

# **ACM PERMISSION GUIDELINES**

## **INTRODUCTION**

When you are writing a book, you must keep track of all resources that you use to create your book. Copyright laws in every country require that you list the resources you used to write your book. There are also instances where you are required to obtain written permission from the copyright holder of the work you are using to use that material or provide proof that the copyright holder's terms of use allow you to use their material without obtaining specific written permission from them.

Works that can be Copyrighted are Original works by an author that are in a tangible medium:

- Works of fiction and nonfiction
- Musical works, including lyrics
- Websites and materials on them
- Dramatic works, including any accompanying music
- Pictorial, graphic, and sculptural works
- Films and other audiovisual works
- Sound recordings
- Architectural works
- Compilations (the selection, order and arrangement can be copyrightable if it is sufficiently original)
- Choreographic works and pantomimes
- Diagrams, patterns, designs

Works that are not Copyrighted:

- Facts, lists taken from public domain documents
- Most works published by the United States Government, but you need to check to see if the material does have a copyright notice on it. United States Government websites, such as NASA, not all material posted on their website is in the public domain. They may also have third party material posted on their website. It is up to you as an author to thoroughly check to see if the work is truly in the public domain.
- Titles, names, short phrases and slogans but these can be protected under trademark law.

The Copyright Owner has the following exclusive rights:

- The right to produce the work
- The right to prepare derivative works from the work
- The right to distribute copies of the work
- The right to perform the work publicly
- The right to display the work publicly
- The right to grant others permission to use their work

When determining who owns the copyright to a work, you need to carefully read the credit lines to the work. You must request permission from the copyright owner of the work. For example, the author of a book may

use a quote from a different publication of theirs or a quote from another author's work, you will need to contact the copyright holder of the original work not the copyright holder of where you found the work.

The credit line for third party material can be found in different places in a publication. The credit line can be with the third party material, it can be in a footnote at the bottom on the page where the third party material is found, it can be in an end note at the end of the chapter in a book or in the credit list in the front or back of the book. Each book is different so you will need to look carefully for the information.

When you are using quotes from a third party you need to make sure that you put quotation marks around the works or indent the quote to show the reader that this is not something you are saying but you are using the words of some else in your book.

All material that you use from a third party must include a complete credit line. The credit line should include the name of the author(s), the title of the book/paper/journal/magazine, the copyright holder and the year of publication (if it is not the publisher), the name of the publisher, the year of publication (if the publisher is the copyright holder) and the city where the publisher is located in.

To determine if permission is required you will need to know if the third-party material is protected by copyright. If it is no longer under copyright, and is the public domain, you will still need to provide a full credit line.

Cornell University Library has created a chart that helps to explain Copyright and Public Domain. Please visit their website for further information.

If the work is still under copyright protection, you will need to find the copyright holder and research whether permission is required.

There are some forms of third-party material that always require permission. A few examples:

- Images/Photographs- permission is required from the photographer and if there are people or a product or landmark in the image/photograph you will need to obtain releases from people or product or landmark in the image/photograph.
- Unpublished works- it is up to the creator of the work to decide when their work is published.
- Tables/Charts/Graphs
- Poems
- Lyrics

### **KEEPING TRACKING OF THIRD-PARTY MATERIAL**

While you are writing your book, you should keep a list of all the third-party material that you use and where it will be in your book. There is an excel spread sheet that has been created for you to use. Here is a list of what you need to keep track of:

- Figure number in your book
- Page number in your manuscript
- Description
- Primary Source/ Credit Line

- Page number from the book where the original figure was found
- Figure number of the original figure and title
- Copyright owner
- Is permission required- if not why
- Who do you request the permission from?
- Dates the permission requests were sent out
- When permission is granted
- If a fee is charged for permission amount and when paid
- Complimentary copy request- Name and Address- in place of a fee a copyright holder may request a copy of the book

The more information you write down the easier it will be for you to keep track of what third party material you have used and where it is from.

When you request permission from a copyright holder, you need to hear back from them that they have either granted you permission or denied you permission. Silence is not acceptance. A copyright holder does not have to answer your request. If you are granted permission, you will need to send ACM a copy of all the permission and releases you obtain and keep a copy of them for your files.

If you are using a photograph, you will need to obtain permission from the photographer. If there are any people or a product or a landmark in the photo, you will also need to obtain a release from the people in the photograph or a release from the product owner or a release from the landmark owner. There are some landmarks that require you to obtain a release before you can use that landmark, an example in the Eiffel Tower lit up. French law has offered copyright protection to the owner of the lights under artistic work. You can take a picture of the Eiffel Tower without the lights on and use it but if the lights are on, you need permission from the Société d'Exploitation de la Tour Eiffel.

When using material from Websites, you must carefully read the terms of use to determine if you are able to use the material without additional written permission. If the terms of use give you permission, make a copy of the terms of use for your records. This will show that on the day you visited the website these were the terms. Please remember website URLs can change, terms of use can change, or a website can be removed. If you do not find the terms of use section on the website, then you need to contact the website owner because silence is not permission. There also maybe imbedded images/photos that the website owner has permission to use on their website but does not have the right to grant you permission to use them so you will need to obtain separate permission to use. The website owner should tell you if you do need to obtain additional permission, but you should ask to be on the safe side.

