

FRANCE

CN 07

Service des Postes
AVIS DE RÉCEPTION

PRIORITAIRE / PAR AVION
AVIS DE PAIEMENT

Timbre du bureau renvoyant l'avis
Stamp of the Post Office
returning the advice

LA POSTE

Destinataire de l'envoi (nom, prénom, adresse):
Hecker Factor

PO Box 270033
Port Collins Co. 80527-0033

Pays: **United States**

courrier colissimo livre Montant Valeur déclarée

mandat n°: montant:

REGISTERED MAIL DELIVERY

RK 00 128 368 8 FR

Bureau de dépôt Date de dépôt

À renvoyer à l'expéditeur (nom, prénom, adresse): / To be returned to sender:

Cabinet Bouchara & Avocats
17 rue du Colisée

75008 Paris

FRANCE

À compléter à destination / To be completed at destination:

L'envoi mentionné ci-dessus a été dûment: / This item has been duly:

Remis / Delivered Payé / Paid

Date et signature / Day of delivery and signature *

* Cet avis pourra être signé par le destinataire ou, si les règlements du pays de destination le prévoient, par une autre personne autorisée ou par l'agent du bureau de destination.
 This item has to be signed by the addressee, (if it's authorized by the regulation of country of destination) by someone else authorized, or by the postal worker at destination.



Zone réservée au traitement Poste

CB & A

CABINET BOUCHARA - AVOCATS
 Tél : 01 42 25 42 30 - Fax : 01 42 25 42 31
 info@cabinetbouchara.com
 17 rue du Colisée

PRIORITAIRE
PRIORITY

Document

PARIS LA BOETIE
 PDC2 PARIS NORD

19-12-16
 970 I1 020426
 20A3 752910

€ R.F.
 LA POSTE

007,60
 HU 531415

LA POSTE

FRANCE

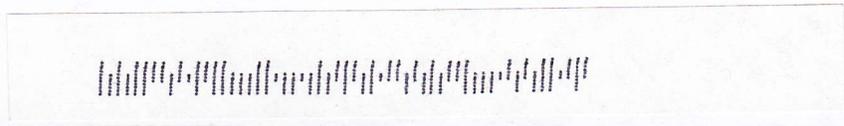
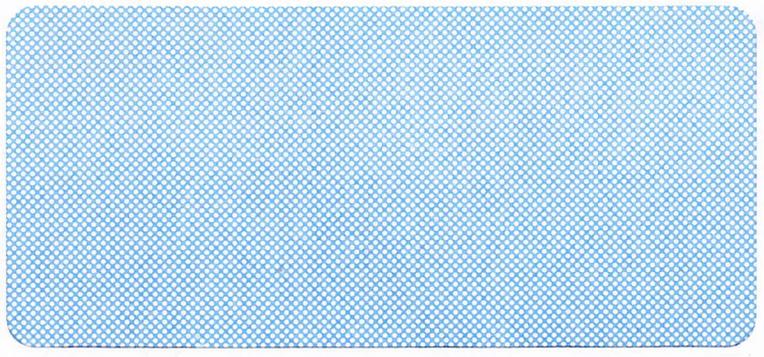
Niveau de garantie: R1 R2

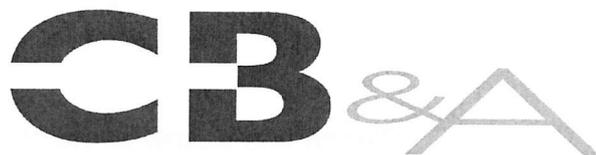
RK 00 128 368 8 FR

RECOMMANDÉ / REGISTERED

REMISE CONTRE SIGNATURE
 SIGNATURE REQUIRED

Signature





**HACKER FACTOR
PO BOX 270033
Port Collins, CO
80527-0033
UNITED STATES**

To : Dr. Neal Krawetz

Paris, December 19th, 2016

By Registered Letter : RK 00 128 368 8 FR

Cease and desist letter

Subject : GETTY IMAGES / HACKER FACTOR

Sir,

I am the legal adviser of the company GETTY IMAGES.

