

*Viewpoint***Artistic licence: artwork permission practices at *The Lancet* group**

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Abstract

Artwork within publications, broadly covering non-text items including graphs, diagrams, and photographs, is typically published under a copyright licence, and permission for the reproduction of such items needs to be sought. The various image rights can be difficult to navigate, especially in the era of open access, and thus at *The Lancet*, we have developed a streamlined workflow to guide our teams on artwork permission processes in our journals. We present a practical guide for other publishing professionals, which can be adapted to meet their resources and needs.

Keywords:

Artwork reproduction, copyright, figures, guidelines, images, permission clearance

Introduction

The invention and establishment of printing in the 15th and 16th centuries made it possible to have as many exact copies of a work as there were people who wanted it and could afford to buy it.¹ Printing heralded an era of rapid, widespread, and, importantly, more accurate dissemination of ideas and information, which helped propel the Scientific Revolution of the 16th and 17th centuries. Copyright law in most European countries originated in efforts by the church and states to regulate and control the output of printing presses. Bibles and government information were encouraged; works of dissent and criticism were discouraged by means of official licences, which printers were required to have to be in business and print books.¹

In 16th-century England, the Stationers' Company, by royal charter, held a monopoly over the publishing industry and 'the right to copy' or 'copyright', and was officially responsible for setting and enforcing regulations. Largely to protect the copyrights of Stationers' Company (rather than those of the authors), in 1642, Parliament ordered the Stationers' Company to ensure that no publication could be printed without the name and consent of the author. Thus, when the Royal Society of London published its first scientific journal, *Philosophical Transactions* in 1665, the principle of authors' rights had already been established.^{2,3}

The earliest copyright law to be regulated by government was the Statute of Anne, introduced in Great Britain (then comprising England and Scotland) in 1710, which legalised recognition of an author's published work (that is, the text of a book) as intellectual property and ensured that the author automatically owned the copyright with fixed legal terms of protection.⁴ The

statute was an influential model of legislation for other European countries and the USA. The need for an international approach eventually led to the 1886 Berne Convention, which required its signatory countries (now 179 in number⁵) to recognise the copyright of literary and artistic works of authors (creators) from other countries party to the convention.

The UK 1911 Copyright Act implemented the Berne Convention and established a single statute covering all forms of copyright; the current amended version of the act is the 1988 Copyright, Designs, and Patent Act,⁶ which continues to be amended, often with the aim of harmonisation with the European Union's 2019 Copyright Directive and the World Intellectual Property Organization.³

Broadly speaking, copyright offers exclusivity in the use, adaptation, copying, or distribution of literary, artistic, or musical material to the creator, for a fixed period (in the UK, generally up to 70 years after the end of the calendar year of the author or creator's death).⁶ In addition to literary work, which, for our purposes means written material such as scientific research, the types of work protected by copyright include photography, painting, digital art, sculptures, technical drawings and diagrams, maps, and logos. Creators of such work are automatically protected from unauthorised use for free with no need for separate registration and may charge a fee to anyone requesting permission to reproduce their work until the copyright expires.⁶

Publishing companies, therefore, need to make sure that they are compliant with applicable copyright law. In the digital era, although artwork and images can be copied and reused with ease, they nevertheless deserve proper acknowledgement for the creator. Reproduction of artwork in a

scientific journal, which includes graphs and other images in research and review articles, requires that the relevant permission be obtained from the source of the image (for example, the publisher, the illustrator, or the author or creator) unless the original was published under a Creative Commons (CC) licence.

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The Lancet, which is published by Elsevier, typically presents either line artwork or photographic images. All line artwork published in *The Lancet*, including reproduced artwork, will be redrawn by in-house illustrators according to house style. All graphic elements in photographic images, such as fonts and arrows, will be replaced with our own.^{7,8} Other publishers might prefer to use artwork as supplied by the author with minimal changes, depending on the resources available. However, even when redrawn or restyled, an illustration or photo remains the intellectual property of the copyright holder.

At *The Lancet*, we have developed streamlined workflow guidelines with the aim of ensuring that all reproduced illustrations appear with the correct permission clearance from the source and the correctly worded permission line or acknowledgement. We developed these best practice guidelines for, and in collaboration with, colleagues who are most likely to encounter reused figures in their day-to-day work, with simplicity, clarity, and ease of use in mind. These rules allow our in-house teams to navigate the various scenarios that can arise given the different rights that authors or creators retain over previously published work. Fortunately, it is often relatively simple to establish that no permission

or fee is necessary to reproduce a particular piece of artwork.

