

# A GRADUATE STUDENT'S GUIDE TO US COPYRIGHT AND DISSERTATION WRITING

PACIFICA GRADUATE INSTITUTE  
DISSERTATION OFFICE



Copyright is a form of legal protection that allows creators or rights holders to control reproduction and distribution of their work.

Not all creators are the rights holders of their work. Oftentimes published creations are owned by the publisher rather than the creator or author.

As a graduate student writing your dissertation, you need to plan for copyright. If you quote from other works, use graphics, sound, or video created by others, or use any sort of material *that you did not create on your own*, you must consider copyright issues and plan accordingly. (For any permission letters you receive, keep a copy for yourself and submit a copy to the Dissertation Office.)

## **WHAT IS COPYRIGHT AND WHY SHOULD YOU CARE?**

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## COPYRIGHT **DOES** PROTECT

Literature, music, painting, photography, dance, and other forms of creative expression.

## COPYRIGHT **DOES NOT** PROTECT

Facts and ideas, processes, methods, systems and procedures, titles, any works prepared by the US Government, and materials that have passed into the public domain.

## **WHAT *IS* and *IS NOT* PROTECTED BY COPYRIGHT**

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## **BOOKS, MANUSCRIPTS, & OTHER PRINTED MATERIALS**

No more than 10% or 1,000 words of a single work may be reproduced without expression written permission.

Proper attribution and citation are always required – anything else will be considered plagiarism!

## **USING PROTECTED MATERIALS**

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## **POETRY**

An entire poem may be quoted without copyright permission if it is less than 250 words.

You may not use more than five poems or excerpts of poems by different authors from the same anthology, and no more than three poems or excerpts by any one poet.

## **MUSIC or LYRICS**

This is a topic of great interest these days and music publishers are aggressive in litigation against copyright violators.

Students are advised to include only a very small sample or excerpt if using without express written permission.

Even if you intend “academic” or “educational” application, *you are not protected under fair use.*

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## **MUSIC OR LYRICS, continued**

CD, Digital, or Online artwork, designs, or lyrics may also be protected by copyright law.

*It is advised that you seek permission. Although no legal precedent has been set, using no more than 10% is recommended in any situation.*

## **PHOTOS, ART WORK, ILLUSTRATIONS**

In most cases, expressed written permission must be obtained for any art including photos *even if you snapped the photo of a museum statue or painting*. (Usually the museum holds the rights to this kind of work.)

No more than five images by any one artist or photographer may be used.

No more than 10%, or up to 15 images, of a collective work may be used.

If you are using artwork from a participant in your study, be sure to include a permission statement in your Ethics Application.

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*It is estimated that 15% of doctoral dissertations  
lack copyright clearance and permissions*

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Maybe and maybe not. **You should keep a list of your sources before you start your research and continue through your research.**

Here are things that **are** copyrighted and **would need** permission for use:

Long quotations (10% or 1,000 words)

Reproduced publications

Unpublished materials

Poetry (more than 250 words)

Dialogue from a play, screenplay, broadcast, or novel

Music

Graphic or pictorial works

Computer software

Sources listed on the Internet

**DO I NEED COPYRIGHT PERMISSION?**

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There are materials you can use legally without any copyright concerns:

**The Public Doman:** This includes US Federal publications; older works whose copyrights have expired; and works whose authors have expressly dedicated them to the Public Domain

**Openly Licensed Materials:** Materials that the author has granted an open license to despite *not* being in Public Domain. For example, Creative Commons\* is a service that provides a variety of such licenses.

\*<http://www.creativecommons.org>

**BUT...DO I HAVE OTHER OPTIONS? YES!**

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Cornell University's Copyright Office<sup>1</sup> offers a useful guide where you can check Public Domain. Here is a basic overview:

**Published prior to 1923: the work is Public Domain.**

You do not need copyright clearance or permission.

**1923-1977: You will need to know if the copyright was renewed.** The Stanford Renewal Database<sup>2</sup> will help you find works that have been renewed.

**1978-present: Current copyright terms are the life of the author + 70 years.**

You should seek permission.

<sup>1</sup><http://copyright.cornell.edu/resources/publicdomain.cfm>

<sup>2</sup><http://collections.stanford.edu/copyrightrenewals/bin/page?forward=home>

## **PUBLIC DOMAIN**

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## **STEP ZERO:**

Before you begin your research consider using open resources. If you cannot avoid using copyrighted materials, you need express written permission.

## **STEP ONE**

Identify the copyright holder. It may not be the author or artist.

## **STEP TWO:**

Obtain the address of the copyright holder. Check the US Copyright Office's registry, or contact the publisher for help in locating the copyright holder. If the holder is the publisher, they often have an online form for requesting permission to use.

## **STEP THREE:**

Write to the copyright holder. Your request should include a thorough description of the material you are using and a detailed explanation of how you will use it. You should also include a signature line to indicate they will grant the requested permission. (See sample letter attached)

# **SECURING COPYRIGHT PERMISSION**

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Honestly, it can be.

The author of your work may have died, but transferred the rights (which currently lasts 70 years after his or her death). You might have to contact relatives. The publisher may have been bought by another house. You may need to track down the new rightsholders for any of these situations. Or there may be other circumstances.

How far do you have to go to track down the owner of “orphan works”? That is a judgement call but you should make every effort to secure permission.

**IS THIS DIFFICULT?**

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## **REMEMBER THAT SILENCE IS NOT PERMISSION.**

You may need to delete a reference, or rewrite a segment of your dissertation if you cannot obtain permission to use. This is, of course, easier to do *before* you submit your draft to your committee. Having to go back and rewrite work is not desirable, is time consuming, and often can lead to lengthy delays in completion. Please be sure to check your copyright before you write your work!