The company GETTY IMAGES is the biggest global database. Its main activity is the supply, development and worldwide distribution of online images, videos and music under which many communication professionals made use.

Indeed, it enjoys an established reputation both domestically and internationally.

However, my client found many comments which seriously jeopardize its practice on your web site www.hackerfactor.com, and more precisely at the following address :

<http://www.hackerfactor.com/blog/index.php?/archives/625-Dear-Getty-Images-Legal-Department.html>

Indeed, the combination of the words « GETTY IMAGES » and « extortion » on the search engine Google bring us directly to your web site.

Furthermore, the regularity of the methods and of the proceedings used by our client had also been questioned, it have been accused to use "**an aggressive anti-copyright infringement campaign**". The entire procedure is also qualified as an "**extortion racket**", "**a wide-spread extortion racket**" and my client is compared to "**sicks minds**" or "**bullies**".

Please find bellow some of the litigious statements:

Dear Getty Images Legal Department

Tuesday, 15 July 2014

“For the last few years, Getty Images has operated an aggressive anti-copyright infringement campaign. In 2011, they purchased PicScout to search the Internet for potential unlicensed uses of their pictures. Then they began sending out very scary-sounding takedown notices. These letters include a “cease and desist” paragraph as well as a bill for the unauthorized use.”

“As far as I can tell, this is an extortion racket. (I'm surprised that there hasn't been a class-action lawsuit against Getty Images yet.) The basic premise is that they send out a threatening letter with a price tag. Some people will fear the strongly-worded letter and simply pay the amount. If you ignore it, then they send more letters with greater dollar amounts. If you call them up, the forums say that you can usually negotiate a lower amount. However, sometimes you may not actually owe anything at all.”

Reply To Getty

“Personally, I'm offended that Getty Images made no attempt to look at the context in which the picture is used.”

Chilling Effect

“While this could be a wide-spread extortion racket, it could also be Getty's way of testing the waters before going after some blog entries where I openly and explicitly criticize them for releasing digitally altered photos.

My primary concern is the chilling effect this could have. If I pay the extortion, then it opens me for more claims from Getty; I have previously criticized them for providing digitally altered photos and performed analysis to prove it. It also opens the way for similar claims from the Associated Press, Reuters, and every other media outlet that I have openly criticized. All of my blog entries that explicitly expose digital misrepresentation, report on media manipulation, and even those that disclose methods for evaluating content will be at risk.

In effect, bowing to this one threatening letter would force me to close my blog since I would no longer be allowed to freely write -- report, comment, disclose research, and educate others -- on topics related to media manipulation and digital photo analysis. I consider Getty's attempt to censor my blog's content to be an unacceptable attack on my freedom of speech.”

In addition, not only your article, but also the comments attached, incite others to violate GETTY IMAGES rights. According to the judgment given by the First

Civil Division of the French Supreme Court on the 12th of July 2012, this is particularly intolerable and reprehensible.

Please find bellow some of the litigious statements:

#2 legal trolls on 2014-08-25 03:30 (Reply)

"Getty Images Extortion Letter - Copyright Trolls

If you are reading this, you are just one of the thousands (if not millions) of individuals or owners of small businesses who have been receiving extortion letter for using an image off internet which a company called Getty Images claims is theirs. They are misusing (and misinterpreting) the copyright law to make large amounts of money (in millions of Dollars), by employing greedy attorneys and legally abusive collection tactics i.e. letters, phone calls, etc. A little search over internet will reveal thousands of other links which are complaining about such extortion practices of companies like Getty Images. It is surprising that neither the Government, nor Federal Trade Commission (FTC) has taken serious note of it to stop it. There is a pending legislation in the Congress against such copyright trolls and you are highly encouraged to speak to your local Congressman to pass it as soon as possible.

