

# Springer Nature

## Guide to Copyright and Permissions

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### Introduction

As an author or editor of a work, you may be responsible for overseeing the inclusion of third party content. By ‘third party’ we mean any work that you have not created yourself and which you have reproduced or adapted from other sources.

Common types of third party content include;

- Data
- Diagrams
- Logos/Trademarks
- Maps
- Photographs
- Screenshots
- Tables
- Quotes

Authors should begin clearing permissions to use third party content as soon as possible when developing their manuscript. Clearing permissions can often take time, and can hold up the production process.

This guide is intended as a resource to guide authors and editors on third party material, the permissions which are required for publication in a Springer Nature title, and the methods by which those permissions may be obtained.

Please note Springer Nature is an international publisher and has its own policies on what is acceptable for publication.

This document does not constitute legal advice. Authors remain fully responsible for ensuring that they have obtained all necessary rights for third party content included in their works. Nothing in this document is to be understood as shifting responsibility for rights clearance questions from authors to Springer Nature. In case of uncertainty, authors should seek advice from an attorney.

## Copyright

### Overview of Copyright

#### **What is Copyright?**

Copyright is a legal right which protects the intellectual property in a creative work. It covers the right to copy or allow reproductions of the work, to sell and distribute those copies to the public, and to adapt the work and create derivatives. Copyright protection covers a wide range of works such as:

- Architecture
- Broadcasts
- Films/movies
- Literary works (e.g. books or letters)
- Musical or dramatic works
- Photographs
- Paintings, drawings and illustrations
- Sculptures
- Sound recordings

Unauthorised reproduction or adaptation of a copyrighted work for public consumption may constitute copyright infringement.

Copyright covers the particular expression of ideas, not the ideas themselves.

It is the tangible work whether written, painted, filmed, photographed or otherwise performed, which is subject to copyright protection.

#### **Who Owns the Copyright?**

When identifying the copyright holder it is important to differentiate between the owner of the intellectual property (the copyright) and the physical property (the object). If you own a DVD of a recent film, for example, you do not own the copyright to the film. Additionally there may be multiple copyright owners; for example the studio may have copyright in the images, whilst another person may have copyright in the music.

The author or creator of the work is usually the first owner of any copyright in the work. If there are multiple creators of a single work, there can be multiple joint copyright holders.

Under some jurisdictions, in some cases, where the work is made by an employee in the course of employment, the employer may be the first owner of any copyright in the work.

For government employees or contractors, works produced in the course of their employment may be subject to government or Crown copyright or may be in the public domain depending on the territory.

Copyright is a form of intellectual property; it can be bought or sold, transferred or inherited, as a whole or in part. As such, the copyright owner may be someone other than the original creator of the work.

### Copyright Duration

The duration of copyright varies by country and by the type of work. Once the term of copyright on a work expires, that material is then in the public domain and permission is not required to reproduce it. Over time international treaties have made copyright laws across countries less varied and more standardised. If you believe third party material is out of copyright/in the public domain you will need to check the copyright law for the country of publication of the third party material, or the country of creation if unpublished.

Here is an example of UK and US copyright durations;

	United States	United Kingdom	Germany
Literary and artistic works	<b>70 years</b> from the end of the year in which the creator died (1978 onwards), <b>Public Domain</b> (1923 or earlier), <b>Varies</b> (1924-1977).	<b>70 years</b> from the end of the year in which the creator died.	<b>70 years</b> from the end of the year in which the creator died.
Sound recordings	<b>70 years</b> from the end of the year in which the creator died (1978 onward) <b>Varies</b> (before 1978).	<b>70 years</b> after the recordings were made/50 years after published/broadcast date.	<b>70 years</b> after the recordings were published. The respective compositions are protected 70 years from the end of the year in which the creator died.
Film	<b>70 years</b> from the end of the year in which the creator died (1978 onward) <b>Varies</b> (before 1978)  Films are often collaborative and therefore often have multiple creators. Typically copyright will expire after the death of the longest living	<b>70 years</b> from the end of the year in which the creator died.  Films are often collaborative and therefore have multiple creators. Copyright will expire after the death of the longest living of the principal director, screenplay author, or composer.	<b>70 years</b> from the end of the year of the death of the longest living of the following persons: Principal director, author of the screenplay, author of the dialogues, composer of the music composed for the film in question.