## **WHAT IF I DON'T GET PERMISSION**

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# **FAILURE TO COMPLY WITH COPYRIGHT LAW CAN RESULT IN A VARIETY OF LEGAL CONSEQUENCES INCLUDING**

“Cease-and-Desist” orders

Lawsuits from copyright holders

Federal penalties and injunctions

Federally assessed damages and profits

Seizures of published work (your dissertation!)

Forfeitures of your work and degree

Recovery of legal costs

Criminal prosecution

## **CONSEQUENCES OF NON- COMPLIANCE**

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## GENERAL

Lindsey, Marc. *Copyright Law on Campus*. Pullman, WA: Washington State University Press, 2003.

MGetlt: Hatcher Graduate Library, KF 3030.1.L56 2003

<http://mirlyn.lib.umich.edu/Record/007429895>

This practical and easy-to-understand guide offers information on copyright expirations and the public domain, copyright infringement lawsuits and the risks involved in infringement, obtaining permission for literary works, images, and playing music in public, fair use-with sample cases and classroom guidelines, the Internet and distance education, and the evolution of campus copyright policy.

## RESOURCES!

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## ART, PHOTOGRAPHY, AND FILM

Bielstein, Susan M. *Permissions, A Survival Guide: Blunt Talk about Art as Intellectual Property*. Chicago: University of Chicago Press, 2006.

MGetlt: Fine Arts Library & Art, Architecture, and Engineering Library: KF 3050. <http://mirlyn.lib.umich.edu/Record/005404445>

This book provides information about the laws and common practices involved with intellectual property and obtaining permission in a highly readable way, and will be of interest to artists and others interested in a broader understanding of intellectual property as part of their work or in general. It discusses current problems in intellectual property landscape, offers suggestions for authors to navigate them, and makes suggestions for their improvement.

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## **ART, PHOTOGRAPHY, AND FILM** continued

Donaldson, Michael C. *Clearance and Copyright: Everything You Need to Know for Film and Television.*

Beverly Hills, CA: Silman-James Press, 2008.

MGetIt: Hatcher Graduate Library, KF 3070 .D66 2008

<http://mirlyn.lib.umich.edu/Record/005952746>

This thorough guide provides information on all aspects of copyright in filmmaking and television, from securing rights to others' works and ideas, personality rights, parody, using music in films, copyrighting your own script, and more.

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## MUSIC

Kohn, Aland Bob Kohn. *The Art of Music Licensing*. Englewood Cliffs, NJ: Prentice Hall Law & Business, 1992.

MGetlt: Music Library, KF 3035 .K641 1992  
<http://mirlyn.lib.umich.edu/Record/002595681>

This reference contains detailed information on both granting licenses for the purpose of earning a living, and on obtaining licenses to commercially use work owned by others. It goes into specific detail about an expansive range of licenses, including mechanical, synchronization, videogram, software and multimedia, performance, and many more, with samples given.

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## **DIGITAL RESOURCES**

Directory of Open Access Journals <http://www.doaj.org/>

These journals are free and open to anyone with an Internet connection.

In most cases, the authors still retain copyright of their work, but have made it available for anyone to read and cite. Using open journals as your source material ensures that you won't have to worry about seeking permissions for the articles you quote.

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## MISC

**CREATIVE COMMONS:** <http://creativecommons.org>

Creative Commons allows you to both find materials that you know you will be licensed to use, and to license your own work for others to use. They offer a variety of licenses, allowing you to require attribution, to limit derivative works, to require them to share their work with the community as you shared yours, or to open your work to the public domain. Creative Commons does NOT require that you give up your copyright; its licenses are based on the fact that you hold the copyright to your work.

**PROQUEST INFORMATION AND LEARNING:** Copyright Law and Graduate Research:

<http://nursing.lsuhsu.edu/Docs/Dissertation/ProQuest%20Information%20and%20Learning%20Copyright%20Law%20&%20Graduate%20Research.pdf>

A detailed guide to copyright compliance for graduate students, by Kenneth D. Crews, a professor in the School of Law and School of Library and Information Science and Associate Dean of the Faculties for Copyright Management at Indiana University. It has in-depth information about finding and contacting copyright holders as well as fair use, designed for graduate students.

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U.S. Copyright Office <http://copyright.gov/>

This is the official site of the federal government's copyright office. Their record of copyright registrations may be useful to you in determining the holder of a copyright in order to ask him or her for permission.

U-M Copyright Review Management System: <http://www.lib.umich.edu/copyright-review-management-system-impls-national-leadership-grant>

The University of Michigan has launched a project to increase the reliability of copyright status determinations of books published in the United States from 1923 to 1963. The CRMS website contains PDF documents that will be useful for determining copyright status of materials published between 1923 and 1963.

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## **SUMMARIES OF FAIR USE CASES - Stanford University Libraries**

[http://fairuse.stanford.edu/Copyright\\_and\\_Fair\\_Use\\_Overview/chapter9/9-c.html](http://fairuse.stanford.edu/Copyright_and_Fair_Use_Overview/chapter9/9-c.html)

This site lists summaries of court cases that determined fair use. The list is broken down by medium, including use of text, art, audiovisual materials, music, Internet, and software, as well as use in parodies.

**FAIR USE EVALUATOR:** <http://librarycopyright.net/resources/fairuse/>

This tool can help you determine whether your use is likely fair or not.

Keep in mind that this does not constitute legal advice; it is only a guide.

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