*Getty Images is an American Company (part of a Carlyl Group based in Seattle, Washington) operated by Mark Getty and Jonathan Kleinand. It owns hundreds of websites and operates with different names online i.e. Allsport, Word View, Liaison Agency, Newsmakers, Online USA, Hulton Press Library, Picture Post, Hulton Deutsch, Hulton Getty, Keystone Collection, EyeWire, Energy Film Library, Archive Photos of New York, Image Bank, Hulton Archive, Archive Photos, Pictorial Parade, Frederick Lewis Stock Photos, image.net, MediaVast, WireImage, FilmMagic, Contour Photos, Master Delegates, Isifa Image Service, Laura Ronchi, Jupitermedia, Jupiterimages, stock.xchng, StockXpert, Redferns Music Picture Library, PhotoDisc, Tony Stone Images, Hellman & Friedman (H&F), Flickr or iStockphoto. They deliberately populate the internet with their images, enticing people to get them off their websites for FREE by using keywords i.e. Royalty Free Images, Free photos, License free photos, etc. **And then they use a software tool to spider all over internet, searching for their images, taking screenshots and sending them over to their attorneys who in turn combine all of that as "EVIDENCE" to scare and hound naive individuals and small business owners.***

The best rule of thumb is to IGNORE such a non-sense. If you will speak to an attorney, that's how they make money and they will want you to take it seriously. No court of law will punish you for doing an innocent mistake and removing/replacing the image immediately. If you are really that much interested in giving Getty Images some hard time via "out-of-court" settlement which they are desperately seeking (since they live off such activities), here are some of the questions that you'd want to ask Getty Images or their attorneys. In response they will either deny your request for further information (which is a clear proof they can't take you to the court) or will offer you a more negotiated

settlement. In either case, you can simply issue a "CEASE AND DESIST" request from contacting you any further. **If they don't stop hounding you, then you can start collecting all of the relevant evidence of their illegal practices and take them to the local civil court** (using the legal aid help from local bars). Irrespective of what other attorneys tell you or whatever you hear from internet forums, **IGNORING** is the best, easiest and the most effective rule in addition to talking to your local Congressman about it. So, here are the questions you need to ask Getty Images whenever you decide to respond (provided you really have to get it out of your system);"

"If they don't stop hounding you (which they NEVER ever will), here's what you need to write to them and post it via certified mail;

To Whom It May Concern,

According to Title 17, §501, of the United States Copyright Office, concerning the prosecution of alleged damages from copyright infringement in section (b) defined below, I (we) reject your claim for damages.

§ 501. Infringement of copyright
(b) The legal or beneficial owner of an exclusive right under a copyright is entitled, subject to the requirements of section 411, to institute an action for any infringement of that particular right committed while he or she is the owner of it. The court may require such owner to serve written notice of the action with a copy of the complaint upon any person shown, by the records of the Copyright Office or otherwise, to have or claim an interest in the copyright, and shall require that such notice be served upon any person whose interest is likely to be affected by a decision in the case. The court may require the joinder, and shall permit the intervention, of any person having or claiming an interest in the copyright.

Getty Images has, to date, failed to produce an official notarized copy of the alleged Copyright Certificate issued by the United States Copyright Office, Washington D.C. for the image(s) appearing in your black and white photocopy which you have produced as so-called "evidence" of copyright ownership. A search of the United States Copyright Department Public Database shows no record that ether Getty Images or its agent(s), representative(s) or client(s) hold a valid Copyright for said photocopied image(s). Therefore, in accordance with Title 17, §501(b), you have no legal basis to file suit or seek legitimate damages for copyright infringement.

You are hereby instructed to CEASE AND DESIST ALL HARASSMENT by your agent(s) and/or your representatives via written correspondence, E-mail, and/or attempted telephone contact. Should you continue to pursue any further attempts at extortion for payment of funds by misrepresenting yourself as a licensed attorney, or by using the term "copyright" when in fact, you nor your agent(s) hold any valid copyright certificate issued by the United States Copyright Office, we shall refer this matter to the King County Prosecuting Attorney's Office directing a formal Complaint to the attention of District Attorney Dan Satterberg. Should you continue to misrepresent that

you have filed a Complaint in Seattle Superior Court by using terms such as, but not limited to, "Getty Images v. John Doe" or refer to your extortion attempt using the term "Case No.:" containing a fictional Court Docket number, we will file a formal Complaint with the Office of Disciplinary Counsel of the Washington State Bar Association. Should you continue to attempt to contact me (us) for the express purpose of fictitious debt collection, I (we) will immediately file a Complaint with the FTC for violations of the **Fair Debt Collection Act.**

