



AMERICAN SOCIETY OF
MEDIA PHOTOGRAPHERS

The Need for Machine Readable Rights

A U.S. Photographer Perspective

The Need for Machine Readable Rights/ US Photographer Perspective

First I would like to thank Mike Steidl and IPTC for inviting me here today to participate in this important program. The opinions expressed today are my own as executive director of ASMP and do not necessarily represent the views of any other association. Additionally, as it will soon become apparent, I am not a technologist, but rather an advocate and practitioner. **It is my firm belief that ultimately there can be only one broad solution to the various dilemmas created by the digital transition and that it needs to be a world solution.** No longer can we think in terms of EU or US. The marketplace for images is fluid and international and the only solutions that will be successful in the long run are solutions that work for all markets. The Holy Grail for photography is founded on the creation and maintenance of persistent identifiers which facilitate the more effective connection of images to the marketplace, ultimately leading to compensation for rights holders.

Sadly, my image market experience is mainly confined to the US. So I can only speak historically with direct knowledge in regard to what has happened in the last 10 years in our immediate market. It has been a perfect storm. Consolidation in the stock industry, combined with the digital transition and the rise of the crowd sourced image have conspired to create enormous pressure on the individual photographer/creator. Demands for greater rights positions by clients, without additional compensation, have greatly reduced the value of secondary licensing.

The long running print paradigm has been turned upside down. Before the founding of ASMP in 1944 and into the 1990's, photographer negotiations and agreements were all based on images moving to print. Now there are many more images used in the digital space and yet there are no clearly established pricing models as there were for the print usage. More often than not, photographers today are faced with unlimited use license requests or, at the least, licenses that include electronic use rights on all platforms now known or ever to be created, and often times third party use. Publishers are scrambling for every ounce of profit while they too are facing challenging times. Meanwhile, the depth and duration of these licenses is in large part a legal department response to very significant and very real liability arising

from an inability to access image rights information necessary to efficiently track and manage their licensed images. Companies are looking to cut their losses and rather than take on the daunting task of entering into limited licenses that require ongoing attention, they simply ask for all rights.

On the consumer and small use side, good and honest citizens think nothing of stealing images from the Web. It is very difficult to communicate the value of images that only exist in digital form. One of the problems in the photo space is that there is not currently a frictionless means to access understandable rights information or to obtain rights and permissions for small uses. As long as it is easier to right click than to license, the unauthorized use of images will remain as the prevalent model. It has been the failure of the image space to create frictionless licensing – including various forms of voluntary collective licensing in particular, in the US - that has contributed to our current dilemma.

In large part, the problem has continued and solutions not found because to date there have been no **universal, globally unique, persistent, machine readable, actionable identifiers** for image files. In spite of the best intentions of the DMCA and WIPO, it remains easy to strip metadata from image files once they have left the creator or licensor. Additionally, as image rights information is dynamic – it changes over time – the practice of embedding static rights metadata into digital image files is an unsuitable, insufficient and in fact dangerous means of communicating image rights. It does not serve the market well. In many if not most instances, embedded rights information is outdated soon after image delivery. Embedded rights metadata cannot be easily or reliably updated after image delivery, and can provide inaccurate rights and license history information.

In the current licensing environment, the time has come for rights holders to accept an appropriate measure of professional responsibility when delivering licensed images to their clients; taking whatever steps are available to communicate rights and attribution information to their clients in such a way that the information is accessible, understandable, machine readable, and otherwise sufficient to allow their clients to efficiently manage licensed images. It is no longer acceptable for

photographers – or for that matter, picture libraries -- to simply deliver their images while ignoring their professional responsibility to also deliver information sufficient to allow their clients to use those images and avoid infringement. I propose that delivering images, waiting for the client to exceed the license, and then instigating litigation, while legal is not professional in this day and age.

To address these issues, clients joined with creators and picture libraries to form the PLUS Coalition, a global non-profit organization focusing exclusively on standards and systems for the communication and management of image rights information. As most of you know, IPTC is a leading member of the PLUS Coalition, participated actively in the development of the PLUS standards, and has adopted the PLUS standards within the IPTC extension. As a non-profit coalition, representing both buyers and sellers, I believe that PLUS is positioned to service the image space with an agnostic viewpoint.

The PLUS Coalition has in addition developed persistent, globally unique identifiers for parties, images and image licenses; and is currently developing the PLUS Registry, a global non-profit hub for image rights information, employing PLUS identifiers, image recognition and optional steganographic watermarking to allow anyone, in any country, to easily access image rights information for any image. The use of persistent identifiers to discover remotely stored, dynamic rights metadata is the answer to many of the challenges facing image creators, distributors and users, and must become part of our workflow. Photographers, picture libraries and all image licensors must become accustomed to embedding standardized identifiers into their image files, while storing image metadata in secure, interconnected systems accessible to their clients. Software companies providing DAM solutions, licensing platforms and image editing applications must move to incorporate PLUS functionality allowing their users to use identifiers and the Registry from within their existing workflows. This is key to the propagation of the identifiers – it must be easy and not create additional burdens for the already overloaded practitioner. In the US and other countries offering copyright registration options, these applications should provide actions allowing users to simultaneously register their images with federated registries and with the relevant copyright offices. The creation of this workflow will make new licensing methods and

models possible, including an efficient model to provide compensation for small uses of images on the Web – uses that heretofore are fulfilled through theft. Again, I am not talking about the uses of images in advertising campaigns and major publications in print and on the Web. These uses will still require negotiated fees. However the many small uses – commercial and personal - in blogs and the myriad of other Web based and electronic media are primary targets for some form of voluntary collective licensing that would create an income stream where for many none existed. Few will get rich, but the licensing model will be maintained, new variations will evolve, and the income will contribute to a sustainable future for image rights holders.

The key to this future is the ability to propagate in significant numbers machine-readable persistent identifiers into image files, and to make image rights information accessible and usable. Ultimately, it is all about connecting images to rights holders and rights information, providing for frictionless licensing and rights management throughout our world market.

I thank you for your attention.

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One
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