
To: Hamza Elahi
Intellectual Property Office

From: Stephen Dodd

Date: 28th January 2014
Subject: Extended Collective Licensing & Copyright "Theft"
Total Pages: Two (including this)

Dear Sirs

I am a professional, Commercial & Advertising photographer with over 35 years experience of the photographic industry.

Having been self employed and with my own studio premises for the past 25 years, I've directly employed almost a dozen people over the years and have dealt with dozens of companies as a supplier and customer. We are a small but vibrant company supporting local enterprise wherever possible.

ECL is a serious threat to my business, livelihood and consequently the people that I employ and the companies that I trade with.

Copyright is a property right. It says so in The Copyright Designs & Patents Act 1988.

The British Statute of Anne 1710 was the first Copyright statute, so this is not a new concept.

Initially, Copyright law applied only to the copying of books but over time has been extended to: translations, derivative works, maps, performances, paintings, photographs, sound recordings, motion pictures, computer software etc etc.

Copyright is an exclusive right granted to the author or creator of an original work.

Article 9 of the Berne Convention for the Protection of Literary and Artistic works requires that the right to control reproduction shall be exclusive to the copyright holder, and that nothing shall be done to undermine the normal exploitation of the work nor prejudice the legitimate interests of the owner.

ECL contravenes Article 9 and seeks to subvert or by-pass it by allowing use of Copyright material without the express permission of the Copyright holder.

It would appear that:

1. The proposed regulations allow the use of any image, orphans and attributed works alike, under ECL.
2. The proposed regulations propose that individual works, not authors, are opted out.
3. Registration of opt-out will be subject to a 6 month delay for previously published works.

In short, almost anyone will be able to get a license for ECL, use my images for whatever purpose and then get out of paying a fee (which I should be able to determine) and there will be no comeback on either the publisher or the ECL body.

You may comment that Copyright owners will be able to claim fees but these will certainly not be commensurate with our normal scale of charging and this can only be done retrospectively once Copyright Infringement has taken place IF, and only IF the infringement is seen by the Copyright Owner.

It's like saying that you can take any car and only have to pay IF you get caught driving it,

As well as licensing my work, against my will and probably for less than I'd charge, ECL is also capable of licensing photos that are subject to exclusivity contracts, or for uses that violate model or property releases, or belong to foreign Copyright owners.

This could bring a deluge of litigation and infringement claims yet Mr Edmund Quilty famously dismissed these objections at one meeting with 'well, we'll just wait for the court cases, then"

Individual creators will suffer hugely devastating effects of losing control over their own Copyright.

It is the duty of the Intellectual Property Office to respect the Law & uphold the rights of Copyright Holders, *this* should be your mission and not seek to introduce schemes which will bleed the life out of a large sector of UK industry.

I urge to stop this attempt to subvert existing Copyright Law.

Instead, turn your attention to upholding the rights of content creators with a simple, cheap, automated means of dealing with Copyright infringement, with effective penalties and deterrent damages; or similar for tampering with EXIF metadata; or mandatory bylines and enforceable moral rights in keeping with the spirit of the 1988 Act and in line with Article 9 of the Berne Convention.

Yours sincerely



Stephen Dodd, FBIPP, AoP, QEP