



INFORMATION SHEET

G086v03

Artworks: getting permission

November 2007

This information sheet is for people who want to use photographs, paintings, drawings, book illustrations, cartoons, graphics on websites and other artworks, by reproducing them, for example. We provide a brief overview of when permission, also known as a “licence” or “copyright clearance”, is required to use artistic works. We also suggest how to seek permission.

We update our information sheets from time to time. Check our website at <http://www.copyright.org.au/visart> to make sure this is the most recent version, and for other information, such as details of our training program.

The purpose of this information sheet is to give general introductory information about copyright. If you need to know how the law applies in a particular situation, please get advice from a lawyer.

Key points

- To use all or a “substantial part” of an artistic work in any of the ways reserved to the copyright owner, you will need permission from the copyright owner, unless copyright has expired or a special exception applies.
- The creator of copyright material is not always the copyright owner.
- The owner of a physical item does not necessarily own copyright in that item. For example, a gallery or museum does not necessarily own copyright in items in its collection.
- Intestacy law or the will of a deceased person may determine who inherited copyright owned by the person when they died.
- The Copyright Act does **not** allow you to use copyright material without permission merely because you can’t identify the copyright owner, or can’t contact them, or because they fail to reply to your request.
- If you have used copyright material without permission, using “good faith notices” or statements that you were unable to contact the copyright owner, this does **not** alter your legal liability for infringement.
- Once you have permission to use an artwork, you still need to ensure that you do not infringe its creator’s moral rights.

When to get permission

The copyright owner of an artistic work has the exclusive right to reproduce it (by photocopying or scanning, for example), to publish it (in a book or a newsletter, for example), and to communicate it to the public (via email or on a website, for example). If you want to use all or a “substantial part” of copyright material in any of the ways reserved to the copyright owner, you need permission from the copyright owner, unless copyright has expired or a special exception to infringement applies.

For information that will help you work out when you need permission to use an artistic work, see our information sheets *Artworks*, *Quotes & extracts* and *Duration of copyright*. Important special exceptions to infringement (where permission is not required) are outlined in our information sheets *Fair dealing*, *Libraries*, *Educational institutions*, and *Governments (Commonwealth, State and Territory)*. For a more detailed discussion, see our books *Copyright & Advertising*, *Artists & Copyright*, *Galleries & Museums: A Copyright Guide* and *Photographers: copyright & moral rights*.

How to get permission

Permission to use copyright material is referred to as a “licence” to use the material. The process of obtaining a licence is sometimes referred to as “clearing copyright”. A licence may be granted subject to conditions, which may include payment of a fee.

For information on the kinds of issues that should be covered when dealing with a copyright owner, see our information sheet *Assigning & licensing rights*. For information that may help you work out appropriate fees, see our information sheet *Fees and royalties for use of copyright material*.

The moral rights of the artist also need to be taken into account. You may need to obtain a written consent from the artist, separate from any arrangement with the copyright owner, if you want to do something with the artwork that will infringe the artist’s moral rights. For information on these rights, see our information sheet *Moral rights*.

Who can give permission

Permission must be obtained from the copyright owner, or someone authorised by the copyright owner to give permission. Where copyright in an artwork is jointly owned, permission is usually required from each owner.

Copyright is often owned by someone other than the creator because of the circumstances in which material was created or because copyright has been assigned. In most cases, if the creator assigned or licensed copyright (other than by will) **before** 1 May 1969, and died more than 25 years ago, copyright will have reverted to the creator’s estate.

There is no Australian copyright registration system, so there are no official records like there are for registered trade marks, patents and designs that you can search to identify owners. So you may need to use a variety of resources when trying to locate copyright owners to seek permission. In some cases, you may need to do some detective work.

The Copyright Council does not have records about copyright ownership and does not provide any research services to locate copyright owners.

Artwork licensed by artists and VISCOPY

A licence may be available from VISCOPY, the visual arts copyright collecting society, for the reproduction of works of art from Australia or overseas (see contact details listed below).

If the copyright owner is not a member of VISCOPY, there are a number of other organisations that may be able to help, either by themselves granting a licence or by providing details of the artist:

- the Aboriginal Artists Agency represents some Aboriginal and Torres Strait Islander artists;
- the National Association for the Visual Arts (NAVA) has a database of visual artists practising in Australia; and
- Craft Australia has a database of Australian craft workers.

Contact Details:

VISCOPY

45 Crown St, Woolloomooloo NSW 2011; Tel (02) 9368 0933; Fax (02) 9368 0899; <http://www.viscopy.com>.

Aboriginal Artists Agency

3 Redan St, Mosman NSW 2088; Tel 0417 230 464; <http://www.aboriginalartists.com.au>.

Australian Commercial and Media Photographers

PO Box 779, North Sydney NSW 2066; Tel (02) 9025 3975; Fax (02) 9025 3990; <http://www.acmp.com.au>.

Australian Graphic Design Association

PO Box 816, Unley BC, SA 5061; Tel (08) 8411 3888; Fax (08) 8276 8003; <http://www.agda.com.au>.

Australian Institute of Professional Photography

PO Box 372, North Melbourne VIC 3051; Tel 1800 686 696; Fax (03) 9329 9933; <http://www.aipp.com.au>.

