

THE FIRM VOICE

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Avoiding Costly Mistakes: How to Copy 'Right' and How Not to Copy 'Wrong'



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Every day, public relations firms distribute copyright-protected material. You may be unintentionally violating the federal copyright law when you photocopy a magazine article and share it with your clients by e-mail, post an industry newsletter on your company's intranet site or distribute a research report at a client presentation. As technology makes distributing works easier and easier, it is even more important to be mindful of copyright issues because the penalties can be severe – no matter how innocent the infringement may seem. This article provides a brief overview of copyright law and some tips about how to copy "right" and copy "wrong."

WHAT IS PROTECTED BY COPYRIGHT LAW?

Copyright law protects "original works of authorship," and includes a wide variety of creative materials such as:

- books, magazines, newspapers and blogs
- music and lyrics
- videos, movies, and television broadcasts
- photographs and other artwork
- games and software
- charts, graphs and maps

Copyright law protects works created in all media such as print, electronic and digital formats. A work enjoys copyright protection from the moment it is created. Contrary to popular belief, a work does not need to contain the copyright symbol © in order to be protected by copyright law.

WHAT RIGHTS DOES COPYRIGHT LAW PROTECT?

Under copyright law, the owner of a work has a number of exclusive rights, including the right to:

- reproduce the work
- distribute copies of the work

- create a new or derivate work based on the original work
- display the copyrighted work
- perform the copyrighted work

Generally, therefore, you must obtain permission from the copyright owner of a work before you can reproduce, display or distribute that work inside or outside of your company.

With this background, here are two basic practices to avoid and two basic practices to follow:

DON'T: DUPLICATE COPYRIGHTED WORKS WITHOUT PERMISSION

The making of a copy of a copyrighted work by any means (such as photocopying, scanning, digitizing, ripping, or downloading) constitutes a "reproduction." Likewise, the unauthorized "posting" or "uploading" of creative material may implicate the "display" and "distribution" rights granted by copyright law.

Digital, electronic and online materials are subject to the same protections as non-digital, traditional or paper-based works. However, there are further legal risks associated with using digital content. Many publishers of copyrighted works distributed electronically have embedded tracking software that detects each time the work is downloaded, printed, forwarded, shared or copied. PR News, and several other PR trade newsletters, have embedded this software.

Tampering with this software can lead to a finding of willful copyright infringement and should not be attempted.

Widespread copying that deprives the copyright owner of the opportunity to sell, license or exploit a work – such as routinely copying issues of a subscription publication to increase the number of copies available to your firm – is strictly prohibited. Only limited copying of a lawfully-owned copyrighted work for personal use may be allowed. For example, printing out a copy of an electronically-distributed publication to read at your leisure away from your computer.

DON'T: DISTRIBUTE COPYRIGHTED WORKS WITHOUT PERMISSION

You can share a legally-owned copy of a copyrighted work, such as by circulating a hard copy of a printed publication by a routing list. However, distribution of a copyrighted work to the public for commercial purposes is exclusively reserved to the copyright holder.

Likewise, posting material on the Internet may also violate a copyright holder's exclusive right to publicly display, or in the case of audiovisual works, publicly perform the work.

Isolated distribution of a limited portion of a copyrighted work (such as press clippings) on an occasional and infrequent basis may be allowed, but should be avoided. In short, systematic distribution, especially to a large audience, should not be done absent authorization.

DO: MAKE AUTHORIZED USES AND USE AUTHORIZED DISTRIBUTION METHODS FOR YOUR FIRM

Most publications such as newsletters and magazines are available by paid subscription. That subscription or license agreement describes how many copies of a work may be made or distributed. Review these agreements carefully before reproducing a copyrighted work. You should purchase the

necessary number of subscriptions or obtain a company-wide subscription to ensure that the appropriate number of your company's employees have access to a printed publication.

The correct practice for circulating printed materials is by distribution list. While this may seem cumbersome, it is necessary to avoid an infringement claim.

Information found online can be appropriately shared by providing the web address or a hyperlink to the original source – as long as the source referenced is not an infringing work (for example, do not share links to pirated videos or music).

Providing a web address or a link which directs the user to the original source is not copyright infringement because the address itself is not copyrighted. In this instance, no copies are made and the distribution, display or performance of the work itself remains within the control of the copyright owner.

Aggregators such as NEXIS or Google can also aid in sharing information and copyrighted works by referring clients to these services, without incurring a risk of infringement. For example, NEXIS obtains licenses from publishers to make their content available to its clients, and "Google Alerts" provide limited excerpts of recent content on particular subjects along with a link to the original source in a manner they have determined is compliant with fair use.

DO: OBTAIN PERMISSION

If it is necessary for business reasons to make or distribute copies of a particular copyrighted work such as an entire article or research report, obtain written permission in advance from the copyright owner. Stick to the permitted uses, or go back for further permission if needed.

CONCLUSION

By complying with copyright law in an informed way, copyright owners who create original content receive fair compensation for the use of their work and organizations gain access to the content they need to assist their clients while avoiding litigation and potential damages. However, failing to educate employees about copyright law may well expose public relations firms to substantial risk.