'take the first right over the <i>stream</i>'</p>  |  |
| 3.6 | <p>(Especially in the context of boxing) a person's right fist.</p>   |  |
| 3.7 | <p>A blow given with this:</p> <p>'the young <i>cop</i> swung a <i>terrific right</i>'</p> <div>MORE EXAMPLE SENTENCES</div>  |  |
| 4   | <p>(often the Right) [TREATED AS SINGULAR OR PLURAL] A grouping or political party favoring conservative views and supporting capitalist economic principles.</p>   |  |



[ see right wing]

EXAMPLE SENTENCES

VERB

Back to top

[WITH OBJECT]

1 Restore to a normal or upright position:

'we righted the capsized dinghy'

MORE EXAMPLE SENTENCES

SYNONYMS

1.1 Restore to a normal or correct condition or situation:

'righting the economy demanded major cuts in defense spending'

MORE EXAMPLE SENTENCES

1.2 Redress or rectify (a wrong or mistaken action):

'she was determined to right the wrongs done to her father'

MORE EXAMPLE SENTENCES

1.3 (usually be righted) *archaic* Make reparation to (someone) for a wrong done to them:

'we'll see you righted'

EXCLAMATION

Back to top

*informal*

1 Used to indicate one's agreement with a suggestion or to acknowledge a statement or order:

"Barry's here." "Oh, right"

'right you are, sir'

1.1 Used as a filler in speech or to introduce an utterance, exhortation, or suggestion:

'and I didn't think any more of it, right, but Mom said I should take him to a doctor'

'right, let's have a drink'

Origin

Old English *riht* (adjective and noun), *rihtan* (verb), *rihte* (adverb), of Germanic origin; related to Latin *rectus* 'ruled', from an Indo-European root denoting movement in a straight line.

MORE

Phrases

bang (or dead) to rights

**bang (or ueau) to rights**

- 1 *informal* (Of a *criminal*) with positive proof of *guilt*:  
'we've got you *bang to rights* *handling stolen property*'

MORE EXAMPLE SENTENCES

**be in the right**

- 2 Be *morally* or *legally* justified in one's *views*, *actions*, or *decisions*.

EXAMPLE SENTENCES

**by rights**

- 3 If things had *happened* or been done *fairly* or *correctly*:  
'*by rights*, he should not be playing next *week*'

MORE EXAMPLE SENTENCES

SYNONYMS

**do right by**

- 4 *Treat* (someone) *fairly*.

EXAMPLE SENTENCES

**in one's own right**

- 5 As a *result* of one's own *claims*, *qualifications*, or *efforts*, rather than an *association* with someone else:  
'he was *already established* as a *poet* in his own *right*'

MORE EXAMPLE SENTENCES

**(not) in one's right mind**

- 6 (Not) *sane*.

EXAMPLE SENTENCES

SYNONYMS

**not right in the head**

- 7 *informal* (Of a person) not completely *sane*.

EXAMPLE SENTENCES

**(as) of right (or by right)**

- 8 As a *result* of having a *moral* or *legal claim* or *entitlement*:  
'the state will be *obliged* to *provide health care* and *education as of right*'

MORE EXAMPLE SENTENCES

**put (or set) someone right**

9 1 *Restore* someone to *health*.

EXAMPLE SENTENCES

2 *Make* someone *understand* the *true* facts of a *situation*.

EXAMPLE SENTENCES

**put (or set) something to rights**

10 *Restore* something to its *correct* or normal state or *condition*.

EXAMPLE SENTENCES

**(as) right as rain**

11 *informal* (Of a person) feeling completely well or *healthy*, typically after an *illness* or *minor accident*.

**right away**

12 *see* *straight away* at *straight*.

EXAMPLE SENTENCES

SYNONYMS

**right enough**

13 *informal* *Certainly*; *undeniably*:

*'your record's bad right enough'*

MORE EXAMPLE SENTENCES

**right on**

14 *informal* Used an expression of strong support, approval, or encouragement. See also *right-on*.

**a right one**

15 *British informal* A *silly* or *foolish* person.

