

OVERVIEW

Unless otherwise specified in clause 4 of your publishing contract with HUP, you are responsible for securing and submitting to HUP any permissions that may be required for text and art that you wish to include in your manuscript but that you have not created specifically for your book. Additionally, you will need to create credits for text not original to your book; captions; and credits for graphics.

The following guidelines have been formulated to help you understand and navigate the permissions process and create the required credits.

Once the contract for your book has been fully executed, you will receive interactive text and graphics questionnaires from the Intellectual Property (IP) department. These forms will walk you through questions related to permissions clearing and communicate to us information about permissions and credits that we need in order to best publish your book.

Rights holders often provide online permissions applications. Please contact the IP department for details about the publication of your book and the scope of the rights you will need. In the event that you need to send your own letter of request or a work-for-hire agreement for maps or other illustrations you are commissioning, the IP department can provide you with a letter tailored to your book.

IP staff is available to assist with the creation of credits as necessary.

If you have questions about permissions and credits that are not answered here or by working through the text and graphics questionnaires, please contact the IP department as soon as possible. The process of selecting art, identifying rights holders, obtaining print-ready files and permissions, and drafting captions and credits is very time-consuming and can take months: Please give yourself plenty of time for this important part of your manuscript preparation so that you can provide complete permissions information when you deliver your final manuscript.

For information on submitting art files to the Editorial department, please see the HUP art guidelines. ([hyperlink](#))

WHEN IS PERMISSION NOT NEEDED?

Under certain circumstances, permission is not needed to reproduce third-party text and illustrations in your book.

PUBLIC DOMAIN

Works that have fallen out of copyright are in the public domain and can be reproduced in your book without formal permission but with full credit.

Generally, works first created and published in the United States prior to 1923 are in the public domain. Text created before 1923 but never published might require permission to include in your book.

Copyright rules vary from country to country. Please contact the IP department if you have questions related to public domain for material created and published outside the US.

In the case of art, please bear in mind that, although the content itself may be in the public domain, use of a digital reproduction of that content may be subject to certain terms, conditions, and restrictions imposed by the organization that created it. Terms of use will be communicated in the terms of the permissions license sent to you by the creator of the digital reproduction.

CREATIVE COMMONS (CC-BY)

Material published under “Creative Commons” is not in the public domain. It is covered by copyright to some degree but can be used by others without permission but with the appropriate credit.

A Creative Commons designation indicates that the creator has waived certain elements of copyright protection in order to allow others to use material without securing formal permission. Creative Commons licenses include varying degrees of restrictions. Near the “Creative Commons” designation on a web page look for a link to the specific license being used for the work. It will list the terms and conditions for use and attribution and specify whether you may modify or adapt the material. Please check these terms carefully to determine if permission is needed. The required credit line will always include source/author information as well as the Creative Commons license designation, for example: (CC-BY-4.0).

FAIR USE

A provision exists in US copyright law that allows for the fair use of limited copyrighted material for the purposes of scholarly discussion and analysis. If your use of copyrighted material falls within the bounds of this provision, you do not need to secure formal permission to reference this material.

This provision is, in essence, a legal defense for what is technically an infringement on copyright. What counts as fair use is open to interpretation. There is no set number of words, percentage of the whole, or other strictly defined parameters for making this determination.

There are **four primary criteria** to consider and balance in determining whether inclusion of copyrighted materials can be considered fair use:

1) Purpose/Character of Use.

Nonprofit educational use is more likely than commercial use to be considered fair use.

2. Nature of the Copyrighted Work.

Use of a factual work is more likely to support a claim of fair use than a more creative or imaginative work, such as poetry or song lyrics.

3. Amount/Portion Used.

Copying of short quotations that are accompanied by analysis is more likely to be considered fair use than the reprinting of lengthy quotations so long as short quotations are not the “heart” of the work.

4. Potential Impact on Value/Marketing of Original Work.

Fair use is less likely if the extent and nature of the reuse substitute for or replace the original in the marketplace.

Although deciding if fair use applies is ultimately up to the author’s good judgment, HUP IP staff is available to assist in this evaluation.