## **OBTAINING PERMISSION**

If you decide you need to obtain permission, you will need to contact the copyright holder for written permission; verbal permission is not acceptable. When requesting permission, you need to be specific in what you are requesting, put the quote or image in the request; put down where you found and a sample credit line. If the copyright holder grants you permission and provides a credit line, you must use the credit line they provide you as it is a condition of the permission being granted.

- Time Period – usually the number of the editions
- Title of Your Book
- The Publisher
- List all the Authors

- Page Count of Your Book
- Price of Your Book
- Format- Print or Digital or Both
- Quantity of the Publication
- Date of Publication

You should have the above information on hand before you begin requesting permission so that you can be efficient in your requests. Some copyright holders require you to use their website to request permission, others use a granting service such as Copyright Clearance Center, and others will have an email address where you are to send your request. If none of the above are on the website or in the book you obtained the work from, send your request to the contact person. Once you determine that permission is required, you must request it. It is not acceptable to say, I did not know where to obtain permission, so I will not be asking for it.

### **THE INTERNET vs COPYRIGHT**

The Internet. Everything that you find on the internet is NOT in the public domain. It does not matter if you find the same material on different website, you still need to determine if the material is under copyright protection and if it is under copyright protection who the copyright holder is. If you cannot determine if the material is still under copyright protection, you cannot use it. Just because the material is “all over the internet” does not mean that it is free for you to use. If the material says you can only use it for personal use, you must obtain permission to use it in the book you are writing.

Wikipedia is not a source. You can use Wikipedia to help you find a primary/original source, but you cannot use it as a primary/original source. You do not know in most cases who created the Wikipedia page or if the information is accurate.

### **PUBLIC DOMAIN**

Public Domain is third party material that is no longer under copyright protection. There are different ways that material comes into the public domain:

- The copyright has expired
- The copyright owner failed to follow copyright renewal rules
- The copyright owner deliberately places it in the public domain
- Copyright law does not protect the type of work

If the material, you wish to use is no longer under copyright protection you are free to use as much or as little of the work you want. You may create a derivative of the work and use it in a commercial product. Whatever you do with the work, you still need to list it in the log and provide a complete credit line for it. Just because it is no longer under copyright protection does not mean you do not have to provide a credit line. If you do not put in a credit line you are letting the reader believe that you created the material when you did not create it.

### **FAIR USE**

The United States has the legal doctrine of Fair use and very few countries follow the United States with this legal doctrine. Fair use allows you to use a very small portion of some one’s copyrighted work without obtaining permission from the copyright holder. Fair use is very subjective, what one person may consider fair use another may not. To determine if a copyrighted work can be used under the fair use guidelines please review the four prongs that the law has established.

Fair use is a legal doctrine that promotes freedom of expression by permitting the unlicensed use of copyright-protected works in certain circumstances. [Section 107 of the Copyright Act](#) provides the statutory framework for determining whether something is a fair use and identifies certain types of uses—such as criticism, comment, news reporting, teaching, scholarship, and research—as examples of activities that may qualify as fair use. Section 107 calls for consideration of the following four factors in evaluating a question of fair use:

- *Purpose and character of the use, including whether the use is of a commercial nature or is for nonprofit educational purposes:* Courts look at how the party claiming fair use is using the copyrighted work, and are more likely to find that nonprofit educational and noncommercial uses are fair. This does not mean, however, that all nonprofit education and noncommercial uses are fair and all commercial uses are not fair; instead, courts will balance the purpose and character of the use against the other factors below. Additionally, “transformative” uses are more likely to be considered fair. Transformative uses are those that add something new, with a further purpose or different character, and do not substitute for the original use of the work.
- *Nature of the copyrighted work:* This factor analyzes the degree to which the work that was used relates to copyright’s purpose of encouraging creative expression. Thus, using a more creative or imaginative work (such as a novel, movie, or song) is less likely to support a claim of a fair use than using a factual work (such as a technical article or news item). In addition, use of an unpublished work is less likely to be considered fair.
- *Amount and substantiality of the portion used in relation to the copyrighted work as a whole:* Under this factor, courts look at both the quantity and quality of the copyrighted material that was used. If the use includes a large portion of the copyrighted work, fair use is less likely to be found; if the use employs only a small amount of copyrighted material, fair use is more likely. That said, some courts have found use of an entire work to be fair under certain circumstances. And in other contexts, using even a small amount of a copyrighted work was determined not to be fair because the selection was an important part—or the “heart”—of the work.
- *Effect of the use upon the potential market for or value of the copyrighted work:* Here, courts review whether, and to what extent, the unlicensed use harms the existing or future market for the copyright owner’s original work. In assessing this factor, courts consider whether the use is hurting the current market for the original work (for example, by displacing sales of the original) and/or whether the use could cause substantial harm if it were to become widespread.

More information can be found about Copyright at the United States Copyright Office website:

<https://www.copyright.gov/>

Please note the fair use legal doctrine is only a defense for using copyrighted works without permission. The United States Supreme Court has not put out any further guidelines for using copyrighted works without obtaining permission. If you are unsure if the work needs permission, you should request permission. If you decide that the copyrights material can be used under the fair use doctrine, you still need to have a complete credit line for the material you are using.

Other countries use the Fair Dealings concept written into their copyright law to determine if copyrighted material maybe used without additional written permission. The Fair Dealings concept is much more restrictive than Fair Use. Each country may have their own guidelines so you will need to look at the country where the copyright is held to see if your use is allowed. Most Fair Dealing rules do not allow for use in a commercial product.