

## Daystar Studio. COPYRIGHT LAWS SUMMARY.

### **Q. What is a copyright?**

A. Copyright is a form of protection, authorized by the United States Constitution, that gives photographers exclusive right to use and reproduce their works. Essentially, all original works are copyrighted. This includes photographs, art works, sculpture, writings, music and computer software.

### **Q: What if I have an idea and I hire a photographer to execute my idea. Does the copyright belong to me?**

A. No. The person who creates the work ñ in this case, the Photographer -- owns the copyright.

### **Q: If I buy a photograph from a photographer, can I use the image for any other purpose?**

A. No. Mere ownership of a photograph or any other copyrighted work does not convey any right to copy or to use the work other than for personal use.

### **Q. What does copyright do for the Photographer?**

A. Copyright gives the creator or author of a work the power to control the work. The owner of the copyright has the exclusive right to control if, when, how and how often his or her work can be used or copied.

### **Q. Who owns the copyright?**

A. The person who creates the Photograph is the owner of the copyright. Thus, independent photographers own the copyrights to their works.

### **Q. How do I get permission to use a copyrighted work?**

A. Permission to use a copyrighted work is called a "license." A license must be obtained from the owner of the copyright prior to using the work

### **Q. What if a copyrighted work is used without permission?**

A. The unauthorized use of a copyrighted work is called an infringement. The Copyright Act provides stiff penalties for infringing copyrighted works. The penalties can include monetary damages, all profits earned by the infringer and attorney's fees.

### **Q. What works are protected by copyright?**

A. Copyright protects original works of authorship that are fixed in tangible form. This includes photographs, graphic works, and computerized images.

### **Q. When does a copyright take effect?**

A. A copyright originates at the moment a work is created. For a photograph, the copyright is created at the moment the image is developed. If a photograph is taken with a modern digital camera, the copyright originates at the time the image is saved on a computer disk or on a hard drive.

### **Q. What is copyright infringement?**

A. Copyright infringement is the unauthorized use of a copyrighted work. Even the simple act of photocopying a copyrighted image without permission can be an infringement.

### **Q: If I change a few things in a copyrighted work by adding or taking something away, am I guilty of copyright infringement?**

A. Yes. The right to make derivative copies is reserved exclusively to the copyright owner.

### **Q: If someone infringes my work, do I have to catch the infringer in the act?**

A. No. It is not necessary to have finite proof that an infringer copied a work in order to prove copyright infringement. Infringement can be established simply by proving that the alleged infringer had access to the copyrighted work and that the offending work is substantially similar to the original.

### **Q. What are the damages for an infringement?**

A. The owner of the copyright can elect to seek the greater of either his actual damages plus the profits earned by the infringer, or damages of up to \$100,000 plus attorney's fees and court costs..

### **Q. Who is liable for copyright infringement?**

#### **Direct infringement (The person or persons doing the copying)**

The Copyright Act provides that direct infringement may arise either by a person doing any of the acts of infringement or by a person authorizing someone else to do one of these acts. Direct infringement does not require knowledge of the fact that an infringement is occurring. Innocent intention affords no defense and ignorance of the existence of copyright is no excuse for infringement.

#### **Indirect infringement (The store that allows the copying)**

Indirect infringement is the knowledge on the part of the infringer that copyright is being infringed or would be infringed by copying acts. "Knowledge" has been interpreted to mean knowing information which would suggest a breach of copyright was being committed. **Once an individual has either actual or imputed knowledge that the work dealt with may be infringing copyright, the individual has an obligation to make inquiries to ensure that the work does not infringe copyright.**