Govern yourself accordingly,

Date:

*You will be surprised to know that there are many lawyers and a large number of legal assistants who are on the payroll of Getty Images, actively participating in the comments sections of Internet Forums or Discussion groups on the same topic. Unfortunately, there are those black sheep amongst the community of the attorneys who have started online help programs for such victims to make money off of **these extortion letter** by coming off as if helping the victims. Instead of helping them for free, they are charging them another \$200 to \$500 for merely writing a letter to the Getty Images. This is a clear war between the power of money Vs. the power of people. Let's show them who is the winner!*

To avoid using any such copyright trolls' websites, here are sources for **FREE** images. Pls. check each image's license for a special word like "CC0" or Creative Commons 0 which pretty much means no rights reserved. On Google Images search , set **ADVANCED SEARCH** for **FREE FOR COMMERCIAL USE**. Other sites of free images include pixabay.com, freepixels.com (be careful of the sponsored images on top of the search results from shutterstock), imageafter.com (do not remove their copyright notice in the image which is too tiny for anyone to notice) and imagebase.net.

If you need any further (and FREE) assistance, please contact your Congressman, local legal aid or chamber of commerce representatives for further assistance. Unless you will register your complaint with a Government-authorized representative (as mentioned above), the copyright trolls such as Getty Images will continue to not only hound you but many thousands of others and living off their abuse of the copyright law.

And lastly, please don't let these trolls stop you from doing what you love doing i.e. innovating, creating and succeeding. Even though there are sick minds i.e. Getty Images, there is more good in this world than Evil. And always remember, the strength of evil lies into scaring you from a hoax.

Salam! (peace) »

#2.1.1 Dr. Neal Krawetz ([Homepage](#)) on 2014-10-01 13:07 ([Reply](#))

“Finally: I suggest not being scared of Getty. They are bullies who threaten with litigation. This is the last-ditch effort of a dying company that is trying to generate revenue any way possible. If you push back hard, then they will likely cave. Remember: you're not communicating with their attorneys -- you're communicating with some lowly intern or paralegal.”

#2.2.1 Dr. Neal Krawetz ([Homepage](#)) on 2014-12-15 16:35 ([Reply](#))

“Hi

Kat,

Are you in the United States? If not, then remember: Getty is a US company and is not obeying US laws -- and Getty is certainly not obeying European laws. They are failing to perform due diligence, failing to show that they are the copyright owner, failing to show that you did not receive the pictures legally, and **using these letters as extortion**. I suspect that a consultation from your local attorney will cost much less than the \$2000 that Getty is demanding.”

#4.1.1 Damien on 2015-02-28 17:08 ([Reply](#))

“I'll plan on doing that. My inquiry pertains to one of their photographers (with whom I was friend) using his position with Getty to cajole money from me that he used to fund a heroine addiction. So it'll be interesting to see how they treat people on the other end of the stick.”

#5 Eugene on 2015-07-17 21:08 ([Reply](#))

“Dr.
good

Neal
day,

Krawetz,
Sir.