	creator.		
Photographs	<b>70 years</b> from the end of the year in which the creator died (1978 onward) <b>Varies</b> (before 1978).	<b>70 years</b> from the end of the year in which the creator died (post 1989), <b>Varies</b> (for those created before 1989).	<b>70 years</b> from the end of the year in which the creator died.
Unpublished	<b>70 years</b> from the end of the year in which the creator died.	<b>125 years</b> from creation (created post 1989), <b>Varies</b> (created pre-1989).	<b>70 years</b> from the end of the year in which the creator died.
Government	<b>None</b> (All content produced by the US government is in the Public Domain).	<b>125 years</b> from the end of the year in which it was created for unpublished works, <b>or 50 years</b> from publication for published works (Crown copyright).	<b>Same rules</b> as for other copyrighted works with the exception of laws, regulations and other governmental decrees and decisions. They are not protected by German copyright law.

### Companies & Consortia

In the European Union, where an employing company holds the copyright to material, the duration of copyright is linked to the year of death of the employee who created the work. Copyright duration typically extends to 70 years from the end of the year in which the last surviving author died, depending on the governing law that applies to the work. Whether it has fallen into the public domain may therefore be challenging to work out. In the US, copyright in “works for hire” (works created by an employee of a company), published after 1978, subsists until 120 years after creation, or 95 years after publication, whichever comes first. The terms of copyright for works for hire created before 1978 generally follow the standard copyright duration as listed in the table above.

### **Moral Rights**

When a copyrightable work is created, under UK law and many other European legal systems, the author/creator is afforded extra protection over the non-financial value of their works. These are collectively known as *moral rights*. In other territories the term may not be in common use but moral rights may be covered to a degree by other laws.

Care should be taken to take account of moral rights alongside copyright when considering using third party content.

Authors/creators of literary, dramatic, musical, artistic, and film works typically have the following moral rights:

- The right to be identified as the author of the work (including through their pseudonym if one is used).
- The right to determine whether and how the work is to be published. This includes e.g. the right to prevent the public exhibition of texts, photographs and films created for private purposes.
- The right to object to derogatory treatment of the work (e.g. distortion or mutilation of the work in a way which damages the reputation of the creator)
- The right not to be identified as the creator of a work they did not create

In some jurisdictions moral rights cannot be transferred or assigned to other parties. This means that in some cases, the economic rights to the work and the moral rights to the work may belong to different people. Someone other than the author may be identified as the copyright holder of the work, but the author must always be properly acknowledged. For example: a relative may inherit copyright to a work, but the original author would be credited as such.

## Copyright Exceptions

Copyright exceptions, often referred to as fair use (in the US) or fair dealing (in the UK), allow for the reproduction of copyrighted content without the need to seek permission from the rights holder.

Recognised exceptions vary and the criteria for meeting them vary by country. In some countries the use may be regarded as fair, whilst in others it may be regarded as infringing.

Since in many cases it is a matter of interpretation whether an intended use would fulfil the relevant exception criteria, permission should always be sought if possible to minimise the risk of improper use.

### **Criticism and Review**

For academic publishing the exception for criticism and review is most often invoked. For use to qualify under an exception the following conditions must typically be met;

- The item has been previously published
- The item has been properly acknowledged (credited)
- The item is used within the context of criticism and review
- The item is not used illustratively but is itself part of the analysis
- The amount of the item used is the minimum necessary to demonstrate the point being made and does not take the 'heart of' or 'essence' of the original creator's work.
- The use does not infringe upon the original creator's moral rights

The content used should be directly discussed/analysed in the text. If it could be removed without affecting the understanding of the work it may not be appropriate.

