

Who owns copyright?



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The answer to this may seem obvious – the author, of course. But as usual with copyright, things are rarely as simple as they seem. There is no requirement under Australian law to register copyright and therefore no record of copyright owners.

It is also important to distinguish between the owner of copyright and the owner of the physical object. Owning a book or CD for example does not give the owner the right to copy. Similarly, possessing a script for a play does not give the right to perform it. Owning a painting does not give reproduction rights. These are rights reserved to the copyright owner.

Published works

The creators of written works may 'assign' copyright to their publisher through a licence.

This may be an *exclusive* or a *non-exclusive* licence. With an exclusive license, as the name suggests, an author gives the publisher the exclusive right to publish in return for an outright payment or a royalty based on sales. This is most common for commercial publications, such as novels, biographies etc. In effect, the author sells all or part of the copyright to the publisher.

In granting a non-exclusive licence, the publisher agrees to publish the work, but the author retains the right to publish elsewhere. This is often the case in for non-commercial publishing. Contributions to *inCite*, for example, are published under a non-exclusive licence, in which an author grants ALIA the right to publish in print and by other means, but retains his or her copyright.

Works made by employees

Copyright in works created by employees as part of their duties belongs to the employer and this requirement is often specified in employment contracts. In the case of freelance workers or contractors, unless there is a written agreement to the contrary, copyright belongs to the author. Volunteers also retain copyright in their work, but may licence it to the organisation. Again, it's good practice to have a written agreement.

But if the employees are journalists employed by newspapers or magazines then the situation becomes even more complicated!

- For works created before 1 May 1969, copyright is owned solely by the newspaper proprietor
- After May 1969, the rights are split between the journalist and the proprietor in such a way that the journalist retains the right to book publication and photocopying, while the proprietor owns copyright for all other purposes, including, after July 1998, the right to electronic publication.

Government

If the work is made by, or under the direction of government, or first published by government then the copyright belongs to the government.

Photographs

Don't worry – the copyright in your holiday photographs belongs to you! And for photographs commissioned for domestic purposes, for example, wedding photographs, the client owns the copyright.

For other commissioned photographs, the date on which the photograph was taken is important. For photographs commissioned before 30 July 1998, the client owns the copyright. After that date the photographer owns the copyright.

Films and videos

The copyright in commissioned films and videos belongs to the person who commissioned it, otherwise it belongs to the maker. However this applies only to the moving images, copyright in the screenplay and any background music is a separate issue.

Identifying the owner of copyright in a work is complicated (the summary above is simplified!). However there is a form of copyright that cannot be sold, licensed or otherwise disposed of. These are 'moral rights' and they belong to the creator. The main moral rights are

- to be credited for their work.
- not to have their work falsely attributed.
- not to have their work subjected to derogatory treatment.

These are rights that belong to an individual. It's good to know that there is one form of copyright that is quite straightforward! *

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Early Bird prices close soon!

With so much packed into a couple of days, the New Librarians' Symposium is great value for money. You still have time to take advantage of the early registration prices, but remember that *Early Bird closes on Friday 6 October*.

For those wishing to get involved in further professional development experiences, sign up to a satellite event. Learn about general cataloguing principles and practices, how to market information services or how to be a relaxed over-achiever.

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