

A Simple Guide to Copyright for Librarians: 15 Essential Facts and Tips

1. U.S. copyright law doesn't protect ideas

U.S. copyright law doesn't protect ideas, facts or news. It's the expression of ideas, facts or news that's protected by copyright. This means you can summarize an article or write a blog post based on news events, as long as you don't reproduce or copy the article or news story.

2. The creator is generally the first owner of copyright in a copyright-protected work

The general rule of ownership is that the first owner of copyright is a work's creator or author. This is subject to a number of exceptions. One such exception is the "work for hire" provision. It stipulates that employers, under certain conditions, own the copyright in works their employees create during the course of their employment.

3. Copyright protection is automatic

Copyright is automatic upon the creation of a work in a fixed form (e.g., written on paper, saved to a computer hard drive, or stored on a camera's memory card). The international copyright symbol and notice (e.g., © Smart Copyright Corp. 2020) doesn't have to be on the work for it to be copyright protected.

4. Registration with the U.S. Copyright Office is voluntary

Registration with the [U.S. Copyright Office](#), which requires depositing a copy of the work, isn't mandatory for copyright protection but does provide some benefits. For owners these include a presumption of copyright ownership, plus certain benefits when pursuing a copyright infringement lawsuit. Registration makes it easier for librarians and other users to identify and seek permissions from copyright owners. However, since registration is voluntary, searching the Copyright Office's records may not yield the information you need.

5. Only the copyright owner has the "right to copy"

Copyright is, literally, the "right to copy." Section 106 of the [U.S. Copyright Act](#) sets out a bundle of economic rights exclusive to copyright owners. These are the rights of

- Reproduction
- Adaptation
- Distribution
- Public performance
- Public display
- Public performance by means of a digital audio transmission.

6. Copyright duration in the U.S. is life-plus-seventy

The general rule of copyright duration in the U.S. is 70 years after the death of the author, to the calendar year end. Determining copyright duration is complicated due to various amendments to the duration of copyright in the U.S. For more information, see this [overview of U.S. copyright duration](#).

7. You require permission to use a copyright-protected work, even if you can't locate the copyright owner

The works of unlocatable copyright owners are called "orphan works." If you can't identify or locate a copyright owner (or they don't reply to your permission requests), there's no mechanism under U.S. copyright law allowing you to legally use that work (despite the efforts you've made to contact the owner).

8. You don't need permission to use a work that's in the public domain

If a work is in the [public domain](#), you can use it in any manner — even modify or adapt it — without obtaining permission. Some works are in the public domain because their copyright duration has expired. Others may not have had copyright protection in the first place (e.g., many U.S. government works).

9. There are some limitations on copyright in the U.S. Copyright Act

The Copyright Act balances the interests of copyright owners with those of content users through limitations on the exclusive rights of owners. These include fair use and specific exceptions (e.g., for libraries and archives) and are further discussed below.

10. Fair use is ambiguous and flexible

Fair use as set out in section 107 of the U.S. Copyright Act is intentionally ambiguous. You can never be certain your use of content falls within the fair use factors unless a judge in a court of law decides so. Every fair use determination must be interpreted on a case-by-case basis. The four fair use factors are:

- The purpose and character of the use
- The nature of the copyrighted work
- The amount/substantiality of the portion used
- The effect of the use on the potential market for or value of the copyrighted work.

11. Fair use applies to all users and both for- and nonprofit situations

Fair use applies to all users of content, not just libraries. It may apply in commercial or for-profit situations as well as nonprofit situations. It's less likely that you can claim fair use in for-profit situations, but it's still possible. And not all nonprofit uses of content are fair use.

12. There are exceptions for specific kinds of libraries

Section 108 of the U.S. Copyright Act sets out specific uses which don't require permission and payment, including preservation copying and copying for interlibrary loans. These provisions are for specific kinds of libraries and may or may not apply to your library or your particular use within it (e.g., these provisions are for libraries and archives with collections open to the public, or available to any researcher in a specialized field, even if they're not affiliated with the library or archives).

13. U.S. copyright law applies to copyright-protected materials used in the U.S.

The U.S. has been a member of the [Berne Convention](#), the leading international copyright treaty, since 1989. From the information professional's perspective, this means that when reproducing or sharing copyright-protected materials from the 181 Berne member countries, you should apply U.S. law if you're using those materials in the U.S.

14. Occasionally you need to obtain permission to use U.S. government materials

Maps, brochures and others works prepared by U.S. federal government employees don't have copyright protection in them and are in the public domain. Anyone in the U.S. can use them freely. However, not all [U.S. government materials](#) are in the public domain. The U.S. government may own copyright in materials through assignments or bequests. For example, a consultant who prepares a report for the U.S. government owns copyright in that report unless they assign it in writing to the government.

15. Images you find online may be protected by copyright

Images you find online may be protected by copyright law. Some people think that the images found in internet searches are in the public domain. It's always prudent to assume that online images are copyright protected until you investigate and determine their copyright status.

Special Section on COVID-19 and Managing Copyright Issues in your Library

If your library or organization has gone virtual and you're digitizing, publishing and sharing content in a digital format, here are four practical tips (not legal advice) for copyright management. These are just the tip of the iceberg. You should explore all of your options and discuss these issues with your Copyright Go-To Person and/or lawyer.

1. Communicate with your fellow employees about copyright and licensing issues, and if possible, help them make wise choices when using protected materials.
2. Use content that your organization owns, is in the public domain, or is Creative Commons licensed (but use it according to the terms of the CC license).
3. Check licenses you've already entered into and any exceptions in your country's Copyright Act that apply to your organization.
4. Do a fair use analysis. Keep in mind that fair use is flexible and open to interpretation in all sorts of situations, including the pandemic. It also requires an analysis for each particular situation and is never a certain thing unless a judge in a court of law makes that determination. Here are some practical tips to lower your copyright risks when making fair use determinations:
 1. Limit your use under [fair use](#) to: using the content only once; using the smallest amount possible of the article, video or other content; posting it for the shortest amount of time to the narrowest audience in a secure password-protected network; and, removing it as soon as it's no longer needed.
 2. Document all the content you're using under fair use for a consistent interpretation of fair use during the pandemic. And start thinking about how you'll obtain permission for content post-COVID-19, and how to reflect your current and future uses of protected materials in your copyright policies and guidelines.

Use this information to maintain copyright compliance in your organization, but please do not rely on it as legal advice. Seek legal advice where necessary.

Copyright law is complicated. Learn copyright principles and gain the decision-making skills to confidently apply copyright in your library or organization through the online [Copyright Leadership Certificate](#) program.

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