Craft Australia

Level 1, Suite 7, National Press Club, 16 National Circuit, Barton ACT 2600; Tel (02) 6273 0088; Fax (02) 6273 6088; <http://www.craftaustralia.com.au>.

National Association for the Visual Arts (NAVA)

PO Box 60, Potts Point NSW 1335; Tel (02) 9368 1900; Fax (02) 9358 6909; <http://www.visualarts.net.au>.

Artwork in galleries and museums

If the work is held in an art gallery or museum, the gallery or museum may be able to authorise its use or be able to help you to contact the rights owner. The fact that organisations or people own physical items does not necessarily mean that they also own copyright in those items.

Published artworks

If an artistic work has been published (for example, as an illustration in a book or magazine), the publisher may be able to grant permission or direct you to the copyright owner.

Cartoons, TV and animated characters

If the cartoon or animation has been published, contact the publisher. Some cartoon characters, such as Disney characters, are licensed by merchandising organisations or agents such as those listed below.

Contact details:

The Walt Disney Company (Australia) Pty Ltd

Level 7, 650 Chapel St, South Yarra VIC 3141; Tel (03) 9382 6155; Fax (02) 9832 6192;
<http://www.disney.com.au/dcp>

Warner Bros Consumer Products

Licensing Department, Level 2, 15-31 Pelham St, Carlton VIC 3053; Tel (03) 9657 0333; Fax (03) 9663 8007.

ABC Licensing (Bananas in Pyjamas, Playschool, Triple J, Five Minutes More)

ABC Ultimo Centre, 700 Harris Street, Ultimo NSW 2007; Tel (02) 8333 1500; Fax (03) 8333 1051.

Haven Licensing Pty Ltd (Peanuts, Sesame Street, The Simpsons)

26 Hutchinson Street, Surry Hills NSW 2010; Tel (02) 9357 9888; Fax (02) 9357 9800; admin@havenlic.com.au.

Curtis Brown Aust Pty Ltd

PO Box 19, Paddington NSW 2021; Tel (02) 9331 5301 and (02) 9361 6161; Fax (02) 9360 3935;
info@curtisbrown.com.au.

Flags and State and Territory emblems

Flags are generally protected by copyright, and in some cases by other areas of law. Generally, you can find out about State or Territory flags, emblems and protocols by going to the website of the relevant government and following links to (or by searching for) words like "protocol", "flag" or "emblem". Contact the person or department named if you need permission. To find a list of links to Australian government websites, go to <http://www.gov.au>.

If you do not have access to the internet, try contacting the Department of your State or Territory Premier and ask for the person responsible for protocol, flags and emblems.

For permission to use the Aboriginal Flag, contact:

Mr Harold Thomas, PO Box 41807, Casuarina NT 0810.

Further information on getting permission to reproduce the Aboriginal flag is provided at:

<http://www.naidoc.org.au/flags/aboriginal.aspx>.

Australian currency

Permission is needed to copy money, for general regulatory reasons as well as copyright reasons. For permission to reproduce and communicate Australian currency, contact:

The Reserve Bank, Tel: 1800 633 220; <http://www.rba.gov.au> (click on "currency notes", then "legal framework", then "Representations/Reproductions of Australian Notes and Deliberate Mutilation").

Digital and internet material

If you want to use artworks from the internet, you will need to see if anything on the website tells you what you can use the artworks for, and whether the terms and conditions of use (often found by clicking a link to "Copyright") cover your needs. Similarly, if you want to use artworks acquired under licence (such as a CD-ROM of clipart) you will

need to check whether the terms and conditions of the licence agreement allow you to use the material in the ways you want.

If you are uncertain about whether the statement or licence grants permission for the uses you want, or if the statement or licence clearly does **not** allow you to use the material in the ways you want, it is generally a good idea to contact the relevant copyright owner. You could contact the publisher of the CD-ROM or the webmaster of the website who may be able to grant permission or direct you to the copyright owner. For further information on copyright material on the internet, see our information sheet *Internet: copying and downloading material*.

Further information

For further information about copyright, and about our other publications and training program, see our website – <http://www.copyright.org.au>.

If you meet our eligibility guidelines, a Copyright Council lawyer may be able to give you free preliminary legal advice about an issue that is not addressed in an information sheet. This service is primarily for professional creators and arts organisations but is also available to staff of educational institutions, libraries and governments. For information about the service, see <http://www.copyright.org.au/advice> or our information sheet *Australian Copyright Council: who we are, what we do*.

Information from the Arts Law Centre of Australia may also be of interest to you: see <http://www.artslaw.com.au> or telephone (02) 9356 2566.

Reproducing this information sheet

You may download and print one copy of this information sheet from our website for your reference, or you may purchase a printed copy from our online shop – <http://shop.copyright.org.au> – or direct from us.

Australian Copyright Council

The Australian Copyright Council is a non-profit organisation whose objectives are to:

- assist creators and other copyright owners to exercise their rights effectively;
- raise awareness in the community about the importance of copyright;
- identify and research areas of copyright law which are inadequate or unfair;
- seek changes to law and practice to enhance the effectiveness and fairness of copyright;
- foster co-operation amongst bodies representing creators and owners of copyright.



Australian Government



The Australian Copyright Council has been assisted by the Commonwealth Government through the Australia Council, its arts funding and advisory body.

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