

Copyright

When can I use what other designers have created?

Visual Design

Copyright

Public Domain

Copyright Law

Creative Works

Public Domain Works

Visual Creations



*"Only one thing is impossible for God:
To find any sense in any copyright law on the planet."*

Mark Twain

When it comes to visual creations, such as images and photographs, copyright exists to both help creators profit from their work and to allow the community to benefit from their work. So, copyright is intended to take a balanced approach to safeguard the rights of the creator and also give others appropriate rights to use their works.

However, designers commonly violate copyright laws simply because they do not understand them, and some basic knowledge should help you to understand what you can and cannot do with others' works. In this chapter, I'll only provide the simplest overview of copyright in this regard, but you should also explore the issue more deeply through the additional readings.

To start, you should assume two things about pretty much any image or photograph you find that you did not create:

1. It is probably copyrighted.
2. You cannot legally use it without the copyright holder's permission.

Whether or not you might get into legal trouble over your use of the work is a different matter, but this is the basic situation that most copyright laws establish. So, if you want to use someone else's work, you should seek their permission to do so.

Fair Use

In the U.S. and some other countries, there is a caveat to copyright law that allows you to use others' works without their permission under certain circumstances. We will not dive deeply into this issue here, but you can [read more about what makes a use fair in the focused section here](#).

For visual design, pretty much the only situation when fair use applies will be if you are parodying or critiquing someone else's work. If someone took a bad photograph, and you wanted to show others why it's a bad photograph, you could copy portions of it and critique it, but this is markedly different from using the photograph as a decorative photo on a website, as a meme, or as a background. In short, if you aren't directly critiquing the original work, then fair use probably does not apply to your use, which means that you should seek permission before using it.

Public Domain

Also according to copyright law, there are some creative works to which copyright does not apply. These are public domain works or works in the public domain. The largest group of these works are simply those that are old enough that copyright no longer applies, but this will vary by country and the year in which the work was created. Read more about [reasons that a work might be placed in the public domain here](#).

Simply finding a work in a public place does not mean it is in the public domain. Rather, your default assumption should be that any work you find is copyrighted unless it is clear that it is in the public domain. However, if you do find a work that is in the public domain, then it is free game for you to use as a designer. You can do whatever you want with it (without permission) and do not even need to cite the original author. Many of the images and other resources available from the sites listed in the [next chapter](#) provide resources that are in the public domain.

Open Licenses

Yet, many situations exist wherein someone created a work and wants others to be able to use it without permission (without releasing it into the public domain). These resources are typically released under an open license. An open license generally means that you are free to use the work without permission as long as you abide by the restrictions placed upon the work by the license. The most popular open licenses for visual works are Creative Commons licenses, and you can [read more about these and other open licenses here](#).

Royalty-Free Licenses

Images and photographs are also unique from other creative works because they are sometimes released under what are called "royalty-free licenses." These are copyright licenses that might allow you to make copies of a work as long as you do not exceed a certain number of prints, do not use them in a website banner, etc. "Royalty-free" can have a variety of meanings, and if you wish to use a royalty-free work, then you will need to carefully read and understand the requirements of the license before using it. "Royalty-free" does not mean free in the open sense but merely means that there are situations wherein you might not owe the creator money for using their work.

Additional Readings

- ["Copyright and Open Licensing" by Royce Kimmons](#)
- ["About the Licenses" by Creative Commons](#)

Learning Activity

After reading the Additional Readings, check your understanding by answering the following questions:

When does copyright begin on a creative work (e.g., image, photograph, book, movie)?

- The date when the work has been approved for copyright by the Copyright Administration or BMA.
- The date when the copyright symbol is placed on the work.
- The date when the work is created.
- The date when the author is born.

What is the best definition of "public domain" as it relates to copyright?

- Public domain refers to content that is awaiting approval by the copyright administration.
- Public domain refers to any type of content that is not copyrighted (due to age or any other reason).
- Public domain refers to any type of content that is publicly visible (e.g., a website).
- Public domain refers to any type of content that has been shared by a reputable source (e.g., news site).

Which of the following are examples of (legitimate) Fair Use?

- Using a popular song as background music to a video you are posting to YouTube.
- Copying several chapters of a novel to distribute to your students.
- Copying a lesson plan from a textbook and sharing it with other teachers in your district.
- Quoting a few sentences from a novel in a paper so that you can analyze the meaning of the passage.
- Making additional copies of a student workbook.

Which factors determine whether the use of a work would be classified as Fair Use?

- Short: It only uses a very small portion of the work.
- Transformative: It is used for a different purpose than that which was intended by the author.
- Intention: You are not intending to violate copyright.
- Non-Commercial: You are not profiting monetarily from the work.

Which of the following are ways in which a work could enter the public domain.

- The work was created by a teacher.
- The author releases the work to the public domain.
- The work is very old.
- There is no copyright symbol on it.

If you use a work in the public domain, you are NOT legally required to cite it.

- True
- False

Which of the following are examples of works in the public domain?

- J.K. Rowling's "Harry Potter and the Prisoner of Azkaban" (first published in 1997)
- Jane Austen's "Pride and Prejudice" (first published in 1813)
- Shakespeare's sonnets (written between 1592 and 1598)
- Wikipedia articles

Which of the following are true of openly licensed (e.g., Creative Commons) works?

- You do not need the permission of the author to use them.
- They do not need to be cited.
- They are free as in cost (\$0).
- You can do whatever you want with them without consideration for the author's wishes.

If you see a work with a symbol that says "CC BY" on it, what does this mean?

- It is released under a Creative Commons (Attribution) license, and you can use it for anything as long as you properly cite it.
- It is close captioned. This has nothing to do with copyright.
- It is copyrighted by someone and cannot be used without permission.

If you see a work with a symbol that says "CC BY-ND" on it, this means that the CC BY license applies, plus what else?

- Non-Derivative
- Non-Distributable
- Needs Dates
- Needs Directions

If you see a work with a symbol that says "CC BY-SA" on it, this means that the CC BY license applies, plus what else?

- Show Attribution
- Signal Author
- Share Alike
- Simulated Area

If you see a work with a symbol that says "CC BY-NC" on it, this means that the CC BY license applies, plus what else?

Needs Collaboration

Non-Creative

Non-Commercial

Needs Citation

Which of the following works are the most free (as in freedom)?

Copyrighted

GNU GPL

Public Domain

Creative Commons

In the current U.S. law, how long does copyright last?

28 years after the work was created

Life of the author, plus 70 years

Life of the author, plus 50 years

60 years after the work was created



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