



INFORMATION SHEET G51

Owners of copyright: how to find

July 2006

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

In this information sheet we provide some suggestions on how to locate copyright owners for people who want permission to use copyright material. We also give information about licences available from copyright collecting societies for some uses of copyright material.

Unlike the systems for trademarks, patents or designs, there is no Australian registration system for copyright, so there are no official records of ownership that you can search. For this reason, you may need to use a variety of resources when looking for copyright owners. In some cases, you may need to do some detective work.

If you want information about what is protected by copyright, who owns copyright, and when you need permission to use copyright material, see our information sheets *An introduction to copyright in Australia*, *Quotes & extracts: copyright obligations* and *Ownership of copyright*. For information about our other information sheets, other publications and training program, see our website <http://www.copyright.org.au> or contact us (see contact details at the bottom of the page).

We update our information sheets from time to time. Check our website to make sure this is the most recent version.

Key points

- The owner of a physical item does not necessarily own copyright. For example, a gallery or museum does not necessarily own copyright in items in its collection.
- The Copyright Act does **not** allow you to use material without permission if you can't contact the copyright owner. If you use the material without permission, you will infringe copyright, unless an exception to infringement applies.
- If copyright is owned by an individual who has died, ownership may have passed to someone else – usually the copyright owner's spouse or children. If a company owned copyright and it has now gone out of business, its assets, which include copyrights, may have been distributed elsewhere.
- The creator of copyright material is not always the copyright owner.
- As well as clearing copyright, you need to ensure you do not infringe the creator's moral rights.

Where to start

It is a good idea to check whether there is a licence available from a copyright collecting society that covers your intended use. If no licence is available, the appropriate collecting society may nevertheless be able to assist (sometimes for a fee) in finding the copyright owner.

Often you can get information on contacting the copyright owner from the material you want to use. Copyright notices that appear on CDs and on the imprint page of books usually name the owner of copyright and sometimes give contact details.

If you know that the material has been used by someone else (for example, reproduced in a book) it may be worth contacting that person or organisation for information about where they obtained permission.

If you wish to use written material in which a State, Territory or Commonwealth government owns copyright, see our information sheet *Governments (Commonwealth, State and Territory)*.

Text/written material

For information on exceptions to infringement that may allow you to use written material without permission, see our information sheets *Quotes & extracts: copyright obligations* and *Fair dealing*.

Material published in books

Publishers

Usually, the first step is to contact the publisher, or the person identified on the imprint page.

If the publisher cannot give permission, it may be able to direct you to the copyright owner. Most publishers have departments or people who deal with granting permissions.

A directory of Australian publishers and foreign publishers represented in Australia is available from the Australian Publishers Association.

Copyright Agency Limited

You could also try Copyright Agency Limited (CAL), a copyright collecting society that licenses the reproduction of material from books and journals on behalf of most Australian and many overseas publishers and authors. CAL may be able to give you a copyright owner's contact details or contact the copyright owner on your behalf.

Other sources

The Australian Society of Authors may be able to assist with contacting an author who is a member.

Information about publishers and authors can also be obtained from libraries (for example, from publications with titles such as "Books in print"). Some libraries have special services to assist with copyright permissions. For example, the State Library of New South Wales has a Copyright Permissions Service covering material in its collection: <http://www.sl.nsw.gov.au/copyright>. Also, the Australian Libraries Gateway site has a good list of links: <http://www.nla.gov.au/libraries/resource/bookpub.html>.

Australian Publishers Association

60/89 Jones Street, Ultimo NSW 2007; (02) 9281 9788; fax (02) 9281 1073; <http://www.publishers.asn.au>.

Copyright Agency Limited (CAL)

Level 19, 157 Liverpool Street Sydney 2000; (02) 9394 7600; fax (02) 9394 7601; <http://www.copyright.com.au>.

Australian Society of Authors

PO Box 1566, Strawberry Hills NSW 2012; (02) 9318 0877; fax (02) 9318 0530; <http://www.asauthors.org>.

Material published in newspapers & magazines

Unless there is a specific agreement in place, copyright in material produced by journalists or photographers employed by newspapers and magazines is split between employer and employee. For information that will help you work out which copyright owner you need to contact, see our information sheet *Ownership of copyright*.

Information about contacting journalists (including media photographers) may be sought from their union, the Media Entertainment and Arts Alliance. Professional photographers' bodies may be able to assist with contacting photographers.

Media Entertainment & Arts Alliance (MEAA)

245 Chalmers Street, Redfern NSW 2016; (02) 9333 0999; <http://www.alliance.org.au>.

Australian Institute of Professional Photography (AIPP)

PO Box 2137, Fitzroy Vic 3065; 1800 686 696; <http://www.aipp.com.au>.

