

Author's Permission Guidelines

As Author, it is your responsibility to request and secure any permissions required for the use of material created by others, including images and text quotations. It may also be necessary for you to request permission to reprint your own previously published work, even if revised.

No editing, typesetting, design or production work will begin on your manuscript until you have supplied licenses and documentation for all works requiring permission; therefore Authors are encouraged to begin obtaining permissions as soon as possible.

As the Author of a work, or the editor of a contributed volume, you are responsible for complying with copyright laws and laws of privacy and libel. These guidelines are intended to help you identify when you will need to request permission, and to understand the reasons why. These guidelines and their recommendations should not be construed as legal advice or as a substitute for consultation with a knowledgeable attorney in any particular circumstance. For additional discussion of Copyright and Permissions as they pertain to publishing, please refer to the *The Chicago Manual of Style, 15th ed. Chapter 4*, or to the [Chicago Manual of Style Online](#). For the advice and wisdom of a publishing insider, Authors are encouraged to pick up a copy of [Permissions: A Survival Guide](#), by Susan Bielstein.

What is Copyright?

“Copyright is a form of protection provided by the laws of the United States (title 17, U.S. Code) to the authors of ‘original works of authorship,’ including literary, dramatic, musical, artistic, and certain other intellectual works. This protection is available to both published and unpublished works.” (www.copyright.gov) Copyright affords the owner certain rights, including the right to reproduce a work, and the right to distribute copies of the work.

Unless you are able to claim “fair use” of a work (more on which later), you must obtain permission from the copyright holder in order to reprint (or adapt): prose, poetry, tables, copyrighted music, song lyrics, line drawings, photographs, fine art, and any other form of copyrightable expression.

Copyright of a work is owned by the creator of the work, known simply as the Author. As with any rule, there are exceptions: The copyright may have been assigned by the Author to another party; if the work is created as a ‘work for hire’, or if it is undertaken as a part of one’s job in the course of employment, the employer will own the copyright. In the case of published texts and music, the publisher likely administers the copyright; in the case of photographs or fine art, the artist is often represented by a gallery or agency who can grant reproduction rights.

Copyright law does allow for the *fair use* of copyrighted material for the purposes of criticism, comment and scholarship. If your use of copyrighted material falls within the bounds of fair use, you do not need to seek permission to use that material.

Fair Use

The doctrine of fair use was originally developed by judges as an equitable limit on the absolutism of copyright. Although fair use is incorporated into the most recent copyright law, there is no hard and fast definition of fair use; fair use in one instance may be copyright infringement in another. No one can give an absolute prediction of how a court may rule in a particular case, so one should not make claims of fair use frivolously. Claims of fair use will be evaluated by the Contracts and Permissions office of the University of Chicago Press, though the legal and financial liability is ultimately the Author's.

In determining whether the use of copyrighted materials can be considered fair use, four factors must be considered:

1. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purpose;
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.

Since copyright is essentially a means of protecting financial interests, it is easier to make a case for the fair use exception for scholarly books or books with relatively small print runs. As a rule of thumb for scholarly works, short prose extracts, and poetry extracts (no more than 3 or 4 lines, sometimes as few as 1 or 2 lines, depending on the length of the poem) will fall under fair use, provided they are the subject of discussion in the book, and no permission need be sought. It is more difficult to make a claim of fair use for copyrighted works of visual art reproduced in their entirety, and Authors are encouraged to err on the side of caution in such cases.

Public Domain

All works will eventually go out of copyright and enter the public domain. Once in the public domain, the exact work may never again be protected and is free for all to use. Herman Melville's *Bartleby*, for example, is in the public domain, even if Melville's heirs would prefer that it not be. (One might, however, copyright an annotated edition of *Bartleby*.)

