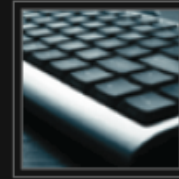




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Documentary Filmmakers Find Freedom from ‘Clearance’ Hurdles Thanks to Initiative by Media/Professional Insurance and Leading Lawyers

BEVERLY HILLS, Calif., February 22, 2007 – One of the most daunting economic hurdles for documentary filmmakers now has a solution. Media/Professional Insurance is teaming with top intellectual property lawyers and the Stanford Law School Fair Use Project to enable filmmakers to insure against claims arising out of “fair use” of copyrighted material. The initiative was announced at the International Documentary Association’s 25th Annual Celebration of Academy Award Documentary Nominees, in Beverly Hills.

Media/Professional Insurance, a leader in media and entertainment liability coverage, has developed a policy endorsement that explicitly allows documentarians to rely on “fair use” without jeopardizing coverage. Insurers and film distributors typically require producers to obtain specific permission for use of copyrighted material in a film. Licensing copyrighted material, however, can be prohibitively expensive, or impossible, for new or independent filmmakers – an economic barrier that seriously hinders freedom of expression. The Fair Use Doctrine provides that use for the purposes of criticism, comment, news reporting, teaching, scholarship or research is not an infringement of copyright.

“Documentary films are an important source of education, commentary and criticism. Rigidly requiring licenses or releases in all cases does not give filmmakers the flexibility to take advantage of ‘fair use’ in appropriate situations,” said Leib Dodell, president of Media/Professional Insurance. “This initiative makes ‘fair use’ work in the real world of independent filmmakers.”

“This is a breakthrough for independent voices in film.” The initiative was announced by Diane Estelle Vicari, an award-winning documentary filmmaker who is president of the International Documentary Association: “People involved in documentaries know that obtaining licenses for even the smallest excerpts can add hundreds of thousands of dollars to a budget. When a film offers social commentary, corporate owners of copyrights can refuse altogether. The result is that important films may not be made at all, or they are weakened cinematically. We are so pleased to see Media/Professional step forward to address the need for help with ‘fair use’.”

The initiative was suggested to Media Professional Insurance by Michael Donaldson, a leading intellectual property and entertainment lawyer as well as General Counsel for both the Independent Documentary Association and Film Independent: “Fair use has been accepted legally for more than a century, because free expression is one of our most important values. Creativity, critical analysis, and cultural critiques are fostered, and sometimes only possible, when filmmakers can use otherwise copyrighted material. We’re not pushing the envelope legally – fair use is always limited and provides protection for copyright holders.”

Dawn Hudson, Executive Director of Film Independent commented “one of Film Independent’s objectives is to provide filmmakers with access and this initiative will further enable our members and all filmmakers.”

Some examples of documentaries that have used copyrighted material as a crucial cinematic tool:

- “This Film Is Not Yet Rated,” a critique of the MPAA movie rating system.
- “Smoke and Mirrors: A History of Denial,” a look at the tobacco industry and health risks.
- “Who Killed the Electric Car?” which examined industry opposition to electric cars.

In each of these documentaries, filmmakers created a historical narrative that criticized powerful interests, who were unlikely to give permission for the use of copyrighted excerpts. Without the clips, these documentaries would have been less effective or would not have been made.

Legal note: The Fair Use Doctrine, written into the Copyright Act and developed in case law, permits limited use of excerpts from films, or of video clips, if that use meets the “fair use” guidelines. U.S. courts have assessed whether the reproduction of excerpts is “fair” based on broadly defined factors such as the purpose and character of the use, for example in criticism or commentary; the nature of the copyrighted original; the amount of the portion used in relation to the copyrighted work as a whole; and the effect of the use on the market or value for the original work.