

OCEAN: Open Copyright Education Advisory Network

<http://oceancopyright.org>

Negotiating for Permissions for the Use of Images of Object-based Collections

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- **Anne M. Young**
 - **Editor, *Rights and Reproductions: The Handbook for Cultural Institutions***
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When should you consider permissions?

1. At the time of acquisition

- a. Rights transferred with deed of gift or purchase agreement
 - i. What rights does the owner retain?
- b. Separate non-exclusive license
 - i. Especially when seller or donor is not the rights holder

2. Digitizing or photographing items

- a. Can be impetus to conduct a rights assessment
 - i. Review prior agreements and beware of perpetual restrictions
- b. Who is completing the work?
 - i. Work for hire agreements

When should you consider permissions?

3. When processing collections

Strategies for assessment and rights for an entire collection

- Copyright status
 - Percent that may be public domain vs. in copyright
- Creators
 - Many/few; known/unknown; living/heirs/orphan
- Material type
 - Personal papers, photographs, objects, AV
- Deed restrictions

If documented at time of processing, can inform prioritization for digitization and/or grant applications

When should you consider permissions?

4. When planning a project:

- a. Exhibitions
- b. Publications
- c. Online display or distribution
 - i. exhibitions, collections, social media, etc.
- d. Grant-funded projects
- e. ...and many more

Are permissions really needed?

Is the work depicted in the public domain?

[Copyright Term and the Public Domain in the United States](#)

Is the photographic image under copyright?

Do other rights or concerns apply to the material?

- rights of publicity or privacy
- moral rights
- traditional cultural expressions or traditional knowledge
- individual or institutional relationships / courtesy permissions
- contractual restrictions

Fair Use

What is Fair Use?

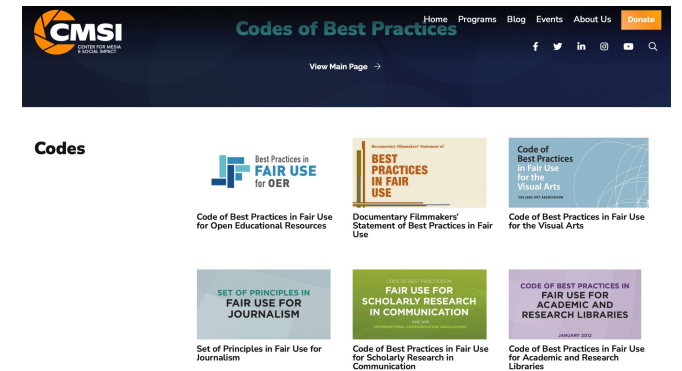
- Exceptions & limitations in US copyright law

How and When Can Fair Use be Applied?

- The Four Factors
- Calculators or Codes

Related

- Risk Analysis
- Orphan Works



<https://cmsimpact.org/report-list/codes/>

Open Access

What does Open Access mean?

- Free to access vs. Free to Use

Where can I find Open Access material?



Is it really Open? How can I use it?

- Terms of Use
- Creative Commons Tools and Licences
- RightsStatements.org

Working with stock photography sites

- Stock sites ingesting and selling Open Access materials
- Reverse image searches
- Some stock sites consider any online use commercial and will send an invoice
- Consider who uploaded image on sites offering free images

Working with rights holders

- Creators themselves
- Rights agencies
- Estates and family members
- Galleries

DACS[®]

<https://www.dacs.org.uk/>

norman.hrc.utexas.edu

The WATCH File:
Writers, Artists and
Their Copyright
Holders

<https://norman.hrc.utexas.edu/watch/>



<https://arsny.com/>

Additional Resources

Fair Use Guides

- ARL's [Code of Best Practices in Fair Use for Academic and Research Libraries](#)
- CAA's ["Code of Best Practices in Fair Use for the Visual Arts"](#)
- AAMD's ["Guidelines for the Use of Copyrighted Materials and Works of Art by Art Museums"](#)

Chapters and Books

- Susan M. Bielstein, *Permissions, A Survival Guide: Blunt Talk about Art as Intellectual Property*, University of Chicago Press, 2006.
- Chapter 4 "Institutional Uses" in *Rights and Reproductions: The Handbook for Cultural Institutions, Second Edition*, ed. Anne M. Young, Lanham, MD: Rowman & Littlefield, 2019.

The LYRASIS Pilot: Online Copyright Classes

Copyright 101

Melissa Levine & Heather Briston

No Fear Fair Use: Practical Fair Use for Cultural Institutions

Kyle K. Courtney & Sandra Aya Enimil

Copyright Limitations and Exceptions

Lisa A. Macklin & Anne M. Young

When Copyright Ends (or Never Was): Understanding the Public Domain

Brandon Butler & Greg Cram

Copyright in Action

Rina Elster Pantalony & Cherie Chen

Upcoming OCEAN Sessions

OCEAN Discussion Session: How to Work with General Counsel

Friday, June 10 at 12:00 PM Eastern Time

with Greg Cram, Amy Blum, Arnetta Girardeau, and Rina Elster Pantalony

OCEAN Discussion Session: Terminations of Transfer

Friday June 17, at 12:00 PM Eastern Time

with Brianna Schoenfeld, Rachel Brooke and Walter Lehman

Thanks for Listening

Please check out our website for upcoming sessions and news!

<http://oceancopyright.org>

We'd love to hear your views and answer your questions!