U.S. Copyright law is complicated and nuanced, but as a rule of thumb it is safe to assume that works created and published in the United States before 1923 are in the public domain. For works created after 1923, various terms of copyright apply, depending on the circumstance. The most conservative measure is to assume copyright extends for the life of the author plus 70 years, though for more on the nuances of post-1923 copyright, you may refer to Lolly Gasaway's chart, below, or this helpful interactive website: www.librarycopyright.net/digitalslider

Gasaway Chart: <http://www.unc.edu/~unclng/public-d.htm>

DATE OF WORK	PROTECTED FROM	TERM
Created 1-1-78 or after	When work is fixed in tangible medium of expression	Life + 70 years ¹ (or if work of corporate authorship, the shorter of 95 years from publication, or 120 years from creation ²)
Published before 1923	In public domain	None
Published from 1923 - 63	When published with notice ³	28 years + could be renewed for 47 years, now extended by 20 years for a total renewal of 67 years. If not so renewed, now in public domain
Published from 1964 - 77	When published with notice	28 years for first term; now automatic extension of 67 years for second term
Created before 1-1-78 but not published	1-1-78, the effective date of the 1976 Act which eliminated common law copyright	Life + 70 years or 12-31-2002, whichever is greater
Created before 1-1-78 but published between then and 12-31-2002	1-1-78, the effective date of the 1976 Act which eliminated common law copyright	Life + 70 years or 12-31-2047 whichever is greater

¹ Term of joint works is measured by life of the longest-lived author.

² Works for hire, anonymous and pseudonymous works also have this term. 17 U.S.C. § 302(c).

³ Under the 1909 Act, works published without notice went into the public domain upon publication. Works published without notice between 1-1-78 and 3-1-89, effective date of the Berne Convention Implementation Act, retained copyright only if efforts to correct the accidental omission of notice was made within five years, such as by placing notice on unsold copies. 17 U.S.C. § 405.

When Permission is Needed:

Unless a work is in the public domain, or you have determined that your use of the work is clearly fair use, you will need to request permission.

For your own previously published work: You may need to seek permission to use or adapt your own previously published work. Many publication agreements issued by scholarly journals state that the author is free to republish the material in a book of his or her own. Before reprinting your own previously published material, review your publication agreement to see what rights you may have transferred to the original publisher.

For Texts: For texts published after 1923 and quoted beyond the bounds of fair use, you will need to seek permission. For texts never before published, you will likely need to seek permission, regardless of when they were composed.

For Works of Art: Unless the work was published in the U.S. prior to 1923, you will need to seek copyright permission to reproduce works of art whose creator died less than 70 years ago.

Reproducing works of art often means obtaining two permissions, one from the copyright owner, and one from the provider of the actual photograph / transparency / negative / digital file that will be used to make the reproduction in the book. At Chicago, we make a distinction between “Copyright” permissions and “Use” permissions, and it is important not to confuse the two. If you plan to reproduce any works of art in your book, please carefully read *Art Permissions Work for Your Book* below.

For Film Stills

Authors wishing to reproduce frame captures from films are in luck. Frame captures, also called film stills, are generally considered to fall in the realm of fair use for scholarly publishing. Essentially, a frame capture represents 1/24th of one second of a film, which hardly represents the whole heart of the work, and cannot be said to infringe upon the market for the film. Film stills should not be confused with Productions Stills, which are photographs taken on a film’s set, and which may be subject to copyright protection. For a complete discussion of the use of film stills in scholarly publishing, see the [Report of the Ad Hoc Committee of the Society For Cinema Studies, "Fair Usage Publication of Film Stills"](#) by Kristin Thompson.

Whom to Ask for Permission

You are legally obliged to make reasonable efforts to contact all persons or organizations with an interest in the work you wish to reproduce. In the case of texts, the publisher will likely have the authority to grant permission. In the case of works of art, the artist, the artist’s gallery or estate, or an organization such as the Artist Rights Society or the Visual Artists and Galleries Association (VAGA) will be able to grant permission.

Accounting for Your Permissions

Your manuscript can be more quickly prepared for editing and production if your permissions are well organized. It is helpful to create a spreadsheet to track your permissions, and to be sure each permission letter is labeled with the corresponding figure number (for illustrations), or chapter (for texts). We ask that you submit this log with your final manuscript, final illustration program and permission letters.

Online Resources

<http://copyright.gov/>
<http://fairuse.stanford.edu/>
http://fairuse.stanford.edu/charts_tools/

Chicago's Standard Permission Request Template:

To:

Reference:

Date:

I am writing to request permission to print the following material:

Author/Title/Date of publication:

Pages as they appear in your publication:

Other identifying information and remarks:

This material is to appear as originally published (any changes or deletions are noted on the reverse side of this letter) in the following work that the University of Chicago Press is presently preparing for publication:

Author (Editor)/Title:

Proposed date of publication:

Remarks:

I request non-exclusive world rights, including electronic rights, but only as part of my volume, in all languages, for all editions, and in all media.

