A guide to copyright in PhD theses

http://www.gold.ac.uk/library/library-research-support/guidetocopyrightintheses/

Introduction

Copyright in theses is normally held by the author, so as the author you will own the copyright in your Goldsmiths thesis, unless you have made an agreement to transfer it, for example to a sponsor.

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The submission form includes options to limit access if you need to do so, one reason may be if you have included copyright material.

Using copyright material in your thesis

If you have included copyright material belonging to someone else, called 3rd party copyright material, in your thesis, you will need to assess whether you need to get permission to include this material in the copy of your thesis that you deposit in the library, particularly the digital version of your thesis, again because copyrights include the right to distribute the work.

The Copyright, Designs and Patents Act 1988, the primary UK legislation governing copyright, provides for the reproduction of limited amounts of copyright material under 'fair dealing for criticism or review' without permission so long as they are properly cited and, if images, are not cropped or altered. This 'fair dealing' exclusion is reasonably likely to apply to your use of 3rd party material such as extracts from publications such as books or journals, whether text or illustrations, in an academic doctoral thesis. Guidelines on what could reasonably be considered fair are given below.

However, if you have included 3rd party copyright material which has not been published, for example photographs of art works in a gallery or copies of web documentation of a performance, or you are including a substantial amount or the whole of a work then it is likely that you will need to seek permission from the copyright holder to include that in the copies of your thesis that you deposit in the library. A different 'fair dealing' exception applies to the use of copyright material for the purpose of examination.

Please note that while students are being asked to make best efforts to seek permission to include third party copyright material in the electronic version of their thesis you will not be penalised if it is not possible to gain permission, either because permissions are not granted, or because it would either be too...
onerous or too expensive to obtain permissions. The outcome of your examination will not be affected in any way. No student will be required to make any payments to copyright holders for material they wish to include in their thesis. See below for what to do if permission is not granted.

**What you may use under provisions for quotation, or fair dealing for criticism or review**

If the 3rd party copyright material within your thesis consists of a **short quotation** from a published work and you have acknowledged and referenced it adequately it will probably not be necessary to seek permission from the copyright holder. Copyright law does not define how much material can be reproduced for this purpose, however, authors’ and publishers’ associations and others provide useful guidelines on quantitative limits:

The [Design and Artists Copyright Society (DACS)](https://www.dacs.org.uk) is an organization that primarily represents artistic work rights holders, provides a Fact Sheet entitled ‘Use of Copyright Works for the Purpose of Review and Criticism.’ Although the Fact Sheet carries a disclaimer that its advice should not be regarded as constituting legal or other advice, it nevertheless neatly summarises the key requirements of ‘fair dealing for the purposes of criticism or review’ as outlined above and provides practical examples of ‘fair dealing’ reproduction of artistic works. In part:

> If a work is reproduced and used as the basis for criticism or review that use may be considered “fair dealing”. For example, if the work accompanies an article, which is a review or criticism and is directly commented on in the article, it would be ‘fair’ to reproduce that work. However, the work must appear within the body of the article. Similarly, if an author of a written piece is expounding a theory about a particular work or an artistic movement and reproduces the work as an example of his theory, illustrating his meaning, this would also be considered “fair”.

> The use of ‘comparative’ works may also be fair. For example, it probably would be “fair” to reproduce the work by artist “x” within an article reviewing the work of artist “y” if there is a sufficient link between the two works expounded in the review. It may be “fair” for example, to include the reproduction of a Braque painting in an article which is criticism of Picasso but also deals with the comparison or influences…

> Using distorted, cropped or tinted images, additions, etc, or any treatment considered a derogatory treatment, cannot be considered “fair” in any context and may infringe moral rights and should be avoided…

> All reproductions of copyright works which may be considered “fair” must be accompanied by sufficient and full acknowledgement (i.e. title of the work and the artist’s name). Reproductions not acknowledged or credited are NOT CONSIDERED “FAIR”...
If in doubt, it is best to seek permission. Ideally you should seek permission to include 3rd party copyright material in your thesis as you go along rather than at the point of writing up your thesis.

If you intend to include material that you yourself have published, e.g. journal articles, you need to check if the publisher will permit you to include these as part of your thesis. The easiest way to do this is by contacting the publisher directly and checking. Most publishers will permit this. A sample publication permission seeking template is available.

**How to seek permission to include 3rd party material**

To seek permission to include 3rd party material within the electronic version of your thesis you need to contact the rights holder. This may be the author of a work, a publisher, an illustrator etc. In the case of material from books and journals your first course of action should be to contact the publisher. Many publishers give details on their web site of how to seek permission and who to contact. Look for information on rights/permissions/copyright clearance. If the publisher does not hold the rights to the work they should forward your enquiry to whoever does.

Once you have established who to contact you can use this 3rd party permission seeking template to form the basis of a letter or e-mail to the rights holder asking permission to include the material in the electronic version of your thesis.

If the rights holder does not reply immediately you may choose to contact them again. However, note that you may not deem a lack of response as permission to go ahead.

**What to do if permission is granted**

If a copyright holder indicates that permission has been granted you should indicate this at the appropriate point in your thesis, e.g. ‘Permission to reproduce this ... has been granted by...’. You should keep a copy of any letters or e-mails you received from rights holders.

**What to do if permission is not granted**

If you need to include 3rd party copyright material in your thesis and are unable to obtain permission or are asked to pay to do this you will not be able to make the full version of the thesis publicly available online. You need to select the option on the Thesis Access Declaration form to restrict access to the electronic version of your thesis because of copyright restrictions. However, you are still required to deposit an electronic copy of your thesis which will be held securely.

When you come to deposit your thesis you have two options:

1. Deposit two copies - one the full version with all 3rd party retained, and a second edited version with this material removed, replaced with citations, and
with URL links if appropriate. The edited electronic version will be made publicly available - they full version will not.

2. Deposit only the full version with 3rd party copyright material retained on CD-ROM/memory stick. This will not be made publicly available.

**Other important information**

Note that it may be necessary to restrict access to your thesis on the grounds that third party permissions have not been granted *in addition to* requesting an embargo in relation to, e.g. future publication of the thesis.

**Help and advice**

If in doubt about whether you need to get permission to include any material within your thesis it is always best to err on the side of caution and assume that you do. If you have specific queries you can send these to gro@gold.ac.uk and the Goldsmiths Research Online staff will do their best to help you.

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