

P. Diddy on Instagram – No Free Pass on Copyright Law

June 7, 2017 – The TMCA

by Fara Sunderji



As Biggie said “Mo Money Mo Problems” – Last month, a New York-based photojournalist filed suit again Diddy’s record label, Bad Boy Records, for posting a photo of none other than P. Diddy himself on his own Instagram account. Social media is supposed to about sharing (and sometimes over-sharing), but that doesn’t mean the laws of copyright don’t apply. The photograph in question was taken by photographer Matthew McDermott in August of 2016 at Diddy’s new charter school in

Harlem. According to the complaint, McDermott licensed the photograph to the New York Post, but the photograph also appeared on Diddy’s Instagram feed without permission or any attribution. While the photograph is no longer available on Diddy’s Instagram, the complaint claims it received over 42,000 likes. McDermott is suing for unspecified monetary damages. While cases like this tend to settle without any findings of liability or damages, we will let you know if Bad Boy Records files an answer or any affirmative defenses.

Unfortunately, it has become commonplace for brands, celebrities and casual Instagram users to “borrow” photographs without permission and post them on their Instagram feeds. Back in 2014, Kim Kardashian caught a lot of flak for lifting a photograph from Google and posting it on her Instagram feed after her vacation to Thailand. While she wasn’t sued, she defended herself in the court of public opinion by stating she that never claimed to have taken the photograph in the first place. In 2016, a Brussels-based photographer called out Harry Styles of One Direction for posting one of his photographs

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to Styles' Instagram feed, but Styles' fans acting as the jury, found the photographer guilty and harassed him, thereby missing his point entirely.

Copyright is alive and well in spite of social media. Brands and advertisers should take care to respect the rights of photographers (from professionals to average people) by obtaining proper permissions to use photographs on their social media feeds. Such uses are more often than not for commercial purposes, and therefore attribution alone is not enough. If your brand sees a photo online that it wants to include as part of its feed (whether it features the brand's products or is just a pretty picture), send a direct message asking the photographer for permission. If you get a positive response, great – if you don't there are 700 million monthly active users on Instagram and I'm sure someone will let you re-post their photos.