

Copyright- the right to copy

By Denise Swanson



As the newly elected Chair of the BCC's Copyright Education & Awareness Working Group, I am acutely aware of the need to raise the awareness and understanding of copyright further for the benefit of all creatives. Promoting copyright education is an important role of the BCC as copyright infringement is an ongoing battle faced by all creators.

At its most basic level, copyright simply means the right to copy something - if you didn't create it, someone else did, so regardless of the form it takes, such as an image, photograph, artwork, moving image, animation, video, music, literary work, design, illustration, logo, etc you do not have the right to copy it without permission, whether by the original creator or their representative.

Copyright is automatic on creation and usually extends to 70 years past the death of the creator. It is therefore incumbent upon any potential user of that content to seek permission and if required, to obtain a licence and pay any fee for usage. This is a concept enshrined in UK and international law and one which until fairly recently, was relatively easy to monitor.

Over the past few decades however, more and more content has been digitised and posted online, not always with the required permission and sadly, more and more of this content is being copied without the right to do so. Not having gained permission, a licence or paid any relevant fee this is known as infringement and is in violation of the law. Wikipedia states: *"Copyright infringement is the unlawful use of works protected by copyright law without permission for a usage where such permission is required, thereby infringing certain exclusive rights granted to the copyright holder, such as the right to reproduce, distribute, display or perform the protected work, or to make derivative works."*

Copyright owners' rights cover not just physical copies but also extend to the making of electronic copies so every time a work is uploaded it is covered by copyright.

Even printing a physical copy may be regarded as infringement if permission is not given or sought. Just because there may be no visible means of identification of the creator, or perhaps no © symbol or embedded metadata, it does not mean the content is not protected by copyright, so any attempts to copy will be an infringement. Stripping out any embedded metadata or cropping out a visible watermark is regarded as deliberate infringement and carries harsher penalties.

The rules pertaining to copyright law are clear and the onus is on the person or body that wishes to make use of any content to check to see whether permission is needed and if any fee should be paid.

This is known as making a diligent search, for which evidence will be needed if later contested. This government document offers more guidance:

<https://www.gov.uk/government/publications/copyright-notice-digital-images-photographs-and-theinternet/copyright-notice-digital-images-photographs-and-the-internet>.

Different countries do have slightly different laws so it is important to check. One area that often causes confusion, for example, is that relating to *Fair Dealing* which applies under UK law, which is very different to *Fair Use* which applies under United States law and which can allow some limited use without permission, so it is essential to always check. So before making use of any content that you did not create follow these tips:

1. Always assume that copyright applies, that permission is needed and a fee may apply
2. Seek permission and keep a record of the steps taken to find the copyright owner
3. If permission is given, keep copies along with any licence and receipts if a fee is paid
4. Take note of the period the licence is given for as it is likely to be time limited
5. Permission to use will not necessarily be global so always check where you need it
6. Prior permission will not necessarily apply to different future use so always check
7. On use, always give attribution to the content creator unless otherwise specified
8. Never make changes to, crop, adjust, edit, adapt or modify the content without permission
9. Consider alternative options, link or create your own material if permission is not obtainable
10. Never use content you didn't create without permission unless a valid exception applies

Sharing and republishing content online just requires a little thought and care to ensure you do not unwittingly infringe copyright. Don't make assumptions - it is always safer to check.

If you require any further information, be sure to check out our copyright resources:

<https://www.britishcopyright.org/information/>.

The Copyright Education & Awareness Working Group would like to encourage those BCC members who are not already involved to join this Group. We will continue to predominantly operate virtually making it easier for members to come along to our meetings.

Denise is a freelance photographer and artists' project manager, currently serving on the Board of Directors of the collective rights organisation, and BCC member, PICSEL. Denise was elected Chair of the BCC Copyright Education & Awareness Working Group in March 2021. She has been involved with the Group for over 12 years.