

## Copyright and Your Dissertation or Thesis

*"Copyright is one of the most confounding and misunderstood laws affecting colleges and universities."* Kenneth D. Crews, Columbia University, wrote these words in 1992 in the preface to his book on copyright law for graduate research and repeated them in the first line of the 2002 edition of Copyright Law & Graduate Research: New Media, New Rights, and Your New Dissertation (© Copyright 2000, ProQuest).

In terms of your dissertation or thesis and copyright, there are two considerations: how to avoid infringing on someone else's copyright, and how to protect your own copyright. Outside of becoming an expert yourself, the best way to handle these necessities is to read and refer often to Crews' guide, which he wrote with the cooperation and support of ProQuest and the Council of Graduate Schools. Dr. Crews is founding Director of the Copyright Advisory Office at Columbia University. Crews' guidance is far superior to any advice we can offer here. You can view and/or download a free copy of the book at

[http://www.proquest.com/products\\_umi/dissertations/copyright/](http://www.proquest.com/products_umi/dissertations/copyright/).

We have excerpted a few of the most general guidelines from Crew's book to help you determine when and how to seek further guidance in addressing copyright issues.

### **Avoiding Copyright Infringement in Your Dissertation or Thesis**

Copyright law protects "original works of authorship" that are "fixed in any tangible medium of expression." Legal use, without permission, of copyrighted work is limited to "fair use" of the work. Educational and research use is not necessarily "fair use", especially if the work is published, as your dissertation or thesis will be with ProQuest/UMI and as (hopefully) many of your future journal articles or books will be. You may be better off acquiring permission to use the work in question from the start, or to figure out how not to use material of questionable copyright in your dissertation or thesis. The table here, taken from Crew's book, shows general guidelines for determining whether the age, authorship, and status of a work means that it is, or is not likely to be copyrighted. At the end of this section is a sample permission letter (again, taken from Crews) that will satisfy our requirements for using material under another copyright in your dissertation or thesis.

Creation/Publication of the Work	General Rule of Duration
Created in or after 1978 by a named author acting in an individual capacity, whether published or not.	Life of the author, plus seventy years.
Created in or after 1978 by an anonymous or pseudonymous author, or by a corporate author, or a work-made-for-hire.	The earlier of either ninety-five years from publication, or 120 years from creation.
Created before 1978, but not published.	The later of either seventy years after the death of the author, or through December 31, 2002. The expiration date is extended through December 31, 2047, if the copyright owner publishes the work before the end of 2002.
Published after 1922 and before 1978 with a copyright notice and renewed if required.	Ninety-five years from the date of original publication.
Created and published before 1923.	Copyright has expired.

The following are the kinds of materials that we might expect to see accompanied by a permission letter if they appear in your manuscript, or that may cause us to contact you regarding permission or other resolution. You are responsible for obtaining proper permissions for all material used within your work.

- **Long quotations** from pre-existing materials that extend for more than one and one-half single-spaced pages.
- **Reproduced publications.** Examples include copies of standard survey instruments or questionnaires and journal articles. This applies even if you are the author of the original work, as the original publisher may have acquired copyright.
- **Unpublished materials.** Extensive reference to unpublished works raises a variety of issues about copyright and about privacy and access to collections.
- **Poetry and Music Lyrics.** Fair use for highly creative works is relatively limited. Lengthy excerpts will raise critical questions. Some publishers require permission for all quotations from poems.
- **Dialogue from a play, screenplay, broadcast, or novel.** While fair use is relatively narrow for creative and fictional works, it should allow brief quotations in the context of scholarly critiques.
- **Music.** Excerpts in your dissertation should be brief and should be closely tied to your research objectives.
- **Graphic or pictorial works.** The material should be closely related to your research objectives, tied to critical analysis, and not supersede the market for the original.
- **Computer Software.** Dissertations embodied in new media, such as on a website or on CD-ROM, may incorporate reader programs or other application software to make the new work accessible or useful. Reproducing such programs to accompany your dissertation will almost invariably require permission. Consult any license agreement that may apply to the programs, and prepare to seek permission from the copyright owner. "Shareware" is also not necessarily freely available for copying. Shareware is a protected work made available under generous or lenient licensing terms; read the license carefully before integrating the program into your dissertation.
- **Sources located on the Internet.** Easy availability does not change copyright status. Materials on the Web are protected by copyright just as if they appeared in a book or on tape.

