

Copyright Law Reference Summary

Title 17 of the United States Code

Revised to September 30, 1996 (including Berne Convention compliance)

The following are excerpts of the Federal Codes specifically relating to photographs (visual works).

§ 102 Subject matter of copyright: In General — ... (1) Literary works; (2) Musical works; (3) Dramatic works; (4) Pantomimes and Choreographic works; (5) Pictorial, Graphic and Sculptural works; (6) Motion pictures and other audiovisual works; (7) Sound Recordings; (8) Architectural works

§ 106 Exclusive rights in copyrighted works — ... the copyright owner under this title has the exclusive rights to do and authorize any of the following: (1) to reproduce the copyrighted work in copies...; (2) to prepare derivative works...; (3) to distribute copies ... to the public by sale ...; (4) n/a; (5) ... to display the copyrighted work publicly ...;

Copyright Protection Is Automatic — Under the present copyright law, which became effective January 1, 1978, a work is automatically protected by copyright law when it is created. A work is created when it is "fixed" in a copy or phonorecord for the first time. Neither registration in the copyright Office nor publication is required for copyright protection under the present law. (Circular 40, Copyright Registration for Works of the Visual Arts, U.S. Copyright office)

§ 201 Ownership of copyright — (a) INITIAL OWNERSHIP — Copyright in a work protected under this title vests initially in the author or authors of the work. [(b) WORK MADE FOR HIRE — ... the employer ... is considered the author for the purposes of this title, ... (§ 101 Definitions: "Work made for hire" is (1) a work prepared by an employee within the scope of his or her employment;)]

§ 202 Ownership of copyright as distinct from ownership of material object — Ownership of a copyright, or any of the exclusive rights under a copyright, is distinct from the ownership of any material object in which the work is embodied. Transfer of ownership of any material object, including the copy or phonorecord in which the work is first fixed, does not of itself convey any rights in the copyrighted work embodied in the object; ...

§ 302 Duration of copyright: Works created on or after January 1, 1978

(a) IN GENERAL. — Copyright... subsists from its creation and ... endures for a term consisting of the life of the author and seventy* years after the author's death (*amended 10/27/98).

§ 502 Remedies for infringement: Injunctions (a) Any court having jurisdiction of civil action arising under this title may, ... grant temporary and final injunctions on such terms as it may deem reasonable to present or restrain infringement of a copyright.

§ 503 Remedies for infringement: Impounding and disposition of infringing articles (a) Any court having jurisdiction of civil action arising under this title may, ... grant temporary and final injunctions on such terms as it may deem reasonable to present or restrain infringement of a copyright.

§ 504 Remedies for infringement: Damage and Profits (a) In General — Except as otherwise provided by this title, an infringer of copyright is liable for either – (1) the copyright owner’s actual damages and any additional profits of the infringer ... (2) statutory damages ... (c) (1) ... an award of statutory damages in a sum of not less than \$750* or more than \$30,000* as the court considers just. (2) In a case where ... the court finds, that the infringement was committed willfully, the court in its discretion may increase the award of statutory damages to a sum of not more than \$150,000* (*amended 12/9/99).

§ 505 Remedies for infringement: Costs and attorney’s fees — In any civil action under this title, the court in its discretion may allow the recovery of the full cost by or against any party ... the court may also award reasonable attorney’s fees to the prevailing party as part of the costs.

§ 506 Criminal offenses

- (a) **CRIMINAL INFRINGEMENTS** – Any person who infringes a copyright willfully and for purposes of commercial advantage or private financial gain shall be punished as provided in section 2319 of title 18 ("Crimes and Criminal Procedure").
- (b) **FORFEITURE AND DESTRUCTION** – When any person is convicted of any violation of subsection (a), ... in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all copies ...
- (c) **FRAUDULENT COPYRIGHT NOTICE** – Any person who, with fraudulent intent, places on any article a notice of copyright or words of the same purport that such person knows to be false, or who, with fraudulent intent, publicly distributes ... any article bearing such notice or words that such person knows to be false, shall be fined not more than \$2,500.
- (d) **FRAUDULENT REMOVAL OF COPYRIGHT NOTICE** – Any person who, with fraudulent intent, removes or alters any notice of copyright appearing on a copy of a copyrighted work shall be fined not more than \$2,500.
- (e) **FALSE REPRESENTATION** – Any person who knowingly makes a false representation of a material fact in the application for a copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

Studio Published Notice

*The following copyright stipulation appears on each and all studio invoices
and formal estimates for commercial services (since 1984).*

COPYRIGHT NOTICE — To protect and preserve all work produced for our accredited accounts, all original photographs and related materials created by this studio are copyrighted to G.BEHR Images/Expressive Images, Madison, WI / Wendt Images. Stoughton, WI, and unless previously stipulated by written agreement, are the exclusive property of this studio. Agreements/contracts between this studio and it’s clients normally include, upon full payment, "one-time" publishing rights for the express purpose of this assignment. Additional usage of such images and/or products may be subject to appropriate use rates. This studio reserves the right to display, exhibit, reproduce or use any work or facsimile without further consent or compensation. These terms may be adjusted to meet the particular needs of the client.