## Incidental or *De Minimis* Use

In addition to the exceptions discussed above, for images it is generally acceptable to include copyrighted content without seeking explicit permission from the rights-holder if it is incidental or *de minimis*. This is where use of the copyrighted content is minimal, is not the subject or object of the image, and does not specifically add to its visual appeal. An example could be an advert in the background of a public street scene. As for the fair use/fair dealing exceptions, these doctrines – and even their names – vary by country. What may be acceptable in one country may not be acceptable in another, so a conservative approach to use of copyrighted materials as incidental or *de minimis* should always be taken.

To assess if the copyrighted material is incidental, it is useful to ask the following questions:

- Would I be using this image if the copyrighted material was not in it? If not, it is unlikely to be incidental use.
- Does the copyrighted material add to the impact of the image or enhance its appearance? If yes, it is unlikely to be incidental use.
- How minor/unrecognisable/incidental is the use of the copyrighted material? The more minor/unrecognisable the more likely that it is incidental.

## Obtaining Permission

### Overview of Permissions

It is important to seek permission for copyrighted content to avoid infringement.

Out of copyright works and works used under an exception do not require permission.

**If there is any doubt about whether material requires permission to be used, then it is best to seek permission regardless.**

The process for clearing permissions should begin as early as possible as it can often be time consuming. Depending on the type of content, the copyright holder may take some time to review the request. Permissions may also need to be negotiated if they do not meet our requirements (see required rights below), requiring further correspondence.

Please note that derivative works (such as translations, or new performances of old works, or collages compiled from public domain works) will hold their own copyright and permission may be required.

Most importantly, it is critical that the rights you obtain are sufficient to cover the rights you grant to Springer Nature under your publishing agreement – for example, if you are granting us world rights it is not sufficient to obtain rights limited to a specific territory.

### Model and Property Releases

Images may contain identifiable people, trademarks or copyrighted content. To use images containing these kinds of content a model or property release may be required.

When sourcing images, first check whether the copyright holder has already obtained the necessary releases and will supply copies to you. If not, you may have to go to third parties to acquire the necessary permissions. If using an image library, it will often state by the picture whether releases have been acquired. If so, you can ask for a copy to check what it covers.

Model Release	Property Release
<p>A model release is sometimes required for images containing an identifiable person. People are identifiable in many ways, such as by shape, or by the clothes or uniform that they wear.</p> <p>Model releases ensure that publishing a picture of a recognisable person does not breach their right to privacy or their publicity rights. Did the person know they are being photographed and would they have a reasonable expectation of privacy? Publishing an image of someone in a public place is less of an invasion of privacy than an image in their home for example. People have a right to control how their likeness or other individual identifiers (e.g. voice) are used for commercial purposes. Identifiable people on a cover for instance will likely require a release as this is prominent use of their likeness and cover images and could be construed as being used to sell and promote the product.</p> <p>Context issues may require a model release – for example showing an identifiable person in a context</p>	<p>For some images there may be multiple copyrights which require permission. There may be a copyright in the image itself (e.g. the photograph) and also copyright in whatever is being photographed (e.g. a painting).</p> <p>A property release relates to any intellectual property which may exist <u>within</u> an image. The property release is a permission which permits the inclusion of the material in the image.</p> <p>Property releases may be required where there is protected content, unless the material is out of copyright, is incidental to the image, or is used under a copyright exception. Like normal permissions, they have to meet our rights requirements.</p>

that could be considered derogatory or shameful for the person, or that shows them in a negative light.	
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You should also be cautious when using images of children. For these, releases will probably need to be signed by the parent/guardian.	
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### Privacy Rights

Images which show people in circumstances in which they have a reasonable expectation of privacy, in a negative light or engaging in questionable practices should be carefully considered. The content of a photograph for example could reveal information about the subjects (e.g. sexual orientation or religion) which they would prefer to keep private. The content of your text should also be considered alongside the image as any people presented in the image could become associated with the topic of the text or implicated in the activities shown. Avoid unnecessarily using images of people in private where their conduct, or the conduct of others, is questionable.

Privacy issues are particularly sensitive regarding children and other vulnerable people.

### **Required Rights/Citation Requirements**

The copyright holder must be acknowledged when reproducing third party materials.

If the copyright holder has granted permission and specified how to cite the source, you must use the form of words they have specified or confirm any alternate version in writing.

