

Whitepaper

Copyright Compliance in the Digital Workplace

Why You Need to Care about Copyright



In the digital age, employees share any content whenever and wherever they want. Welcome to the intersection of copyright and content usage. Could seemingly benign information exchanges among your employees create a potential liability and place your organization at legal, financial, and reputational risk?

It's business as usual; one senior executive regularly forwarded copies of digital materials to other colleagues. Routine, rapid-fire information exchanges done every day in offices around the world. Check. Next task. But what if the information was protected by copyright and the employee failed to get permission from the publisher or rights holder to share the content?

While the law makes copyright an essential tool in the creation and distribution of new ideas, the digital workplace has become the fastest route to spread them. Ask employees up and down the corporate ladder, and they will tell you that forwarding information electronically to co-workers is integral to their jobs. Their employers will emphatically agree.

But the unauthorized distribution of information carries potential risk. Ordinary office exchanges—so natural to the digital world—can easily infringe on the copyrights of others. The result is a serious violation of law, which may be in direct contradiction to your company's mission statement and public facing goals, jeopardize your reputation, and undermine your corporate compliance efforts.

Here is why copyright protection should be part of your corporate compliance policy and how you can effectively manage copyright compliance across your entire organization.



What is protected by copyright?

The Berne Convention sets minimum standards for copyrighted works. The detailed list of categories may slightly vary from country to country, but usually the following are included:



Literary works: blogs, books, cartoons, emails, letters, magazines, memos, newspapers, newsletters, trade journals, training materials, and other written material, in paper or digital format.



Computer software: downloaded or in other formats.



Pictorial, graphics, and sculptures: three-dimensional artworks and other creations, as well as two-dimensional graphical images, maps, and photographs, in paper or digital format.



Sound recordings: recorded or performed on compact discs, phonographic records, podcasts, or other media.



Audiovisual works: motion pictures, multimedia presentations, demonstrations, and slideshows, in analog or digital format.



Dramatic works and accompanying music: plays and screenplays, regardless of the medium in which they are performed or displayed.



Pantomimes and choreographic works: dance and mime performances.

What is copyright, and why is it important?

As a protector of a nation's creative output, copyright law is designed to encourage resourcefulness and clever creativity. The idea behind it is to grant a form of ownership of the creative aspects of original works to the individuals and businesses that create them. In most countries, any original work written, recorded, or captured in some other fashion is protected by copyright. That includes art, music and literature, to be sure, but also research, news, and blogs.

Today anyone with an Internet connection can simply send information through cyberspace with a stroke of a key. No longer reliant on corporate librarians to secure information, employees have access to vast stores of information online and are sharing content whenever and wherever they want.

Copyright establishes ownership and legal protection of original creative works. So any time employees share content digitally, there is risk for copyright violation. Aside from the potential risk, there is also the ethical component of doing the right thing. Obtaining permission from the copyright holder is just good business and demonstrates respect for the intellectual property of others. Given the value of a company's own intellectual property, it is both good corporate governance and in a company's best interest, to set high standards when it comes to respecting the creative output of others.

Only in an environment where each market player respects the intellectual property (IP) of others in return for respect for theirs, can ideas and creative works be protected in the long run and competitive advantages be established. Jennifer T. Mills, Senior Intellectual Property Counsel at Hewlett-Packard (HP) puts it this way: "We want other people to respect our IP, so we have to respect the IP of others." HP is among the companies taking steps to educate employees about the use of third-party content. There's a fundamental misconception about copyright and the Internet, and how they work together, says Mills. "People think as long as they can click it, they can use it."

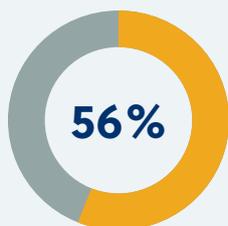
How do employees use information?

Email communication is the preferred tool for employees to share information. On average, employees forward digital information 7.9 times per week to close to 15 people. Forty-one percent of employees use it to attach documents and 16% use it to share a link according to a report published in 2023 by research and advisory firm Outsell Inc.

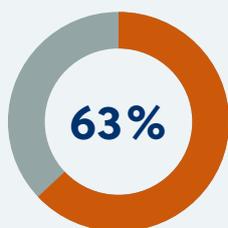
Not surprisingly, changes to our work environments in the past few years have also brought about dramatic changes to where and how professionals engage with their work and each other, as well as their level of content sharing. According to the report, 23% of companies are still fully remote and 41% have adopted a hybrid model. Fifty-five percent of those working remotely reported an increase in the frequency of sharing content. While email continues to be the preferred method of exchanging information, the study also showed an increased reliance on shared networks, company intranets, and collaboration platforms such as Microsoft SharePoint as a means to facilitate collaboration among teams (whether remote or in-office). While sending a link is usually in compliance with the obligations created by copyright law, attaching documents, cutting and pasting, or posting in a collaboration tool often is not — but the distinction appears lost on users.