If you are the copyright holder, may I have your permission to reprint the above material in my book? If you do not indicate otherwise, I will use the usual scholarly form of acknowledgement, including publisher, author, title, etc.

If you are not the copyright holder, or if additional permission is needed for world rights from another source, please indicate so.

Thank you for your consideration of this request. A duplicate copy of this form is enclosed for your convenience.

Sincerely yours,

The above request is hereby approved on the conditions specified below, and on the understanding that full credit will be given to the source.

Date: _____ . Approved by: _____

Art Permissions Work for Your Book

Obtaining permissions for your book is one of the most crucial steps to ensure that the production of the book moves along smoothly and without delay. Even if you have permission to reprint 299 of 300 images, that final outstanding permission will delay the book. For this reason we ask that you complete all of the permission work before you submit your final manuscript and illustration program. You are also encouraged to keep a Permission Summary, logging the terms and conditions of each license for easy reference in a single document.

The benefits of completing this step of the process in advance of submitting your final manuscript are many. Completing your permission work will ensure that you can include any necessary permission language or copyright notices in your list of illustrations or captions. It will also ensure that our Contracts and Permissions Department will not place a “Hold” on the production of your book for any outstanding permissions. A Hold on a book can severely disrupt the production schedule and this may have financial implications for you. Most museums and lenders require the prompt return of transparencies and they will charge late fees if the deadline for return is not met. Keeping to the production schedule also means you will be able to plan your time accordingly when it comes time to review the edited manuscript, galleys or page proofs.

With this in mind, we’ve prepared a brief primer on art permissions to help you as you tackle this portion of the project. In addition to these notes, the staff of the University of Chicago Press remains at your disposal should you have any questions, concerns, or special circumstances to discuss. Authors expecting to be dealing with a good number of images and permissions are also encouraged to read [*Permissions: A Survival Guide*](#), by Susan Bielstein.

The first step is to locate the images you wish to obtain: who can provide a copy? A museum? An image bank like Art Resource? Once you’ve located the image, you’ll need to formally request to use that image in your book. Please use the template permission letter, found at the end of this document, to request permission (this letter template, dealing specifically with copyright and use requests, is adapted from the standard permission letter found in *The Chicago Manual of Style, 15th Edition*, 4.90). In many cases, the Grantor will require that you complete their Application for Reproduction, but this letter is a fine way to make an initial request.

When completing your permission work it is important that you understand the crucial distinction between “Copyright Permissions” and “Use Permissions.” The copyright for a work (a painting, a sculpture, a drawing) is not necessarily held by the owner of the physical work; in fact, in most cases the owner of the work does NOT own the copyright. For example, you wish to reproduce Picasso’s *The Old Guitarist*, found in the collection of the Art Institute of Chicago. You request a reproduction, and they provide a color transparency, or a high-resolution digital file, along with non-exclusive world rights to reproduce this image in your publication, but all that the museum has granted is the USE of their reproduction; you must still obtain reproduction permission from the owner of the copyright, The Estate of Pablo Picasso (administered in this case by Artist Rights Society, or, ARS). Only when both the Use and Copyright permissions are in hand may we proceed with the publication of this copyrighted image.

Some older works will fall into the Public Domain, which is to say that copyright no longer applies to the work. Laws vary from country to country, but the safest rule of thumb to determine if a work is in the Public Domain is this: date of the Author/Artist’s death plus 70 years. To use our previous example, Picasso’s works will fall into the Public Domain in 2043.

If a work is in the Public Domain, you may still be required to obtain a “Use” permission. For example, say you’d like to reproduce Paul Cézanne’s *The Basket of Apples* (1895) in your book. You find that the painting is in the collection of the Art Institute of Chicago, and you write to them to provide a transparency, or high-resolution digital file. The Art Institute will require you to complete a permission application for the use of their reproduction, and they will require that you adhere to certain terms of use, even though the image itself is in the Public Domain.

