Subj: **Damages related the N.G. CD**
Date: Tuesday, November 6, 2001 7:01:28 PM
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As we try to come up with a figure for damages I feel that any pricing has to include not just the value of our infringed photos in the CD N.G. published but also the rights that N.G. claims to give to the buyer. This language comes right from their website which still advertises the CD:

"Print any article or page in color or black-and-white for presentations, reports, background information, and more."

With this language they have essentially taken the best images of our careers and made them available for free in perpetuity. "Presentations, reports, background information and more" relegates our work on that disk to essentially a royalty free CD. And as we all know RF (royalty free) CD's rarely contain the best of a photographer - it would be professional suicide even at low resolution to put your best work on a CD. The resolution they provide on the CD is fine for web use or advertising uses. So as we ask our experts to come up with a model for pricing I feel it is important that all understand this important point. It is not just a photograph illegally published on a wildly popular CD that we are trying to put a value on - it is a lifetime of our best work which can now be used for any other product without future payment. Can you imagine if the Beatles record label published their complete anthology including the N.G. sales language on the CD SET album cover? - An ad firm could understandably use any song for a television ad campaign for free. I feel experts need to look at the value of our infringed work as a buyout of some of the best work in the world which can be used indefinitly for commercial purposes. I have done some informal surveys of agencies and two of them had the same response, which was "What I would have to charge would be not be what someone could afford." I feel we need to make this point very very clear to our experts. N.G. has not only stole the best work of our lives without payment - they also have given our best work away to be used by anyone, for any use, forever. I don't know if you'll find a figure for that kind of use in Price Quote software. I would like to know your thoughts on this matter. Best, Louie Psihoyos