

SOME STORIES NOT IN THE PRINT EDITION

'Educational use' Gangum style!

THE *ECONOMIST* magazine has filed a case with the prosecutor's office in Seoul, Korea, over alleged illegal use of 54 articles by a private sector language school teaching English in the Gangum district of the capital, Seoul.

The case came to light in January, when police interviewed the manager of the language school (not named) and revealed they'd interviewed the paper's lawyers in

Korea in December. Court papers submitted by the *Economist* – which is seeking over £500,000 in damages – include photos of an anthology of articles sold to students of the school as practice material with a cover price and videos of the school's CEO boasting about how much money the school chain makes.

It looks to the *Freelance* as though this evidence was submitted in an

attempt to knock on the head any "exceptions for educational use" the school may try to claim. Attacks on copyright using the pretext of "exceptions for educational use" are increasing globally. A member of staff at the school admitted using the *Economist* material, but said this was common practice among language schools in Korea.

© Matt Salusbury

Agencies can't snarf pictures off Twitter:

Daniel Morel wins a round

HAITIAN photographer Daniel Morel has won another round in his case against Agence France Presse and others including *The Washington Post*. On 14 January Judge Alison Nathan in the Southern District Court of New York gave summary judgement that AFP and the *Post* infringed Morel's, copyright when they distributed and reproduced photos they found through Twitter.com.

Morel is a professional photographer who has worked in Haiti for over twenty-five years. He was in Port au Prince, Haiti, when an earthquake devastated the city on 12 January 2010. He photographed the immediate aftermath. He was able to access the internet that afternoon and, under the username "photomorel" he opened accounts on Twitter and on Twitpic, a third-party application of Twitter.

Someone called Lisandro Suero then copied the photographs onto

his own Twitpic page and Tweeted that he had "exclusive photographs of the catastrophe for credit and copyright." AFP has claimed it got at least some of the photos from here, and certainly transmitted them to Getty Images credited to Suero. They were used on front pages worldwide.

On 16 March 2010, it emerged at an earlier hearing, AFP deputy photo editor Eva Hambach emailed a colleague: "AFP got caught with a hand in the cookie jar and will have to pay." The agency instead sued Morel for claiming copyright in his own pictures, saying this was "commercial defamation" and "an antagonistic assertion of rights". Morel was then left to counter-sue for abuse of his pictures. He was then exclusively represented by Getty's rival, Corbis.

In defence, AFP claimed that "by posting the Photos-at-Issue on TwitPic/Twitter, Morel granted them a

licence, as a "third-party beneficiary" of TwitPic's licence to make images available on the Web – and continued to do so, despite an earlier hearing rejecting it (*Freelance* June 2012). Judge Nathan patiently repeated why this argument was desperate.

Judge Nathan ruled that AFP and the *Post* had infringed copyright in eight photos – entitling him to "not less than \$750 or more than \$30,000" per photo. She was not impressed by his lawyer's argument that AFP shared liability for each unlicensed use of each photo, totalling "tens or hundreds of millions of dollars". Other claims – notably against Corbis – will have to go to a full trial.

© Mike Holderness

• This case throws an interesting light on the practice of UK media, for example taking pictures of a helicopter crash in London off Twitter, and (sometimes) asking the pictures' owners to get in touch.

Guess who's paying to give away photos?

WHO IS paying to generate photos to give away? The Register's report on Wikipedia's seasonal fundraising drive notes in passing that:

Wikimedia Germany approved a €18,000 allocation called Festival-sommer 2013 to send Wikimedians to pop concerts in Germany as "accredited photographers". Nice work if you can get it. The budget includes travel to and from the gigs for the budding snappers. The photos would then be posted on the Wikimedia website for anyone to use – including those who might have engaged a professional photographer to take

pictures of the people and events.

The short answer to the "Who's paying?" question, meanwhile is: in significant part, Google. The search engine gave Wikipedia \$2 million in the last year for which figures have been dug out. Other donors include the Ford Foundation (\$3m); the Stanton Foundation (\$3.6m), in memory of the late president of CBS TV; and the Omidyar Network (\$2.5m), a "philanthropic investment firm". But it's Google that has an active policy of undermining the right of creators – including photographers – to be paid.

A colleague in Germany, Rüdiger Lühr, comments: "Wikipedia, Google, Facebook and others are promoting Creative Commons – that's the basis of their business. So now we have a big and growing 'market' of photos published for free. The market for our freelance photographers goes narrow and I'm in fear there is no stop and no return."

Unsurprisingly, many of the photos from the project so far are, in the view of this part-time freelance picture editor, dire. Worth every pfennig to the user, in other words.

© Mike Holderness

In your own time...

WORK Your Proper Hours Day this year is on **Friday 1 March**, and represents the day "the average person who does unpaid overtime finishes the unpaid days they do every year, and starts earning for themselves,"

according to its organisers at the Trades Union Congress.

This date is getting later every year – Work Your Proper Hours Day 2012 was 23 February.

The website **www.worksmart.**

org.uk/workyourproperhours-day has an online unpaid overtime calculator, based on your "salary" – we've asked them if there's a way to calculate this based on hourly or daily shift rates.