



NONFICTION EDITING 101

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LESSON #6

Copyright Basics

Introduction

In Lesson 2 we addressed items included on the copyright page of a book. In this lesson we'll cover some copyright basics, as well as touch on ISBNs (International Standard Book Number) and CIP (Cataloging in Publication) data. The information pertains to the United States. If you live outside this country, check with your appropriate government agency to learn the specific requirements. This material applies not only to nonfiction but also to fiction.

Copyright Basics

I am compelled to begin this chapter with the disclaimer that I am not a copyright lawyer and what I'm presenting here is not to be taken as legal advice. I am merely passing on to you my knowledge, personal experience, and practice.

Merriam-Webster's definition of copyright is straightforward: "the exclusive legal right to reproduce, publish, sell, or distribute the matter and form of something." This "something" includes the following:

- Literary works, including computer programs
- Musical works, including accompanying words
- Dramatic works, including accompanying music
- Pantomime and choreographic works
- Pictorial, graphic, and sculptured works
- Motion picture and audio/visual works

Essentially, copyright is established by the creator the moment the intellectual work is put into a tangible form, but to receive the full benefit of copyright, the author/creator must attach the copyright notice to the work and register the work with the Copyright Office of the Library of Congress. These works also become a part of the author's estate, just as a piece of property.

Copyright notice consists of the word *copyright* or the copyright symbol, © (Ctrl+Alt+C for PC or Option-g for Mac), the year of the first publication, and the copyright owner. If I were to compile this course into a book, the copyright notice would look like this:

Nonfiction Editing 101: 8 Essential Skills for Nonfiction Editing, Revised
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All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying and recording, or by any information storage or retrieval system, except in the case of brief quotations included in critical articles and reviews. For information please contact the author.

www.writeeditor.net
thewriteeditor@gmail.com

Registering a work with the Copyright Office is simply a matter of filling out a form, paying a fee, and supplying a copy of the work. (Make sure you file the correct form.) Go to <http://www.copyright.gov/> to learn the process of online registration. (While you're there, you can find all kinds of copyright information.)

Generally, works created after January 1, 1978, are protected for the life of the author/creator plus seventy years (in the United States).

A copyeditor is *not* a copyright expert or lawyer; therefore, all I've given you here is the most basic information—just enough to direct your clients where they need to register their works. It's not your job to register their works. It must be done by them or the publisher they sell their works to.

Quoting Copyrighted Material

Back in Lesson 4, we covered how to quote copyrighted material. In essence, you can't alter the material. It must be quoted exactly as in the original. But we also learned that [*sic*] is added to indicate a mistake is in the original. Any comments authors insert are also put within brackets. And we covered that if authors leave out part of the quoted material, they are to add ellipses points (. . .). If the quoted material ends in a period but it doesn't end the sentence it's being quoted within, the period can be dropped. Those are about the only permissible changes.

Fair Use

Fair use is a term that originated in the United States. I'll let *Merriam-Webster* step in here and give us the definition: "a legal doctrine that portions of copyrighted materials may be used without permission of the copyright owner provided the use is fair and reasonable, does not substantially impair the value of the materials, and does not curtail the profits reasonably expected by the owner."

The question is, how much use is fair use? And that's the stickler. The answer is not clear. Some people say that 10 percent of a work is fair use, yet that figure has no basis. It's simply someone's opinion. But let's use 10 percent for a moment and see how that translates into the number of quoted words. If your client quotes 10 percent of a 50,000-word book, that's five thousand words or about twenty manuscript pages. Doesn't that seem a bit excessive? If I were the author of the book that an author quoted from, I'd be upset if someone quoted this much of my material. And if I were to edit a manuscript that had this much quoted material, I'd do two things. First, I'd advise my client that this is far too much material to be quoting without getting written permission from the copyright holder. I'd also caution her that it's likely the readers will also think five thousand words/twenty pages is too much material to quote. It seems like she hasn't done her homework and is depending upon someone else's work to make a point.

Second, I'd tell my client that if she insists on keeping the quoted material, she should get written permission to use this much material.

A word of advice: if you face this situation and have to advise your client, keep a paper trail of proof that your counsel was *not* to use that much material and that obtaining written permission was a must.

When it comes right down to it, I would take the above action even if my client quoted more than a couple of paragraphs of someone else's work. Also, when I find a client has quoted more than two or three lines of poetry or song lyrics, I advise them of my copyright violation concerns. It doesn't take but maybe ten words and you've quoted 10 percent of the piece.

But getting back to what constitutes fair use . . . even the U.S. Copyright Office has no clear answer. The following is from <https://www.copyright.gov/fair-use/more-info.html>:

Fair use is a legal doctrine that promotes freedom of expression by permitting the unlicensed use of copyright-protected works in certain circumstances. Section 107 of the Copyright Act provides the statutory framework for determining whether something is a fair use and identifies certain types of uses—such as criticism, comment, news reporting, teaching, scholarship, and research—as examples of activities that may qualify as fair use. Section 107 calls for consideration of the following four factors in evaluating a question of fair use:

- The purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes
- The nature of the copyrighted work
- The amount and substantiality of the portion used in relation to the copyrighted work as a whole
- The effect of the use upon the potential market for, or value of, the copyrighted work

The distinction between what is fair use and what is infringement in a particular case will not always be clear or easily defined. There is no specific number of words, lines, or

notes that may safely be used without permission. Acknowledging the source of the copyrighted material does not substitute for obtaining permission.

