



Hamilton County LAW LIBRARY NEWS

Professional legal information, services, and education

January 2018

"Copyright Risks for the Unsuspecting – Use of Web-based Photos Can Cost You Money"

By **F. Michael Speed, Jr., Ph.D., Standley Law Group LLP.** Reprinted with permission.

Your fledgling startup is growing and you bring on your first marketing manager; a go getter with all the computer skills needed to get your brand out over social media and the internet. Within days, you have a new website, a new Facebook page along with Twitter and Instagram accounts that are actively followed. Your webpage is adorned with photos of seascapes and waterfalls that match your branding goals and green friendly image. Your leads are increasing and sales are starting to pick up.

Then, it comes:

"To Whom It May Concern, This office has been retained to represent the photographer whose photos you have illegally copied and placed on your website. The photographer owns the copyright in those photos and you do not have permission to use them on your website. You are to immediately remove the images from your website and cease and

desist from all further use.

Please understand that my client intends to pursue this matter to the fullest extent of the law. Sincerely, Copyright Lawyer."

You ask yourself, "Could this be true? Is this going to cost me money?" For the unwary, the answer it is likely true and it may indeed cost you money.

Copyright Basics Relating to Web Images

A copyright in a work arises when a work is created. Generally, a copyright belongs to the author of a work; in the case of a photograph, the photographer. The validity or enforceability of a copyright is not affected by the use or nonuse of any symbol such as © or phrase such as "copyright protected material." Additionally, while registration of a copyright is required to enforce one in court, failure to register has no bearing on the right to a copyright. In short, there is not much a photographer has to

(Continued on page 4)

Inside this issue:

Copyright	1
Tech Tip: Restatements in HeinOnline	2
2018 CLE-Speakers Needed	3
Subscriber Renewals	3
Videoconferencing	5
Consumer Credit Resources	7

Hamilton County Law Library

Hamilton County
Courthouse
1000 Main Street
Room 601
Cincinnati, OH 45202
T:513.946.5300
F:513.946.5264

Open Monday-Friday 8 - 4

<http://lawlibrary.hamilton-co.org>

Tech Tip: Restatements available on HeinOnline

Julie Koehne, Systems Librarian

To locate Restatements in HeinOnline, navigate to the American Law Institute Library and select the Restatements & Principles of the Law subcollection. Categories in this sub-collection are listed in alphabetical order.

The screenshot shows the HeinOnline homepage. At the top, there is a navigation bar with 'All Databases', 'MyHein', 'What's New', 'Help', and 'Connect'. Below this is a search bar with 'Search All Databases...' and a magnifying glass icon. The main content area is divided into two sections: 'Browse Databases by Category' and 'Browse Databases by Name'. In the 'Browse Databases by Name' section, 'American Law Institute Library' is highlighted with a red box. A blue arrow points from this box to a dropdown menu that is open, showing 'Restatements & Principles of the Law' highlighted with a red box. Other items in the dropdown include 'Special Publications', 'Current Projects', 'Uniform Commercial Code', 'ALI-CLE Publications', 'Statement of Essential Human Rights Archive', 'Audiovisual History Series', 'Other Related Works', 'Scholarly Articles', and 'External Links'.

The screenshot shows the American Law Institute Library interface. The breadcrumb trail at the top reads 'Databases > American Law Institute Library > Restatements & Principles of the Law'. Below this, there are several tabs: 'Restatements & Principles of the Law' (highlighted with a red box), 'Codifications and Studies', 'Special Publications', 'Current Projects', 'Statement of Essential Human Rights Archive', 'Audiovisual History Series', 'Other Related Works', and 'Scholarly Articles'. Below the tabs is a 'Restatement Section Locator' tool. It has a dropdown menu with 'Restatement, Contracts' selected, a search box with a dollar sign icon, and a 'Submit' button. Below the tool are sections for 'Agency' and 'Aggregate Litigation'.

For more information, see the following.

How to Search for Restatements in the American Law Institute Library

<https://help.heinonline.org/kb/how-to-search-for-restatements-in-the-american-law-institute-library/>

NEW Restatement Section Locator Tool in the American Law Institute Library

<https://home.heinonline.org/blog/2017/11/new-restatement-section-locator-tool-in-the-american-law-institute-library/>

Thank You to All The 2017 CLE Presenters

Special thanks to everyone who volunteered their time to present a CLE at the Law Library in 2017. We really appreciate it!



CLE Offerings 2018

We have tentative plans to offer a variety of CLEs in 2018. If you are willing to present, please contact [Laura Dixon-Caldwell](#). Any topic is open, but we are looking for speakers on the following subjects:

- Case/Client Management
- Criminal Law
- Elder Law
- Evidence Rules
- Insurance Law
- Immigration
- Juvenile Court Practice
- Ethics and Substance Abuse
- Liquor Law
- Trust Administration

2018 Law Library Subscriptions

Thanks very much to the many subscribers who have paid for 2018 law library services. The staff and board appreciate your decision to continue as a library user. We will send statements in January as a reminder to people who haven't yet renewed. A timely payment ensures your continued access to legal information resources and services including research support, document delivery, newsletters and practice area updates, borrowing privileges, CLE programs, and more. We won't revoke privileges until March 1, so there is time. Please contact [Vanessa](#) or [Lauren](#) with any questions about your invoice or library services.

