

Can I Use Someone Else's Work? Can Someone Else Use Mine?

(Source: US Copyright Office - copyright.gov)

See also: Copyright Basics @ copyright.gov/circs/circ01.pdf

How do I get permission to use somebody else's work?

You can ask for it. If you know who the copyright owner is, you may contact the owner directly. If you are not certain about the ownership or have other related questions, you may wish to request that the Copyright Office conduct a search of its records or you may search yourself. See the next question for more details.

How can I find out who owns a copyright?

We can provide you with the information available in our records. A search of registrations, renewals, and recorded transfers of ownership made before 1978 requires a manual search of our files. Upon request, our staff will search our records, see [Circular 4 Copyright Office fees](#). There is no fee if you conduct a search in person at the Copyright Office. Copyright registrations made and documents recorded from 1978 to date are available for searching online. For further information, see [Circular 22, How to Investigate the Copyright Status of a Work](#), and [Circular 23, Copyright Card Catalog and the Online File](#). Check out the [Virtual Card Catalog](#) Proof of Concept as well.

How can I obtain copies of someone else's work and/or registration certificate?

The Copyright Office will not honor a request for a copy of someone else's protected work without written authorization from the copyright owner or from his or her designated agent, unless the work is involved in litigation. In the latter case, a litigation statement is required. A certificate of registration for any registered work can be obtained see [Circular 4 Copyright Office fees](#), for this and other records and services. [Circular 6, Access to and Copies of Copyright Records and Deposit](#), provides additional information.

How much of someone else's work can I use without getting permission?

Under the *fair use* doctrine of the U.S. copyright statute, it is permissible to use limited portions of a work including quotes, for purposes such as commentary, criticism, news reporting, and scholarly reports. There are no legal rules permitting the use of a specific number of words, a certain number of musical notes, or percentage of a work. Whether a particular use qualifies as fair use depends on all the circumstances. See, [Fair Use Index](#), and [Circular 21, Reproductions of Copyrighted Works by Educators and Librarians](#).

How much do I have to change in order to claim copyright in someone else's work?

Only the owner of copyright in a work has the right to prepare, or to authorize someone else to create, a new version of that work. Accordingly, you cannot claim copyright to another's work, no matter how much you change it, unless you have the owner's consent. See [Circular 14, Copyright Registration for Derivative Works and Compilations](#).

Somebody infringed my copyright. What can I do?

A party may seek to protect his or her copyrights against unauthorized use by filing a civil lawsuit in federal district court. If you believe that your copyright has been infringed, consult an attorney. In cases of willful infringement for profit, the U.S. Attorney may initiate a criminal investigation.

Could I be sued for using somebody else's work? How about quotes or samples?

If you use a copyrighted work without authorization, the owner may be entitled to bring an infringement action against you. There are circumstances under the [fair use](#) doctrine where a quote or a sample may be used without permission. However, in cases of doubt, the Copyright Office recommends that permission be obtained.

Do you have a list of songs or movies in the public domain?

No, we neither compile nor maintain such a list. A search of our records, however, may reveal whether a particular work is no longer under copyright protection. We will conduct a search of our records by the title of a work, an author's name, or a claimant's name. Upon request, our staff will search our records see [Circular 4 Copyright Office Fees](#), for this and other records and services. You may also search the records in person without paying a fee.

I saw an image on the Library of Congress website that I would like to use. Do I need to obtain permission?

With few exceptions, the Library of Congress does not own copyright in the materials in its collections and does not grant or deny permission to use the content mounted on its website. Responsibility for making an independent legal assessment of an item from the Library's collections and for securing any necessary permissions rests with persons desiring to use the item. To the greatest extent possible, the Library attempts to provide any known rights information about its collections. Such information can be found in the "Copyright and Other Restrictions" statements on each [American Memory](#) online collection homepage. If the image is not part of the American Memory collections, contact the Library custodial division to which the image is credited. Bibliographic records and finding aids available in each custodial division include information that may assist in assessing the copyright status. Search our catalogs through the Library's [Online Catalog](#). To access information from the Library's reading rooms, go to [Research Centers](#).

Is it legal to download works from peer-to-peer networks and if not, what is the penalty for doing so?

Uploading or downloading works protected by copyright without the authority of the copyright owner is an infringement of the copyright owner's exclusive rights of reproduction and/or distribution. Anyone found to have infringed a copyrighted work may be liable for statutory damages up to \$30,000 for each work infringed and, if willful infringement is proven

by the copyright owner, that amount may be increased up to \$150,000 for each work infringed. In addition, an infringer of a work may also be liable for the attorney's fees incurred by the copyright owner to enforce his or her rights.

Whether or not a particular work is being made available under the authority of the copyright owner is a question of fact. But since any original work of authorship fixed in a tangible medium (including a computer file) is protected by federal copyright law upon creation, in the absence of clear information to the contrary, most works may be assumed to be protected by federal copyright law.

Since the files distributed over [peer-to-peer](#) networks are primarily copyrighted works, there is a risk of liability for downloading material from these networks. To avoid these risks, there are currently many "authorized" services on the Internet that allow consumers to purchase copyrighted works online, whether music, ebooks, or motion pictures. By purchasing works through authorized services, consumers can avoid the risks of infringement liability and can limit their exposure to other potential risks, e.g., viruses, unexpected material, or spyware.

For more information on this issue, see the [Register of Copyrights' testimony before the Senate Judiciary Committee](#).

Can a school show a movie without obtaining permission from the copyright owner?

If the movie is for entertainment purposes, you need to get a clearance or license for its performance.

It is not necessary to obtain permission if you show the movie in the course of "face-to-face teaching activities" in a nonprofit educational institution, in a classroom or similar place devoted to instruction, if the copy of the movie being performed is a lawful copy. [17 U.S.C. § 110\(1\)](#). This exemption encompasses instructional activities relating to a wide variety of subjects, but it does not include performances for recreation or entertainment purposes, even if there is cultural value or intellectual appeal.

Questions regarding this provision of the copyright law should be made to the legal counsel of the school or school system.

My local copying store will not make reproductions of old family photographs. What can I do?

Photocopying shops, photography stores and other photo developing stores are often reluctant to make reproductions of old photographs for fear of violating the copyright law and being sued. These fears are not unreasonable, because copy shops have been sued for reproducing copyrighted works and have been required to pay substantial damages for infringing copyrighted works. The policy established by a shop is a business decision and risk assessment that the business is entitled to make, because the business may face liability if they reproduce a work even if they did not know the work was copyrighted.

In the case of photographs, it is sometimes difficult to determine who owns the copyright and there may be little or no information about the owner on individual copies. Ownership of a “copy” of a photograph – the tangible embodiment of the “work” – is distinct from the “work” itself – the intangible intellectual property. The owner of the “work” is generally the photographer or, in certain situations, the employer of the photographer. Even if a person hires a photographer to take pictures of a wedding, for example, the photographer will own the copyright in the photographs unless the copyright in the photographs is transferred, in writing and signed by the copyright owner, to another person. The subject of the photograph generally has nothing to do with the ownership of the copyright in the photograph. If the photographer is no longer living, the rights in the photograph are determined by the photographer’s will or passed as personal property by the applicable laws of intestate succession.

There may be situations in which the reproduction of a photograph may be a “fair use” under the copyright law. Information about fair use may be found at [Fair Use Index](#). However, even if a person determines a use to be a “fair use” under the factors of section 107 of the Copyright Act, a copy shop or other third party need not accept the person’s assertion that the use is noninfringing. Ultimately, only a federal court can determine whether a particular use is, in fact, a fair use under the law.

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