

Legal and Ethical Considerations

When writing for professional contexts, you must understand the legal and ethical ramifications of using borrowed content. You can't quote anyone or use images without explicit permission and attribution.

Copyright

Copyright is automatic legal protection for original works in fixed form (things, not ideas). Copyright applies to texts, artwork, design layouts, fonts, photos, interview recordings and transcripts, and more. It gives the creator control over if and how the work is reproduced, adapted, displayed, performed, and used for derivative works.¹

Copyright protection is automatic in the U.S.—creators do not apply for it. But copyright laws vary by country. You must consult the laws for the country where you plan to use the copyrighted material, not where the work originated.

Whether working as an individual or for a corporation or nonprofit, you must obtain permission, and usually a license, to use copyrighted material. And you must always attribute the work to its author.

Creative Commons

Copyright holders use Creative Commons (CC) licenses to relinquish some protections for their creative content.² Even if the work comes with an appropriate CC license, you must attribute it to its creator.

Fair Use

Fair use is more complicated than most people realize—educational and nonprofit uses are not automatically fair uses.³ Parody, commentary, and analysis are the only fair use situations applicable to commercial projects.

Copyright Rules

- You need written permission—and usually a license—from the copyright holder to borrow content for commercial use.
- You may use content for commercial purposes without permission if offered under a CC0, CC BY, or CC BY-SA license. For this class, you must provide attributions for all borrowed content.
CC0 - no rights reserved²
CC BY - use, modify, and redistribute²
CC BY-SA - use and modify (but not redistribute)²

Fair Use Exceptions

- You may use copyrighted work without permission if you're creating a parody (à la Al Yankovic).³
- You may use copyrighted work without permission if you're writing a commentary or analysis article for a newspaper or magazine.³

Public Domain Exceptions

- Public domain applies to content created before 1923 or created by the U.S. government.⁴
- You may use work in the public domain without permission, but you must attribute it to its creator.

Public Domain

Images, videos, songs, texts, and other materials in the public domain are not under copyright protection, but you must include an attribution if you use all or part of the work in your project. U.S. government-produced publications are automatically in the public domain,⁴ but public domain is difficult to determine for other materials.

Very few creative works you find online are actually in the public domain. You cannot trust public domain notations on images and other content uploaded by individuals unless you are sure the work was created before 1923.⁴ Always assume online content has full copyright protection.

Trademark

A trademark is a word, name, or symbol (like a logo) that distinguishes one company or individual from others. Trademark protects the company name, trade symbol, and sometimes its slogans.⁵

U.S. trademarks must be registered through the United States Patent and Trademark Office (USPTO). Once registered, a trademark can't be copied or used by another individual or organization, at least not legally.⁵

Courts consider "likelihood-of-confusion" to determine trademark infringement, which can apply even if the symbols in question are for products or services in different industries.⁵

Right of Publicity

Right of Publicity protects the face, defining features, name, and voice of an individual. These laws are determined at the state level and apply to everyone, but most focus on celebrities and athletes.⁶ You can't legally use someone's name or any part of their likeness without written consent. Children are protected under right of publicity and other laws.

Public Domain and CC Resources

The sites below feature public domain and CC-licensed content. Check each item—especially music—to be sure it was created before 1923, or that it's offered under a CC0, CC BY, or CC BY-SA license. Always include attributions in your class projects.

Images and Icons

- [New York Public Library Public Domain Collections](#) - public domain images
- [Public Domain Images from the New York Times via Wikimedia Commons](#) - public domain images
- [Unsplash](#) - CC0 photographs
- [Public Domain Archive](#) - CC0 photographs
- [Splitshire](#) - CC0 photographs
- [Pixabay.com](#) - CC0 photographs
- [TheNounProject.com](#) - CC BY icons

Maps

- [NationalMap.gov](#) - public domain maps
- [OpenStreetMap.org](#) - CC BY-SA maps

Music

- [CCMixer.org](#) - CC music (use only 0, BY, or BY-SA)
- [FreeMusicArchive.org](#) - CC music (see above)

Ethics

In addition to following copyright and right of publicity laws, professional writers must present original and borrowed content ethically.

Issues of ethics are not only about being nice—the [U.S. Federal Trade Commission’s 1983 Policy Statement on Deception](#) explains that ethical breeches can be illegal if the act of deception “misleads the consumer acting reasonably in the circumstances, to the consumer’s detriment.”⁷

Companies also face serious legal penalties if they infringe upon the privacy of consumers, especially children.⁷

The following practices violate commercial ethics policies in the U.S.⁷ These practices may also break state and/or federal laws.

- Exaggerating, de-emphasizing, or distorting data in graphics.
- Burying important data deep within a large document.
- Presenting incorrect or unrealistic information.
- Omitting unfavorable or damaging information.
- Misrepresenting facts.
- Falsifying quotations or using quotations out of context.
- Self-plagiarizing or recycling past work, even if you hold the copyright.
- Using images and/or the names of children without written consent from their legal guardians.

1. [United States Copyright Office](#)

2. [Creative Commons: About the Licenses](#)

3. [Rich Stim for Stanford University Libraries: Fair Use](#)

4. [Rich Stim for Stanford University Libraries: Welcome to the Public Domain](#)

5. [U.S. Patent and Trademark Office: Protecting Your Trademark](#)

6. [Stephen J. Zralek: Keeping up with the Evolving Right of Publicity](#)

7. [U.S. Federal Trade Commission Policy Statement on Deception](#)

8. [Peter Colin, Jr. for The National Law Review: Elvis and Prince: Personality Rights Guidance...](#)

Illegal Uses

- Using a photograph from Google Images on your personal or company website.
- Tracing a National Geographic photo and using your drawing without a license.
- Using the McDonald’s golden arch as part of your soccer team’s jersey design.
- Featuring a photograph or drawing of a person in a personal or commercial project without the model’s written consent.
- Using a lyric or quote from Chance the Rapper to promote your line of baseball hats with the number 3 on them. This a double, maybe triple violation: the lyric/quote, the design of the hat, and possibly Chance the Rapper’s likeness.
- Reproducing a picture of Elvis on a koozie without written consent from the photographer and Presley’s estate. Tennessee right of publicity laws extend after death for as long as the name or likeness has commercial value.⁸
- Including in your own video a clip you took at Coolidge Park, in which several people are close and clear enough to be recognized.
- Taking a photograph of a child for any use without written consent from a legal guardian.