

Smashing Copyright on Stunning Photographs

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Smashing Magazine recently published an article, in blog format, titled **Really Stunning Pictures and Photos**. The article begins with the presentation of text advertisements from Google AdSense in the main column, and a row of image-based advertisements in the menu column. Further on the article begins as a brief introduction that heralds the effort involved in Photography as a craft and a very brief notice that all photographs are copyright of their respective owners.

The publication then seems to flagrantly and egregiously disregard all respect for copyright by actually displaying copies of photographs hosted on their website that have been scraped off well known photo sharing websites such as **Flickr** and **DeviantArt**. While it's very flattering to have a magazine or well known person or organization use one's photo, perhaps an ego trip sometimes, we as photographers shouldn't let third parties arbitrarily ~~steal~~ or borrow creative work or intellectual property by using it without consent or without proper credit.

Incredulously, Smashing Magazine has the ~~cajones~~ audacity to link to one its popular articles titled "**Copyright Explained**" in which it points out the following:

- Getting explicit permission can save you a lot of trouble
- Copyright infringement is possible even if the credit to the author is given

To most, it would appear that copyright has been respected, where applicable, however, upon closer inspection of the images displayed on this page I found that copyright, at least in some cases, has been broken. Specifically, looking only at the images linked to Flickr in the article, I discovered the following:

- Some images linked to their respective sources on Flickr are licensed there as "**Â© All rights reserved**", such as the very first image titled **water**. This means that without explicit permission from the image author or photographer, any other party **MAY NOT** display the image in public for commercial or non-commercial usage by linking its image tag sources directly to the original image source URL, and most certainly any other party **MAY NOT** copy the image, host that image somewhere else, and then re-display it for commercial or non-commercial usage.

- **Some images** linked to their respective sources on Flickr are licensed there as "**Some rights reserved**", followed by **a link to details** of a specific Creative Commons (CC) license, many of which are "Attribution, Non-Commercial, No Derivative Works". This means that any other party may **MAY USE** the **ORIGINAL** image for **NON-COMMERCIAL** purposes. Making a resized copy of that image and publicly displayed on another website is a violation of this license as it is a derivative work (some artists may not wish their work to be displayed at other sizes or qualities), and violates the CC license again if the original work is displayed on an (unauthorized) commercial website, especially one that also derives revenue from advertisement links.

I wrote to some of the image authors on Flickr and discovered that those authors did not grant permission to SmashingMagazine.com to use their images for any purpose, nor did any of those image authors state that they were even contacted for image usage. It may also be the case that some photographers were contacted and permission may have been requested and approved, but there is no obvious indication of that.

From any reputable commercial publication I would expect the following for proper respect of copyright:

- Image authors would be contacted to request image usage for a commercial website.
- A commercial website would provide a credit in the form of author name and a link to original source (or any other credit or link as requested by image author)
- Image usage would abide by Creative Commons license terms, such that a commercial site would provide attribution, would not make a derivative work if license states such, and would not use the image at all if image is licensed for non-commercial usage only.

Furthermore, even if I am completely wrong in my assumptions here, I believe that a magazine that expounds upon respect of copyright by publishing an article on the topic should set an example for publishers everywhere by clarifying and stating explicitly if and how it obtained permission for the use of so many beautiful and stunning photographs on a commercial website. The magazine most likely did not bear malevolent intent towards the the artists and photographers for the images it displays, but most certainly it derives revenue from every page view and advertisement click and therefore has a further obligation to respect copyright even when that original work is shared on popular sites such as Flickr.

Simply stating that images are copyright of their authors does not grant the right to copy those images and redisplay them elsewhere.

Ultimately, the purpose of my blog entry here is not to incite litigation by any means, but rather to educate the online community towards the formal obligations when desiring to use the intellectual or artistic creations of others, whether it be clip art, photographs, css designs, software, or writings. Its frequently the case that I find my own images being used without my consent in many corners of the Web, which makes me particular sensitive to the topic and increases my awareness.

Initially, I posted a version of this as a comment on their article, but comment moderation is enabled and evidently the comment was not published even though other comments before and afterwards were published.