Artwork permissions workflow

Like many journals (for example, *European Science Editing* itself), *The Lancet* asks authors to identify the copyright holder of reused artwork and obtain the necessary permission, and arrange payment if needed, ideally by the time that they submit their manuscript. Information on these requirements is included in *The Lancet* author guidelines, and in-house editors are ready to advise authors if required.

Potential permission requirements for artwork can be detected either before or after the manuscript has been accepted for publication. When a manuscript is submitted, all files are routinely checked by the journal Editor who oversaw peer review of the paper before acceptance, the Assistant Editor who copyedits the paper and works with the author after acceptance, and the Editorial Assistant responsible for supporting administrative processes. At least one of these editorial team members will check the figures and images within the paper (Figure 1).

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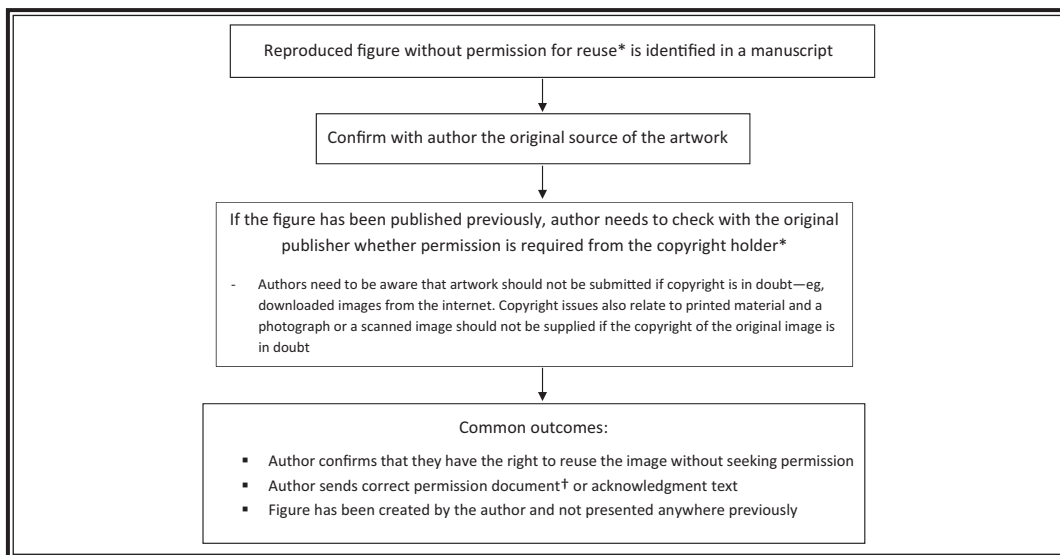


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Sometimes more complex copyright scenarios can arise; for example, if the author's institution requests to retain copyright (and a letter granting permission might be provided from the institution). To confirm whether this type of copyright permission is suitable, our editorial teams would refer to dedicated staff with expertise in copyright. Indeed, any uncertainties over copyright permissions are directed to our copyright team and we recommend consulting such experts for the less straightforward scenarios that might present themselves.

If correspondence with the author has not provided a clear outcome on the copyright position of an image, we remind authors that artwork should not be submitted if the copyright is disputed (for example, figures downloaded from the internet). Likewise, we advise authors not to assume that a non-response from the copyright holder authorises the use of a figure; in such cases, it is better to replace the figure with an alternative. Authors need to be aware that copyright also covers printed material such as scanned photographs or images, which should not be supplied if the copyright of the original image is in doubt. Authors using such material may be referred

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If a challenge were to arise regarding a published illustration, the Committee on Publication Ethics (<https://publicationethics.org/>), of which *The Lancet* is a member, would be able to advise editors and publishers. Courts will expect you to try to resolve any disputes before commencing legal proceedings.¹¹ Taking an offender to court is likely to involve high costs; proving that an individual or publisher diverted a substantial amount of money away from the rightful owner is not necessarily straightforward and the compensation is hard to quantify, particularly for scientific publications. We hope that adhering to the foregoing guidelines will encourage a collegial approach that avoids the need for legal action.

Conclusion

Online journals and publications are now commonplace and copying and downloading images for reuse have become easy, which carries the risk of unknowingly breaching copyright. Therefore, journals need to be

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