PERMISSIONS AND COPYRIGHT GUIDELINES

These guidelines do not constitute legal advice and should not be construed as such.

rev. 9/28/15

OHIO UNIVERSITY PRESS

Authors must obtain written permission from copyright holders to reproduce images or to reprint extended passages from works that are not in the public domain, unless the doctrine of "fair use" applies. Even if you have obtained permission to reproduce material in another context (e.g., in a journal article), you need written permission to use the same material in this book. Reprinting previously published material of your own composition may require permission from the original publisher, depending on the terms of your contract. Ohio University Press will not put a manuscript into production until all required permission forms have been received. **Failure to clear permissions for images or quoted material will delay the publication of your book.**

Important: Unless copyright is transferred in writing, it belongs to the **author** or **creator** of the work (or his or her employer), **not necessarily the current possessor of the the physical object.** Photographs, letters, and manuscripts, for example, often are donated to libraries or archives; but unless the copyrights to those works are conveyed together with custody of the physical objects, the libraries or archives are simply repositories and have no power to grant permission for their use. Similarly, to reproduce a photograph of a copyrighted work requires permission from both the photographer **and** the holder of the rights to the underlying work. Permission must be obtained from the **original copyright holder** or his or her **heirs** or **assigns.**

PUBLIC DOMAIN, COPYRIGHT, AND FAIR USE

Works in the public domain (i.e., not under copyright) include works published before 1923, works created by the federal government or its agencies, and works whose copyright is defective or has expired without renewal. The burden is on the user to establish whether the work is in the public domain and, if it is not, to secure written permission from the rights holder(s) or to assert the justification of fair use (see below). The following are general guidelines adapted from a much more detailed copyright term chart by Peter Hirtle, available at http://copyright.cornell.edu/resources/publicdomain.cfm/.

Unpublished Works

Type of Work	Copyright Term	In the public domain as of 2015
Works whose author is known	*Life of the author + 70 years*	*Works whose author died before 1945*
Works made for hire	*120 years from date of creation*	*Works created before 1895*
Works whose author is unknown (or pseudonymous)	*120 years from date of creation*	*Works created before 1895*

PERMISSIONS AND COPYRIGHT GUIDELINES

These guidelines do not constitute legal advice and should not be construed as such.

OHIO UNIVERSITY PRESS

Published Works

Date of Publication	Conditions	Copyright Term
Before 1923	*None*	*In the public domain*
1923 through 1977	*Published without copyright notice or registration, or not renewed*	*In the public domain*
	Published with proper copyright notice and registration, and timely renewed	*95 years after date of publication*
1978 to present	*Created after 1977*	*70 years after death of author, or if work made for hire, 95 years from publication*

Note that for works published between 1923 and 1977, it is sometimes difficult to determine whether a given work is still in copyright or who the rights holder(s) may be. For works created after 1978, the laws regarding copyright registration have been relaxed considerably; such works are automatically protected by copyright at the time of creation.

FAIR USE TEST

Brief excerpts from works under copyright may be used without permission under the doctrine of fair use. Title 17, § 107, of the U.S. Code provides, in pertinent part:

> [T]he fair use of a copyrighted work . . . for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—
>
> (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
>
> (2) the nature of the copyrighted work;
>
> (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
>
> (4) the effect of the use upon the potential market for or value of the copyrighted work.
>
> The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

Fair use must be established on a case-by-case basis. You must evaluate each use of material for which you intend to assert fair use according to the four-factor test outlined in the statute. For assistance in making this decision, you may wish to consult the U.S. Copyright Office Web site (http://www.copyright.gov), the copyright guidelines posted by the University of Chicago Press (http://www.press.uchicago.edu/Misc/Chicago/copy_and_perms.pdf), and the fair use checklist available from the Cornell University Copyright Information Center (http://copyright.cornell.edu/policies/docs/Fair_Use_Checklist.pdf).

PERMISSIONS AND COPYRIGHT GUIDELINES

These guidelines do not constitute legal advice and should not be construed as such.

OHIO UNIVERSITY PRESS

RULES OF THUMB

These are general guidelines, and they do not have the force of law. They are, however, an indication of usual practices in scholarly publishing.

For prose works, quotations may be considered within the bounds of fair use if they reproduce, in total, no more than 5,000 words, constitute no more than 5 percent of the work being quoted, and include no complete poems, articles, or other self-contained literary works. No single quotation should exceed 300 consecutive words, and the material reproduced should constitute no more than 5 percent of the new work. For poems and song lyrics, it is best to quote no more than a few lines (from shorter works) or stanzas (from longer works).

It is more difficult to formulate quantitative guidelines for the use of images (e.g., photos, drawings, film stills, maps) because, in most cases, the entire work is incorporated into the new context. The inclusion of an image for the purpose of discussion, criticism, or interpretation is more likely to constitute fair use than is the inclusion of an image simply for illustration or ornamentation.

Note: Copyright protects only the expression of an idea, not the underlying idea itself. You are free to create your own works based on the ideas of others and to paraphrase or recast the works of others, provided that proper attribution is given.

HOW TO OBTAIN PERMISSION

If a work is not in the public domain and you have determined that the doctrine of fair use does not apply, you must obtain written permission from the rights holder. The simplest method is to address a letter to the publisher or other rights holder of the work that you wish to reproduce. Some rights holders, especially individuals, grant permission gratis or for a token payment. Others, especially commercial publishers or archives, request substantial fees and may impose conditions on the use of the work. Some rights holders will reduce their fee schedules for scholarly, not-for-profit uses or for books with limited print runs, so you should be sure to ask about the availability of such discounts.

Rights holders may require you to use their in-house permission request forms. If this is the case, please review the forms to ensure that they include the following terms:

- Nonexclusive world rights (i.e., no geographic or temporal restrictions)
- Digital (electronic) reproduction, distribution, and display rights
- Rights for all editions, versions, or formats (i.e., not limited to “one use only” or “this edition only”)

If the rights holder insists on any of these restrictions or imposes fees higher than you are willing to pay for these rights, consider recreating the work yourself, substituting another work, or cutting the work from the book.

Note: When an image has been selected and approved, you will have to secure specific permission for material to be used on the cover or dust jacket of your book.

If you have any questions about copyright or permissions, please contact your editor at the press.