



AMERICAN SOCIETY OF
MEDIA PHOTOGRAPHERS

U.S. COPYRIGHT OFFICE

**NOTICE OF INQUIRY
(OCTOBER 27, 2011)
THIRD REQUEST FOR COMMENTS
(FR Doc. 2013-04466 Filed 2-25-13)**

**STUDY ON REMEDIES
FOR COPYRIGHT SMALL CLAIMS**

APRIL 10, 2012

**ADDITIONAL COMMENTS
OF
AMERICAN SOCIETY OF MEDIA PHOTOGRAPHERS (ASMP)**

**SUBMITTED BY:
VICTOR S. PERLMAN
GENERAL COUNSEL AND MANAGING DIRECTOR
AMERICAN SOCIETY OF MEDIA PHOTOGRAPHERS, INC.
150 NORTH SECOND STREET
PHILADELPHIA, PA 19106**

**215-451-ASMP EXT. 207
FAX: 215-451-0880
perlman@asmp.org
<http://www.asmp.org>**



ADDITIONAL COMMENTS OF ASMP

Introduction and Background

ASMP wishes to thank the Register and Chairman Smith for this opportunity to provide comments regarding the desperate need of professional photographers for some sort of structure that will give them the practical ability to enforce their copyrights, something that they do not possess under the current legal system. ASMP has previously detailed in its initial comments and elsewhere the dire need of professional photographers for some system that would afford them practical and affordable access to a legal system for obtaining relief from copyright infringements --- something that the current legal structure does not provide. ASMP has stated on multiple occasions that the situation is so bad that ASMP would welcome and support virtually any approach that would provide a practical and workable improvement.

Specific Comments

More specifically, ASMP endorses and supports the comments being filed by the Picture Archive Council of America (PACA) in response to this third round request for comments.

Without taking anything away from that support, ASMP also notes that, as an alternative solution, it still believes that a viable and practical approach to solving the problem would be by amending the Copyright Act of 1976 to allow concurrent jurisdiction of state courts for infringement claims falling below whatever cap is determined to define "small" copyright claims, such as \$25,000.

In addition to the above and the points addressed in PACA's comments, ASMP believes that, no matter what solution the Copyright Office and/or Congress might decide to pursue, it is extremely important that any procedures or systems for discovery be as simple, affordable and automated as possible.

Conclusion

There is almost an infinite variety of approaches to solving this problem that would meet with ASMP's approval, and we are open to discussing any and all of them. While we have given a general outline of what we think might be the best solution, we have been working closely with an ad hoc committee of visual arts organizations, including Graphic Artists Guild (GAG), Professional Photographers

of America (PPA), Picture Archive Council of America (PACA), National Press Photographers Association (NPPA), North American Nature Photography Association (NANPA), and American Photographic Artists (APA). We all generally support each other's efforts and the same overall goal: A system that allows fair, speedy and economically affordable access to legal enforcement of copyrights for all copyright holders, irrespective of the economic impact of any particular infringement. More specifically, we seem to desire a number of specific steps toward achieving that goal:

- The option of bringing a claim without the need of legal representation, in a forum that is cost effective and that does not require expensive travel or other out-of-pocket costs or expert fees.
- The ability to have a claim adjudicated in a timely manner by a tribunal that, ideally, is knowledgeable about copyright.
- In the event that the process is not binding on a defendant once elected by a plaintiff, provision for incentives to discourage a defendant from rejecting the alternative forum and forcing a claim to be brought in a federal court of general jurisdiction; and
- A resolution of a claim that offers finality and ease of enforcement of any judgment.

We all look forward to continuing to work together with the Copyright Office and Congress to achieve these targets.

Thank you for your time and consideration.

Respectfully submitted,

Victor S. Perlman

General Counsel and Managing Director



American Society of Media Photographers, Inc.
150 North Second Street
Philadelphia, PA 19106
215-451-ASMP Ext. 207
Fax: 215-451-0880
E-mail: <perlman@asmp.org>