Copyright Awareness and Attitudes

74% of employees claim to be aware of their company's copyright policy. However, according to Outsell's newest research, employee attitudes and behaviors don't always align with policy awareness.



don't strongly agree that copyright infringement has serious risks and implications



don't strongly agree that they think about copyright issues before forwarding information

Source: CCC 2023 Information Seeking and Consumption Study. Copyright 2023 Outsell, Inc. www.outsellinc.com



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Jennifer T. Mills
Senior Intellectual Property Counsel, Hewlett-Packard

Outsell finds other distinctions are lost, too. One is the difference between free information and freely shareable information. Seventy-three percent of respondents agree that information they obtain online or in print at no charge can be shared without permission. In most cases, it cannot. When content is paid for, restrictions are still not necessarily obvious to respondents, and 79% agree that it is permissible to share information that their company has purchased that can be accessed in digital format. Whether or not information is obtained for free or at a cost — sharing it internally and with third parties usually is strictly limited by copyright laws.

Executive respondents to the 2023 Outsell survey have a greater appetite for content than middle management and individual contributors; they share it more regularly, with more people, and are more likely to share information published by third parties than individual contributors. This is especially true when faced with competitive or mission-critical/time-critical situations.

Factors such as the increased availability of digital content, increased use of collaboration tools, and copyright-related news stories that boost awareness — for instance the attention-grabbing headlines about the infringement lawsuits regarding Google's attempt to digitize a vast amount of books in the course of the Google Book Search project.

"Prominent copyright news stories raise the issue to the forefront and cause some people to change their actions," agrees R. David Donoghue, an intellectual property litigator for international law firm Holland & Knight and author of the Chicago IP Litigation Blog.

"But the bigger copyright issue is the incidental or unintentional infringement, such as an engineer who needs a few chapters from a textbook. That kind of copying is so prevalent that companies cannot rely on cautionary news reports to inform employees," says Donoghue. Responsibility for educating them, he adds, rests with employers and their employees (see sidebar on page 3, "What is protected by copyright?").

Taking responsibility for compliance

How does a company reach all of its employees about copyright? An important first step is taking responsibility to educate employees about compliance, encourage them to act on copyright issues and then put copyright policies in place (see sidebar on page 5, "How to create a copyright compliance policy").

For many employers, that process begins by acknowledging that unauthorized use of copyrighted materials effectively means a consistent violation of law—a striking contradiction to the concept of good corporate governance and the principles of responsible corporate leadership based on accountability and transparency.

Running the risk of copyright violation constitutes a weak link in a company's compliance chain and creates a potential liability undermining other corporate compliance measures and transparent public reporting. And companywide information sharing is vital to maintain a competitive edge in today's global economy. So companies with valuable IP in competitive and highly regulated industries—such as pharma or chemical—are well advised to make respect for third-party copyrights part of their compliance policy.

How to create a copyright compliance policy

Internal copyright guidelines can decrease your risk of copyright violation. When crafting a copyright policy, adhere to the following steps:

1. **Tap your organization for input.** Helpful suggestions can come from any department.
2. **Establish your policy objective.** Be clear on why your organization is implementing a copyright policy.
3. **Define copyright.** Make sure to give concise definitions and examples.
4. **Address international copyright issues.** Your guidelines should cover the countries you operate in.
5. **Clarify copyright formats.** When it comes to copyright, multiple formats are protected.
6. **Outline compliance procedures.** Name a point person and lay out steps to request permissions.
7. **Handle copyright infringement properly.** Encourage employees to act responsibly.
8. **Promote your policy.** Don't hide it in manuals, advertise on the corporate intranet and issue periodic reminders.

Assessing the risk of copyright infringement

The potential consequences of copyright violation are in the best-case scenario reputational damage and in the worst-case scenario significant financial losses in the form of infringement lawsuits. Unlike the U.S., large infringement lawsuits with high profile media attention certainly are not the rule elsewhere in the world and infringement cases taking place in other countries are usually settled outside court.

The higher risks to enterprises, however, are long-term damages in corporate reputation and brand, coupled with potential loss in shareholder confidence and value. In March 2012 the Swedish media company Cision settled compensation claims for copyright infringement with the US-based Dow Jones Publishing Group. Cision experienced significant loss in shareholder value and had to issue a profit warning of more than € 1 million.

Apart from financial and reputational risk, systematically disregarding copyright requirements contradicts the values embedded in most corporate mission statements, guidelines, and annual reports—potentially jeopardizing corporate credibility.

In summary, corporate compliance officers should make the integration of copyright into their comprehensive compliance strategy a priority.

Managing copyright compliance

When it comes to managing copyright compliance, a major hurdle is the perception by corporate employees that obtaining permission is a cumbersome process that interferes with their ability to do their jobs.