EXAMPLE SENTENCES

**she's (or she'll be) right**

16 *Australian informal* That will be *all right*; don't *worry*.

EXAMPLE SENTENCES

**Derivatives**

rightable

1 ADJECTIVE

righter

2 NOUN

EXAMPLE SENTENCES

rightish

3 ADJECTIVE

EXAMPLE SENTENCES

rightness

4 NOUN

EXAMPLE SENTENCES

Definition of right in:

British & World English dictionary

English synonyms

US English synonyms

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# image

Top 1000 frequently used words

Syllabification: im-age

Pronunciation: /ˈɪmɪj/



Definition of *image* in English:  
NOUN

1 A representation of the external form of a person or thing in art.

EXAMPLE SENTENCES

SYNONYMS

1.1 A visible impression obtained by a camera, telescope, microscope, or other device, or displayed on a computer or video screen.

EXAMPLE SENTENCES

SYNONYMS

1.2 An optical appearance or counterpart produced by light or other radiation from an object reflected in a mirror or refracted through a lens.

EXAMPLE SENTENCES

SYNONYMS

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SYNONYMS

1.3 **Mathematics** A point or set formed by **mapping** from another point or set.

EXAMPLE SENTENCES

1.4 **Computing** An **exact copy** of a **computer's** hard disk, made for **backing up data** or setting up **new machines**.

EXAMPLE SENTENCES

1.5 A **mental representation** or **idea**:  
*'he had an **image** of **Uncle Walter** throwing his **crutches** away'*

MORE EXAMPLE SENTENCES

SYNONYMS

1.6 **[IN SINGULAR]** A person or thing that **closely resembles** another:  
*'he's **the image** of his **father**'*

SYNONYMS

2 A **simile** or **metaphor**:  
*'he **uses the image** of a **hole** to **describe emotional emptiness**'*

MORE EXAMPLE SENTENCES

SYNONYMS

3 The **general impression** that a person, organization, or product presents to the public:  
*'she **strives to project** an **image** of **youth**'*

MORE EXAMPLE SENTENCES

SYNONYMS

3.1 **[IN SINGULAR]** **Semblance** or **likeness**:  
*'we are made **in the image** of **God**'*

MORE EXAMPLE SENTENCES

MORE ON IMAGE

Nearby words

I'm a Dutchman  
I'm afraid  
**image**  
image-conscious  
imago consultant

See also

image  
in US English synonyms  
body image  
in US English  
brand image  
in US English  
ghost image  
in US English  
image macro  
in US English  
image-maker  
in US English  
Result list for image

More words in this category

3.2 (In biblical use) an idol.

EXAMPLE SENTENCES

SYNONYMS

VERB

Back to top

[WITH OBJECT]

1 Make a representation of the external form of:  
*'artworks that imaged women's bodies'*

MORE EXAMPLE SENTENCES

1.1 Make a visual representation of (something) by scanning it with a detector or electromagnetic beam:  
*'every point on the Earth's surface was imaged by the satellite'*  
(as noun **imaging**) *'medical imaging'*

MORE EXAMPLE SENTENCES

1.2 *Computing* Make an exact copy of (a computer's hard disk):  
*'the hard disk drive should be imaged using a specialized bitstream backup product'*

MORE EXAMPLE SENTENCES

1.3 Form a mental picture or idea of:  
*'it is possible for us to image a society in which no one committed crime'*

MORE EXAMPLE SENTENCES

SYNONYMS

Origin

Middle English: from Old French, from Latin *imago*, related to *imitate*.

MORE

bister  
capriccio  
color wash  
easel  
enchase

Translate image

into Arabic  
into French  
into German  
into Italian  
into Spanish

WORD OF THE DAY

terpsichorean

Pronunciation: ˈtɜrpsɪkoʊˈriən

ADJECTIVE

of or relating to dancing

See full definition

SIGN UP TO WORD OF THE DAY

Derivatives

**imageless**  
1 ADJECTIVE


EXAMPLE SENTENCES

Definition of **image** in:

- [British & World English dictionary](#)
- [English synonyms](#)
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