Please be aware that the original source of third party content used under the assertion of fair use must be fully credited in your manuscript.

WHEN IS PERMISSION NEEDED?

You will need permission to reproduce your own published text in amounts that exceed fair use, and to include text and illustrations under copyright to another party not subject to public domain, a Creative Commons license, or fair use.

TEXT

Epigraphs

Although usually brief or a very small portion of a larger work, epigraphs that consist of quotations from works still under copyright do not always meet the criteria for a fair use determination, particularly in the case of poetry excerpts or song lyrics. If the text of the epigraph is followed by a substantive discussion of its content, you might make an argument for fair use. However, if the epigraph is used merely as artistic foreshadowing, such a claim is more difficult to make.

Should you determine that an epigraph meets fair use criteria, permission is not needed, but you must include a credit line to the source. Credits for epigraphs may be inserted in your manuscript as unnumbered endnotes. If your use of text as an epigraph requires permission, the rights holder will provide you with proper language for the credit and may dictate the placement of the credit in the manuscript.

Song Lyrics and Poetry

Under most circumstances, the inclusion in your manuscript of complete song lyrics and entire poems requires permission.

A case can be made for fair use in instances where only a few lines are used and analyzed in your text. Please contact the IP department with questions. Note that the rights to poetry may be managed by more than one party. Please carefully check the terms of permissions received for any indication that another party must be contacted for certain territory or format rights.

Text from Archives

Not all archives require formal permission to quote from their holdings, but most require the inclusion of specific details in the credits. Please

consult the archive's web site for instructions on permissions and citations or contact archive staff for guidance.

Text from Other Publications

We recommend contacting the publisher of a text to request permission. If the publisher does not control rights, they will be able to refer you to the correct party.

Quotes from Author-Conducted Interviews

If you conduct interviews and plan to include text from these interviews in your manuscript, you will need to secure the necessary rights. This is done through the terms of a document that contains a release as well as an assignment of all publishing rights and copyright. Those interviewed need to sign such a document regardless of whether you plan to use the interviewees' names or mask their identity. Please contact the IP department if you need a copy of a release to send to those being interviewed.

Your Previous Publications

Unless you and your editor have agreed that your book will include text you have published elsewhere and your contract includes mention of this text in clause 7, the manuscript you deliver should be original, newly written, and not include verbatim text excerpts from your previous publications beyond what can be considered fair use.

If your editor agrees that you should incorporate a previously published article or essay as a chapter in your HUP book or copy verbatim text that exceeds fair use, please refer to your agreement with the original publisher to determine if you retain the right to republish the content in your HUP book or if you are required to obtain formal written permission for its reuse.

Should the terms of the agreement you signed for publication of your article or essay include language along the lines of "the author retains the right to reuse the material in whole or in part in a work of their own without formal permission," you may include the text of the previous publication in your HUP book with credit that conforms to the publisher's requirements but without having to apply for permission.

If permission to reprint the text is needed, please obtain permission, share a copy with HUP, and include the appropriate credit to the original publi-

cation in the format required by the original publisher.

If you cleared permission for use of third-party text or art in the original publication and will be incorporating this material into your manuscript, that permission will need to re-cleared for reuse in your HUP book.

You can use the acknowledgments to credit original publications if you are claiming fair use for reprinting short amounts of verbatim text or wish to bring previous publications to the attention of your readers. Examples of language that will not cause problems for copyright registration are: “Chapter 5 is informed by arguments first developed in [citation to earlier article]”; or “I thank [name of publisher] for the opportunity to publish [citation], which presents ideas developed in Chapter 1.” Please avoid use of the language “based on” or “draws on,” as the Library of Congress interprets such wording in the context of derivative works, which are often subject to copyright by the original publisher. IP staff is available to assist you with language for acknowledgments as needed.

