

# Research for the artworks *Property* by Paolo Cirio 2019

<https://paolocirio.net/work/property/>

## What is Getty Images

Getty Images, Inc. is an American stock photo agency, with headquarters in Seattle, Washington, United States. It is a supplier of stock images for business and consumers with an archive of 80 million still images and illustrations and more than 50,000 hours of stock film footage. It targets three markets—creative professionals (advertising and graphic design), the media (print and online publishing), and corporate (in-house design, marketing and communication departments).

Getty has distribution offices around the world and capitalizes on the Internet and CD-ROM collections for distribution. As Getty has acquired other older photo agencies and archives, it has digitized their collections, enabling online distribution. Getty Images now operates a large commercial website which allows clients to search and browse for images, purchase usage rights and download images. Costs of images vary according to the chosen resolution and type of rights associated with each image, with the cost-per-image typically being around US\$500. The company also offers custom photo services for corporate clients.<sup>1</sup>

## Case of Getty Images Vs Google Images

**December, 2012:** Google Drive Blog announced that “5,000 new photos of nature, weather, animals, sports, food, education, technology, music and 8 other categories are now available for your use in Docs, Sheets, and Slides” with no mention to how they were acquired or what type of license they come with.<sup>2</sup>

Getty Hands Google Users Free Commercial Images, Photographers Get \$12.<sup>3</sup>

**January 2013:** Google changed its presentation of imagery by displaying high res large-format content through Google Images, where previously low res thumbnails that clicked-through to source sites were displayed. This format has diverted users away from source sites and siphoned traffic from Getty Images, other media organizations and image creators. Google Images’ current format also promotes “right click” piracy by making hi res imagery easily available, with no requirement for the user to go to the source site to find out how they might legally license or seek permission to use the image in question. Google’s practices involve presenting content in such a way that it deters users from engaging with content creators; this impacts artists’ ability to monetize users’ interest and thereby reduces the level of reinvestment available for the creation of new content. By creating its own captive, image-rich environment and cutting off user traffic to competing websites, Google is able to maintain and reinforce its dominance in search. It does this without making any contribution to the costs of creating the very images upon which it relies to attract and maintain users.

Google’s proposed solution was no solution at all: accept its presentation of images in high-res format, or opt-out of image search. This would mean allowing the harm to continue, or becoming invisible on the Internet, making it even more difficult for users to legitimately source and license images.<sup>4</sup>

**June, 2015:** Getty Images joins as a third party in support of the European Commission’s existing investigation into Google’s anti-competitive business practices.<sup>5</sup>

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<sup>1</sup> Wikipedia. “Getty Images,” [https://en.wikipedia.org/wiki/Getty\\_Images](https://en.wikipedia.org/wiki/Getty_Images) (July 27, 2018).

<sup>2</sup> Google Drive Blog, “5,000 new stock images in Google Drive, thanks to you,” <https://drive.googleblog.com/2012/12/5000-new-stock-images-in-google-drive.html> (December 6, 2012).

<sup>3</sup> PhotoEditor. “Getty Hands Google Users Free Commercial Images, Photographers Get \$12,” <http://aphotoeditor.com/2013/01/16/getty-hands-google-users-free-commercial-images-photographers-get-12> (January 16, 2013).

<sup>4</sup> Getty Images. “Getty Images to file competition law complaint against Google,” <http://press.gettyimages.com/getty-images-files-competition-law-complaint-against-google> (April 26, 2016)

<sup>5</sup> Idem.

**April 27, 2016:** Getty Images files antitrust charges against Google over image scraping

“Getty Images’ complaint focuses specifically on changes made in 2013 to Google Images, the image search functionality of Google, which has not only impacted Getty Images’ image licensing business, but content creators around the world, by creating captivating galleries of high-resolution, copyrighted content.

Because image consumption is immediate, once an image is displayed in high-resolution, large format, there is little impetus to view the image on the original source site. These changes have allowed Google to reinforce its role as the Internet’s dominant search engine, maintaining monopoly over site traffic, engagement data and advertising spend.

