

WHO OWNS YOUR PORTRAIT?

You've just had your portrait done at a photo studio and you want additional copies for your relatives. But when you compare prices, you find it cheaper to ask your local drugstore to make copies from the original print, rather than go back to the photo studio. Sounds reasonable—you paid for the picture, why shouldn't you be allowed to make additional prints at a lower price? But, believe it or not, you and the local drugstore could be breaking the copyright law.

Copyright is a statement of ownership of a created work, in this case a photo. According to the copyright act of 1976, copyright rests with the photographer or studio who created the photograph and may only be licensed or transferred with written permission. "We do have a policy against reproducing photos that are copyrighted," says Fotomat. "If we are aware of the copyright, we would not make copies." The problem is that not all photofinishers follow this policy.

The situation has been noted by the Professional Photographers of America, the largest organization of pro shooters in the U.S. They've brought suits against several photofinishers, alleging that these parties knowingly violated copyright

by making prints of copyrighted photographs without the permission of the copyright holder.

One might ask, shouldn't the consumer be responsible, not the lab? According to PP of A's legal counsel, the lab "should know what is legal for them to do and what is not." This is, of course, not the same view held by all photofinishers. "I don't think it's the lab that's got to be responsible. It's between the photographer and his customer," says a spokesperson for Modernage Labs in New York City. "Photographers will have to stamp every photograph to alert labs not to reproduce this photo without their permission. We deal with thousands of pictures every day of the week, and if there's no stamp on it, how are we to know who took the picture and under what conditions?"

Wouldn't requiring written permission to make copies of photographs slow down the process for those who routinely order multiple copies, such as actors and actresses—and magazine editors, who make conversions and duplicate transparencies?

"The question is, are they undertaking a lawful activity to begin with?" replies PP of A's counsel.

As with so many questions today, it'll probably take time and the courts to decide.

—JACK NEUBART