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20 *Attorneys for Defendants*

21 UNITED STATES DISTRICT COURT  
22 DISTRICT OF ARIZONA

23 Tom Bean,

24 Plaintiff,

25 vs.

26 McDougall Littell, a Division of Houghton  
27 Mifflin Company and R.R. Donnelley and  
28 Sons Company,

Defendants.

No. CV 07-8063 PCT JAT

**DECLARATION OF  
CHARLES S. SIMS IN SUPPORT  
OF DEFENDANTS' MOTION TO  
DISMISS FOR LACK OF  
SUBJECT MATTER  
JURISDICTION IN FACT**

I, CHARLES S. SIMS, an attorney duly admitted to practice before the Courts of the State of New York and in this Court *pro hac vice*, declare as follows:

1. I am a partner of the firm of Proskauer Rose LLP, counsel for defendants in this action ("Defendants"). I have personal knowledge of the matters set forth in this Declaration and, if called upon, I could and would testify truthfully thereto.

1           2.     In order to place certain documents into the record to demonstrate that the  
2 Court lacks subject matter jurisdiction in fact and that Plaintiff's claim of copyright in  
3 the photograph in suit, "Ruins of Anasazi Granaries at Nankoweep above the Colorado  
4 River, Grand Canyon National Park" (hereafter "Anasazi Ruins") has never been  
5 registered, I submit this Declaration in support of Defendants' Motion to Dismiss for  
6 Lack of Subject Matter Jurisdiction in Fact.

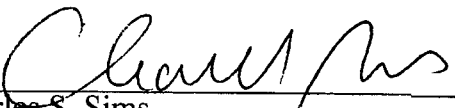
7           3.     Attached hereto as Exhibit A is a true copy of the copyright registration of  
8 Corbis Corporation, VA 863783, pleaded in the Complaint (Complaint ¶ 8 and Exhibit  
9 B thereto).

10          4.     Attached hereto as Exhibit B is a true and correct copy of the "Copyright  
11 Registration Agreement" annexed by Plaintiff to his opposition to Defendants' prior  
12 motion.

13           I declare under penalty of perjury under the laws of the United States that the  
14 foregoing is true and correct.

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Executed in New York, New York, on March 11, 2008.

  
Charles S. Sims

# Exhibit A



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

VA 863-783



EFFECTIVE DATE OF REGISTRATION

NOV 06 1997

Marybeth Peters

OFFICIAL SEAL

REGISTER OF COPYRIGHTS

United States of America

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

TITLE OF THIS WORK

CORBIS DIGITAL ONLINE DATABASE MARCH 17 1997 GROUP

NATURE OF THIS WORK

7 Disks of Digital Images

PREVIOUS OR ALTERNATIVE TITLES

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared.

If published in a periodical or serial give: Volume Number Issue Date On Pages

NAME OF AUTHOR

a CORBIS CORPORATION

DATES OF BIRTH AND DEATH

Year Born Year Died

Was this contribution to the work a "work made for hire"?

Yes No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country Citizen of Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? Pseudonymous? Yes No Yes No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions

- 3-Dimensional sculpture Map Technical drawing
2-Dimensional artwork Photograph Text
Reproduction of work of art Jewelry design Architectural work
Design on sheetlike material Compilation

NAME OF AUTHOR

b James Amos, Dave Bartruff, Tom Bean and 125 other photographers

DATES OF BIRTH AND DEATH

Year Born Year Died

Was this contribution to the work a "work made for hire"?

Yes No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country USA Citizen of Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? Pseudonymous? Yes No Yes No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions

- 3-Dimensional sculpture Map Technical drawing
2-Dimensional artwork Photograph Text
Reproduction of work of art Jewelry design Architectural work
Design on sheetlike material

YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED

a 1997

DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

b March 17 1997 USA

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2

Corbis Corporation 15395 30th Place, Suite 300 Bellevue, Washington 98007

APPLICATION RECEIVED NOV 06 1997 ONE DEPOSIT RECEIVED

TWO DEPOSITS RECEIVED NOV 06 1997

FUNDS RECEIVED

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright.

By Agreement

MORE ON BACK Complete all applicable spaces (numbers 5-8) on the reverse side of this page. See detailed instructions. Sign the form at line 8

DO NOT WRITE HERE

\*Special Relief granted under Sec. 202.20(d) of the C.O. Reg.

CORRESPONDENCE Yes

FOR COPYRIGHT OFFICE USE ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

- Yes No If your answer is "Yes," why is another registration being sought? (Check appropriate box) This is the first published edition of a work previously registered in unpublished form. This is the first application submitted by this author as copyright claimant. This is a changed version of the work, as shown by space 6 on this application.

5

If your answer is "Yes," give: Previous Registration Number Year of Registration

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation. a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates.

6

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. All other photographs/ digital images and compilation

See instructions before completing this space.

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account. Account Number

7

Cavallo & Wolff DAO 63797

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt./City/State/ZIP

Nancy E. Wolff, Esq. Cavallo & Wolff 15 East 57th Street Suite 1220 New York, New York 10022 Area Code and Telephone Number 212-753-2224

Go out to give your daytime phone number

8

CERTIFICATION I, the undersigned, hereby certify that I am the author/other copyright claimant/owner of exclusive right(s)/authorized agent of Corbis Corporation Name of author or other copyright claimant, or owner of exclusive right(s)

The work identified in this application and that the statements made in this application are correct to the best of my knowledge.

Handwritten or printed name and date If this application gives a date of publication in space 3, do not sign and submit it before that date. Nancy E. Wolff Date 10/21/97

Handwritten signature Nancy E Wolff

9

Form with fields for Name (Nancy E. Wolff c/o Cavallo & Wolff), Number/Street/Apt. (115 East 57th Street, Suite 1220), and City/State/ZIP (New York, New York 10022)

YOU MUST: Complete all necessary spaces. Sign your application in space 8. SEND ALL FEES AND MATERIALS IN THE SAME PACKAGE. 1. Application form. 2. Nonrefundable \$30 filing fee in check or money order payable to Register of Copyrights. 3. Deposit material. REGISTER: Register of Copyrights, Library of Congress, Washington, D.C. 20540-0000

17 U.S.C. § 506(e): Any person who knowingly makes a false representation of a material fact in this application for copyright registration provided for by section 408, or in any written statement filed in connection with this application, shall be fined not more than \$2,500.

# Exhibit B

Copyright Registration Agreement

The undersigned hereby grants to Corbis Corporation ("Corbis") legal title in the undersigned's images selected and digitized by Corbis and included in the Corbis digital collection (the "Images") solely for the purposes of copyright registration.

Corbis agrees that it will promptly reassign legal title to the undersigned with respect to the undersigned's registered original film images upon Corbis' receipt of a Certificate of Registration from the U.S. Copyright Office covering such images.

In any event and for any reason, Corbis agrees that it will promptly reassign legal title to the undersigned with respect to the undersigned's original film images upon written request by the undersigned.

The Undersigned:

Corbis Corporation

Tom Bean  
Signature

By: Karen Akiyama Ressimyer  
Karen Akiyama Ressimyer  
Manager of Business & Legal Affairs

Tom BEAN  
Print Name

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Date: 8/27/97