Free Library Services for New Bar Admits

Imagine the benefit of getting all of the services of the Hamilton County Law Library at no cost for one year! Lawyers in their first year of practice after passing the bar exam may join the Law Library for free. Just visit our [application page](#) to apply and we'll get you set up. Current subscribers, please tell a new attorney about this offer.



(Continued from page 1)

do other than actually snap a photograph in order to have a copyright in that photograph.

The owner of a copyright has a right, sometimes called a negative right, to exclude others from reproducing the work, distributing the work, or creating a “derivative work.” A violation of those rights can lead to an allegation of infringement which is established upon proof of “1) ownership of the copyright; and 2) copying by the defendant.” *Zomba Enters. v. Panorama Records, Inc.*, 491 F.3d 574, 581 (6th Cir. 2007). Copyright infringement is considered strict liability because the state of mind of the infringer or the infringer’s knowledge that the copied work was copyrighted is immaterial to a finding of infringement.

If the copyright has been registered with the U.S. Copyright Office, the copyright owner can pursue an infringement claim for actual damages or “statutory damages” which does not require proof that the copyright owner was harmed by the infringement. Statutory damages range from \$750 to \$30,000 per violation. Statutory damages for willful infringement can reach as much as \$150,000 per violation. In addition to damages, attorney fees are available to be awarded and are “awarded routinely, in copyright infringement cases.” *Bridgeport Music v. Diamond Time*, 371 F.3d 883, 893 (6th Cir. 2004).

The seemingly innocent copying of a photo found on the web and placed into a commercial website can be expensive. Indeed, such was the case for a small Ohio business that was sued because its contracted web designer copied four photographs off of

the internet that were the copyrighted property of another. The end result after protracted and costly litigation was a finding of joint and several liability by both the small business and the web designer for \$14,280 in statutory damages plus an additional award of more than \$95,000 in attorney fees and court costs. *Corbis Corp. v. Starr*, 2010 U.S. Dist. LEXIS 143768 (N.D. Ohio Sept. 3, 2010).

Liability under the DMCA

For the unwary, copyright infringement liability is not the only risk when using images taken from the web. Under the Digital Millennium Copyright Act (DMCA), a user of an electronic image can be liable for removing or changing “Copyright Management Information,” (“CMI”). CMI is defined by the Copyright statute as: the title and other information identifying the work, including the information set forth on a notice of copyright; the name of, and other identifying information about, the author of a work; the name of, and other identifying information about, the copyright owner of the work, including the information set forth in a notice of copyright; the terms and conditions for use of the work; and identifying numbers or symbols referring to such information or links to such information. 12 U.S.C. 1202.

The DMCA prohibits both falsifying CMI with an intent to hide or induce copyright infringement and removing CMI without permission of the copyright owner. Notably, CMI does not need to appear on the face of a photograph. A line of text next to a web photo with the photographer’s name on it has been held to be CMI. A person found liable under the DMCA can be subject to actual damages including disgorged profits or statutory dam-

ages in a range between \$2,500 and \$25,000 per violation.

In *Agence Fr. Presse v. Morel*, 2014 U.S. Dist. LEXIS 112436 (S.D.N.Y. Aug. 13, 2014), a Court awarded a photographer 1.2 million dollars against a defendant for copying and removing CMI relating to 8 photographs. The CMI consisted of a tagline with the photographer's name that was placed next to the photos. After the verdict and judgment, the parties settled for an undisclosed amount.

Five Ways to Avoid Trouble

1. Never use photos or art on your commercial web page that you or your staff did not create.
2. Before you use photos or art on your commercial web page that were created by another, ask for a license.
3. If you are attempting to use a digital image found on the web, assume, 1) it is copyrighted and 2) check on the image's site to see if there is information about its use or a license. If this information does not exist, do not use the image or art. If there is information about a license or use, then follow the instructions and abide by any attribution requirements. There are sites that publish photos that allow for unlimited use without attribution.
4. Train your staff and marketing department about these risks.
5. Discuss these risks with any third-party web developer and request indemnity from them associated with these risks.

If you have any questions or are unsure about a particular photo or image, make sure to seek the advice of your copyright attorney before posting the photo or image on your

website or social media sites.

For more information, contact [F. Michael Speed, Jr.](#)

Videoconferencing @ at the Library

The Law Library offers videoconferencing via our Polycom system in the Hon. Robert S. Kraft Boardroom. This system is especially useful for various court proceedings and for meetings via videoconference with incarcerated clients. Videoconferencing is available at no additional cost for subscribers and local government officials and at an hourly rate for other users. To schedule a videoconference, confirm first that the participating court or organization has videoconferencing capability and then contact the Law Library here to schedule and to test. Once you've used the service, you'll appreciate the ease and the cost savings associated with videoconferencing. If you have any questions about this service, contact our systems librarian [Julie Koehne](#).