This has also promoted piracy, resulting in widespread copyright infringement, turning users into accidental pirates.”<sup>6</sup>

**February 9, 2018:** Getty Images and Google announce a new partnership

Getty Images, a world leader in visual communication, and Google today announced an agreement that includes a multi-year global licensing partnership, enabling Google to use Getty Images’ content within its various products and services.<sup>7</sup>

**February 15, 2018:** Google removes the “View Image” button from their Image Search.

Google Search Liaison, Danny Sullivan, announced it on Twitter  
<https://twitter.com/searchliaison/status/964226180776845312>



Later Sullivan admitted that “these changes came about in part due to our settlement with Getty Images this week” and that “they are designed to strike a balance between serving user needs and publisher concerns, both stakeholders we value.”<sup>8</sup>

## Actions from the Public

### Make Google Image Search Great Again

Web extension that restores the “View Image” button.

<https://github.com/devunt/make-gis-great-again>

<sup>6</sup> ArsTechnica. “Getty Images files antitrust charges against Google over image scraping,” <https://arstechnica.com/tech-policy/2016/04/google-eu-antitrust-getty-images-complaint/> (April 27, 2016).

<sup>7</sup> Getty Images. “Getty Images and Google announce a new partnership,” <http://press.gettyimages.com/getty-images-and-google-announce-a-new-partnership> (February 9, 2018).

<sup>8</sup> ArsTechnica. “Internet rages after Google removes ‘view image’ button, bowing to Getty,” <https://arstechnica.com/gadgets/2018/02/internet-rages-after-google-removes-view-image-button-bowing-to-getty/> (February 16, 2018)

## Highsmith Vs Getty Images

**December 2015:** Highsmith received a threat via License Compliance Services (LCS) on behalf of Alamy, another Getty-affiliated company.

*“We have seen that an image or image(s) represented by Alamy has been used for online use by your company. According to Alamy’s records your company doesn’t have a valid license for use of the image(s)”.*

The image in question was one of her own. It was among thousands of other images she previously donated to the Library of Congress and made available to the public to reproduce and display for free. Highsmith subsequently discovered that Getty and its affiliates were making available more than **18,000** of her other photographs too.

The company demanded \$120 to settle the dispute.<sup>9</sup>

**July 25, 2016:** Highsmith responded with a \$1bn lawsuit.

“Nowhere on its website does Getty identify Ms. Highsmith as the sole author of the Highsmith Photos. Likewise, nowhere on its website does Getty identify Ms. Highsmith as the copyright owner of the work”.<sup>10</sup>

**October 28, 2016:** US District Court Judge Jed S. Rakoff dismissed each of Carol Highsmith’s federal copyright claims.<sup>11</sup>

The terms of the final settlement with Highsmith were not disclosed, but they surrounded only a New York State law regarding deceptive business practices—nothing to do with copyright.<sup>12</sup>

## Morel Vs Getty Images

**2010:** AFP filed the lawsuit against Morel, seeking a declaration that it had not infringed on his copyrights, after Morel accused it of improper use. Morel then filed his own counterclaims.

AFP had initially argued that Twitter’s terms of service permitted the use of the photos. But Nathan found in January that the company’s policies allowed posting and “retweeting” of images but did not grant the right to use them commercially.<sup>13</sup>

**November 2013:** A federal jury on Friday ordered two media companies to pay \$1.2 million to a freelance photojournalist for their unauthorized use of photographs he posted to Twitter.

The jury found that Agence France-Presse and Getty Images willfully violated the Copyright Act when they used photos Daniel Morel took in his native Haiti after the 2010 earthquake that killed more than 250,000 people.

An editor at AFP discovered Morel’s photos through another Twitter user’s account and provided them to Getty. The photos were then widely disseminated to Getty’s clients, including several television networks and the Washington Post.

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<sup>9</sup> TorrentFreak. “Photographer files \$1bn copyright claim against Getty Images,” <https://torrentfreak.com/photographer-files-1bn-copyright-claim-against-getty-images-160728/> (July 28, 2016).

<sup>10</sup> TorrentFreak. “Photographer files \$1bn copyright claim against Getty Images,” <https://torrentfreak.com/photographer-files-1bn-copyright-claim-against-getty-images-160728/> (July 28, 2016).

