

Each month we report to you moves among, within and between publishing houses, stock agencies, photographers, photo researchers, ad agencies, and design firms

CHANGES

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"Keep up the good work...your resources are valuable to the photographer looking to sell to the world."

- Philip Baird, Photographer, San Francisco CA

"I love your website. It's very helpful for a beginning stock photographer like me."

- Adrienne Sioux Koopersmith, Photographer, Chicago IL

This month's
FLASHBACK

April

1785 - John J. Audubon, born April 26th, in Haiti, of Creole parents. Came to America at age 19. Audubon started a grocery store in Louisville, KY. Later he set out to paint every species of American bird.

1883 - Imogene Cunningham, Photographer and Painter, was born on April 12th.

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for stock photographers

COLLABORATING ON PHOTOGRAPHS MAY CREATE OWNERSHIP ISSUES

Photographers who work collaboratively on photo shoots might be surprised to learn that even if they are the one who operates the camera, they are not necessarily the sole copyright owner of the resulting images. A person may become a co-owner in the copyright in a photo — not only by clicking the shutter — but also by selecting and arranging the photo's subject matter, making decisions about composition and camera angles, or by determining the lighting.

For example, the Federal Appeals Court in California recently ruled that the copyright in a group of photographs was jointly owned by both the photographer and the writer who collaborated with the photographer on the shoot. *Brod v. General Publishing Group, Inc.* 32 Fed. Appx. 231,, 2002 Copr. L. Dec. P 28. 396 (9th Cir. 2002).

The writer, who was working on a book about vintage television sets, approached the photographer to take photos for the book. The writer arranged for the shoot and the parties collaborated in cleaning and setting up the televisions. Although the photographer triggered the shutter, the writer viewed preliminary Polaroid test photographs and made suggestions regarding composition. After the photographer developed the images, the writer incorporated, arranged and enhanced the photos for inclusion in the book.

Several years later the writer found a publisher, the book was published, and the photographer re-

ceived sole copyright credit for the photos. The writer never contacted the photographer about the book's publication, and when the photographer learned of the publication, he sued for copyright infringement

CO-OWNERS

The Court found that the writer and the photographer were co-owners of the copyright and dismissed the complaint because co-owners cannot be sued for copyright infringement. Under the Copyright Act, copyright vests in more than one author if: 1) each person makes an independently copyrightable contribution to the joint work; and 2) the parties intend to be co-authors where their contributions are merged into an inseparable or interdependent part of a unitary whole. The Court found that the writer's contributions — his conception for the photos, his selection and location of the televisions and his decisions regarding composition — were sufficiently original and expressive to constitute a copyrightable contribution. Even though the photographer was given copyright credit for the photos in the book, the Court found that the parties objectively intended to be co-authors of the work.

The law concerning co-ownership is fact-specific and varies in different jurisdictions, but photographers can avoid this result by entering into appropriate agreements that specify ownership and royalty rates with their collaborators. Also, although a co-owner cannot be sued for infringement, co-owners do have an obligation to account to each other for profits.

Copyright (c) 2003 Stephen Filler. **Stephen Filler** is an attorney in New York City (www.nylawline.com) whose practice focuses on intellectual property, copyright, trademark, technology, media, contracts, corporate and photography law. His office is located at 400 Madison Avenue, Suite 14D, New York, NY 10017, 212-204-3508, sfiller@nylawline.com. This column is to be used for informational purposes only is not legal advice. For legal advice, please consult an attorney.

GET SOME ACTION INTO THOSE IMAGES

Art directors and designers have long known that diagonal lines give more action to a photo than straight up perpendicular lines. Translated into your editorial photos, you can show much more movement in your images if you have your models (neighbors, friends, relatives,) in some kind of action: shoveling (snow or sand!), putting up a birdhouse, tossing a homemade Frisbee. To improve the "action" feature of your image, get your models to "bend into" what they are doing (the Frisbee tosser should not be standing straight, nor should the catcher.

A recent study of annual reports done by the University of Michigan, concluded that such photos in an annual reports, whether a company was downsliding or on a roll, helped improve the image of the company. Companies that might have been doing well, but had little or no appealing images, didn't attract as much investment as companies who weren't doing well yet produced an aesthetic-appealing annual report.

Does your editorial stock photography "make a difference?" Yes, if it shows lively people, in action, enjoying themselves. -RE

A VISIT WITH ARNIE IN MINNEAPOLIS--

MY S.U.V. IS SURE A BIG HELP WHEN I GET OUT TO TAKE MY NATURE PICTURES ON WEEK-ENDS.

YEAH, I GOT A FORD EXPEDITION. WHAT WITH 4-WHEEL DRIVE, I ONLY GET 12 M.P.G. BUT I LOVE TAKING THOSE SCENICS.

12 M.P.G...? WHAT DOES MOTHER NATURE THINK?

