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[A Monkey, a Blogger, and a News Agency Walk into a Bar . . .](#)

July 18, 2011 by [Dan Kelly](#)

[TechDirt](#) published [a post](#) a couple of weeks ago about a monkey that took some photos. TechDirt explored whether the monkey could own or assign the copyright in the photos. It is worth surfing over to see one of the self-portraits, and the commentary is interesting. Just last week, TechDirt [reported](#) that it had received a take-down request from [Caters News Agency](#) to remove the photos. This may be interesting to watch further to see what happens.

Copyright is a complex area of law, but there are some general rules in the U.S. that are useful to commit to memory. One of these regards "authorship" and initial ownership of a copyrighted work:

Copyright in a work protected under [Title 17 of the U.S. Code] vests initially in the author or authors of the work.

17 U.S.C. 201(a). This means that anyone who creates a copyrightable work is its author and initial owner. For instance, a photographer owns the copyright in his or her photographs. (There are exceptions to this general rule, but I'm skipping them so as not to write a treatise here.)

Another general rule is that the owner of a copyright has the *exclusive* right to reproduce and duplicate the copyrighted work (among other rights). This rule is subject to an exception known as "fair use." Copyright fair use itself is a topic that could alone fill a treatise. Briefly, the fair use principle can be stated as follows:

[T]he fair use of a copyrighted work . . . for purposes such as criticism, comment, news reporting, teaching . . . scholarship, or research, is not an infringement of copyright.



17 U.S.C. 107. All three of these doctrines are on display in the discussion over at TechDirt, which may further implicate the "work for hire" doctrine, depending upon the employment and/or contractual status of the (human) photographer, [David Slater](#), whose equipment was used by the monkeys. It is also important to note that my quotes and cites above are U.S. law. The monkeys are in Indonesia, and Mr. Slater appears to be a U.K. citizen. U.S. law and/or legal principles may not apply at all in this case. (I warned you that copyright law is complex -- a point underscored by the reply from Caters News Agency to TechDirt's assertion of fair use: "regardless of the issue of who does and doesn't own the copyright - it is 100% clear that the copyright owner is not yourself.")

Additional details of the photographer's experience with the monkeys can be found at the Daily Mail Online [here](#). David Post also has [amusing commentary](#) over at [The Volokh Conspiracy](#).

