

Copyright Policy of TMBK Sports LLC

August 1, 2007

Purpose

All images are copyrighted by someone, even ordinary family photos. It is the intention of this firm to comply with the copyright laws and to protect the ownership rights or copyright holders. At times, the existence of a copyright claim or the identity of the copyright owner is not apparent. The person who possesses the photo is not always the copyright owner. The purpose of this policy is to provide a method for determining who the copyright owner is, and to provide guidance on handling photo requests.

Policy

1. **NOTICE** – Our web site includes a notice that we do not use photos without the permission of the copyright owner. The notice reads as follows: "WE RESPECT COPYRIGHTS!" There are laws that protect copyrights. It is usually illegal to use photographs taken by others without their permission.
2. **GENERAL COPYING POLICY** - Where the photos were taken by our customer, they may be used upon request. Where there is a reasonable indication that someone other than our customer is the copyright owner, the photo will not be used.
3. **INSPECTION** - Requests by customers shall be inspected to determine if: 1) The materials have a copyright claim or other indication that the photos were taken by a professional photographer or someone other than our customer, or 2) such a notice was removed or obscured. If there is no such notice or other indication that the photo was taken by someone else, it may be used.
4. **AUTHORIZATION-EXCEPTION** - If a request is denied, an explanation will be given to the customer with the reasons for not processing the order.

If the order is to be processed, the basis for the decision to proceed shall be documented in accordance with this policy and industry Copyright Guidelines.

Use of photos can be authorized under the following circumstances if there are no other factors suggesting the law would be violated:

- The customer has a written consent to copying or other manipulation from the photographer or studio named in a copyright notice or other marking.
- A prior agreement with the photographer gave a blanket consent for this customer to obtain copies in the future without further documentation.
- When there are no markings identifying the photograph as a professional photograph, but we still have a question about whether it was made by a professional, we will use upon receiving a written statement that the customer understands that copies must be authorized by the photographer and that he or she is the photographer, or has received such authorization.
- Copying or restoring a photograph is permitted for the personal use of a customer in cases where the age of the photograph or the circumstances are such that the photographer or studio is unlikely to object to copying, and all reasonable efforts have been made to obtain permission from the photographer.
- A claim of "fair use" may permit the copying. Document the claim in writing with a description of a legitimate fair use. The copy or manipulation must be appropriate and limited to the fair use purpose which is claimed.

5. EXPLANATION TO CUSTOMER

The customer is likely to be upset over our refusal to use the photos they provided. We will provide them with sufficient information so they understand the reasons for the decision, and give them a method to solve the problem. The following approaches will be considered:

- Show them the reason we believe the photo was taken by someone else.
- Ask whether they have permission to make the copies. Their word alone is not sufficient if the photo is marked or appears to have been altered.
- Offer to call the photographer to request permission. The name, address, telephone number, or other identification of the photographer may appear on the photo. If you have a name, but no address or phone number, the Professional Photographers of America has a member locator service.
- Ask questions concerning where the photo came from, who took it, and what it will be used for. The answers to these questions may indicate copying is permitted. Refer the request to a Manager or Assistant Manager. Review the Authorization-Exceptions section for situations where the copy can be made.
- Offer them the consent form to request the photographer to give permission to copy or to transfer ownership of the copyright.

6. APPEARANCE OF PROFESSIONAL PHOTOS

It is often difficult to determine whether a photo was taken by a professional. When a copy is requested, the overall appearance must be considered. The following are some factors to consider in concluding whether a photo is a professional photo:

- The presence of a copyright notice, i.e., the symbol "©," the word "copyright" or "copr." and the name and year.
- The name of a photographer or studio.
- Use of paper with a professional watermark or notice.
- Unusual marks or alterations to a photo to cover or eliminate the above markings.
- Formal poses characteristic of a sitting.
- Even distribution or lighting and the absence of natural shadows.
- Use of backgrounds typical of professional photos.
- The photo was published, such as in a textbook or magazine.

7. RECORD KEEPING

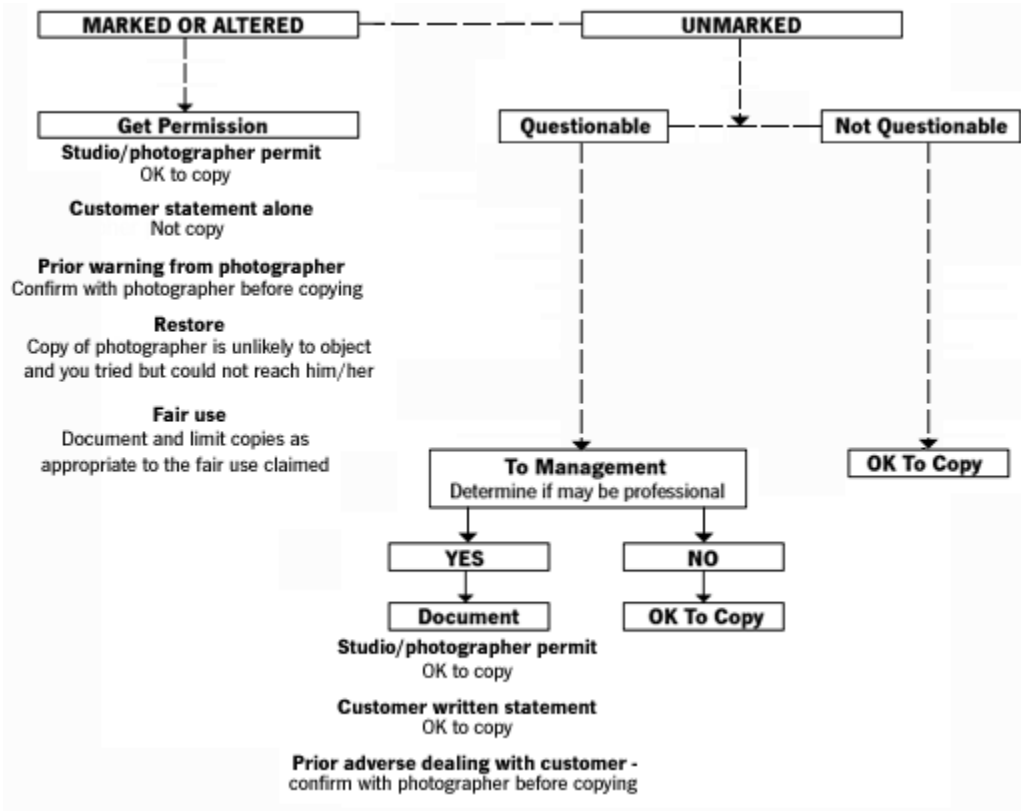
The records generated in following this policy shall be retained in a monthly file, in alphabetical order, by our customer's name. After the current month ends, the records shall be put in long-term storage and marked for destruction three years after the month in which they were generated.

8. DECISION-MAKING FLOWCHART

The accompanying flowchart demonstrates the decision-making process for compliance with this policy. In all cases, common sense and good judgment are required. If there is not a clear lawful basis to make the copy, the safer course is to decline to order.

Copyright Policy Decision-Making Flowchart for Photo Processors

1. Establish policies and practices.
2. Educate and inform responsible employees.
3. Notify customers that permission is required.
4. Examine photos
5. Review any exceptional circumstances.



This TMBK Policy is adapted from the sample provided by the Eastman Kodak Company at <http://www.kodak.com/cluster/global/en/consumer/doingMore/copyright.shtml>