“Use” permissions are not always required, and you are encouraged to seek the Press’s advice for any questions you may have regarding this gray area of copyright law. Despite the rulings in *Bridgeman v. Corel*, and more recently, in *Meshwerks v. Toyota*, stating that slavish reproductions of works do not rise to the level of copyrightable expression, some museums and lenders continue to claim copyright for their photographic reproductions of works in the Public Domain. Some such museums or lenders may blacklist an author or a Press for using images in their collection without having obtained a Use Permission from the museum, or they may attempt to collect a fee and a penalty after publication. If you have an image, but do not have a Use Permission for that image, please consult the Press to determine whether or not one might be necessary.

When you are completing your Permissions Summary, we ask that you carefully read each of your permission letters and record the following information on the Summary:

- Figure Number in your book, Artist, *Title*, medium
- The Credit, if any, required by the Grantor of both Copyright and Use permission.
- Grantor of Copyright Permission (if necessary)
- Grantor of Use Permission (if necessary)
- The Coverage of the permission (i.e., World rights, English Language, Color Proof required, not licensed for publicity, etc.)
- The cost of the permission (if any)
- Free copies required as a condition of the permission. (These copies are considered part of the permission fee, and are the responsibility of the Author.)

Please also be sure to note any deadlines for the return of artwork on loan.

When you submit the Permission Summary with your final manuscript, please also submit photocopies of ALL permission letters, including any attachments that outline the terms of the permission. Be sure, too, to copy BOTH sides of any double-sided letters or terms of agreement. For each permission letter, write the corresponding figure number(s) on the letter and order the permission letters sequentially from Figure 1 to Figure X.

With all permission letters and the Permission Summary in-hand, the Press will review the permissions and production of the book can proceed without the delays often caused by outstanding permissions.

Art Resource (www.artres.com) is an excellent place to begin your search for reproductions. Their affiliate, Artists Rights Society (www.arsny.com) can also help with copyright permissions. Another helpful resource for reproductions is Bridgeman Art Library (www.bridgeman.co.uk). VAGA (Visual Artists and Galleries Association) (www.vaga.org) is another good source for copyright permissions.

Other worthy online research tools are www.artcyclopedia.com and www.artnet.com

‘Copyright’

Permission letter for illustrations to be printed on author’s letterhead.

[date]

[address]

Dear Sir or Madam,

I am writing to you to request your permission, as copyright holder, to reproduce one of **[your works / work by an artist you represent]** **[specify black and white or color]** entitled **[name of the image and artist]**.

This image will appear in a book by **[author]** currently entitled **[title]** to be published by the University of Chicago Press (a non-profit department of the University of Chicago) in the **[season]**. This is a scholarly undertaking that will reach a specialized academic audience.

I am requesting reproduction permission to cover both interior illustration and other forms of illustration connected with this volume, including but not limited to advertising, publicity, and direct mail, or other similar uses, but excluding use as cover illustration. I request non-exclusive world rights, including electronic rights, but only as part of my volume, in all languages, for all editions, and in all media **[minimum rights needed would be worldwide, English language, print only]**. **[Indicate expected size of reproduction: ¼ page ½ page, etc.]** **[If applicable include this sentence:** Please note that I have the image/s and am only writing to request permission to reproduce them.]

If you are the rights holder, may we have your permission to reprint the above work? Please indicate how you would like the University of Chicago Press to acknowledge this work. If you are not the rights holder, do you know who might be?

Please sign and return this letter to me. Please contact me if you have any questions regarding this request.

Yours sincerely,

[author’s signature and name]

Approved: _____
(signature)

Date: _____

'Use'

Permission letter for illustrations to be printed on author's letterhead.

[date]

[address]

Dear Sir or Madam,

I am writing to request an image [**specify black and white or color transparency**] from your collection entitled [**name of the image and artist**].

This image will appear in a book by [**author**] currently entitled [**title**] to be published by the University of Chicago Press (a non-profit department of the University of Chicago) in the [**season**]. This is a scholarly undertaking that will reach a specialized academic audience.

I am requesting reproduction permission to cover both interior illustration and other forms of illustration connected with this volume, including but not limited to advertising, publicity, and direct mail, or other similar uses, but excluding use as cover illustration. I request non-exclusive world rights, including electronic rights, but only as part of my volume, in all languages, for all editions, and in all media [**minimum rights needed would be worldwide, English language, print only**]. [**Indicate expected size of reproduction: ¼ page ½ page, etc.**]

Please sign and return this letter to me along with the image in question. Please contact me if you have any questions regarding this request.

