



Copyright Notice: digital images, photographs and the internet

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What is a Copyright Notice?

Copyright Notices are published by the Intellectual Property Office to help explain specific areas of copyright in the UK. This notice is aimed at small businesses and individuals who may wish to use digital or photographic images on the web. It also provides advice for people who may find their own images being used online.

This notice is not meant as a substitute for legal advice on particular cases, but it can help readers gauge the possible consequences of a particular course of action. It is not a conclusive view of the law – only a decision of the court can deal with that.

Copyright in images and photographs

The basics

Photographs, illustrations and other images will generally be protected by copyright as artistic works. This means that a user will usually need the permission of the copyright owner(s) if they want to perform certain acts, such as copying the image or sharing it on the internet.

References to “images” in this Copyright Notice include:

- digital photos taken on mobile phones and digital cameras;
- images that were first generated on photographic film and any digital images created from them; and
- images such as diagrams and illustrations.

Please note that some of the issues raised in this Copyright Notice will only apply to photos.

Who owns copyright in an image?

The person who creates an image (“the creator”) will generally be the first owner of the copyright. However, there are various situations in which this is not necessarily the case. For photos, it may depend on when the photo was taken, as different rules may apply if the photograph was taken before 1989. Creators also have what are known as moral rights (see example below on stopping the use of an image if you disapprove).

If an image was created as part of the creator’s employment, rather than by a freelance creator, the employer will generally own the copyright. It is also possible that, in instances where a person has arranged equipment and made artistic decisions prior to taking a photo, but wasn’t the one to press the trigger, the person making the arrangements could own the copyright. An example of this could be where a photographer has made the creative choices in setting up a shot, but got an assistant to actually press the trigger.

The creator of an image may choose to allow a person or organisation to license the work on their behalf, license

the copyright directly themselves, or “assign” (transfer) the copyright to another person. The term ‘licensing’ means giving another person or organisation permission to use a work such as an image, often in return for payment and/or on certain conditions for a specific period of time.

A Copyright Notice on assigning copyright is available here: <https://www.gov.uk/government/publications/copyright-notice-assignment-of-copyright>

What if there is more than one copyright owner?

An image might have multiple copyright owners if there was more than one creator. An example might be a cartoon or illustration created by a number of visual artists, who then jointly license use to a website owner.

This is different from copyright works which contain other, underlying works which are also protected by copyright. For example, if you wanted to use image ‘A’ which also contains image ‘B’, then you would need permission from both owners of image ‘A’ and ‘B’, provided the inclusion of image ‘B’ was not purely incidental (see example below on taking a photo of a copyright work).

Some images which appear on the internet are controlled by picture libraries which either own the copyright in the images or have the copyright owners’ permission to license rights to use the images. The picture libraries normally restrict how the copies of the photos are used as part of their contract terms when they allow people to use the images. The restrictions may not arise out of copyright law: an image library can set terms and conditions of use in respect of images it supplies, including ones which are out of copyright, through a contract.

How long does copyright in images or photos last?

Generally speaking, in the UK copyright in images lasts for the life of the creator plus 70 years from the end of the calendar year of their death although the length of the copyright period will depend on when the image was created. That means that images less than 70 years old are still in copyright, and older ones may well be, depending on when the creator died.

For old images or photos, you may never be entirely sure if something is in copyright, but knowing the age of the photo will be a good guide to make an educated guess whether the photo is likely to be protected by copyright. There may be material in the image which helps to date it. For instance, a photo of a particular brand of motorcar may be evidence that the photograph was taken after the first year of manufacture.

It is important to be aware that copyright duration can be very complex for certain older works (including some

photographs) that were unpublished on 1 August 1989 and where the author has died. Prior to the adoption of the Copyright, Designs and Patents Act 1988, certain unpublished works were granted perpetual copyright up until the point they were first published. In order to remove this perpetual copyright, the 1988 Act reduced the term of protection for such works to 50 years from the implementation of the Act. This means that many works which were not published prior to 1 August 1989, and where the creator died before 1 January 1969, are due to remain in copyright until 31 December 2039 at the earliest. This will be the case for many photographs created between 1 June 1957 and 1 August 1989.

