

VRA IPR Committee Recommendation Letter

Joseph Romano, President
Visual Resources Association
Department of Art
Oberlin College
87 North Main Street
Oberlin, OH 44074

April 24, 1997

Dear President Romano and Members of the Executive Board,

After lengthy deliberation, we have decided to recommend that the Visual Resources Association not endorse the Conference on Fair Use (CONFU) Proposed Guidelines for Distance Learning or the CONFU/CCUMC Proposed Guidelines for Multimedia. The Visual Resources Association's recent statement of non-endorsement of the CONFU Proposed Guidelines for Digital Images was taken into consideration in making our decision. By choosing not to endorse any of the three sets of proposed guidelines, the Visual Resources Association sends a strong message that further discussion among rights holders, content providers and users of copyrighted materials is necessary before the acceptance of any set of guidelines is feasible. It is our firm belief that it would be premature to produce guidelines concerning electronic media at this time. The technology is in a state of rapid evolution, use is experimental, and guidelines will only serve to limit the creative innovation which is essential to the educational process.

This decision is the result of much thought and discussion. Although each set of proposed guidelines covers a specific application of digital information, our constituents stand to be affected by all three. Obviously, the proposals for Guidelines for Digital Images have the broadest application to our day to day practices, yet both the Distance Learning and the Multimedia proposals are relevant to our missions as visual media professionals. A major concern with the proposed Multimedia Guidelines is the strict limitations on numbers of images that may be used. The Distance Learning Guidelines cover only a narrow area of use, avoiding all reference to asynchronous delivery over computer networks. These proposals, as well as those for Digital Images, require users to seek permissions for use of materials which were previously considered to be fair use. One of the factors in our decision not to recommend endorsement is that the overlap of the three sets of guidelines is not clear and could prove to further restrict our use of networked information.

Although Section 107 (the fair use exemption) of the Copyright Act has been called vague and murky, it is in fact a brilliant piece of legal code which allows each case to be evaluated on its own merits. The Visual Resources Association and other groups representing the interests of education, should and must resist all attempts to devise guidelines which rely on "bean counting" methods to restrict fair use. While

the assurance which comes with such guidelines may seem comforting, it serves only to limit our full legal rights and to restrain the progress of the sciences and arts which copyright law was designed to protect and promote. As individuals and as members of university communities, we respect and adhere to copyright law. We also believe in a balanced copyright policy. Fair use is a key component to that balance and must be recognized as such.

The recommendation not to endorse these guidelines does not signify a failure of the CONFU process. Nor do we feel that the past two years have been work in vain. The opposite is true. Although it would have been wonderful to have produced a set of guidelines we felt were workable, we view this as an ongoing process. We also feel strongly that the Visual Resources Association has gained much by being involved in CONFU, including building a political presence, facilitating the education of the rights holder community and raising the awareness of intellectual property issues in our own constituents.

We have both enjoyed having the opportunity to represent the Visual Resources Association at the CONFU proceedings and look forward to remaining involved in intellectual property rights issues in the future.

Sincerely,

Kathe Albrecht, Visual Resources Curator
Art Department
American University
4400 Massachusetts Avenue NW
Washington, DC 20016-8004

Virginia M.G. Hall, Curator
Art History Visual Resources Collection
256 Mergenthaler Hall
Johns Hopkins University
Baltimore, MD 21218