

Copyright can be confusing. "What is copyright, Who owns what, Why all the fuss, How can I get copies made, and Are there any exceptions?" are questions that frequently arise. This information is designed to help customers understand why some photos cannot be copied by our lab.

WHAT IS COPYRIGHT?

The U.S. Constitution and the Federal Copyright Act give "copyright" protection to "authors" for their "original works," such as photographs. Among the protections that copyright owners have are the exclusive rights to:

- make copies of the work;
- prepare other works based on the original;
- distribute copies of the work to the public by sale, rental, lease, or lending; and
- to publicly perform and display the work.

The rights are protected by laws which provide for damages and criminal penalties for violations. Both the customer and the lab are subject to the law.

WHO OWNS WHAT?

The law says the "author" is the owner of the copyright. The author of a photo or image is usually the person who snapped the shutter or created the image. If you took the photo, you own the copyright. If a professional photographer took the photo for you, then he or she owns the copyright. If that photographer is an employee of a studio or other person in the business of making photos, then his or her employer is considered the author.

Prior to 1978, court cases said a customer who commissioned a photo was the employer of the photographer, so customers could get reprints made without any problem. In 1989, the U.S. Supreme Court said that was no longer true. To be an employee, the court said a person would have to be considered an employee under the traditional test such as are used to impose payroll taxes, social security, and similar laws. That is not the usual customer-photographer relationship.

WHY ALL THE FUSS?

The primary reason is economic. Photographers feel that they invest a lot of time and creative energy in getting the experience, and setting the camera, pose, lighting, background and extra shots to get the right one. They generally price their services by taking into account the fact that customers will purchase their prints from the photographer. If the prints are obtained elsewhere, the photographer loses the opportunity to recover a fee for the effort expended. Thus, the photographer wants the customer to come to him or her to request reprints so an appropriate fee can be charged.

Some photographers charge a realistic fee "up front" to compensate for their services, whether or not prints are ordered. They may authorize the customer to have the prints made anywhere.

Some photographers are also concerned about artistic integrity. Since their name is associated with the photos, they want control over how the reprints look. There may be many other reasons. You are encouraged to discuss these issues with your photographer. That way his or her position can be fully explained, and you can obtain the additional copies you desire.

HOW CAN I GET COPIES MADE?

If we cannot make the copies for you, go to your photographer and request them. A professional photographer will do their best to see that your needs are met. If they cannot make the copies, they may authorize us to make them. A consent form is available for you to take to the photographer.

ARE THERE ANY EXCEPTIONS?

Generally, no. In some unique circumstances, we may be able to consider special requests. We will gather the information, investigate to the extent necessary to see if permission can be obtained, and make a decision based on our best judgment of how the law applies. Please understand if we tell you that we cannot make the copies. It is our legal obligation to protect the photographer to the extent possible, and to keep you and ourselves from incurring liability.

CAN YOU HELP?

If you're unsure about the copyright status of an image you'd like to have reproduced, please consult us before attempting to order prints. We'll help you obtain permission to copy or find a source for original reprints.