Your blog is a true hope for people like me, **who received an "extortion" letter from Getty Compliance Department for the image that was found through google free images search**. Image had no watermarks or any other identifying information related to the copyrights compliance. To make story short we are a military family, and my wife is unemployed, who dreams to open her own business one day. We have been moving three times in the past year due to my schools and career. Finally, getting settled in Texas. Wife started to build her future business web site. She did an enormous work to research, and collect information and related images. After creating few pages on weebly.com and registering an URL, she turned it on to find errors and make improvements. Her contract with weebly does not include any advertising and search capabilities. Even though her site advertises the future desirable business name, email, fake physical location, and a google free phone - it looked great (especially knowing the fact she did it all alone!) Few weeks later she received first letter from Getty License Compliance Department demanding a payment of nearly \$600. The image was some what modified from the

original, she made it square and added a frame. She wrote a response letter with an apology, explanation regarding a nonexistent business, immediately removed the image, explained how she obtained it, and offered \$12 - as a Fair Market Value as a compensation which was rejected by Getty. **Getty has lowered their demand to near \$400, which is still outrageously expansive for a test page and a dream work.** I personally think someone in Getty Corporation uploads few Right Managed images for some period, tracks quantity of downloads, and waits to "catch" the violators... **Now, she is overstressed, stopped all the work, deleted whole web-site. I do not recognize her, like some one is sucking life out of her, I am trying to help, but there should be some justice. Getty INC. is destroying entrepreneurship with such practices.** Sir, would you have an advice for us in this situation? Thank you in advance. »

#6 Sausan on 2015-11-19 05:57 (Reply)

"Interesting. These folks photo-shopped a portion of our Web site & then added one.if.their claimed copyright protected image...where their image is is where our official company logo was. **How desperate r they?** »

#7 Wendy on 2016-01-08 08:24 (Reply)

"Hi
My company used photo on the company website, I was unaware at the time it was copyrighted and it had no watermark not copyright name on. I got a letter off Getty asking for £780 I offered £500 as this is what I worked it out to be at a premium rate. They accepted on a Friday after office hours and said if I paid with credit card (provided a link) within 24hrs they would close the case. I explained that I had left the office and did not access my emails until Monday and found it unfair them giving me 24hrs over the weekend to pay. I asked them for an invoice as I needed to submit to accounts of my company. They wrote back stating the demand letter was a legal document and they legally cannot issue an invoice. I'm not refusing to pay but I certainly have to justify the money going out. Can they refuse to issue an invoice? I have asked for proof of them owning the copyright and again they told me they are not obliged to give such information. **With all the scams out there, how do I know if this company is the rightful owner? I believe they are acting unreasonable.** They have now told me they have escalated the matter. What I am afraid of is that if this goes to court I will be sued for a lot more. As I am not refusing to pay but asking for an invoice and proof they are justified to demand such money will the courts in the UK favour Getty? I'm so worried about this I've become ill over it."

#11 John Stevens on 2016-08-02 19:11 (Reply)

*"There ya have it...what I did find is most sources that sell images are owned by Getty. **This is extortion with a massive twist of collusion.**"*

Those acts of gross disparagement seriously damage GETTY IMAGES' image.

This article discredits the services offered by my client. Moreover, it calls into question its seriousness and honesty by accusing it, in a totally unfunded manner, to be the author of dubious proceedings.

According to a judgment given by the Commercial Division of the French Supreme Court on the 15th of December 2009, disparagement is to discredit someone **by spreading criticisms and malicious information about it or its business methods.**

Moreover, on the 5th of June 2002, the Paris District Court ruled that **interactions between web users on discussion forums which comments obviously contain fraud imputations and questionable practices exceed the limits of the liberty of expression. Indeed, it reaches denigration which impair the honor and do not respect the dignity to whom it is directed.**

Thus, as the registrant of the web site, you are responsible for the information disclosed on it, notably regarding their reliability, veracity or completeness.

Under the judgment given by the First Civil Division of the French Supreme Court on the 5th of July 2006, you shall observed the most elementary prudence concerning the content of the comments disclosed.

Yet, in this case, those statements have undeniably exceeded the right to criticize.

Furthermore, those statements incite to violate GETTY IMAGES' rights, which is particularly intolerable.

Indeed, it is suggested to web users to deny their legal obligations toward my client. They are being discouraged from answering her letters of formal notice and from paying the sums due for the reproduction of an image owned by my client without its approval.

Besides, in your article you also discuss the strategies and tactics allowing the violation of my client's rights with impunity.