GRAPHICS

Author-Created Graphics

For original graphics you create yourself for first-time publication in your HUP book, like photographs, tables, graphs, and charts, you will be able to communicate to us in the graphics questionnaire if you wish to assign all rights to these figures to HUP or retain the right to reuse them and allow others to do the same. If you assign all rights to HUP, we will respond to requests for reuse and share any licensing income with you as per the terms of your contract with us. If you wish to retain the right to reuse the graphics in future projects and publications, we will refer all requests for reuse to you so that you can make suitable arrangements. Examples of such graphics include photographs of places, photographs of objects that you own that are not protected by copyright, tables, graphs, and charts.

Permission is not needed to take and publish photos of public spaces and places. If people are captured in these photos, they do not need to approve publication as long as the photos are not being used in a way that invades the privacy of or libels the individuals pictured.

If you will be photographing postcards that you own, check the card for any copyright notice and clear rights if the image on the card is protected.

When you choose to assign all rights to a figure you have created, please create credits using this format:

[Type of Graphic by Your Name].

When you choose to retain rights to a figure apart from use in the HUP edition of the book and editions licensed by HUP, use this format to create credits:

[Type of Graphic © Your Name].

If you will be including in your manuscript graphics that you have created but that have been published elsewhere first, please follow these instructions:

If you are the rights holder, please create credits using this format:

[Type of Graphic © Your Name].

If you have assigned rights to another party, please obtain permission to reprint and provide the required credit.

Work-for-Hire Artwork

If you will be commissioning maps or other illustrations for publication in your book, we recommend entering into a work-for-hire agreement that makes you the “author” of the graphic and owner of all rights. IP staff can provide you with an agreement to send to the artist. For such art, please use the graphics questionnaire to communicate whether you wish to assign all rights to HUP or retain rights for use of the graphic apart from the HUP book and editions licensed by HUP.

Photographs

Formal permission is required for news or press photos protected by copyright; these photos might also be subject to licensing fees, restrictions, and specific credit language. Since these photos may appear in multiple serial news publications, it may not be necessary for you to cite the source from which you originally found the image. If this information is important to your discussion, however, you may add a note such as “[required credit] ... as reprinted in *The New York Times*, April 24, 1967.”

Photos of famous individuals can be licensed from clearing houses like Getty Pictures or obtained from institutions with which they are associated.

Permission is required for photographs taken by friends or colleagues. Ideally, you would have these individuals sign a standard permission form. If this is not desirable, please obtain the photographer’s written consent for the photo to be included in your book for the scope of rights that you have granted to HUP in your contract with us. If you need help understanding this scope of rights please contact the IP department. The photographer should also provide the appropriate credit line and contact information so that HUP can refer requests to use the images in another project to the photographer.

If you have obtained a photograph from someone who is not the photographer, please provide HUP with as much information as possible on the provenance of the photograph. The credit should indicate that the photographer is unknown, and that the image appears “Courtesy of [Name of the Provider].”

Works of Art

If you are able to create a print-ready file of a photo of a piece of art, you are the rights holder of that photo. Please use the graphics questionnaire to communicate the scope of rights you wish to assign to HUP. A credit can

be crafted along these lines:

[Title of artwork, artist name, museum. Photo by Your Name/Photo © Your Name], as appropriate.

If you need to clear permission for a photo of a piece of art that is protected by copyright, please send a copy of the permission to HUP and follow instructions provided for drafting a credit.

Though a piece of art may be in the public domain, permission might be required for use of a print-ready file of a photo of the artwork. The owner of the photo may charge a production fee and put restrictions on use of the photo.

In some cases, permission for a photo of a piece of art may be required from more than one entity. A museum may license rights to the digital reproduction they created, while the artist or artist's agent may license underlying rights to the actual piece of art. In most cases where the artworks are licensed via a clearing house gallery, the license will specify that additional "artist's rights" are required and provide the name and contact information.

Historical Images

Print-ready files of archival images like historical photographs, artwork, maps, diagrams, and scanned book pages may be available from multiple online sources, such as libraries and repositories, archives, museums, galleries, and art clearing houses. Please be sure to request any necessary permission from the supplier of the file you will be using, respect the terms of use, and share with HUP a copy of documentation received or found online.