## Protecting Your Own Copyright

Copyright privileges now vest immediately upon creating your work, without the requirement of notice or registration. However, you should still include a copyright notice on your dissertation. Your graduate school may even require that you do. Typical copyright notices take this form: Copyright 2011, Jane Student or © 2011, Jane Student. The notice should appear in a conspicuous location, customarily just after the title page.

Registration is also technically optional, but still recommended. It establishes a public record of your dissertation and copyright. In the U.S., registration is required before you can file an infringement lawsuit. You should therefore register before that possibility ever arises then hope it never does. Registration also allows you to be awarded damages and attorney fees in an infringement action. Generally, you must have registered before the infringement occurs to have these benefits.

Because of the availability of content on the open web via repositories and other avenues, registering for U.S. copyright can be a significant benefit for the protection of your work. For only \$55, you can protect your dissertation or master's thesis and become immediately eligible for statutory damages and attorney fees. Registering for copyright allows for the claimant to receive

statutory damages set out in [Title 17, Section 504 of the U.S. Code](#), which range from \$750 – \$150,000, plus attorney fees, per copyright infraction. This contrasts with those who do not register for copyright – authors without copyright registration can claim only actual damages and no attorney fees.

### **Sample Permission Letter for Use of Previously Copyrighted Material**

Modified from Crews, Kenneth D. 2000. [Copyright Law & Graduate Research: New Media, New Rights, and Your New Dissertation](#) [http://www.proquest.com/products\\_umi/dissertations/copyright/](http://www.proquest.com/products_umi/dissertations/copyright/)

[Letterhead stationery or return address]

[Date]

[Name and address of addressee]

Dear \_\_\_\_\_:

I am completing a doctoral dissertation at \_\_\_\_\_ University entitled "\_\_\_\_\_." I would like your permission to reprint in my dissertation excerpts from the following:

[Insert full citation and description of the original work.]

The excerpts to be reproduced are: [insert detailed explanation or attach copy].

The requested permission extends to any future revisions and editions of my dissertation, including non-exclusive world rights in all languages, and to the prospective publication of my dissertation by ProQuest through its UMI® Dissertation Publishing business. ProQuest may produce and sell copies of my dissertation on demand and may make my dissertation available for free internet download at my request. These rights will in no way restrict republication of the material in any other form by you or by others authorized by you. Your signing of this letter will also confirm that you own [or your company owns] the copyright to the above-described material.

If these arrangements meet with your approval, please sign this letter where indicated below and return it to me in the enclosed return envelope. Thank you very much.

Sincerely,

[Your name and signature]

PERMISSION GRANTED FOR THE  
USE REQUESTED ABOVE:

\_\_\_\_\_  
[Type name of addressee below signature line]

Date: \_\_\_\_\_

### Instructions for permission letters:

1. Be sure to include your return address, telephone and fax numbers, and date at the top of the letter.
2. Spare no effort in confirming the exact name and address of the addressee. Call the person to confirm the copyright ownership.
3. State clearly the name of your university and your dissertation's title.
4. Describe precisely the proposed use of the copyrighted material. If necessary or appropriate, attach a copy of the quotations, diagrams, pictures, and other materials. If the proposed use is extensive, such as the general use of an archival or manuscript collection, describe it in broad and sweeping terms. Your objectives are to eliminate any ambiguities and to ensure that the permission encompasses the full scope of your needs.
5. The sample signature form at the end of the sample letter is appropriate when an individual grants the permission. When a company, such as a publishing house, is granting permission, use the following signature format:

PERMISSION GRANTED FOR THE USE REQUESTED ABOVE:  [Type name of company]  By: _____  Title: _____  Date: _____
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6. *For More Information about Permissions.* Various organizations grant permissions for certain works. For example, the Copyright Clearance Center offers a "Republication Licensing Service" that may prove helpful: [www.copyright.com](http://www.copyright.com).