Law Library Board Meeting

The next quarterly meeting of the Hamilton County Law Library Resources Board will be held on Thursday, January 11, 2018 at 12:00 noon in the Robert S. Kraft Board Room. Meetings are open to the public.

Subscriber Benefits

All subscribers have access to the following valuable resources and services:

Circulation privileges to borrow from over 40,000 print volumes for up to six weeks at a time

Access to extensive legal information databases from the Law Library, including Westlaw, IntelliConnect, Overdrive e-books, HeinOnline, and Loislaw treatises

Wireless network throughout the Law Library

Polycom videoconferencing

Five meeting rooms with speaker phones

Professional reference service by our law librarians, available via e-mail, telephone, and in person

Free document delivery by fax or e-mail of print and electronic materials

CLE seminars throughout the year, on legal research and substantive topics

Subscribers' lounge, magazines, daily newspapers, and coffee

Bi-weekly news alerts by practice area

Discounted rates for photocopying

In addition, solos and attorneys whose firm has a subscription have 24 hour remote access to Fastcase.com case law, Aspen/LOISLaw treatises, HeinOnline (for under 50 attorney firms), EBSCOhost, and IntelliConnect Law, Business, Tax, and Accounting

An add-on plan for Lexis access is available for subscribers in solo practice

Database Changes: Wolters Kluwer CCH Intelliconnect

Beginning in January 2018 our content available via Intelliconnect will change a bit.

We've streamlined our plan to focus on the most used content, including the litigation library and tax materials. Other exciting changes are on their way from the vendor as well. If you're a regular Intelliconnect user you may have received an email earlier this year about the switchover to Cheetah, Wolters Kluwers' enhanced legal research platform. This platform will provide an upgraded search interface for greater functionality.

We'll keep you updated with any information we receive about when that may occur in 2018. If you're looking for alternatives to Intelliconnect content, please remember we offer a significant library of secondary source materials in the Loislaw libraries available via Fastcase and a recently expanded catalog of ebooks available via Overdrive. Can't find what you're looking for on Intelliconnect any longer or want input on an alternative source? Please don't hesitate to contact us at reference@cms.hamilton-co.org for assistance.

Thank You!

A big thank you to everyone who attended our first annual Holiday Open House on December 6. We had a great turnout and a fun time celebrating with all of you! Please always feel free to stop in! We may not have quite the same spread on a typical Wednesday, but we always have great access to legal information. And coffee.

Consumer Credit Resources

Law Library subscribers have access to a variety of resources on Consumer Credit. If you have questions, or have a suggestion for a title to add, contact the reference staff at reference@cms.hamilton-co.org or 513.946.5300

Automobile fraud : odometer, salvage, and lemon laundering fraud, title abuses and yo-yo sales
KF1040.Z9 S54 2015

Collection actions : defending consumers and their assets
KF1040.Z9 .S543 2017

Consumer banking and payments law : bank accounts ; remittances ; money orders ; pre-paid cards ; electronic benefit payments ; electronic records and signatures
KF1040.Z9 .S25 2013

Consumer credit regulation : credit cards, payday loans, auto finance, and other non-mortgage credit
KF1040.Z9 C37 2015

Consumer law.
KFO230 .C66 2015

Credit discrimination
KF1040.Z9 C74 2013

Credit repair
HG3756.U54 L46 2013

Fair credit reporting
KF1040.Z9 W83 2013

Fair debt collection
KF1040.Z9 .H63 2014

National Consumer Law Center guide to surviving debt.
Call Number: KF1040.Z9 L66 2013

Ohio consumer law
KFO230 .O35

Online Resources/Remote Access EBSCO

Credit Repair
How to Repair Your Credit Score Now
Solve Your Money Troubles

National Consumer Law Center

Treatises on debtor rights, deception & warranties, consumer litigation and credit & banking
For login information, contact [reference](#).

Overdrive Ebooks

Ohio Consumer Law Manual

*Remote access is available to subscribers who are solos or firm attorneys whose entire firm has a subscription to the Law



Upcoming Events:

January 11: Law Library Board Meeting

Law Library Holidays

The Law Library will be closed on Monday, January 1 in honor of New Year's Day and Monday, January 15 in honor of Martin Luther King Jr. Day.



January 2018 Law Library Newsletter

- Photo Copyright
- Tech Tip: Restatements on HeinOnline
- Subscriber Renewals
- CCH IntelliConnect Database Changes
- Consumer Credit Resources

INSIDE THIS MONTH

ADDRESS CORRECTION REQUESTED

Hamilton County Law Library
Hamilton County Courthouse
1000 Main Street, Room 601
Cincinnati, OH 45202