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February 12, 2002



Ms. Nancy Wolff, Esquire
 Wolff & Godin, LLP
 118 West 79th Street
 New York, New York 10024

Dear Ms. Wolff:

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I am responding on behalf of the Register of Copyrights, Marybeth Peters, to your January 29, 2002 letter to her. Your letter asks about registrations already on record for a large number of stock photo catalogs submitted by various members of the Picture Agency Council of America [PACA]. These registrations were submitted following the instructions which PACA provided to its members concerning copyright in general and registrations requirements for photo catalogs in particular. PACA members are interested in securing for their published stock photo catalogs single copyright registrations each of which extends to the compilation of the photos, any new textual authorship appearing in the particular catalog, and the individual photographs authored by independent photographers.

Washington
 D.C.
 20559-6000

The registrations on record for the stock photo catalogs submitted by PACA members generally follow this pattern of information:

1. The for-hire author of the "compilation of photographs" or "compilation of photographs plus new text" [depending on the contents of the particular catalog] is listed in space 2a of the application form VA [Form VA appropriate for works of the visual arts].
2. Space 2b of the form VA lists three individual photographers followed by the phrase "and x {number} others" and the authorship for such individual authors is listed as "photographs."
3. The claimant, or owner of copyright, is usually listed at space 4 of the form VA as the for-hire author of the compilation authorship.
4. A transfer statement, such as "by contract" is also listed at space 4, transfer line.

The above information is acceptable when the accompanying deposit copies are catalogs consisting of photographs and, in some instances, additional textual authorship. The examiner interprets such information to indicate that the claim, or authorship, to which the registration extends consists of the compilation [selection, coordination or arrangement] of photographs and, perhaps, new copyrightable text authorship. Where individuals are listed at space 2a as additional authors, the Office considers the claim to extend also to the photographs themselves because, assuming that the claimant [owner of

copyright] listed at space 4 is the author of the compilation [usually the stock photo agency], an acceptable transfer statement is also provided in space 4 of the form VA. Thus, the Office interprets the claim to extend to the individual photographic authorship for which the names indicated as space 2b of the form VA are the responsible authors.

In addition to regulatory provisions [37 C.F.R. 201 - 260] concerning the administration of Title 17, the general guide for the examination of claims to copyright is the Office's **Compendium of Copyright Office Practices, Compendium II** [1984]. **Compendium II**, sec. 615.07(b)(3) states that the registration application submitted for a work created by a large number of authors is considered acceptable "if it names at least three of those authors followed by a statement such as 'and (number) others.' " I point out that **Compendium II**, 615.07(b)(3) does further state that the Office prefers the names of all authors by use of continuation sheets. However, the Office has consistently interpreted this preference as just that— a preference but not a requirement and the Examining Division has applied this section of the **Compendium** in its consistent acceptance of fewer than all authors' names in the registration of all categories of works.

I also point out an analogous registration practice in the area of serial works. **Circular 62, Serials**, instructs the registration applicant that "When a serial issue includes independently authored contributions in which all rights have been transferred in writing to the claimant of the entire serial issue, it is not necessary to include the names of the contributors at space 2. Whether those contributors are listed or not, the copyright claim in the serial issue as a whole would extend to those contributions." **Circular 62**, at 4 (2000). This instruction to applicants is an example of the **Compendium's** general principle regarding works having large numbers of contributing authors.

Finally, as you requested in your January 29 letter, I have read the copy of the article on completing an application for registration of a stock photo catalog [PACA News, 1995] which you wrote following a meeting with the Register, other Examining Division managers and myself. The article is an accurate summary of the information which the Copyright Office provided to you in that meeting and also accurately summarizes the registration procedures which the Office has long had in place concerning the registration of collective works such as stock photo catalogs which contain compilation authorship, perhaps new textual or other authorship for which the compilation author is responsible and multiple, separately identifiable, independent works of authorship of individual photographs in which the copyright has been transferred to the party listed as claimant.

Sincerely,



Nanette Petruzzelli
Chief, Examining Division

cc: Marybeth Peters
Register of Copyrights