

# Exhibit

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Joel B. Rothman

Board Certified in Intellectual Property Law

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October 27, 2020

**VIA EMAIL: jwsolomon@wustl.edu**

Mr. Jonathan Solomon  
Washington University  
One Brookings Drive  
Saint Louis, MO 63130

**Re: Panoramic Stock Images, Ltd., dba Panoramic Images v. Washington University  
Our File No.: 00455-0053**

Dear Mr. Solomon,

**We are a law firm making a claim on behalf of our client. We know that this is reaching you during a difficult and trying time and that you may have more pressing concerns. We appreciate that responding to this letter may not be your first priority. However, we must receive a response from you so that we know that you are taking this matter seriously, even if you need more time to hire a lawyer or report this claim to your insurance carrier. If we hear from you then we can work with you to understand your position and resolve our client's claim. Please respond to us.**

We write on behalf of our client Panoramic Stock Images, Ltd., dba Panoramic Images, a photograph licensing agent, for purposes of resolving a case of copyright infringement against you by our client. This demand is privileged from disclosure pursuant to FRE Rule 408.

Please provide this letter to your general liability insurance carriers or other providers of insurance that may cover this claim.

*Panoramic Stock Images, Ltd., dba Panoramic Images ("PSI")*

PSI has specialized in wide and large-format panoramic photography for over 25 years. Their global roster of acclaimed photographers captures the world in awe-inspiring size to create a collection of international images: city skylines, landscapes, travel, lifestyles, cultural heritage, world destinations and aerials.

PSI retains all copyrights to its photographs. PSI licenses its copyrighted Works, such as the one in this case, for commercial use.

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Suite 1100  
Los Angeles, CA 90067

**GEORGIA**

12 Powder Springs St.  
Suite 200  
Marietta, GA 30064

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21301 Powerline Rd.  
Suite 100  
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818 18th Ave. S.  
10th Floor  
Nashville, TN 37203

**NEW YORK**

125 Maiden Lane  
Suite 5C  
New York, NY 10038

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Richard Sisk created the image, hereinafter referred to as the "Work."

The Work at issue is shown below.



Sisk registered the Work with the Register of Copyrights on January 22, 2018 and was assigned the registration number VA 2-085-940, a copy of which is enclosed.

*Infringement by Washington University ("WU")*

We have enclosed contemporaneous evidence of the infringement by WU. In addition to the infringement, PSI's photograph was very obviously cropped as shown on the attached. You have employed our client's Work in at least the manner indicated in the evidence attached. You are fully aware that the Work you used is our client's Work. No one from your company ever sought a license from our client to use the Work for any purpose.

You have copied, displayed and distributed our client's Work without permission, license or consent. The use of a creator's photographic image without written consent or license violates the United States Code, Title 17, and The Copyright Act. The Copyright Act provides for entry of an injunction directing removal of the offending materials pending litigation. This letter shall serve as formal notice that you immediately cease and desist all unauthorized uses of our client's Work. Any such further uses shall be at your peril.

If you possess a contract, license, agreement or writing on which you will rely for authorization of your use of our client's Work, please provide us with this evidence so we may avoid further controversy or litigation. Otherwise, we will be forced to assume that your use violated the law.

<b>CALIFORNIA</b> 1801 Century Park East Suite 1100 Los Angeles, CA 90067	<b>GEORGIA</b> 12 Powder Springs St. Suite 200 Marietta, GA 30064	<b>FLORIDA</b> 21301 Powerline Rd. Suite 100 Boca Raton, FL 33433	<b>TENNESSEE</b> 818 18th Ave. S. 10th Floor Nashville, TN 37203	<b>NEW YORK</b> 125 Maiden Lane Suite 5C New York, NY 10038
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*Damages*

Copyright law provides several different elements of compensation to PSI when a work is infringed or altered. Section 504 permits PSI to recover actual damages plus “any additional profits of the infringer that are attributable to the infringement and are not taken into account in computing the actual damages,” or statutory damages of up to \$150,000 per work infringed if the registration predated the infringement. PSI can present both damages theories to the jury and select the higher award any time prior to entry of judgment.

Academic studies have demonstrated that the use of good quality photographs more effectively market and advertise products and drive sales. PSI’s photographs are of the highest quality. PSI’s photographs are also scarce since it is one of the only sources of such quality photographs.

PSI’s damages are not limited to what it would have agreed to license the Work for prior to the infringement. Rather, PSI’s actual damages will be measured by the fair market value of the photograph considering WU’s use to sell and promote its business. PSI’s actual damages must be measured in light of WU’s use of PSI’s high quality and unique Work.

