A Guide on Fair Use, Copyright Law and Public Domain Media Content

About the Guide: This guide serves two purposes:

1. To offer basic guidance to multi-media producers on fair use and on avoiding intellectual property law violations.
2. Tips on locating public domain content, links to content sources that can be used for production work.

Note: This guide does not define any legal precedent regarding intellectual property rights or U.S. copyright laws and only serves to inform on fair use and link to resources that can provide useful guidelines covering proper use.

1 ➡ Fair Use: Media Production and Respecting Intellectual Property Rights

There are intellectual property laws in the United States and globally that cover copyrights, patents, trademarks, and trade secrets. These laws are set up to protect the rights of an individuals regarding their original creative work, authorship. Of these laws copyright laws are more of a concern in media production than the others. Taking music, video, photography, or artwork of others without their permission and using it in your work can violate these laws and may be considered unethical use and plagiarism.

Fair Use is the idea that under specific conditions there are exceptions to the exclusive rights granted by intellectual property law to the author of a creative work. Although some view Fair Use as loosely defined and there are many misconceptions, it is a recognized doctrine in United States copyright law that allows limited use of copyrighted material without acquiring permission from the rights holder.

Above are examples of a few of the symbols used to indicate intellectual property rights status. Even if there is no presence of a ©, TM or ® symbol, that does not mean that the owner of the original work, the authorship would not have some automatic protection under a copyright laws.

Examples of fair use include:

- commentary, criticism, news reporting, research, teaching, library archiving and scholarship
- provides for the legal, non-licensed citation or incorporation of copyrighted material in another author's work under a four-factor balancing test listed below

4 Factor Test

1. The purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes.
2. The nature of the copyrighted work.
3. The amount and substantially of the portion used in relation to the copyrighted work as a whole.
4. The effect of the use upon the potential market for, or value of, the copyrighted work.

These simplified guidelines on the 4 Factor Test for Fair Use are taken directly from the United States Copyright Office website, their website provides more detailed explanations for each of these 4 factors.

Website link on Fair Use - https://www.copyright.gov/fair-use/more-info.html

Additional resources on Fair Use:

UW-Superior Jim Dan Hill Library - Section on Copyright and Fair Use at:
- http://library.uwsuper.edu/copyright

The Center for Media & Social Impact - http://cmsimpact.org/

U.S. Copyright Law [Main Page] https://www.copyright.gov/
- U.S. Copyright -Title 17 of the U.S. Code - https://copyright.gov/title17/92chap1.html

Legal Issues Surrounding Music Sampling

Wikipedia Article - https://en.wikipedia.org/wiki/Legal_issues_surrounding_music_sampling

CETL
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2 ➡ Public Domain and Royalty Free Content

If you have a need for additional content to used in your media production project, the Internet offers a vast collection of photos, art, illustrations, video and even music that are part of the public domain or royalty free content.

Much of this content can be used without concern about violating intellectual property laws. Proper citation and giving acknowledgment on original work created by others is one way to help assure that you aren't in violation of intellectual property laws and are using the material under fair use.

The listing below includes just a few places that offer public domain as well as other usable content. Many of these sites offer guidelines on how these materials can be used, reproduced and properly cited when credit for the work is requested.

Link to WikiMedia Commons page on credit lines - https://commons.wikimedia.org/wiki/Commons:Credit_line

As a simple practice when acquiring media like photos from the Internet, only use material that can be attributed, if it can't be attributed pick a different photo. When saving an acquired file to your computer include the name of the works owner in the file name. By having the name of the work in the file name it makes easier to keep track and properly cite the source.

For example the file name for a photo file could include the name of the photographer and a short description of the photo, "GeorgeGentry_roadtrash.jpg" like the photo to the right. This photo was released to the public domain and available on WikiMedia Commons; a database of 34,169,667 freely usable media files illustrations, photos, video and more.

Photo by George Gentry U.S. Fish and Wildlife Department

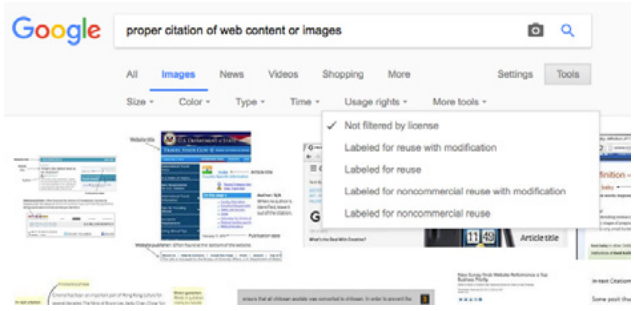
Another great location to search for photos is "The Commons" a source on Flickr with a listing and links to over 110 photo collections held by libraries, museums, universities, historical societies and government agencies. Under "The Commons," cultural institutions that have reasonably concluded that a photograph is free of copyright restrictions are invited to share such photographs under their usage guideline called "no known copyright restrictions."

Short linked list of online media content:

Internet Archive - www.archive.org
WikiMedia Commons - https://commons.wikimedia.org/wiki/Main_Page
Library of Congress - https://www.loc.gov
Smithsonian Institution Photo Collection on Flickr - https://www.flickr.com/people/smithsonian/
British Library Photo Collection on Flickr - https://www.flickr.com/photos/britishlibrary/
Link to "The Commons" on Flickr with Guideline links on usage - https://www.flickr.com/commons/usage/

Google Image Search Tips

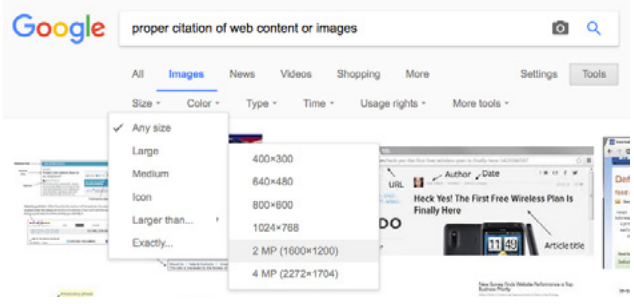
Many people use Google as a search tool on the web and it is a great search engine with some useful search tools that can help you find Public Domain photo and video content that can be used in your projects without concerns on violating intellectual property laws. Two very useful Google search tools when searching for public domain or royalty free content on the Internet are the "Size" and "Usage rights" tools, which are accessed by clicking on the tools button on the button bar.



"Usage rights" button drop down a list shown

The "Usage rights" button drops down a list shown in the photo to the right; offers selections that will narrow down the search results based on your selection. Selecting "Labeled for reuse" gives you the most restricted search result only showing content that would likely be in the public domain.

The "Size tool" is useful when you are looking for high quality photos to use in either printing projects or video when the size and resolution quality is important. In general practice select the "larger than..." button, then from that listing the option for images larger than 2 MP (1600x1200) pixels. Images of this size or larger will provide you with an image of useful quality.



"Size" button and "Larger then" drop down a lists shown