

LibraryCrunch

Service for the Next Generation Library - A Library 2.0 Perspective by Michael Casey

Copyright Infringement and Creative Commons

by MICHAEL CASEY on APRIL 4, 2008

Several days ago I saw [this image](#) on [this website](#) and really liked what I saw. So, since it was [copyrighted with a Creative Commons 3.0](#) license I went ahead and reposted to both [my Flickr stream](#) and this blog. I received a tersely worded comment from the owner claiming that I had “stolen” the image and should remove it. Not being one to respond pleasantly to such a gross accusation, I reminded the image creator that they had licensed it using the [CC 3.0 license](#) and that I was using it within the rights outlined on the Creative Commons website.

Today I received this nice message from the good people at Yahoo (they bought Flickr a while back):

Dear Michael Casey,

We have received a Notice of Infringement from M. Pamela Bumsted via the Yahoo! Copyright Team and have removed the photo “50 Reasons Not to Change” from your photostream.

Subsequent NOIs filed against your account will result in further action that may include termination without warning.

If you believe that you were designated by mistake or misidentification, or if you believe that you have not infringed the copyright, you may submit a sworn counter-notification as to the mistake or misidentification. Please contact the Yahoo! Copyright Team for more information on this process:

<http://docs.yahoo.com/info/copyright/copyright.html>

- Flickr Team

Okay, so I emailed and phoned the Yahoo Copyright Team and explained that the image *was* attributed to the creator and that it was licensed *not with standard copyright* (which I use on all of my photos) but using the Creative Commons license. Now I wait to hear back.

What is so damn frustrating here is the apparent unwillingness of one M. Pamela Bumsted to recognize the whole purpose of the CC 3.0 license. I was **not** using the image in a commercial manner and I **was** attributing ownership. The CC 3.0 license *allows* remixing and adaptation. It very clearly states on the Creative Commons site that **“You are free to share — to copy, distribute and transmit the work — and to remix — to adapt the work”**.

I can understand not wanting your work reposted somewhere else, but that is why I have chosen to copyright my photographs — I’ve gone so far with many

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of them as to send them to the Library of Congress for formal copyright protection. I can only assume that the owner of the image “[50 reasons Not to Change](#)” probably should have chosen that more restrictive copyright than the CC 3.0 license.

So, like I said, now we wait to hear what the Yahoo Copyright Team says. I don't want to blow this out of proportion but if Yahoo says a CC 3.0 licensed work cannot be transmitted or copied then what will the Creative Commons people say? Doesn't this undercut the whole purpose of the CC license?

And you know what's really sad? That's a [really cool image](#) with a great message that should be shared as much as possible.

EDIT: As one of my commenters points out, the complainant admits on her blog that she is not the creator or artist of the image in question. She states:

*I first ran across this in New Mexico in 1991 very apropos at that time
RE: women in the highway and environment departments. The specific
source is in deep storage (still) but I'm hoping the creator will recognize
it and let me know.*

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{ 11 comments... read them below or [add one](#) }

Laura Savastinuk 04.04.08 at 4:53 pm 1

Aside from the fact that it is ridiculous for her to get upset over someone sharing the image (attributed), she admits in her post that she didn't make it herself anyway and doesn't know who the creator is:

*I first ran across this in New Mexico in 1991 very apropos at that time
RE: women in the highway and environment departments. The specific
source is in deep storage (still) but I'm hoping the creator will recognize
it and let me know.*

mpb 04.04.08 at 5:29 pm 2

It is a very good graphic, both composition and content. The problem was you didn't link from your Flickr account to the actual Flickr or WordPress image; instead you re-hosted as yours. You didn't mention the source nor the type of copyright (non-commercial with attribution) at your Flickr account. You gave a hat-tip to another blog/site entirely where you saw the image (which is good and that site did give the attribution) but you did not.

The image from your Flickr account (not the image's true source) was then posted and linked at two other websites of yours. One of these had no attribution at all that I could find.

Because the image was the post at my site, simply re-hosting the image somewhere else doesn't solve the problem of going beyond fair use. A hat tip, if any given, doesn't solve the problem of reproducing entire content elsewhere.

I have suggested that you host the thumbnail and link to the original so that others may download the image (with attribution intact). Also, I have

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more background information on the graphic which I am hoping to document. I am not the creator nor have I ever “claimed to be”.