Are digitised copies of older images protected by copyright?

Simply creating a copy of an image won't result in a new copyright in the new item. However, there is a degree of uncertainty regarding whether copyright can exist in digitised copies of older images for which copyright has expired. Some people argue that a new copyright may arise in such copies if specialist skills have been used to optimise detail, and/or the original image has been touched up to remove blemishes, stains or creases.

However, according to the Court of Justice of the European Union which has effect in UK law, copyright can only subsist in subject matter that is original in the sense that it is the author's own 'intellectual creation'. Given this criteria, it seems unlikely that what is merely a retouched, digitised image of an older work can be considered as 'original'. This is because there will generally be minimal scope for a creator to exercise free and creative choices if their aim is simply to make a faithful reproduction of an existing work.

Is permission always required to copy or use an image?

Sometimes permission is not required from the copyright holder to copy an image, such as if the copyright has expired. Permission is also not required if the image is used for specific acts permitted by law ("permitted acts", or sometimes referred to as "exceptions to copyright"). People can use copyright works without permission from the copyright owner, such as for private study or non-commercial research, although some exceptions are not available for photographs. Further details are available here: www.gov.uk/guidance/exceptions-to-copyright.

If permission is required to use an image, permission will need to be obtained from all the copyright owners, whether it is a single image with numerous creators, a licensed image, or an image with embedded copyright works. Sometimes there will be one person or organisation that can authorise permission for all the rights in that image; in other cases separate permission may be needed from several individual rights owners.

The creator of a copyright work such as an image will usually have right to be acknowledged when their work has been used, provided they have asserted this right. If you are unsure whether or not the creator has asserted this right, then it is recommended that you provide a sufficient acknowledgement when using their work.

What if I do not know who the copyright owner is?

Copyright does not disappear simply because the owner cannot be found. Works for which one or more of the copyright owners is not known or cannot be located are referred to as "orphan works".

You may want to try to find an alternative image that can be licensed through the creator or a picture library. If not, and after a diligent search you cannot trace the copyright owner, you may be able to apply for an orphan works licence from the Intellectual Property Office.

The IPO orphan works licensing scheme allows for the commercial and non-commercial use of any type of orphan copyright work. Before making an application for an orphan works licence, you will need to undertake a diligent search for the right holder(s). If you are unable to trace the right holder, you can apply for an orphan works licence using our online application form.

Further information including guidance on how to complete a diligent search and sources for checking is available at: <https://www.gov.uk/guidance/copyright-orphan-works>.

If you believe that a work in which you hold the copyright has been licensed as an orphan work, you can contact the IPO through the register of orphan works: <https://www.orphanworkslicensing.service.gov.uk/view-register>

What if there is no © (copyright) symbol, year or name with the image?

The copyright symbol does not have to be present for copyright to exist, so just because there is no name or copyright symbol associated with a photo or image does not mean the image is not protected by copyright.

Sometimes uploading and downloading images causes the associated metadata to be removed accidentally. Metadata is embedded within the image and can give details of the copyright owner. Deliberate removal of metadata that identifies the copyright owner is unlawful.

Is there any way I can be completely safe when I use an image from the internet?

The vast majority of images on the internet are likely to be protected by copyright, so it is only safe to use it if you have specific permission to do so through a licence; or your particular use is specifically permitted in the terms and conditions of the website supplying the image and this is the copyright owner's website or another website which has the copyright owner's permission to allow other people to use an image; or if you have established that copyright has expired; or if you are using the image in a way which is covered by a permitted act/exception to copyright (see above). The use of licensed images is usually much safer than using unlicensed images which offer no protection against infringement.

What are the consequences of copyright infringement?

When someone infringes copyright, there are various courses of action that could be taken by the individual or organisation that owns or administers the copyright. The user of the image may be asked to purchase a licence, and a commercial arrangement might be reached after which no further action is taken. However, legal action might be taken by bringing a claim in court which could result in having to go to court for a hearing.

Court cases can be expensive, as they often result in the user of the image paying the cost to use the photo, plus legal costs of themselves and the copyright owner and possibly other financial compensation for copyright infringement, which may amount to more than the cost of a licence to use the image. Further, the user of the infringing copy could also be asked to take down and permanently remove all copies of the image from websites as well, unless permission from the copyright owner is secured.

