

UC Santa Cruz

Publishing Tips Series Season 1

Title

Season 1, Week 6 - Can I use this thing in my article without violating copyright? Also, how does it work to include an article in my dissertation?

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Publishing Tips Series – Season 1, Week 6

December 5, 2024

This is the sixth and last week of the weekly Publishing Tips Series, Season 1, running from October 24 to December 5, 2024. This series addresses frequently asked questions on publishing from graduate students. This week's installment covers **"Can I use this thing in my article without violating copyright? Also, how does it work to include an article in my dissertation?"** Here are this week's takeaways:

- Determine the copyright status of a work, and
- Know how to conduct a fair use analysis.
- Also, including publications in your dissertation (and vice versa) is common, and publishers offer more details on this practice.

Spotify link to listen

[Season 1, Week 6 podcast episode](#) (same content as the following text-based version, only in audio format)

Can I use this thing (e.g., photo, quote, data, figure, etc.) in my article without violating copyright?

When you want to use work that is not yours in your article (or dissertation or another publication), you have options. Walking through the following series of questions will help you see whether an item has copyright and whether or how you may use it.

Determining copyright status, referring to both the copyright status of the work itself and the status of using the item in your work

The Library's [workflow on determining copyright status](#) takes you through considerations of whether a work is protected by copyright, whether you may be able to use it even if it is, and how to request permission or look for alternatives if necessary. These steps provide important questions to ask about a work that you might use within your own work.

You might be able to use a work without requesting permission if the work:

- Was never eligible for copyright in the first place (e.g. if it's factual or was produced by the federal government),
- Had copyright protection but its copyright expired (e.g. it was published a long time ago),
- Has an open license, or
- Is being used in a way that qualifies as fair use.

What does a fair use evaluation involve?

Fair use means that a person can use a work by another author/creator without permission, and it is a provision in copyright law meant to encourage creativity. Authors conduct a fair use evaluation when they want to use a copyrighted work by a third party in their own publication (or another type of [work covered by copyright law](#)).

[Four factors](#) form the basis of the fair use assessment. A fair use evaluation is a test to weigh whether your use of a particular work leans towards or against fair use. A fair use assessment is not scored by how many of the four factors are for or against fair use; some factors may be given more weight than others. The fair use test also is done for each item you want to use, not as an umbrella over all the works you want to include in your use.

Relying on fair use is common in publishing and teaching. For example, quoting passages from previously published books, articles, or other literature is a frequent application of fair use for things like news, criticism, commentary, and research, which are some of the core types of expression fair use is meant to protect. Fair use can apply to any type of work covered by copyright, too, including photographs or figures.

Can I use these data or this figure in my work?

Data are considered facts and thus do not have protection from copyright law. However, the expression of those facts, such as in a table or graphic that depicts data, particularly when that

depiction is highly creative, may have copyright. For a deeper dive on this topic, check out this description of these distinctions between raw data and graphic depictions in "[Copyrightability of Tables, Charts, and Graphs](#)." If a figure has copyright, you may consider whether fair use applies, if there is an open license on it to use it, or if you need permission to reuse it.

What is an open license and how does one affect my use?

An open license means that the author has decided to give users some of their rights under copyright law to allow for broader reuse of their work. In an earlier week when talking about decision points in the publishing process, we talked about how authors may be asked to choose a Creative Commons license, a type of open license, to apply to the manuscript when signing a publication agreement. On the flip side, you may want to use an item that has a Creative Commons license (or another type of open license – looking at you, [Unsplash](#), for example). If you are hoping to use someone else's work, it is usually good news when there is an open license associated with it because it allows for greater reuse. Read more about [licenses](#), and talk to the Library in a [copyright one-on-one meeting](#) if you have questions about using work with open licenses (or applying one to your own work).

What if none of these options allows me to use a copyrighted work?

The last few steps of the Library's workflow on [determining copyright status](#) discuss:

- asking for permission from the rightsholder,
- linking to a work instead of embedding it, and/or
- looking for alternatives instead.

In many cases, one of these options is sufficient. You may also [talk with the Library](#) about how to navigate your choices.

What about including my publications in my dissertation and vice versa?

It is common to incorporate 1) your article(s) as part of your dissertation, and 2) parts of your dissertation into articles or books. Publishers acknowledge this practice – for example, [Taylor & Francis](#) provides tips on how to successfully turn dissertations into articles. These pages from [Sage](#), [Springer](#), and [Elsevier](#) show that reuse in a thesis or dissertation is a common right of authors. Because this interchange is a well-known practice, and often explicitly allowed in publishers' contracts with authors, it rarely raises copyright concerns. [eScholarship](#), which hosts [UCSC dissertations and theses](#), has never received a takedown notice from a publisher based on a complaint that the author's dissertation or thesis was too similar to the author's published work. Here is a link to details about [open access dissertations and theses at UC](#).

Tips on figuring out whether you can use something in your article or other work

- If you decide that your use of an item is fair use, save your notes on how you identified that in case any questions come up from the copyright holder or readers.
- Check your publishing agreement with a journal if you are using others' work(s) in your article. Often publishing contracts say that the author must verify that they have the rights to use any third party materials in their article. If your publishing agreement says that, it is up to you as the author to confirm that you can include something in your article (or other publication) via evaluating fair use, getting permissions from the rightsholder, or applying other aspects of copyright law.
- [Codes of best practice in fair use](#) are available on particular topics, such as visual arts and poetry, and discuss how fair use works in those domains, so you may read up on your area.
- If a work that you want to use has an open license, make sure that you follow the terms of use closely. For example, a license might specify giving attribution to the creator, so you would then need to indicate the attribution in the requested format within your work.
- Thinking about writing a book in the future? The Authors Alliance has a guide on [Understanding and Negotiating Publication Contracts](#), and pp. 115-119 cover third party permissions.

Putting it into practice

1. Read "Fair Use Fundamentals" on pp. 13 - 17 of the [Authors Alliance guide to Fair Use for Nonfiction Authors](#) to learn how to think about fair use.
2. Look over the "IV. Frequently Asked Questions" in the table of contents (pp. vii - ix) of the [Authors Alliance guide to Fair Use for Nonfiction Authors](#) and pick a question that interests you to read. Click on a specific FAQ in the TOC to jump to the text of it.

More questions? Contact the Library at research@library.ucsc.edu or [sign up](#) for a one-on-one Zoom meeting about publishing.

This is the last installment of Season 1 of the Publishing Tips Series. Check out [Season 2](#) as well!

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