I’m sorry I didn’t receive any email from you or I would have responded. You are not the first to simply re-post the content of my post, which is why I gave the code for folks to use on their own on-line materials.

But the simply re-host at your Flickr (and at your original Tame the Web site post) without attribution isn’t fair use.

Michael Casey 04.04.08 at 6:14 pm

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My first response, given your own website statement, is to ask how you can claim any copyright on an image which is simply not yours? You state:

“I first ran across this in New Mexico in 1991 very apropos at that time RE: women in the highway and environment departments. The specific source is in deep storage (still) but I’m hoping the creator will recognize it and let me know.”

Michael Casey 04.04.08 at 6:15 pm

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My second response is that you are incorrect and I did attribute the work with a link to your site, regardless of whether I believed you created it or not (which by your own admission you did not!).

Mark 04.04.08 at 6:41 pm

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Wow, what an unfortunate mess. I hope that folks come to terms with CC and that this all gets resolved soon.

Michael Casey 04.04.08 at 8:09 pm

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I point my readers to her Flickr page where she states:

“As I mentioned at the posting, this is a handout which comes from New Mexico about 1991. My hard copy is in storage so I can’t give more specific information. I am hoping the creator will eventually run across this and claim it.

It is likely from the State Personnel Office or the highway department (more likely the SPO) but I don’t yet know for sure. Like many handouts, folks don’t put source info or contact info on it. I stress to those in public involvement or community involvement just how important these little labels are– not only for those wishing more information or to network but for those wishing to use the handouts in their own work.

I am hoping that folks can create their own culture-specific or organization-specific graphic or collection of “reasons”. These could be linked back to the original so everyone could see what is in common or different. I added some I heard in Alaska to the discussion and I know some of the other websites have encouraged their readers to add theirs (see the comments at the web log.)”

<http://www.flickr.com/photos/hlthenvt/401556761>

Tony Tallent 04.08.08 at 3:25 pm

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Hello Michael,

I read this post soon after your presentation this morning with Michael Stephens here at CIL. I found the weight of the response to you to be far too heavy. It's an image that was being used to encourage others plus you'd jumped through the hoops of the blogger. I was really spinning on this whole thing as I walked back from lunch here in D.C. I had my little point-and-snap digital camera with me and thought, hmmm, I'll help out here. I'll take a few somewhat useful shots of "presentation-like images," post them to my flickr account in a special set and give anyone the right to use them. So, off I go a-snapping...images I'd likely use in a presentations (signs, interesting reflections, etc). I had about 40 shots taken when along comes a big SUV beside me and out pops a military type in full camo outfit asking why I'm walking so fast and taking so many pictures and why would I take a picture of myself in a window? After this brief (yet a bit intense) interrogation—and explaining all I could about creative commons, etc. while being a bit taken aback by the abruptness of this—I ran back to my hotel room and started uploading my shots. These are by no means the most stylish and photographer-y shots in the world—but here-ye hear-ye: anyone can use these shots in my flickr set called "Free Use Photos" without giving me any credit or worrying about me (or anyone else) emailing you and rattling your cage about rights. Use away! Here's the link to the set...I'll post more asap.

<http://www.flickr.com/photos/tallentshow/sets/72157604446480577/>

Michael Casey 04.09.08 at 2:19 pm

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Tony, that's an amazing story! I cannot believe we are paying people to drive around looking for "terrorists" taking photos! Although, given this administration, nothing shocks me too much anymore. I'm glad they didn't whisk you off to some "unknown" location!!

URLS Discussed « LIS 753: Internet Fundamentals & Design 04.12.08 at 10:14 am

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[...] December 2007 URLs Discussed April 12, 2008, 9:11 am Filed under: CourseInfo CC Image: <http://librarycrunch.com/?p=17> [...]

Free Use Photos « Yestoknow 04.16.08 at 9:10 pm

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[...] April 17, 2008 Uncategorized Tags: creative commons, freedom, Michael Casey After reading the ordeal Michael Casey has gone through by posting an image on his blog (after he jumped through the hoops of giving permission to the [...])

Free use Photos 04.22.08 at 3:58 pm

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[...] dacht nog even na over het incident en dacht ook aan het conflict dat Michael Casey laatst had om een foto met een CC licentie. En toen besloot Tony om een fotostream op Flickr te [...]

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