



INTERNATIONAL LEAGUE OF
CONSERVATION
PHOTOGRAPHERS

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Conservation Photographers Support Photographer David Slater's Copyright in Black Macaque Photograph

In 2011, while on a photographic expedition to Indonesia, British photographer David Slater created a series of images of critically endangered crested black macaques. The copyright to a selection of these images has come into question, largely because of a claim by Wikimedia that these images fall under an open Creative Commons license. The International League of Conservation Photographers (iLCP) believes that the position taken by Wikimedia is, if not legally spurious, both unethical and misguided. Even though David Slater is not a member of iLCP, we stand squarely behind him as the erosion of his rights in this case stands to put the work of all professional photographers at risk.

The basis for copyright is the contribution of creative expression. Wikimedia, which operates under U.S. copyright law, alleges "Slater cannot own the copyright, because (despite the camera being his) he didn't create the picture himself. When Slater first sold the picture around the world in 2011, he was very clear that the picture came about by accident." The truth is however, that Slater made multiple creative decisions in the creation of these images. Among other things, he chose the location, time of day, shutter speed, aperture, lens (and thus angle of view), and area/backdrop to create the photographs.

What's more, the creation of a photograph today no longer ends with the push of the shutter. In addition, there is a tremendous amount of creative effort that goes into post-production, including the cropping, rotating, toning, and color adjustments of the original RAW images. These efforts, along with the many decisions mentioned above, clearly present a sufficient degree of creative contributions to support Slater's, or any photographer's, assertion of copyright.

The type of set up and preparation that Slater employed is very common in the field of wildlife photography. Indeed in some cases, cameras traps are left out in the wild for months, triggered by hundreds if not thousands of passing animals, with nary a photographer in sight. When the images are revealed, the photographers are thrilled if even just one of these results in a potentially iconic photograph. The taking of such images is without a doubt largely dependent on luck, or even dare we say, lucky accidents – the right animal moving through the frame at the right time of day, in the right light, and at the right angle. Countless other factors need to align to make such images successful.

By Wikimedia's argument, should all such images be in the public domain as well? If so, then the ability of professional wildlife photographers to make a living from their efforts could be severely impacted, even more than it already has been by the widespread copying and unlicensed usages that are one legacy of the digital age.

There are multiple, and perhaps even conflicting, legal considerations in Slater's case: a British photographer working in Indonesia whose images are being used without permission by an American firm that is offering them to the whole world on the web. Which laws prevail? We are not legal experts, so we have little to add to the discussion on this front. However, as an organization whose mission is driven by a [strong code of photography ethics](#), we can comment on the merits of Wikimedia's argument as it relates to acceptable practices in the field of photography.

Working everyday to protect our planet through photography, iLCP's member photographers are regular witnesses to the maxim that even if something is legal, it does not mean that it is right. Despite the inherent suggestion that the content on Wikimedia has been freely offered by its creators, this has not been the case here. Given Slater's strong and repeated objection to the use of his images in this forum, Wikimedia could easily choose to do the right thing and stop making them available for free download and use. Ironically, some press has reported that even within Wikimedia's editorial ranks, there is dissension about the validity of the company's legal argument. No doubt this is because the dissenting editors feel that what Wikimedia is doing is fundamentally wrong, even if it is legally justifiable.

As an organization that aims to promote and protect the interests of all photographers, iLCP strongly recommends that every photographer take a stand against the unauthorized use of images by groups like Wikimedia. Even if one is willing to give up his or her copyright to a particular image, as a collective body, we should all work to secure the rights of any photographer not to do so. If Wikimedia and others choose to ignore photographers' expressed wishes, then all photographers should in turn cease submitting images of any kind to these organizations until they agree to stop.

The International League of Conservation Photographers is a U.S. non-profit organization that aims to enlist the skills and expertise of some of the world's best photographers to advance conservation efforts around the globe. Our mission is to further environmental and cultural conservation through ethical photography.

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