



April 29, 2011 - Earlier this week, APA issued a statement responding to Getty Images' proposed changes to its standard contributor agreements. The response to our statement was overwhelming and, as expected, our members uniformly agreed that Getty Images' proposed changes were unacceptable.

Through our counsel, Nelson & McCulloch LLP, APA contacted Getty Images to make clear our position and to request that Getty Images stay or extend its self-imposed deadline for forcing contributors to sign these agreements. We explained to Getty Images that APA strongly disapproved of Getty Images' efforts to leverage its market dominance to force contributors to agree to these changes under duress.

We also advised Getty Images that we were concerned that Getty Images may be misleading contributors into believing that their failing or refusing to sign these new agreements will result in the immediate termination of their prior agreements.

We requested that Getty Images extend its self-imposed deadline for signing these new agreements, and make clear to all contributors that their decision not to sign a new agreement will not result in the automatic termination of their prior agreement and their imagery will not be taken off-line. APA's request was intended to allow a proper dialogue regarding the serious concerns that contributors have expressed regarding these changes.

Despite our efforts, Getty Images refused to respond to our inquiry and appears intent on maintaining this baseless, self-imposed deadline. APA, therefore, must recommend that our members decline Getty Images' invitation to agree to these unacceptable changes.

While we recognize that this is an extremely difficult situation for many contributors given Getty Images' dominant position in the stock photography market, APA firmly believes that these changes are unacceptable and that the "solutions" that Getty Images has offered are entirely inadequate and fail to resolve even the most basic concerns.

In fact, the various "solutions" offered by Getty Images in the contributors' forum demonstrate that the fundamental problem with Getty Images' proposed changes are that it *presumes* that all images should be licensed under the RF model and makes the photographer *justify* why particular images warrant special treatment.

APA fundamentally rejects this view of stock photography licensing.

As the creator and owner of the intellectual property, the *photographer* has the inherent right to determine how an image is to be licensed, including whether an image should be maintained as an RM or RF image. Getty Images' effort to leverage its position in the industry to undermine that fundamental right and force its contributors to relinquish control over the manner in which their creative works are licensed is completely improper.



Perhaps more importantly, APA also is seriously concerned about the manner in which Getty Images has attempted to force these radical changes on its contributors. Adopting baseless, self-imposed deadlines and threatening to terminate contributors who do not accept changes to their existing contracts is not acceptable. As a community, we cannot continue to ignore Getty Images' efforts to intimidate and strong-arm contributors, and we must not allow Getty Images to force contributors into signing these new contracts under duress.

While each of our members ultimately must decide for itself whether to accept the new contracts being imposed by Getty Images, APA recommends that, as a community, we resist and reject the direction in which Getty Images is trying to take this industry. Given Getty Images' overwhelming stature in the licensing industry, it is clear that we can be heard only if we stand together and stand up for what we believe to be right and just.

While we cannot be certain as to how Getty Images will respond, we must make clear to Getty Images that its contributors do not agree with Getty Images' vision of the future of this industry, and we will not tolerate its efforts to coerce and intimidate its contributors. If we send a clear message, we are hopeful that Getty Images will relent and engage in a more meaningful dialogue regarding this crucial issue.

As for those contributors who already have signed the contracts or decide to sign the contracts before tomorrow's absurd deadline, we recognize the tremendous pressure you feel to maintain a relationship with Getty Images. APA will make every effort to address this concern with Getty Images and advocate for a solution on your behalf.

Again, we thank our members for their support and want to assure you that APA intends to stand up for the rights and interests of our members and all professional photographers. If we stand together, we are confident that our voice will be heard.

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Please contact attorneys with comments and concerns.

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