<sup>11</sup> TorrentFreak. “\$1bn Getty Images public domain photograph dispute is over,” <https://torrentfreak.com/1bn-getty-images-public-domain-photograph-dispute-is-over-161125/> (November 25, 2016).

<sup>12</sup> PetaPixel. “\$1 Billion Getty Images lawsuits ends not with a bang, but a whimper,” <https://petapixel.com/2016/11/22/1-billion-getty-images-lawsuit-ends-not-bang-whimper/> (November 22, 2016).

<sup>13</sup> Reuters. “Photographer wins \$1.2 million from companies that took pictures off Twitter,” <https://www.reuters.com/article/us-media-copyright-twitter/photographer-wins-1-2-million-from-companies-that-took-pictures-off-twitter-idUSBRE9AL16F20131122> (November 22, 2013).

## Other Cases

- ***Zuma Press, Inc. v. Getty Images (US), Inc., No. 1:2016cv06110 - Document 33 (S.D.N.Y. 2017)***

Zuma Press alleges that beginning in April 2016, Getty improperly copied at least 47,048 of their Sports photographs, displayed them on the Getty website, and made them available for licensing and sale. Getty's motion to dismiss plaintiff's first amended complaint is granted in part and denied in part.

- ***Getty Images Inc v. Motamedi, No. 2:2016cv01892 - Document 20 (W.D. Wash. 2016)***

“GETTY IMAGES has sufficiently shown that unless a temporary restraining order is granted that requires Defendant to return GETTY IMAGES’s trade secrets and confidential information and restrains Defendant from unfairly competing with Getty using its trade secrets and confidential information, Defendant will likely continue to engage in conduct violating GETTY IMAGES’s rights. GETTY IMAGES has sufficiently shown that such conduct is likely to cause GETTY IMAGES irreparable injury.”

- ***Nolan v. Getty Images (US), Inc. 2014***

The New York State Division of Human Rights (DHR), in a free, daily local newspaper AM NY displayed a full color image of Avril Nolan. DHR licensed Nolan’s image from Getty, which obtained the image from a photographer named Jena Cumbo. Cumbo had no written model release from Nolan to use or sell her image. The motion to dismiss the case by Getty was denied.

- ***Getty Images (US), Inc. v. Virtual Clinics et al, No. 2:2013cv00626 - Document 53 (W.D. Wash. 2014)***

Getty brought a single claim for copyright infringement against “The Camps” (website design company run by Kendra Ryan and Ronald Camp) in April 2013,<sup>2</sup> alleging that the Camps used pictures of cats and dogs exclusively licensed to Getty in designing websites for veterinarians. the court GRANTS Getty's motion for attorney's fees (Dkt. # 50) and awards attorney's fees in the amount of \$276,680.23.

- ***Getty Images (US), Inc. v. Microsoft Corporation, No. 1:2014cv07114 - Document 68 (S.D.N.Y. 2014)***

“On or about August 22, 2014, Microsoft launched a “beta” or test version of the Bing Image Widget (“Widget”). The Widget enables web developers to link to Microsoft Bing Image Search results and display those results on their webpages. Getty brought suit on September 4 seeking injunctive relief, and statutory and actual damages. On October 3, Microsoft filed this motion to dismiss Getty’s amended complaint (“Amended Complaint”), filed on September 24. The motion to dismiss was denied.”

- ***Art Capital Group, LLC v Getty Images, Inc. 2009***

“This dispute arises out of a proposed sale of the photographic archive of the world-renowned photographer Annie Leibovitz (Leibovitz). Plaintiffs Art Capital Group, LLC (ACG) and Art Capital Group, Inc. (ACGI), Leibovitz's exclusive agent for the sale, allege that defendants Getty Images, Inc. (Getty) and Getty Images (U.S.), Inc. (Getty U.S.) breached a confidentiality agreement relating to the proposed transaction, and then used that information to structure a deal with Leibovitz. ORDERED that the motion (sequence number 002) of defendants Getty Images, Inc. and Getty Images (U.S.), Inc. to dismiss is granted to the extent of dismissing the causes of action for fraud (second cause of action) and tortious interference with prospective business advantage (fourth cause of action), and is otherwise denied.”