Deliberate infringement of copyright on a commercial scale may also lead to a criminal prosecution.

Even in situations where people may think their copyright infringement will not be detected, they run the risk of being discovered and subsequently being pursued through the courts.

Examples

I want to use my own images on the internet

If you have created the images yourself, you are generally free to use them as you wish.

However, there are some instances where you may not do what you like which includes situations where:

- you are an employee working for a business or individual, and create images during the course of your employment (you would need the employer's permission);
- you take a photo of a work that is protected by copyright (for example, taking a photo of a painting at a modern art gallery) – this could result in your photo itself being an infringement of copyright;
- you have agreed that the copyright in images you have created will belong to someone else;
- you have been commissioned to take photos by a third party for private and domestic purposes (for example, wedding photographs) and you do not have their permission to put them on the internet;
- you have granted an exclusive licence to someone else; or
- you have agreed to the terms of a non-disclosure agreement, embargo or other contract which restricts or prohibits such action.

I want to stop someone using the image I created in a way I do not approve of or have not approved

If somebody is making use of your images without your permission, there are a number of options open to you as the copyright owner.

Although you do not have to, it is usually sensible to try to resolve the matter with the party you think has infringed your copyright. This may save you time and money, and it may be necessary to show a court that you have tried to solve the matter with the other party. Mediation is one way of resolving an issue before starting court proceedings. The IPO offers a mediation service which can help to resolve intellectual property disputes – including copyright – without going to court: <https://www.gov.uk/intellectual-property-mediation>.

If you cannot resolve the matter with the other party, then going to court may be the right solution. But it would be a good idea to seek legal advice at an early stage.

Besides infringing your copyright, it is also possible that somebody may infringe your 'moral rights', which are legal rights enforceable by the authors of copyright works.

When people use your images, they should do so respectfully, even if they have your permission to use them. If you have 'asserted' your 'moral right' to be credited for creating the photo, then that user should acknowledge you as the creator.

Such an assertion is often made by written contract or may be embedded in the image with metadata.

As the creator, you will also have the moral right to object if people alter your work in a way that is negative to your reputation (known as "derogatory treatment"). If you take the matter to court, you would usually need to establish evidence that your reputation may have been harmed.

I want to take a photo of a copyright work and use it

If someone takes a photo, copyright can exist in that photo. If someone takes a photo of a work protected by copyright, and the work forms an essential part of the image, using that photo on the web is likely to be an infringement of copyright. In other words, people are allowed to take a photo of a room of paintings, provided the inclusion of such paintings in the photo was merely incidental (for example, they formed inessential background). However, you would need to be careful about copyright infringement if taking photos of specific paintings.

Taking a photo of something that is not protected by copyright is not an infringement of copyright – for example, taking photos of animals, landscapes or works for which copyright has expired.

I want to take photos of sculptures and buildings located in public spaces

You do not need permission to photograph buildings, sculptures and similar works on public display in public spaces. The photographs you take are afforded full copyright protection. This means you, as the photographer, are able to commercially use your work.

However, as outlined above, care should be taken when taking photos of two-dimensional graphical works such as posters or commissioned murals which are located in public places. Making copies of those works could harm the interests of creators, and could be an infringement of copyright.

I want to use images sent to me by a friend or family member

You need to treat these images as you would any other images and would usually need to ask for permission.

For example, photographs taken by a relative from a recent family event would need permission from the creator to use online.

I want to use images I found on the web

Images that have been found on the web may be used in the following situations:

- you know the copyright term has expired;
- you have permission from the copyright owner for exactly what you want to do with it (for example, to display it on your website) – this may be in the form of something like a licence you purchase from a picture library or a Creative Commons Licence; or
- you use the images for specific purposes known in law as **permitted acts**.

I want to use images on my own personal website or for an online school project

Permission will usually be required because you are copying the images and communicating them to the public – but there may be photos available for you to use without payment, just check the details of the permission if you obtain it from a picture library, for example.