Society of Advertising, Commercial and Magazine Photographers (ACMP)

PO Box 283 Cammeray NSW 2062; (02) 9955 1776; <http://www.acmp.com.au>.

Unpublished material

For unpublished material, the first point of contact is usually the creator or his or her employer, if it was created as part of his or her job.

It may also be useful to contact a collecting society, such as CAL, or if relevant a professional organisation such as the ASA.

Plays and other dramatic works

If the work has been published, you should generally contact the publisher. If you cannot contact the publisher, try the organisations listed above in the *"Text/written material"* section. If the work you want to use is a screenplay or another work that has been filmed, the producer may be able to give permission, or put you in touch with the copyright owner.

For this type of material, the Australian Writers' Guild may be able to assist in finding the copyright owner: <http://www.awg.com.au>.

For information on getting permission to **perform** copyright material, see our information sheet *Staging musicals, concerts and plays*.

Visual art, craft & photographs

If a work has been published (for example, as an illustration in a book or magazine), the publisher will usually be the first point of contact. If the work is held in a gallery or museum, the gallery or museum may be able to authorise the use or be able to help contact the copyright owner. Note, however, that the fact that someone owns a physical item does not necessarily mean that he or she also owns copyright.

You may be able to obtain a licence from VISCOPY, the visual artists' collecting society, for the reproduction of works of art from Australia or overseas: <http://www.viscopy.com>.

For information on contacting owners of copyright in artistic works, see our information sheet *Artworks: getting permission*.

Music and sound recordings

There may be separate copyrights in a sound recording – in the recording itself and in the music and lyrics on the recording. There are several organisations you may need to contact, depending on how you want to use music.

The Australasian Mechanical Copyright Owners Society (AMCOS) and the Australasian Performing Right Association (APRA) may be able to help you find the owner of copyright in music, as they have extensive databases of rights holders.

The Phonographic Performance Company of Australia (PPCA) and the Australian Record Industry Association (ARIA) may be able to help you find a record company that owns copyright in a sound recording you want to use.

Playing or performing music in public

For information on when permission is needed and how to get it, see our information sheet *Music: playing music, APRA and PPCA*.

For information on how to get permission to perform music, see our information sheet *Staging musicals, concerts and plays*.

Recording music or reproducing recorded music

To record or dub recorded music, you generally need permission from the owner of copyright in the music and lyrics (usually a music publisher), as well as from the owner of copyright in the sound recording (usually a record company). AMCOS may be able to give you information about which music publisher owns the rights. PPCA or ARIA may be able to direct you to the relevant record company.

The first release of a song requires the copyright owner's permission. The copyright owner will generally be the composer or a music publisher. Once it has been released, anyone can record their own version (a "cover version"), by getting a licence from AMCOS which requires the payment of royalties.

Internet use of music

If you want to upload music to a website or make it available online in other ways, you will generally need a licence to do so. You will need to contact APRA/AMCOS in relation to the music and lyrics and contact PPCA in relation to the use of the sound recording. These collecting societies may be able to give you the relevant licences. If not, they may be able to put you in touch with the copyright owner.

For information on copying recorded music (including downloading it from the internet), see our information sheet *Music: Copying MP3s, CDs and audiocassettes*.

Australasian Mechanical Copyright Owners Society (AMCOS) (*administration now amalgamated with APRA*)

Locked Bag 3665, St Leonards NSW 2065 (02) 9935 7700; fax (02) 9935 7900; <http://www.amcos.com.au>.

Phonographic Performance Company of Australia (PPCA)

PO Box Q20 Queen Victoria Building, NSW 2000; (02) 9267 7877; fax (02) 9264 5589; <http://www.pcca.com.au>.

Films, TV programs, DVDs & videos

Copying

The first point of contact if you want to get permission to copy a video is usually the production company. Sometimes the Australian licensee or distributor may have authority to license the use of film footage owned by a foreign copyright owner. Contact details for producers can be found in directories such as the *Encore Directory*, available from the Australian Film Commission.

Copyright in films made under the direction or control of the government will usually be owned by the government. Film Australia will often be the first point of contact in cases where the film was made for the Federal Government.

Screenrights (formerly trading as Audio-Visual Copyright Society Ltd) is a non-profit organisation which collects and distributes copyright fees payable by educational institutions for recording television and radio programs. It has an extensive database of rights holders in film and may be able to help you identify a copyright owner.

Screening “in public”

If you want to screen a film in public, try contacting distributors or organisations such as Roadshow Non-Theatrical 16mm & Video, which supplies films and videos for public screening. For more information, see the Council’s information sheet *Videos & films: screening in public*.

Australian Film Commission

GPO Box 3984, Sydney NSW 2001 (there are also offices in Melbourne and Brisbane); 1800 226 615 or 1800 338 430; <http://www.afc.gov.au>.

