

Matador

Serious Self-Publishing



# Copyright Basics

*The advice given in this Factsheet explains the basics of copyright law. However it does not constitute legal advice. If you have any doubt about the reproduction of copyrighted material in your book, you are advised to take legal advice.*

## The Basics

Copyright exists upon the creation of a tangible piece of work; the creator does not have to register with any agency to be the legal copyright owner of the work.

Copyright protects literary, artistic, dramatic and musical works. The most common examples are books, plays, images, song lyrics and quotations from films/television programmes. The general rule is, if creativity, effort and time have gone into making something, it can be protected by copyright, therefore works such as sculptures and paintings are also protected. Anonymous, pseudonymous and posthumous works are also protected by copyright.

Copyright does *not* protect ideas, names and titles. The exception to this rule is patented names (brand names) which have been registered at the Patent Office.

## How long does copyright last?

Copyright expires seventy years after the death of the creator, until the end of the seventieth year. For example, if the creator died on 12th August 2013, the copyright would expire on 31st December 2083. The 'seventy-year rule' still applies even if the creator bequeaths the copyright to someone in their will. It is one of the few 'black and white' rules within copyright law. Reproducing anything published before 1900 can generally be assumed to be allowable without obtaining copyright clearance.

## When is permission to reproduce copyrighted material required?

Many authors decide to quote from already published sources in their own work, but doing so can raise issues around copyright. Authors commonly quote from books, films and music lyrics, but in doing so, care must be taken to ensure that you are not 'in breach' of another's copyright.

'Fair dealing' and 'substantiality' are the terms used to judge whether an author has 'taken a free ride' from another creator's work. Has the author used the most famous line from a film or book to enhance their work? Has an author used a famous band's song lyrics to make their chapter headings more exciting? Has an author quoted all the main points from another publication, therefore making the quoted publication redundant? If this is the case, the author has not quoted under fair dealing and therefore must gain copyright permission. It is not a clear-cut rule, the decision needs to be made judging by the substance, essence and context of the quoted/copied material.

You do not need to gain copyright permission when a limited amount of the creative work is used for criticism, review or research. For example, if an author were to use short quotations from another publication to back up their research, then they would not need to gain permission from the copyright owner. This is the flip-side to fair dealing, and again needs to be considered carefully. Note that all quoted/copied work must be acknowledged or referenced properly, with or without copyright permission.

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When reproducing extracts from another's work verbatim (ie. without changing it at all), then it is generally thought that up to 100 words from any one source can be reproduced without obtaining copyright clearance. That is not the case for reproducing poetry or song lyrics, where even a single line may require copyright clearance from the copyright owner. Music lyrics in particular are fiercely protected by music publishers, but you are able to use song titles without obtaining copyright permission.

When adapting any piece of creative work, you must receive permission from the copyright owner. Adaption covers translation, changing the colour, simplifying, cropping or editing in any way.

### **Obtaining copyright clearance**

To obtain permission ('clearance') to quote something in your own work, you need to contact the copyright holder in writing. State what exactly you wish to reproduce, what the title of your book is, how many copies you intend to print, the publisher's name, the cover price of your book and when it will be released.

For text or poetry, it is usually the publisher that will own the copyright, but they may have to contact the author as part of their copyright clearance process, so it can take a long time. There is no limit to the time you should wait for a reply from the copyright owner.

For music lyrics, it is usually the music publisher that owns the copyright, not the artist, though in many cases these are one and the same entity. There are agencies online that can apply for copyright clearance for you for a fee, and often this is the only way of identifying and locating some copyright holders.

### **What happens when copyright clearance is granted?**

The copyright holder usually will grant permission to reproduce material in a specific book for a specific amount of time. There may be a fee involved in granting the permission, or not, at the discretion of the copyright holder. You can agree to the copyright holder's terms, try to negotiate, or decide to remove the copyrighted material from your work.

If a copyright holder refuses you permission to reproduce material, then you can try to negotiate, but you must not then include that material in your work. Copyright holders often do assess what the request to reproduce something is for, and they do refuse permission (again, music lyrics are often denied copyright clearance).

### **What can I do if the copyright holder doesn't reply or cannot be found?**

You must distinguish between someone you cannot trace and someone who has chosen not to reply. If you do not receive a reply after a substantial amount of time and decide to take the risk and use the material without permission, then make sure you keep all evidence of your efforts to seek permission.

If the copyright owner does approach you post-publication for an infringement of their copyright by you, then evidence of your having attempted to obtain copyright clearance will help. Often it is simply a question of agreeing on a payment for the copyright permission to be granted retrospectively. If the copyright holder does not agree to grant permission, the author should be prepared to pulp and reprint all work, and may have to pay a fine. Breach of copyright cases rarely end in legal action because of the costs involved on both sides, but this can happen.

### **What about the Internet?**

Material that is published on the internet (whether that be text or pictures) is still covered by the copyright laws. Unless something is specifically denoted as being in the public domain or reproducible under a common license, you will still have to obtain permission from the publisher (of the website) to reproduce the material. For authors, this is often applicable to pictures that an author wants to reproduce in a book or use as a cover. Unless an image is clearly denoted as freely usable, permission must be obtained to use it in your own work.

The use of images from the internet usually has another major issue, that of inadequate resolution for print reproduction. Images on the internet are generally only 100 dpi (dots per inch) in resolution, whereas print reproduction requires images to be at 300dpi for clear print. Using a low resolution image in print results in fuzzy or bitmapped images, so pictures downloaded from the internet are usually unusable anyway.

If you are seeking images online then there are numerous image 'libraries' where you can search for and purchase images for use on book covers. We advise authors to discuss covers with our designer prior to purchasing any image for use on the cover; partly as we can often obtain images at a cheaper cost, partly as the designer may suggest some other design that is better for the book's market that you have not considered before.

### **Summary**

If you are unable to obtain copyright clearance or have been refused permission, leave out the copyrighted material!

Using song lyrics and quoting poetry from some 20th Century poets can be fraught with difficulties, so check on whether something is covered by copyright and obtain clearance to reproduce if it is.

**If you would like more information please contact**  
**editorial@troubador.co.uk**  
**0116 279 2299**

We also recommend the book  
*Getting Permission (How to License and Clear Copyrighted Material Online and Off)*  
9781413305180 (NOLO)

### **Disclaimer**

This advice is given in good faith, but copyright law is complex and we strongly recommend authors seek their own advice on specific points before acting upon the information provided above