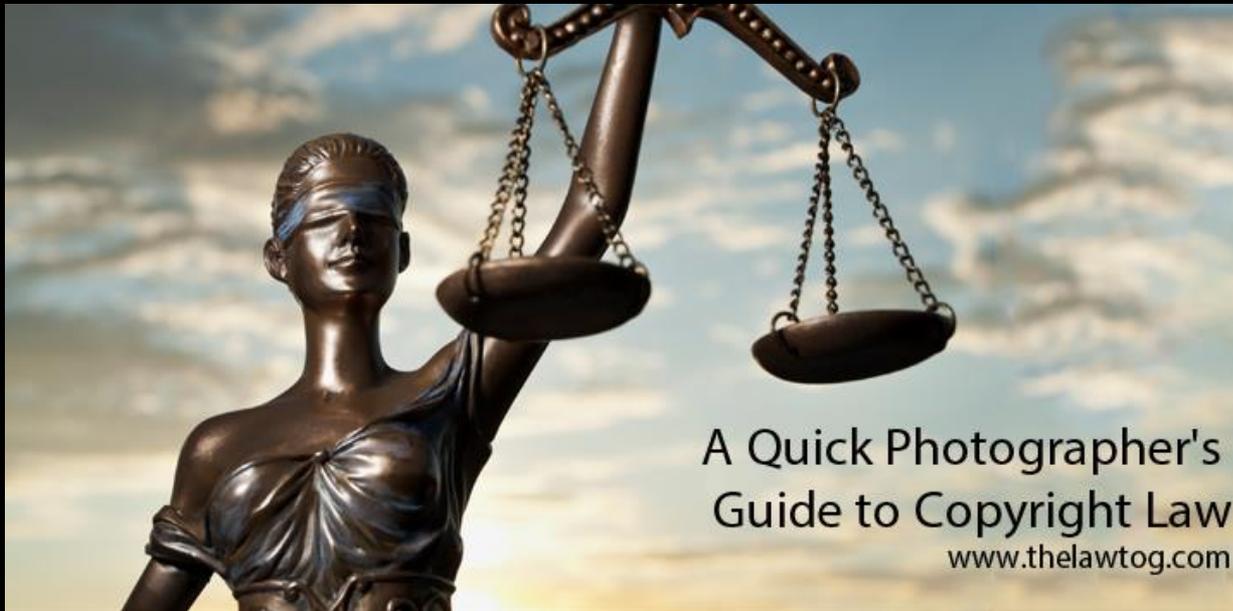


A QUICK PHOTOGRAPHER'S GUIDE TO PHOTOGRAPHY COPYRIGHT LAW



A Quick Photographer's
Guide to Copyright Law
www.thelawtog.com

The unauthorized use, reproduction or amendment of photographs Copyright happens all the time, simply because many don't understand what and how copyright infringement works.

Copyright infringement is the use of photographs protected by copyright laws without permission of the copyright owner.

Understanding what copyright is and the registration process is important to photography business owners to avoid situations like the one listed above.

What is copyright ownership?

Most basically, copyright is the ownership of a work, such as a photograph. Permissions can be given for use, such as reproduction rights to client by a print release, while retaining copyright ownership.

A copyright is a legal device that gives the creator of a literary, artistic, musical, or other creative work the sole right to publish and sell that work.

Copyright owners have the right to control the reproduction of their work, including the right to receive payment for that reproduction.

Violation of a copyright is called infringement.

Copyright is a property right. Under the Federal Copyright Act of 1976, photographs are protected by copyright from the moment of creation.

According to the [U.S. Copyright Office](#), the owner of the “work” is generally the photographer or, in certain situations, the employer of the photographer.

Even if a person hires a photographer to take pictures of a wedding, for example, the photographer will own the copyright in the photographs unless the copyright in the photographs is transferred, in writing and signed by the copyright owner, to another person.

The subject of the photograph generally has nothing to do with the ownership of the copyright in the photograph.

If the photographer is no longer living, the rights in the photograph are determined by the photographer’s will or passed as personal property by the applicable laws of intestate succession.

What does it mean that my photograph has to be published?

Publication is a bit of a grey area when it comes to technological advances with the internet and other digital formats, however, a work is generally accepted as published when put out for a large number of people to view.

Do I have to copyright each photo?

Nope. You can submit photographs in bulk for Copyright processing but they must all be taken in the same calendar year and by the same photographer.

Do I have to give notice of copyright?

The use of a copyright notice is no longer required under U.S. law, although it is often beneficial.

Use of the notice may be important because it informs the public that the work is protected by copyright, identifies the copyright owner, and shows the year of first publication.

Furthermore, in the event that a work is infringed, if a proper notice of copyright appears on the published copy or copies to which a defendant in a copyright infringement suit had access, then no weight shall be given to such a defendant's interposition of a defense based on innocent infringement in mitigation of actual or statutory damages, except as provided in section 504(c)(2) of the copyright law. Innocent infringement occurs when the infringer did not realize that the work was protected.

How often should I register photographs?

Having to keep up with registration can be a pain but it can help increase your damages. It is suggested to set aside time quarterly to register photographs.

Are there any defenses to use of an image without permission?

There are a few – but it is important to know that failure to know who the owner is or ignorance of the law are not acceptable defenses. Copyrighted images may be used under the Fair Use Doctrine.

See also: [Fair Use Doctrine & Your Photography](#) and the [US Copyright Office on Fair Use](#)

The use of the copyright notice is the responsibility of the copyright owner and does not require advance permission from, or registration with, the Copyright Office.

What if I don't register my photographs for copyright?

While registration is not required for protections to occur, registration is required to receive damages for copyright infringement. Damages are limited to actual damages for unregistered photographs.

What do I do if I find someone infringing on my copyright?

You have a few options

Ask nicely! – Professionally and calmly send a letter requesting removal of the infringement

File a DMCA (Digital Millennium Copyright Act) – submitted to the Internet Service Provider (ISP) to have copyright infringement to be removed from the infringing site through a “take down notice”

C&D – Send a Cease and Desist letter citing specific copyright laws

If images are being used in the course of commercial activity an accompanying invoice for the usage may be sent to the infringer. Always talk to an attorney first before sending a legal document.

Site to remember:

<http://www.copyright.gov/>

THE END

