



Taking Care of Ourselves

Things slow? Here's something you can do right now that will be great for your business: take this slow time to register the copyright for every one of your images.

No more excuses...it's the cheapest insurance you can buy and a great investment in the future of your business.

But I know...most of you are going to ignore this advice. You'll complain about the cost or the time it will take...you'll make up some juicy rationalization not to take this step. The numbers bear this out. It's estimated that as few as 5% of professional photographers register their works. Even if that number is inaccurate, I'll bet dollars to donuts it's less than 20%.

And next time the Orphan Works bill rears its ugly head, the photographers who haven't registered their images will be some of the first and loudest to complain about how unfair it is.

And my head will spin.

We owe it to ourselves to take advantage of the protections we already have. Now more than ever.

One of the fundamental things I have learned in my short time (so far) in law school is that if you don't protect your rights, you *will* lose them. For example, it is possible for someone to lose his/her actual physical property -- land, I mean. There's something called adverse possession which, very basically, says that if someone gets on your land and you don't kick them off, they can (eventually) get title to that land. Sounds crazy, but it's true. Sure, you had the rights to that land, but you didn't protect them by chasing off Sid the Squatter and now, poof, no more land.

Or, how about those neighbors who keep cutting across your lot as a short-cut to get to the park? If you don't put them on notice that they do not have permission, they can claim an easement and then you'll never be able to block off that path.

Okay, you get the point, I hope. You have to take advantage of the rights you have now or you can lose them.

In the intellectual property (visual arts) world, those rights are copyrights. The first step is registering them.

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The second step is enforcing them. That means when someone uses your work without a license, you need to go after them legally. Usually, this won't be anything more than a letter from your lawyer, but in the doing, you are telling a future court that your work has value and you are willing to do your part to protect that value.

Yeah, sure, it's going to cost you something to get your lawyer to write that letter and you may not collect anything, but in the long run you are protecting your rights.

Imagine one of your images gets swiped by some high school kid who puts it on her FaceBook. Her friends all like it and put it on theirs too. If you don't take the time and effort to go after those kids (it can and should be done nicely, but **firmly**) then when FaceBook swipes the image for some ad (remember their ToS are terrible and they claim the right to do that even now), it will argue that you didn't have any problem with these other people using the image so it isn't of any significant value to you.

That is not a for-sure losing argument for FaceBook and it is going to cost you a bundle to litigate it. But if you have been protecting your images by registering the copyright and enforcing it, you can show how you have protected your rights in the image and the court will likely look kindly on your side.

A few bucks now will save you thousands later.

So, take this slow time and register your copyrights. And defend them as needed.

And, when things pick up later (and they will), you'll be very glad you did.

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