

Jury awards Morel \$1.2M

A JURY in New York city has awarded the maximum possible damages to Haitian photographer Daniel Morel for massive abuse of eight of his pictures of the earthquake in Port au Prince on 12 January 2010.

Joseph Baio, representing Morel, had said "They did it because they could. They did it because they're AFP and Getty. They thought: 'We can put these pictures out and buy this guy off. They did it because that's the way they are.'" The award of \$150,000 per photo shows that the jury agreed: they could have awarded as little as \$650 per image.

International Federation of Journalists president Jim Boumelha said that "Clear respect for journalists and photo journalists' rights to be identified as authors and decide on the use to be made of their work is key if we want our colleagues to make a living." The jury awarded Morel a further \$20,000 for adding false and misleading "copyright management information" (credits) contrary to the US Digital Millennium Copyright Act.

Concerns remain about sites like Twitpic. In 2011 Twitpic issued an apology for seemingly claiming

copyright on images uploaded on its website. But it still demands that all contributors grant it a "worldwide, non-exclusive, royalty-free, sublicensable and transferable license" to use works posted. "This means that Twitpic can still use creative works for free, including for commercial purposes," says European Federation of Journalists President Mogens Blicher-Bjerregård. "Media professionals should be made clearly aware of the implications such licenses have when they upload their work."

• For background: www.london-freelance.org/fl/1311afl.html

Copyright of the Daleks

NOVEMBER 23 saw the fiftieth anniversary of the first *Doctor Who* episode being broadcast. One lesser-known aspects of its genesis was the Copyright of the Daleks.

Most secondary rights and neighbouring rights on a *Doctor Who* script written for the BBC would normally have stayed with the BBC. The case of the scriptwriter who created the first Dalek series, however, was very different. Failed comic Terry Nation worked as a freelance for Associated Scripts Ltd, a scriptwriting agency set up by Spike Milligan, Eric Sykes and *Steptoe and Son* writer Ray Galton. They negotiated with the BBC on behalf of their writers over the terms of their writers' contracts, and took a cut from the writers they represented.

Nation took up an offer of writing what become the first Dalek story, when the BBC were by then one *Who* story short in their rapidly approaching first season, and in des-

perate need of a script. Nation took on the *Who* scriptwriting gig as a Saturday job: writing gags for an Eric Sykes revue was his day job.

As *The Man Who Invented the Daleks*, Alwyn Turner's biography of Nation, reveals, so desperate were the BBC that they overlooked an obscure clause in Nation's apparently-standard contract. The secretary at Associated Scripts, Beryl Vertue, crossed out the bit in Nation's scriptwriting contract about "merchandising," telling the BBC such a clause was unnecessary. It seems the BBC failed to grasp the then new concept of merchandising, or the implications of Associated Scripts crossing out the clause.

The result was that Nation got the rights to Dalek-related product merchandising, and by Christmas 1965, Dalekmania had become almost as huge as the contemporary Beatlemania. Nation and family were apparently still living predominantly



off Dalek merchandising revenues in the late 1980s.

So your understanding of copyright and other rights issues can be better than "theirs". A fleet-footed freelance can get their head round new media and new niches quicker than a big organisation.

Beryl Vertue, the secretary who put a line through the BBC's merchandising clause on Nation's behalf, went on to become a successful TV producer in her own right.

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Freelance assistant editor with Dalek at the *Doctor Who* Experience in 2011.

Photo **Matt Salusbury:**
Daleks created by
Terry Nation/BBC

Round one to Google

JUDGE DENNY CHIN has ruled that Google's mass book digitisation project is a so-called "fair use". He granted Google summary judgment – a finding without a full trial – on 14 November in the copyright infringement lawsuit brought by the Authors Guild in 2005.

"We disagree with and are disappointed by the court's decision today," Authors Guild executive director Paul Aiken said. "This case presents a fundamental challenge to copyright that merits review by a higher court. Google made unauthorized digital editions of nearly all

of the world's valuable copyright-protected literature and profits from displaying those works. In our view, such mass digitization and exploitation far exceeds the bounds of fair use defense. We plan to appeal the decision," he concluded.

• More on the judgement online

Ploughing the field of copyright

THE GRIND of defending the authors' rights of journalists – and everyone else, from opera divas to amateur selfie-snappers – continues. On 28 November the government issued for comment proposed legislation to enable "extended collective licensing". It sets out what collecting societies would have to do to seek Ministerial permission to grant a licence enabling, for example, the BBC to make all its archives available

without asking individual authors and performers. That would include getting the consent of "not less than 75 per cent of those members whose rights will be affected".

The deadline for responses is **28 January**. The NUJ has participated in the working group that has thoroughly picked over the proposals and is now reading the result against six small-print pages of commitments given by the Minister in the House

of Lords earlier in the year. Please revisit this story at www.london-freelance.org/fl/1312copy.html for notes of key points a link to the document.

We expect proposals on licensing "orphan works" – those whose creators cannot be identified or located – imminently. We have been told that final proposals on the critical issue of extending "exceptions" to copyright will appear in the Spring.

Enviro Phog of the Year Award

The Atkins CIWEM Environmental Photographer of the Year 2014 is now open. It offers a prize of £5000 and several awards of £1000 for "environmental, social and natural" photography. The deadline for entries is **31 March 2014**. Details of how to enter are at <http://tinyurl.com/envirophog>