Frequently asked questions
on copyright by consumers and companies

A compilation of the most frequently asked questions on copyright by consumers.

When do I need permission to use copyrighted material?

You don’t need permission to read a book, listen to music or watch films. However, for all other uses of copyrighted material, for example on a website, you always need permission. It doesn't matter whether:

• you don't make any money from it
• reproducing it on the website is advertising and therefore in the interests of the artist
• the same content can be found on other websites
• you only use an excerpt or a thumbnail

Photos on the internet – what do I need to know?

“Now let's just quickly look for a photo for my new website.” Many people think this when creating their own website. But a word of caution: while in Switzerland only photographs with individual character are protected by copyright, in countries such as Germany, all photographs are copyright protected (known in German as “Lichtbildschutz”). If you want to use a photo, you should therefore always ask the rights owner (photographer) for permission. Because if you use someone else's photo on your website, you run the risk of being convicted by a court in Germany for example, for infringement of copyright protection for photographs (“Lichtbildschutz”).
Who should you get permission from?

Generally, you must seek permission from the author or copyright owner for use of a work protected by copyright. For some uses, however, permission is directly provided for under copyright law. This is the case for private copying, teaching, copying within companies and within the public administration, for decoding computer programs, for using orphan works, for creating back-up copies, for use by people with disabilities, for citations, for freedom of panorama and for reporting on current events.

What should I do if I receive a warning letter from a lawyer abroad?

Take the warning letter seriously, even if you receive it from a foreign lawyer or it isn't sent as a registered letter. For a Swiss website, depending on the language, German, French or even English law can apply and therefore a corresponding court can be competent. It may be advisable to involve a lawyer.

What should I do if I've received post from ProLitteris?

Copying from books, brochures, magazines, etc. is permitted for teaching purposes in classrooms and for internal information and documentation within companies, public administrations or similar institutions. In turn, authors are entitled to appropriate remuneration, which is settled in the form of a lump sum based on abstract criteria (in particular according to the number of employees). ProLitteris is responsible for collecting this remuneration. You are legally obliged to provide ProLitteris with information (e.g. by filling in a form). This doesn't mean, however, that you'll then have to pay remuneration. For example, based on random sampling, construction companies with fewer than 15 employees would not owe remuneration. In contrast, law firms owe remuneration even when they only have one employee. According to the Federal Supreme Court, a claim for remuneration exists if there is a possibility of making such copies. ProLitteris therefore doesn't have to prove that you’ve actually photocopied copyrighted material.
Various licences that can frequently be found on the internet such as the Creative Commons Licence and the GNU General Public Licence provide for a simple and considerably unrestricted cost-free use of licensed content. Unfortunately, these licensing models are not completely unproblematic. Should the “licensor” in reality not be authorised to release the use of the work, it's possible that despite the supposed licence, you'll suddenly be faced with a legitimate claim for compensation from the rights owner. Therefore, you should exercise caution when using such content.

Who do the rights for commissioned work belong to, e.g. rights for architectural and construction plans? The customer or the service provider?

Copyright ownership is transferable. The contract concluded between the customer and the service provider usually stipulates who the rights owner is, or it could be stipulated in the general terms and conditions. Please be aware that a contract can also be verbal or tacit and must not necessarily exist in written form. If you have questions about your contract or the general terms and conditions, consult an attorney.

Frequently asked questions

on copyright by artists and authors

A compilation of the most frequently asked questions on copyright by artists and authors.

How can I get my work protected?

Copyright protection is automatic. There is no register. Your work is therefore
protected under copyright as soon as you create it. You also don't need to mark your work with the copyright symbol (©) to protect it. Note that you can't protect concepts and ideas by copyright. These are free to use and can be passed on to others. Only the form of expressing an idea or concept can be protected (e.g. the written text).

If there is no register, how can I prove that I am the author?

There are various ways of proving that you're the author of a work if you need to in a dispute. You can call a witness or deposit your work with a notary or lawyer in order to later prove that you possessed the work at a specific time. Finally, Swiss copyright law provides for what is known as “presumption of authorship”. As long as it can't be otherwise proven, the author is the person whose name, pseudonym or distinctive sign appears on the copies or the publication of the work.

Can I transfer my copyright?

Yes, you can. Under Swiss law, you can transfer your “economic rights” (sell) or permit certain acts (licence). However, you can't transfer “moral rights” such as the right to be named as the author. Such a contract would be null and void (invalid). However, you can contractually waive the exercising of the right to be named. Swiss law has no formal requirements for this. You could transfer copyright yourself verbally or tacitly. The IPI doesn't have any sample contracts for transferring copyright. We also dissuade people without legal expertise from using sample contracts taken from the internet. It's better to formulate your intention in your own words. It's even better to consult a lawyer specialising in copyright or licensing agreements (e.g. through the online search engines of the Swiss Bar Association or the Democratic Lawyers of Switzerland).

When is it necessary to obtain the right holder’s permission to use a work?

Even if you only use a small part of a work or if you modify it, you must get
permission to use it. Claims such as “a section of a musical piece can be used when it is shorter than 10 seconds or doesn't include more than 10 notes” are wrong. Simply changing the colours or the size of a work also isn’t enough. “Free use” is only possible when the original simply serves as inspiration, and any borrowing from it pales in comparison to the individuality of the new work, such as is the case with Modest Mussorgsky’s piano suite, “Pictures at an Exhibition”, in which he sets ten pictures by his deceased friend, Victor Hartmann, to music.

How can I defend myself against an infringement of my copyright?

As the owner of copyright and related rights, you can request that your rights are respected through civil or criminal proceedings. In both instances, it’s the court that decides whether or not your rights have been infringed. Before going to court, however, it’s often advisable to seek dialogue with those alleged to have infringed your copyright. It may be possible to come to an agreement and so avoid onerous court proceedings. We recommend discussing the matter and how to proceed further with a lawyer specialising in copyright (you can find specialist lawyers through the online search engines of the [Swiss Bar Association](#) and the [Democratic Lawyers of Switzerland](#)).

**DOCUMENTS & LINKS**

- Copyright brochure (in German)
- Public Domain Fact Sheet EN.pdf