Fewer than half of knowledge workers believe copyright permission is easy to obtain in their organizations, according to Outsell. Most are either ambivalent about the efficiency with which they are granted permission, or they disagree that the process is convenient. Their impressions are largely accurate. The outreach and phone calls required to garner permission can absorb hours of work over the course of several days.

Simon Alterman, VP and Lead Analyst with Outsell, is not at all surprised by the survey's finding that busy employees and managers take a dim view of compliance procedures. "It speaks to the breadth of items on any knowledge worker's mind today," says Alterman. "We're all doing more with less, and we're moving faster."

Alterman points out that publishers convey mixed messages to website visitors by routinely accompanying articles with multiple sharing options, such as allowing readers to email links and to post article-related comments on Facebook and other social media websites. "Certainly it seems fine to share if everyone is enabling it," says Alterman. His advice? Education is critical.

Many companies are discussing their copyright policy more frequently with employees. This has resulted in heightened awareness of copyright considerations, yet employees continue to report they're sharing copyrighted content in ways that may put organizations of all types and sizes at risk. Outsell findings indicate that 74% of employees are aware of their organization's copyright policy, but don't know the details and employee attitudes and behaviors are often misaligned with awareness. Seventy-three percent believe that sharing is permitted if the information is obtained on the open web or in print. Close to two-thirds of employees believe that information found on the web for commercial purposes, can be shared freely inside — or outside — the organization. These attitudes underscore the need for companies to provide mechanisms that facilitate compliance.

International copyright basics

What is global copyright? What are international copyright treaties? What is protected by copyright? Which different types of rights exist?

You will find answers to these and other questions in the international copyright basics section on rightsdirect.com.

Looking to learn more about copyright?

Consider taking part in our **Copyright Education programs** offered by RightsDirect, such as webinars or online certificates.

The reality of cross-border copyright

Aside from general lack of awareness and popular digital information sharing habits, there is another problem accelerating widespread copyright infringement — the difficulty of complying with copyright across borders.

Copyright law is national in scope, meaning that each country has its own copyright laws. While there is no such thing as international copyright, there are international treaties. The oldest and most important treaty about copyright is the Berne Convention, first signed in 1886, revised many times in the years since, and today ratified by more than 160 countries. Berne establishes minimum standards of protection such as types of works protected, duration of protection, scope of exceptions and limitations.

Even so, the Berne Convention leaves implementation to the signatory states. Many countries have adopted copyright legislation that goes far beyond the Berne Convention, leading to very fragmented and heterogeneous copyright regulations. As a result, navigating an uneven crossborder copyright landscape can be a daunting challenge for international companies and their worldwide subsidiaries.

Copyright compliance made easy

Subscriptions and access to publisher databases provide basic usage rights, but reuse rights granted by publishers differ. Some publishers offer licenses permitting employees to exchange information legally and without risking copyright infringement, but other publishers do not.

One license, global reuse rights to millions of content sources

The Multinational Copyright License is a trusted licensing solution that complements an organization's publisher agreements and subscriptions by providing a consistent set of reuse rights across a broad repertory of titles that enables teams to more easily collaborate using content from a wide range of sources, simplifying copyright compliance, driving innovation, and providing resources that educate employees about the importance of copyright.

RightFind

Included with the purchase of a Multinational Copyright License, RightFind® Advisor offers the quickest, most reliable way for employees to confirm rights included in the license to reuse lawfully acquired content, all without leaving their workflow. Integrated document delivery from the world's largest pay-per-view selection of scientific, technical and medical content, gives users timely access to the information they need when they need it.

Copyright Education

Licensees receive access to resources to help educate employees and assist with developing and promoting compliance programs. Instructor-led trainings incorporate group discussions, question and answer sessions, and analysis of real-world scenarios.

Benefits:

- Increases efficiencies by reducing the amount of time spent verifying rights and obtaining individual permissions
- Provides a consistent set of global reuse rights across millions of publications from thousands of publishers
- Minimizes infringement risk
- Supports compliant collaboration across global teams to drive business forward
- Complements existing publisher agreements, subscriptions, and other content purchases to alleviate inconsistencies in coverage, helping organizations maximize the value of their content investments in compliance with copyright
- Makes it easy to verify authorized reuse rights anytime within existing workflows
- Demonstrates an organization's respect for the intellectual property of others and commitment to corporate social responsibility

Source: 2023 Information Seeking and Consumption Study, Outsell, Inc.
www.outsellinc.com

About RightsDirect

RightsDirect, a subsidiary of Copyright Clearance Center (CCC), provides advanced information and data integration solutions to organizations throughout Europe and Asia.

A pioneer in voluntary collective licensing, CCC helps organizations integrate, access, and share information through licensing, content, software, and professional services. With expertise in copyright and information management, CCC and its subsidiary RightsDirect collaborate with stakeholders to design and deliver innovative information solutions that power decision-making by helping people integrate and navigate data sources and content assets.

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