Film Australia

PO Box 46 Lindfield NSW 2027 (there is also an office in Melbourne); (02) 9413 8777; fax (02) 9416 5672; <http://www.filmaust.com.au>.

Screenrights

PO Box 1248 Neutral Bay NSW 2089; (02) 9904 0133; fax (02) 9904 0498; <http://www.screen.org>.

Computer software

When you buy computer software, it usually comes with a licence (containing terms and conditions) that tells you how you can use the program. The licence may be on the packaging, in an accompanying document or in a file within the program itself. If you want to use computer software in a way not permitted by the software licence, contact the developer or distributor of the software. The Business Software Association of Australia (BSAA) represents Australian and international software developers and distributors and it may be able to give you contact details for a particular software developer.

Business Software Association of Australia

PO Box 57, Crows Nest NSW 2065; 1800 021 143; fax (02) 9922 7122; <http://www.bsaa.com.au>.

Different kinds of copyright owners

Government documents & other material

Governments usually own copyright in material they produce, commission, or first publish. In some cases, individual departments administer copyright in material produced by that department. Some governments permit some uses of the material on their websites without the need to make a direct request for permission. To find out whether you can rely on such a licence, check the “copyright” statement on the website (usually via a link at the top or bottom of each page. For contact details, see our information sheet *Governments (Commonwealth, State and Territory)*.

Copyright owners that are companies

If the copyright owner is a company, you may be able to locate it by checking the ASIC website: <http://www.search.asic.gov.au/gns001.html>.

Foreign copyright owners

Australian collecting societies, including CAL and AMCOS, may be able to give you contact details for foreign copyright owners. The copyright collecting societies may also put you in contact with their overseas counterparts that may also be able to assist you. Note also that collecting societies in Australia can often license the use of overseas material in Australia.

People who own copyright in the USA may be registered with the United States Copyright Office. See the Office’s website: <http://www.copyright.gov>.

A joint project of the University of Texas, USA and the University of Reading, UK, called W.A.T.C.H. provides a database of authors and artists whose works are held in the libraries of North America and the United Kingdom. A search facility is available at: <http://tyler.hrc.utexas.edu>.

If the foreign copyright owner is a company, you may be able to locate the company by checking the relevant country's company registration lists. You can find links to the lists on the website of ISOCO: <http://www.iosco.org> (click on "members" for the list of countries).

A search facility to search for companies registered in the US is available at: <http://www.sec.gov/edgar/searchedgar/webusers.htm>.

Common questions about finding copyright owners

What if the copyright owner is dead or has gone out of business?

If copyright was owned by an individual who has died, copyright is usually passed onto that person's spouse or children. You may be able to check who inherited copyright if you can get a copy of the person's will. If copyright has not been bequeathed specifically, it is presumed to form part of the residual estate. In Australia, contact the Probate Division of the Supreme Court in the State where the author died. Alternatively, if the work has been published, contact the relevant publisher.

If a work has not been published, the person to whom the manuscript is bequeathed is also understood to inherit the copyright in that work unless the testator has indicated otherwise.

If copyright was owned by an Australian company which has gone out of business, you may be able to get information about what happened to the company's assets (which include copyrights) from the Australian Securities and Investments Commission (ASIC): <http://www.asic.gov.au>.

What if I cannot find the copyright owner?

The Copyright Act does not allow you to use protected material without permission when you are unable to find the copyright owner.

Nonetheless, in some cases, publishers and other users make a commercial decision to use copyright material despite having failed to find the copyright owner. They weigh the risks of a copyright owner bringing an infringement action against the benefits of reproducing the work. They sometimes include a statement (referred to as a "good faith notice") saying they tried to find the copyright owner, and that they are willing to pay the copyright owner a reasonable fee. **A good faith notice does not give legal protection from being sued for infringement.**

However, on a practical level, it may show the copyright owner that the failure to obtain permission was because the user could not find him or her, not because they wanted to avoid paying for the use. Copyright owners may settle a claim, by accepting an agreed licence fee, in these circumstances.

If you intend to use such a notice, it is important to keep records of all attempts you have made to locate and contact the copyright owner.

What if I do not get a response from the copyright owner? Can I go ahead and use the material?

The Copyright Act does not allow you to use material without permission if you have not received a response from the copyright owner. You may decide to make a commercial decision to go ahead with your intended use, but in doing this, you run the risk of being held liable for copyright infringement if the copyright owner brings an action against you.

I have come across some old Australian material and have been told that the copyright ownership was registered. Could this be correct?

Yes. There was a voluntary registration system for copyright in Australia from 1912–1966. Records of these registrations are held by the National Archives of Australia, which provides an online search facility at http://www.naa.gov.au/The_Collection/recordsearch.html. Note that you may use this search facility to ascertain whether or not a work was registered but you will not necessarily identify the current copyright owner through this service.

Further information

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

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.

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.



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

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