

Marketers' 10 Most Common Copyright Questions... Answered!

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I get asked some variation of the same 10 questions on a regular basis, so I'm going to answer them here.

1.

Can I use someone else's content (text, image, video, music) on my website if I give them credit?

Not unless they've given you written permission to use their material, OR you're willing to spend the money to present a "[fair use](#)" defense if the creator sues you for copyright infringement. (It's nearly impossible to know in advance whether the court will ultimately find that your use was "fair.")

2.

But what if I'm not making any money off my blog? Can I use someone else's content then?

No. Using someone else's work without permission is still copyright infringement, whether you make money from it or not. It might, however, influence whether what you did is considered "fair use" by a court, or how much money the court awards in damages.

3.

But what if I only use a little bit of someone else's content, like a few seconds of video or a paragraph of their whitepaper?

There is no "safe amount" of someone else's copyrighted material you can use without permission. Not 30 seconds, not 10, not 5. Zero.

4.

But isn't that ridiculous?

In some cases, yes, but as much as I think copyright law needs to be reformed to reflect modern attitudes and technological capabilities, the current situation is what it is, and the risk of liability is substantial for anyone using someone else's copyrighted work.

5.

How do I know if another work is subject to someone else's copyright?

You should assume every work is subject to copyright. Did you create the work? No? Then don't use it without permission from the person who did.

In some cases, the content creators might release their work pursuant to a [Creative Commons](#) license. If that's the case, confirm that it is in fact their work (and that they didn't upload someone else's work to **YouTube** or wherever), and that the use you're planning fits within the terms of the specific creative commons license they chose.

For instance, some licenses allow you to use the work, but not to change it. Some allow you to do most anything, but don't allow commercial uses. Others permit commercial use. The onus is on you to find out!

6.

I just got a cease and desist letter from Getty Images (or some other company) demanding I pay them a lot of money for unauthorized use of one of their images. Do I have to pay?

Depends. Do you have a lawyer on retainer and are you willing to fight the matter in court? If not, you'll probably have to pay—unless you can prove that you purchased a license to use the stock image in question. You might be able to negotiate the payment down, but those big companies play hardball. The little guy almost never wins. Sorry to be the bearer of bad news!

7.

What if I downloaded the image from a different site that said it was free to use? I didn't know that whoever uploaded the picture (or video) wasn't actually the copyright holder!

Unfortunately, copyright infringement is what's known as a "strict liability" offense: You used someone else's copyrighted work without permission, period. You might be able to shift liability to the site you got the image from, but you'll still have to show up in court if the owner sues.

8.

So what can I use without worrying about liability?

You can use your own work: articles you've written, pictures you've taken, videos you yourself recorded, etc. You can also use creative works for which you've received written permission from the author (and you've confirmed that the person giving permission actually holds the copyright).

That last bit can be tricky: Parties sometimes assign copyright, as in a work-for-hire agreement, or someone you know might have created a work in the course of his or her employment. In that case, someone other than the creator owns the copyright, and that entity would have to give you permission for your use to be legal.

9.

Does a work have to be registered to be subject to copyright?

No, copyright protection applies as soon as a creative work is "fixed in a tangible medium." In other words, the creators own copyright as soon as they save their document, finish their sketch on a cocktail napkin, record a song into their iPhone recording app, etc. Registration offers additional benefits to copyright holders, but it's not required for copyright to apply.

10.

What can I do if someone else is using my content?

Quite a bit, actually!

1. First, register your creative works with the [US Copyright Office](#). It might not be worth it for you to register every single blog post, but register the works you've put a lot of time and effort into, like whitepapers, infographics, videos, or even very thorough well-researched articles. You could even register a group of blog posts as a compilation.

2. [Registration will afford you some additional benefits](#) in the event someone uses your work without permission. One big benefit: you can sue them. Another, if you register a creative work within three months of publication: you can sue for "statutory damages," meaning you don't have to prove that you actually lost a specific amount of money as the result of someone else's using your work, which is tough for most people to prove.
3. Contact the person using your work and ask him or her to stop. That is typically my first step, since so many people genuinely have no idea that what they're doing is illegal.
4. Issue [a "cease and desist" letter](#) detailing their unauthorized use and demanding that they take down any infringing content or you'll be forced to sue them.
5. If the infringement happens on **Facebook** or **Twitter**, report the infringer to that site.

A lot of this information will bum people out. I apologize in advance, but unpleasant truths are still truths. Just trying to keep you out of trouble!

You can find more information in my various blog posts at KerryGorgone.com, Mark Schaefer's [website](#) and Mack Collier's [blog](#).