Yours sincerely,

[author's signature and name]

Approved: _____
(signature)

Date: _____

University of Chicago Press Guidelines for Fair Use of Our Publications

In order to encourage the fair use of published materials in new scholarly publications while protecting authors' rights, these guidelines define what the University of Chicago Press (UCP) considers to be fair use of publications from UCP. No author or publisher need seek permission from UCP for uses that are designated as "eligible" under these guidelines.

I. Types of Uses Eligible under These Guidelines

These guidelines deal with only the following traditional forms of scholarly use in publications:

1. quotation for purposes of criticism of, or commentary on, the quoted text;
2. quotation for purposes of buttressing or defining the user author's own argument, or establishing connections between that argument and prior scholarship; and
3. quotation for illustrative purposes, i.e., giving examples of a principle, phenomenon, etc., discussed by the user author.

These guidelines are media-neutral. In other words, use that is fair in print, by these guidelines, will be equally fair in electronic media, and will remain fair if a print product is reissued in electronic form. (See *Types of Works Subject to Fair Use* below for certain exceptions to this.)

II. Uses Not Governed by These Guidelines

The following uses are outside the scope of these guidelines and are **not** considered fair use:

1. Reproduction of all or any portion of any Source Work (see definition below) in an anthology or in a selection of class readings such as a "coursepack," e-reserves, or a course Web site.
2. Reproduction in which all or any portion of any Source Work is set apart from the text of the new work (e.g., in a "box"), so that it stands alone rather than being incorporated in the statement made by the user's text.
3. Reproduction of all or any portion of any Source Work on the cover (or electronic analog) of a work, or in marketing or promotional materials for a work.
4. Reproduction for which appropriate citation, in footnote or otherwise, is not made.
5. Reproduction of charts, images, and other illustrations.

III. Types of Works Subject to Fair Use

"Source Work": Any UCP publication in any medium is defined as a Source Work and is subject to these guidelines: journals, books, and electronic publications (including but not limited to CD-ROMs), "electronic books," and Internet-based publications, with the following exceptions.

1. These guidelines do not govern material that UCP is using by permission from a third

- party; such material is identified in UCP's publications either by credit line or in footnotes or endnotes.
2. UCP does not necessarily own foreign language rights in works it has published.

In case of doubt, prospective users should feel free to query UCP as to whether it owns particular electronic or translation rights (contact information is given at the end of this document). If it does so, then these guidelines apply in the medium or language concerned.

IV. Quantitative Guidelines

A new work will be considered to be within the bounds of fair use if:

1. It reproduces not more than 5,000 words, in the aggregate, from a given Source Work;
2. It reproduces not more than 5 percent, in the aggregate, of the Source Work, and no complete poems or other self-contained literary works;
3. It reproduces, in one place, not more than 300 consecutive words from the Source Work; and
4. Material reproduced from the Source Work makes up not more than 5 percent of the new work.

These guidelines are cumulative. A use must comply with all of them to be considered fair. Thus, when quoting from a book, the author of a new work may quote no more than 300 consecutive words and no more than a total of 5,000 words from that book; in addition, the quoted words must not constitute more than 5 percent of the Source Work or more than 5 percent of the new work. See also, though, items above under the heading **Uses Not Governed by These Guidelines**. Material set apart in the text, such as in a "box," is not fair use even if it falls within the quantitative guidelines given here.

V. Qualitative Guidelines

Any use that meets the above parameters must also conform to the following requirements:

1. The user author may alter the quoted material only as allowed by the **Chicago Manual of Style**, 15th edition (see chapters 6 and 10).
2. Any elision must not change the sense of the original.
3. The Source Work must be cited in a manner that conforms to good scholarly practice.

VI. "Downstream" Rights of the User

Provided that the use of a Source Work complies with these guidelines, the user and his/her publisher may license third parties to reproduce the Source Work material *in the context of the user's own text*, but not otherwise.

VII. To Request Permission or Clarification

If you have questions about any of the above or to request permission for copying materials from any University of Chicago Press publication, please write and include full information (author, title, complete description of material to be reprinted, and, if applicable, a brief description of your question) to the attention of the **Permissions Department, 1427 East 60th Street, Chicago, IL 60637**. Or you may contact the Permissions Department via fax: (773) 702-9756. We will attempt to respond within ten working days.