Please find bellow some of the litigious statements:

Dear Getty Images Legal Department

Tuesday, 15 July 2014

“Many people have reported that, if you just ignore it, then it goes away. However, Getty Images has sued a few people who ignored the letters. If you ignore it, then you place yourself at risk.”

Furthemore, in the comments attached to the article, it is also discussed the strategies and tactics allowing the violation of my client’s rights with impunity.

Please find bellow some of the litigious statements:

#2 legaltrols on 2014-08-25 03:30 (Reply)

The best rule of thumb is to IGNORE such a non-sense. If you will speak to an attorney, that's how they make money and they will want you to take it seriously. No court of law will punish you for doing an innocent mistake and removing/replacing the image immediately. If you are really that much interested in giving Getty Images some hard time via "out-of-court" settlement which they are desperately seeking (since they live off such activities), here are some of the questions that you'd want to ask Getty Images or their attorneys. In response they will either deny your request for further information (which is a clear proof they can't take you to the court) or will offer you a more negotiated settlement. In either case, you can simply issue a "CEASE AND DESIST" request from contacting you any further. If they don't stop hounding you, then you can start collecting all of the relevant evidence of their illegal practices and take them to the local civil court (using the legal aid help from local bars). Irrespective of what other attorneys tell you or whatever you hear from internet forums, IGNORING is the best, easiest and the most effective rule in addition to talking to your local Congressman about it. So, here are the questions you need to ask Getty Images whenever you decide to respond (provided you really have to get it out of your system);

#2.1.1 Dr. Neal Krawetz (Homepage) on 2014-10-01 13:07 (Reply)

“Hello *Sheila,*

I am not an attorney; do not interpret my suggestions as legal advice.

1. Consult with an attorney.
 2. Admit **nothing**.
 3. Review the requirements for copyright fair use.
- <http://www.copyright.gov/fls/fl102.html>”

#3.1 Dr. Neal Krawetz (Homepage) on 2014-12-08 12:44 (Reply)

"Hi

Sri,

I am not an attorney. It sounds like you need an attorney who specializes in copyright.

You should also check your contract with the developer. There should be an indemnification clause. If they provided the picture, then it's their problem.

But do NOT contact Getty directly! At this point, get an attorney and have the attorney contact Getty."

#4.1 Dr. Neal Krawetz (Homepage) on 2015-02-27 10:52 (Reply)

"There is a phone number in the PDF: 1-800-972-4170 for Getty Images License Compliance.

Personally, if I were you, I would record the phone call. (Then again, I'm the kind of guy who records the calls and posts them as MP3s online.)"

#9 tammy on 2016-03-12 08:11 (Reply)

"Thank you for putting this information out there so we can see other stories.

I got one of these letters also. We had shared an image on Facebook that displayed in a feed on our website. We never put it on the website, it was only a shared image on Facebook.

So far I have ignored the letters. They send them every month or so.

I can't see how sharing something on social media could fit into this category. They should be talking to the originator of the image which was the American Cancer Association."

#9.1 Dr. Neal Krawetz (Homepage) on 2016-03-12 08:21 (Reply)

"Hi

tammy,

I wouldn't ignore them. I'd send them a letter.

NOTE: I am not a lawyer and this is not legal advice. You should consult with an attorney.

Based on what you described, it was never used for marketing or promotion. It was posted to Facebook for comment and criticism, which is covered by Copyright's Fair Use clause.

You could also mention that Facebook provides feeds to any web sites that wish to link to the public discussions. Public discussion is also covered by Copyright Fair Use »

Indeed, on the 12th of July 2012, the First Civil Division of the French Supreme Court ruled that the incitement of criminal act is reprehensible.

As a result you shall **withdraw every indication disparaging my client** on your website.

If you do not comply with this letter of formal notice within 8 days from the date of its receipt and, in any case, before the 27th of December, I had been instructed to initiate all appropriate action against you.

We truly hope we will not go that far, and that we will quickly manage to settle this matter.

Pursuant to our professional rules, we are available to discuss this case with your usual adviser.

Yours sincerely,


Vanessa BOUCHARA