This is consistent with federal courts’ approach to broadly construing the term “actual damages” to favor victims of infringement. See, e.g., *Davis v. Gap, Inc.*, 246 F.3d 152, 164 (2d Cir. 2001). The fair market value approach for calculating damages is an accepted approach to valuing the defendants’ uses of photographs. See *Leonard v. Stemtech Int’l, Inc.*, Nos. 15-3198, 15-3247, 2016 U.S. App. LEXIS 15565 (3d Cir. Aug. 24, 2016). In addition, PSI can offer evidence of the actual cost to take the photograph infringed on a time and materials basis.

Section 504 of the Copyright Act permits PSI to recover actual damages plus “any additional profits of the infringer that are attributable to the infringement and are not taken into account in computing the actual damages.” Therefore, PSI will also be entitled to WU’s profits from the infringement, based upon the revenue WU earned in connection with the use of PSI’s Work.

Alternatively, PSI could seek statutory damages for infringement in an amount of up to \$30,000 per work infringed if the registration predated the infringement. There is also the possibility that a judge or jury could determine that WU’s infringement was willful. If WU’s infringement was shown to be willful, the statutory damage award would increase to an amount up to \$150,000 per work infringed.

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*Demand*

In order to determine how to proceed, please provide us with information and documents showing:

1. the full nature and extent of the use of our client's Work, in any and all formats;
2. representative copies in any and all tangible form and media in which our client's Work was incorporated or employed; and
3. the source of the Work.

Upon receipt of this information we will consider and determine an appropriate amount required to be paid to our client in compensation.

Please carefully consider this letter and the associated exhibits and provide them to your attorneys and insurance carriers. If we do not receive a response from you or a representative by November 9, 2020, we will take further steps to protect our client's rights.

We look forward to your prompt response.

Sincerely,

**SRIPLAW**



Joel B. Rothman

JBR/jmb  
Enclosures

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# Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Kay Leigh Claythorn*  
Acting United States Register of Copyrights and Director

Registration Number  
**VA 2-085-940**  
Effective Date of Registration:  
January 22, 2018

## Title

**Title of Work:** Group Registration Photo, Panoramic stock Images Ltd., d.b.a Panoramic Images, Richard Sisk photos, January 15, 2000 - December 14, 2000, 112 Photos

## Completion/Publication

**Year of Completion:** 2000  
**Date of 1st Publication:** January 15, 2000  
**Nation of 1<sup>st</sup> Publication:** United States

## Author

- Author:** Richard Sisk
- Author Created:** photograph
- Citizen of:** United States

## Copyright Claimant

**Copyright Claimant:** Panoramic Stock Images, Ltd.,d.b.a.Panoramic Images  
4835 Main, Skokie, IL, 60077, United States  
**Transfer statement:** By written agreement

## Rights and Permissions

**Organization Name:** Panoramic Stock Images Ltd.,d.b.a. Panoramic Images  
**Name:** Doug Segal  
**Email:** doug@panoramicimages.com  
**Telephone:** (847)324-7000  
**Address:** 4835 Main  
Skokie, IL 60077 United States

## Certification

Registration #: VA0002085940  
Service Request #: 1-6223129581

Panoramic Stock Images  
Evan Bowers  
4835 Main  
Skokie, IL 60077 United States

# Office of Scholar Programs Network

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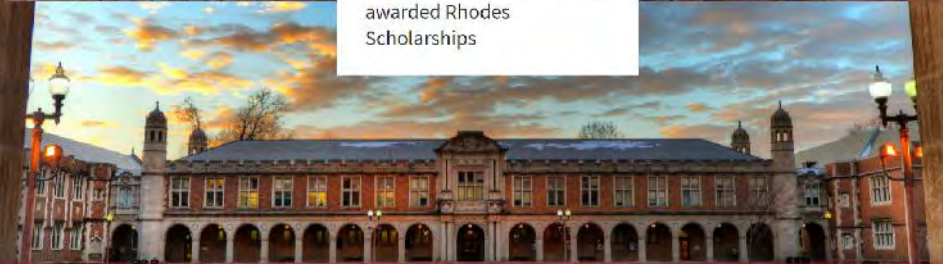
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- 12/3/2019  
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  - 12/5/2017  
Shanks earn Hollenshead Award for equity efforts
  - 12/9/2017  
The Harvard GSD Announce Their First Phil Freelon Fellowship Winner
  - 11/21/2017  
Ervin Scholars Camille Borders and Jasmine Brown awarded Rhodes Scholarships

*Calendar*

The upcoming calendar is currently empty.  
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