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21 November 1997

Dear Former Geographic Photographer:

I want to bring those of you who have paid their retainer and joined our group up to date on where we are in dealing with Geographic.

The good news is that we have presented Geographic with a list of our Potential Claims which outline our positions on the issues. (I have attached the three page list of Potential Claims for your consideration.) We have also met with their New York lawyer.

Their positions are:

1 - That they are covered on copyright because they used the work exactly as first published. They believe that even if the Tasini definition of revision is overturned on appeal, they are still OK because they didn't revise. We disagree.

2 - They acknowledged that they might have a problem with clients who had a "no electronic rights" clauses in their contracts and that is why they made agreements with some agencies prior to release of the disc.

As far as we can tell this only affects a few stock agencies in recent times. Geographic did not settle with all that fall into this category prior to release of the discs. We would like to get those agencies that didn't settle to join us as that would make our case stronger.

3 - The Kodak and Geographic ads on the disc doesn't make any difference because our photographs weren't used in the ads. We disagree.

An interesting point on the ad issue is that it can't be settled by a judge because the question is not a matter of law. Therefore, if the case goes to court a jury would have to determine if the use of the ads causes the product to be "used in advertising," and thus become a "further use." It is believed that a jury trial would work to our advantage, not Geographic's.

4 - It only make sense to settle if it can be done for less than it will cost to litigate. Based on the number of images we are already representing we would expect substantially more to settle than it is likely to cost them to litigate. Thus, litigation may be our only option.

My guess is that one of the factors that is going through the minds of everyone on the Geographic side is that our group of photographers can't afford to take litigation all the way through trial. Thus, they think, we will either have to drop our efforts entirely or settle for

a whole lot less than we would like.

5 - They see no practical way to settle with a small group because other claimants would come in and demand the same thing. Thus, any settlement must cover everyone.

A solution would be a royalty based on gross sales of the product. Geographic would make a single quarterly or semi-annual payment to The Authors Registry. The Registry would distribute the funds on a proportional basis to all those with legitimate claims. Geographic's lawyer agreed to consider this concept and get back to us with his clients answer.

Frankly, I am not hopeful because the royalty idea was suggested to Geographic back in May. They didn't even bother to respond to the letter. On the other hand, now that it is their lawyer who is presenting the idea maybe it will receive a more favorable hearing. If they say no to royalties, they leave us with little alternative but to sue.

While we continue to hope for negotiations, we must begin to prepare for litigation. Given the complexity of the issues, the fact that certain photographers and agencies are effected by some issues and not others, and the number of photographers involved, bringing suit is likely to be very costly.

Our lawyer estimates that the costs will be at least \$100,000. Others have estimated the potential cost as high as \$250,000. I have no illusions that the 12 people who originally agreed to start this process will ever be able to come up with anywhere near that kind of money. I suspect most of you will not be willing to commit much, if anything, more than you have already committed.

Therefore, it seems to me that the only possible way to litigate is to bring in new money by adding many more people to our group.

At a personal cost of about \$1500, I have had my assistant go through the magazines from 1986 through 1995 and list photographer credits. We have come up with over 60 stock agencies and 1200 photographers who had pictures published in the magazine during that period. (I have enclosed a list of these names.)

One of the interesting things about the Geographic index, both in the printed version and on the discs, is that if a photographer has only one, or a few, images in a story that photographer is not listed in the index. Only photographers who were major contributors to a story are listed.

My guess is that Geographic doesn't even have an accurate database of all the stock pictures purchased for various stories. The only way to find out who has been published is to go back through all the magazines, check all the credits, and then try to find addresses for as many as possible and contact them.

To give just one example of how sloppy Geographic's procedures may have been, we know that they tried to negotiate with Woodfin Camp for the use of eight pictures by four photographers. This negotiation occurred prior to the release of the discs and Woody turned them down because the price they were offering was too low. When we went through the years 1986 through 1995 we found two more photographers credited to Woodfin Camp that Geographic had not notified Woody about. How many more are in the years prior to 1986?

I have written a letter to the stock agencies asking them to join our group and asking them to contact any of the photographers on the list that they represent or know. I want

the agencies to explain the situation to their photographers and encourage them to join.

Of the 1200, I have addresses for about 300 in my database. We need to find addresses for as many others as possible. I am trying to get associations to compare names with their databases to see if they can give me addresses for any of the other individuals. It is my hope that some of the stock agencies will eventually come on with significant money, but we haven't seen any evidence of that so far.

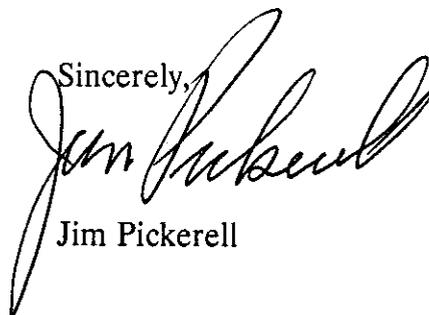
Some other interesting information that has come out of this process. National Geographic has also produced a "clip photo" disc called "National Geographic Photo Gallery" with 3,000 images. They are selling this side by side with the "108 Years of National Geographic." There are 12 photographers on this disc. They are: Randy Olson, Jim Stanfield, Medford Taylor, Joel Sartore, Michael Nichols, Chris Johns, Raymond Gehman, Jim Blair, Bill Allard, George Mobley and Melisa Farlow. It is our understanding that the freelancers were paid \$50 per picture to use their images on this product.

Purchaser of this product are allowed free uses of the images. It is suppose to be for personal use, but that is not made clear in the advertising. On the product the copyright notice says the images can not be used for publication or advertising, but then they give an example of how the images might be used by showing the use of one in a newsletter.

A demo disc with years 1994 through 1996 on it has been released in the United Kingdom and copyrighted to Future Publishing Ltd. 1997. Now your copyright has been transferred to other organizations outside the National Geographic family.

As we keep digging more and more little gems are likely to appear. I hope this information is helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Pickerell". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Jim Pickerell