HOW MUCH DO YOU THINK A TWITTER PICTURE WILL COST YOU??

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In recent days, a federal jury ordered two media companies to cough up a total of $1,2 million in damages to a freelance photojournalist pursuant to their unauthorised usage of his Twitter photographs. The agencies in question – Agence France-Presse and its American partner, Getty Images. It would therefore appear that persons and entities, big and small are still unaware of the copyright laws applicable to them.

The background to the million dollar lawsuit is as follows – in 2010, Mr Daniel Morel (a Haitian-American) took photographs of the aftermath of the Haiti January 12th earthquake that killed more than 250,000 people. These images were later uploaded to Twitter by Morel and later found by an editor at Agence France-Presse through another Twitter user's (Lisandro Suero) account and thereafter, provided to Getty Images. To make matters worse, the images were further distributed by Getty's clients, inclusive of the Washington Post and various television networks.

The matter, initially heard before the US Manhattan District Court earlier this year was one of the first cases to address how images uploaded to social media forums, may (or may not) be used by third parties for commercial purposes and ultimately the repercussions thereof. Some of the counter-arguments raised by agencies were that it was the fault of Suero for not attributing any credit to Morel or providing any restrictions on the use of and that the agencies believed that as a result, the images were therefore made available for public distribution. Essentially, the agencies were of the opinion that the images were used mistakenly in error.

However, Morel and his legal team emphasised the fact that:

- The agencies knew what they were doing;
- Morel's images were distributed without his permission to several major publication; and
- This infringed upon his rights to copyright.

Despite Morel's win in the District Court where Judge Alison Nathan agreed with his legal team, one question remained. Namely, whether or not Agence France-Presse and Getty Images *wilfully* infringed upon Morel's copyright. The New York federal jury however agreed with the District Court and found that both Agence France-Presse and Getty Images were liable for 16 violations of wilful infringement of Morel's rights under the Digital Millennium Copyright Act, as argued by his attorney Mr Joseph Baio.

This matter therefore illustrates that media houses should be quite cautious when sourcing images, footage, information and the like when publicising for commercial use as the consequences thereof when done incorrectly can be quite grave. It may be prudent for media house to ensure that it has the appropriate warranties and indemnities in place when they acquire images.