NATIONAL GEOGRAPHIC INTERACTIVE

TOM STANTON
Director, CD-ROM Product Management

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Fred Ward
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Dear Magazine Contributor:

As you know, the Society is making a digital archive of NATIONAL GEOGRAPHIC magazine from 1888 through 1996. *The Complete NATIONAL GEOGRAPHIC: 108 Years of NATIONAL GEOGRAPHIC Magazine on CD-ROM* contains a digital image of every page of the magazine, including advertisements, without any changes, additions, or modifications.

This CD-ROM contains a search engine based on the National Geographic Society proprietary indexing scheme. It does not allow users to cut and paste photographs or text, and while photographs and text can be printed, the quality is inferior to a photocopy of the magazine itself.

The NATIONAL GEOGRAPHIC on CD-ROM was designed as a low-cost reference tool for educators, librarians, students, and families. Producing a CD-ROM of this size is an expensive proposition. We have deliberately priced the 30-volume set at $199 to make it more affordable for educational institutions and families.

The 40-million-dollar CD-ROM marketing and distribution contract with Mindscape, Inc., that some of you have read about in the media covers 11 titles over a three-year period, including *The National Geographic Photo Gallery, Really Wild Animals, Geo Bee Challenge,* and *The Complete NATIONAL GEOGRAPHIC: 108 Years of NATIONAL GEOGRAPHIC Magazine on CD-ROM.* These four titles will be released in 1997, and seven additional products are scheduled for release in 1998. This $40 million represents the total retail sales Mindscape hopes to generate from its distribution arrangement. National Geographic's expected proceeds are a small fraction of this amount; the Society does not expect to do more than break even on these products. Kodak is identified as a sponsor of the project as part of a larger advertising arrangement with the Society.

We are aware that some photographers and writers, whose work has appeared in NATIONAL GEOGRAPHIC and, therefore, will be in the CD-ROM archive, are questioning whether they will be paid for this use of their work. As Director of CD-ROM Product Management, I want to convey to you the Society's position on this matter.

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Recycled-content paper

This does not lend itself to a simple or easy explanation, as it is a blend of copyright law, magazine publishing lore, National Geographic contract interpretation, etc., but I will attempt to summarize. Because the CD-ROM archive consists of an exact image of every page as it was originally published, this reissuance (or reprint) is not a "further editorial use" of material such as requires additional payment to the photographers whose contracts commit the Society to payment under those circumstances. The Society holds copyrights in the magazine issues as collective works, and we believe that the continuing copyrights permit the Society to republish its magazine archive in this CD-ROM delivery mechanism. This is comparable to magazines being made available on microfiche.

Beyond this, I don't want to make any blanket statement about individualized contracts. I do want to state, however, that the NATIONAL GEOGRAPHIC on CD-ROM is a unique situation. The Society does pay, where appropriate, for electronic/digital reproduction rights. For example, we will pay photographers for the digital rights to another CD-ROM—*The National Geographic Photo Gallery*—a product which is clearly a "further editorial use" of preexisting material. We have also paid for digital rights on all other interactive products including CD-ROMs and Web site content modules. It has been, and will continue to be, the Society's position to pay fair market value for the content we publish.

Sincerely,

Tom Stanton

Time ~~Frame~~ Machine
NGS VA form (1st pub date 1-97 "steel
1997 came out in 9-97) NGS
JAN 1 - 1st pub date on VA form
~~Apr~~ Apr. Norm letter to McDowell don't use
JG stuff (no reply)
May 21 Stanton letter (not sent to JG
Sept Product on Market
Dec '97 we file

1998 MAY 14 - Lenard decision
Jul 14 NGS VA form received by Office
after we filed 5 mos.

1998
~~Feb~~ Feb 1 After all the above, they amend

See FJA 11 Cir Appellate
Court our favor