## **Guide to Specific Content**

### **Creative Commons (CC) Content**

Some content may be available online under a Creative Commons (CC) licence. This content is free to use in accordance with the terms and conditions of its licence. There are several variants, with the conditions for reuse described by suffixes (i.e. -BY/-NC) which may be applied individually or strung together:

CC - Creative Commons

BY - Attribution: you must give credit to the original creator

NC - Non-Commercial: the content cannot be used for commercial purposes

ND - No Derivatives: the content may only be reproduced unchanged

SA - Share Alike: new works featuring, adapting or building upon the content must be licensed under the same terms as the original

0 - No rights reserved: the work is in the public domain

Springer Nature Open Access content is mostly published under the CC-BY licence type, it is recommended that the same creative commons licence type is obtained for any third party content to be published in our open access publications.

### **Content from Wikipedia/Wikimedia**

For content from Wiki sources it is often difficult to verify the original source, or determine whether ascribed CC and other licenses are legitimate. When seeking to use content under a CC license, the

original source of the content should be identified to ensure it is the original copyright holder/creator who has applied the license.

## STM Content

STM is an association for academic and professional publishers which aids publishers in sharing the results of the research they publish.

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English-language journals (Springer/Palgrave/Nature):  
<http://journalpermissions@springernature.com/>

Scientific American: <http://randp@sciam.com/>

For further information on the permissions process for these imprints please refer to their respective websites;

Nature: <http://www.nature.com/reprints/permission-requests.html>

Palgrave Macmillan: <https://www.palgrave.com/gp/rights-permissions>

Macmillan Education and Red Globe Press: <https://he.palgrave.com/page/rights-and-permissions/>

Springer: <https://www.springer.com/gp/rights-permissions/obtaining-permissions/882>

Scientific American: <http://www.scientificamerican.com/page/contact-us/reprints-permissions/>

## Using Your Own Previously Published Content

Some publishers allow authors to retain certain rights in their work which may include allowing the author to re-publish their work elsewhere. If you wish to use your own previously published content, first check the terms of your agreement with the original publisher of your work to see if you require permission to reproduce the content, or whether your intended reproduction is covered by the rights you retained. Any retained rights may come with a number of restrictions or conditions and therefore should be checked carefully.

In the event that your retained rights do not cover your intended use, then please seek permission from the original publisher. Citation of the original publication is required.

## Libel and Privacy Considerations

### Libel (written defamation)

A statement is likely to be defamatory if it tends to lower someone in the eyes of right-thinking members of society generally subject to a minimum threshold of seriousness. The statement will not be defamatory unless its publication has caused, or is likely to cause, serious harm to the person's reputation. What amounts to serious harm must be determined in each case.

We recommend that independent legal advice is sought if you are concerned that your work could be potentially libellous. General considerations may be to ensure statements that could cast someone in a negative light are necessary and ethical, precisely and unambiguously worded, supported by credible sources and opportunity given to respond. Note that libel can arise through using content out of context.

## Useful Links

**The UK Intellectual Property Office (IPO):** the UK government body responsible for copyright and other intellectual property: <https://www.gov.uk/government/organisations/intellectual-property-office>

**Copyright Law of the United States (title 17 of the United States Code):** a copy of US copyright legislation: <https://www.copyright.gov/title17/>

**Rightslink:** Used for Permissions Clearance of Publisher Content:  
<http://www.copyright.com/rightsholders/rightslink-permissions/>

**The Design and Artists Copyright Society (DACS):** Manages rights for thousands of visual artists worldwide: <https://www.dacs.org.uk/>

**Artist's Rights Society:** Predominant rights manager for US visual artists: <http://www.arsny.com/>

**The Intellectual property Wiki:** Gives information on various artworks, buildings and people and the restrictions that apply to their reproduction: <http://wiki.gettyimages.com/>

**The World Intellectual Property Organization:** A resource providing information on copyright and copies of intellectual property law from various countries: <http://www.wipo.int/about-ip/en/>

**STM Association:** STM members agree to allow limited free re-use of their content between other STM signatories: <http://www.stm-assoc.org/about-stm/about-the-association/>