The following is reported on the Alan Mason Chesney Medical Archives of The Johns Hopkins Medical Institutions:

The 1961 Report of the Register of Copyrights on the General Revision of the U.S. Copyright Law cites examples of activities that courts have regarded as fair use: “quotation of excerpts in a review or criticism for purposes of illustration or comment; quotation of short passages in a scholarly or technical work, for illustration or clarification of the author’s observations; use in a parody of some of the content of the work parodied; summary of an address or article, with brief quotations, in a news report; reproduction by a library of a portion of a work to replace part of a damaged copy; reproduction by a teacher or student of a small part of a work to illustrate a lesson; reproduction of a work in legislative or judicial proceedings or reports; incidental and fortuitous reproduction, in a newsreel or broadcast, of a work located in the scene of an event being reported.”

Copyright protects the particular way authors have expressed themselves. It does not extend to any ideas, systems, or factual information conveyed in a work.

The safest course is to get permission from the copyright owner before using copyrighted material. The Copyright Office cannot give this permission.¹

The Copyright Office will not provide any legal advice regarding fair use, so don’t bother asking. If your client has any copyright questions, I suggest you direct them to the US copyright website and advise them to consult a copyright lawyer.

Getting Permission

It is the author’s responsibility to get permission to use copyrighted material. Having said that, I recommend using a professional to obtain permission. Just as the author has hired a professional editor, so should the author hire a professional who’s knowledgeable in copyright laws and the procedures of obtaining written permission.

Let’s call this professional a Copyright Attorney. Sometimes her job is not so easy. It’s not simply a matter of filling out forms and writing letters. She has to locate the copyright holder, provide copies of the quoted material, write a permission request letter that includes all the data on the expected use (title of the work using the quoted material, author, publisher, number of units expected to be printed, and the anticipated monetary receipts from sales, etc.). The request must specify what is covered. Is it for one use, or does it include subsequent editions, paperback and hardback editions, and electronic editions? A release form is included with the request. Then there’s the matter of how much the author will have to pay for permission to use copyrighted material. From there, negotiations ensue.

Aren’t you glad this is *not* an editor’s job?

Public Domain

If you see the statement *Public Domain*, that means the work is not protected by copyright and is available for use by anyone. If you quote something that is in the public domain, you do not have to cite it; however, I suggest you do for two closely related reasons: 1) common courtesy and 2) if readers want more information on the quoted material, providing documentation allows them to quickly find it.

ISBN (International Standard Book Number)

With the increasing number of authors going the self-publishing route, you might be asked about ISBNs. An ISBN is a unique identifier for books. Bowker's website (<https://www.myidentifiers.com/identify-protect-your-book/isbn/buy-isbn>) lists three good reasons even self-published titles should have ISBNs:

- **Tools for getting discovered**—The 13-digit ISBN links to essential information used in sales tracking, retail inventory systems, library catalogs, bookstores, online stores, and for new digital editions for old books.
- **Bibliographic immortality**—A book can be found by its ISBN and the title data connected with it, long after the publisher has ceased to sell the book itself.
- **Complete, accurate identification**—The purpose of the ISBN is to identify one specific version of a book . . . (hardbound or softbound) or electronic (ePUB, PDF, or MOBI) version, or even register a new version . . . This allows retailers to help the customer understand exactly which version of a title they are purchasing.
- **Link to essential information**—An ISBN is essential for linking information which allows booksellers and readers to know: what your book is about, who the author is, and who the publisher is. Along with the barcode, it is crucial for tracking sales and inventory.

If your self-publishing clients ask you if they should get ISBNs for their books, I suggest you tell them yes. They will need a separate ISBN for each edition of their books. For example, if a title is available in hardcover, paperback, MOBI, EPUB, and pdf, the author will need to get five ISBNs, one for each format.

The self-publishing author's tendency might be to skip this step/expense, but please encourage them to get the ISBNs. Send them to the Bowker website so they can read for themselves why they should get the numbers.

CIP (Cataloguing in Publication)

CIP provides data that librarians use in the bibliographic record. The advantage of self-publishing authors having CIP is that they indicate the subject areas their books cover, which means that not only can libraries add the books to their catalogues but also library patrons can easily find the authors' books among the many titles in a collection.

CIP data includes the following:

- Book title and author
- Series name
- Information as to whether it includes things like a table of contents and an index
- ISBN
- Subject headings
- Library of Congress classification number
- Dewey Decimal classification number

The Library of Congress prepares CIP data for book publishers at no charge in the United States. Publishers are required to send a free copy to them on publication. POD (Print on Demand) and self-published books are somewhat limited in eligibility for this program. I assume this will change in the future.

Self-publishers and small commercial publishers might want to look into the Preassigned Control Number program, which prepares preliminary cataloging information for books they expect to add to the Library of Congress collection. The difference between this and CIP is that publishers received the CIP data to include in their books, while control numbers just indicate where to find the book record in the Library of Congress database.

Summary

In this lesson we covered the basics of copyright and permissions, ISBNs, and CIP. We just scratched the surface of these areas, but it's enough information to advise your clients so that they don't get into trouble by not giving credit where credit is due, as well as steering them in the right direction should they choose self-publication.

NOTES

1. "Excerpt from US Copyright Law pertaining to Fair Use," Alan Mason Chesney Medical Archives of The Johns Hopkins Medical Institutions, nd, <https://medicalarchives.jhmi.edu:8443/excerptcopyright.html>, accessed December 29, 2020.

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LESSON #6 ASSIGNMENT

You will need to reference <http://www.copyright.gov/circs/circ07d.pdf> and http://www.copyright.gov/help/faq/mandatory_deposit.html to complete this assignment.

1. What is a mandatory deposit?
2. A few of your clients are self-publishing and have registered their works with the Copyright Office. They intend to publish only an e-book. Must they deposit a copy of their work with the Library of Congress?
3. Your client has used another author's work in her manuscript but has not cited the original work. How would you tell her what she is required to do?