The Library of Congress is a good source of historical images. Most of the graphics available from the library are in the public domain. Please note, however, that the Library of Congress and other providers of public domain material do require that specific information like title, author, date, photographer, provenance details, collection, and the archival Image ID/Accession Number be included in the credit. Please follow the instructions for preparing credits available on the web site of the source you are using to obtain images.

If you have created a digital copy of an object held by another party or from your own collection that is out of copyright, the credit line should not include "Courtesy of" or "By permission of." Better language is, for example, "Reproduced from a copy at Boston Public Library" or "Reproduced from

the Author's Collection," which provides the reader with information as to where the original object resides.

Tables and Charts

Data is not protected by copyright. However, graphics like tables and charts are copyright protected if the data is organized or presented in a unique way or if the graphic provides interpretation of the data.

If you plan to reprint a graphic from another source that is protected by copyright, please clear permission.

If you plan to reprint existing tables and charts, adapt existing tables and charts, or create your own tables and charts that will not be subject to copyright protection, please refer to the following guidelines for credit:

The standard way to credit tables and charts you are reprinting is:

Source: Credit.

If the reader goes to the source you provide, they will find the graphic there.

If you wish to adapt a table or chart from another source by, for instance, including updated data, please create the credit along these lines:

Source: Adapted from [source, table number], with updates by the author.

Source: Extracted from [source, table number].

If the reader goes to that source, they will find the same table there, minus the updated data or the complete table.

If you create an original graphic for first publication in your book, please communicate to the IP department the scope of rights you mean for HUP to handle.

The standard way to credit tables and charts original to your book is:

Data Source(s): followed by credit to the sources used to create the graphic.

If the reader goes to that source, they will not find the exact graphic.

Film Stills / Screen-Shots

The general consensus on film stills and screen-grabs taken from motion pictures is that they count as fair use when used in the context of scholarly discussion or analysis.

If you are using a film still, the credit line should include, at a minimum, the Title, Production Company/Distributor and Year of the Film; for example: *Gone with the Wind*, Selznick International Pictures/Metro-Goldwyn-Mayer (MGM), 1939.

Production and publicity photos are taken on the set by a film crew and are typically subject to copyright protection. These are often identifiable as appearing at slightly different angles, or in different poses, from those seen in the film. Copyright is typically with the production studio.

Rights to movie posters are usually handled by the production studio.

Web site screen-shots can be reproduced under the terms of fair use when used for purposes of scholarly discussion. Terms and conditions for such use typically prohibit the removal or cropping out of company logos and trademarks. Google Maps™, for instance, allows reuse of its content without permission, provided there are no additions or other modifications made to the maps (for example, adding labels or arrows), and requires that the specific geographic data source be included in the screen-shot.

Rights Holder Unidentified/Unknown

Please inform the IP department if you are unable to identify the source of an image for which permission should be obtained. Depending on the nature of the content and the risk level of including it in the book without permission, HUP may deem it prudent to include a disclaimer statement in the general acknowledgments or illustrations list (if any). Such a statement might read:

“Every effort has been made to identify copyright holders and obtain their permission for the use of copyright material. Notification of any additions or corrections that should be incorporated in future reprints or editions of this book would be greatly appreciated.”

Due Diligence

If you have determined that permission is required for reuse and have made several written attempts to contact the rights holder with no response, please submit to HUP copies of your unanswered correspondence, which will serve as a place holder for formal permission. Should a rights holder come forward after publication, terms of permission can then be negotiated. Since formal permission has not been obtained, the credit line should not include phrasing such as “by permission of” or “courtesy of”.

DOCUMENTATION

When submitting final text and art files to the Editorial department, please send complete permissions documentation to the IP department. Such documentation should include, as appropriate, copies of licenses, invoices, and URL links for images and texts that are accessible on-line or “licensed” via Creative Commons or Open Access, so that the Press can confirm the terms and conditions of use and adhere to any requirements for citation and credit placement.

Invoices for digital reproductions often do not include the full terms and conditions for use of the licensed content. Invoices sent via email usually provide a link to download such details, while others may simply refer to the “terms and conditions” as posted on their web site. Please be sure to provide copies of licenses and terms and conditions in addition to invoices.