I want to use images I found on the web on a commercial website

You will generally need to seek permission before you do so. There are licences which you can obtain to use images for commercial purposes, such as advertising your business on a website, and usually you will have to pay a higher fee than for non-commercial use. Be aware that some Creative Commons licences are for non-commercial use only, so it is important to check the licence terms if using Creative Commons-licensed material.

I want to link to images I found online

Sharing or posting a simple web link to pages where images have been posted publicly online by the copyright owner is usually not restricted by copyright.

The Court of Justice of the European Union has ruled that internet users should be free to share links to material, for example photos or videos, providing the material itself has been published online with the permission of the rights holder. The right to share links however does not go as far as allowing users to share links that are designed to circumvent paywalls or other subscription only services.

Copying images and then hosting them on another website however will usually amount to copyright infringement. You should ask permission from the copyright owner before using images in this way.

I want to use photos taken for me by a professional photographer

Where you commission a professional to take photographs on your behalf, for example wedding photographs, the copyright will usually remain with the photographer. This means that you need to get the photographer's permission before printing further copies of the images, sharing them with your friends or family, or undertaking other acts restricted by copyright such as posting the images to social media sites.

Many photographers will include licence terms setting out exactly what use you may make of images in their contract with you. If you have specific uses in mind, you should ensure these are discussed before contracts are settled. You could also agree with the photographer that the copyright will be assigned to you – this would be done by having a written and signed contract with the photographer saying you had bought the copyright from them. Depending on your needs, a less expensive solution may be to pay for a licence.

Where a photograph is commissioned for private and domestic purposes, the commissioner does have a right that the photographs will not be issued to the public without their permission. This means that, although a wedding photographer may own the copyright in images of your wedding, they should not post them on their website or exhibit them in public without your permission.

I want to stop other people using photos that I uploaded on a social media website

When you join a social media website you should check that website's terms and conditions to ensure that they are not allowing the website operator to do something with your photographs that you do not want. Their terms and conditions may allow them to use your images for commercial purposes or make your images available for others to use, without your prior permission or notice.

If people are already using your photos and you agreed to a condition that permitted such use, you can ask the website operator to take the photographs off the site but they may not agree to do so. If this were to happen to you, you may also want to consider what rights you may have under other areas of law (for example, privacy or defamation).

I want to create a new artwork from an image I found on the internet

For an infringement of copyright to occur, it is not necessary that a work is copied in its entirety – copying a ‘substantial’ part of a work will also infringe. Taking an existing image and making an adaptation of it without permission will usually be an infringement of copyright.

In determining if a part is ‘substantial’ the Court of Justice of the European Union has said that what matters is whether the piece that has been used (however small) could be said to be the author’s own ‘intellectual creation’ (i.e. something that could qualify for copyright protection in its own right). Ultimately, only a court would have the authority to determine whether a given use is an infringement. However, it is worth bearing in mind that the Courts tend to interpret the term ‘substantial part’ broadly, so even taking a relatively small part of a work can be regarded as infringement.

It is worth being aware that such adaptations may be permitted if they fall within the scope of the permitted acts of parody, caricature or pastiche.

Who owns the copyright in commissioned images?

As stated above, if an image is created by an employee in the course of their employment, the employer is the first owner of copyright, unless there has been some agreement to the contrary.

However, when an organisation commissions a third party (such as a freelance photographer, illustrator, artist or cartoonist) to create an image, the first legal owner of copyright will usually be the person or business that created the image, unless there has been some agreement to the contrary.

When an image is commissioned for a specific use, any additional use beyond the terms of that licence will require an additional licence for example, an image commissioned for one purpose or media is subsequently wanted for use for another purpose. Just because a licence exists for one does not automatically permit the use for another so an additional licence is required.

Sometimes when copyright is not dealt with in the contract to commission the image, courts may be willing to find that there is an implied licence allowing the commissioner to use the image for the purpose for which it was commissioned. This does not normally result in a transfer of ownership. Instead, the commissioner of the work may only get a limited non-exclusive licence.

For further information about Copyright Notices, email copyrightnotices@ipo.gov.uk.

To ask for a Copyright Notice on another topic please complete the [online form](#).

Concept House
Cardiff Road
Newport
NP10 8QQ

Tel: 0300 300 2000
Fax: 01633 817 777

www.gov.uk/ipo

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