Introduction to copyright and licensing

copyright.iop.org
What is copyright?

In the UK, copyright is a right which automatically arises when a new intellectual work is created. No formalities are required for it to be effective.

A copyright holder has the exclusive right to prevent or impose restrictions upon the use by others of his or her work.

A form of intellectual property, copyright can be dealt with like other types of property – it can be acquired, disposed of or licensed.

Copyright is time-limited. The period of protection varies depending on various factors, but a journal article created at the present time will be protected until 70 years from the death of the last surviving author.

By means of a number of local and international laws and conventions, copyright which arises in one country is recognised and protected in many others.
Is my work protected by copyright?

Your article will be protected by UK copyright if it is original, i.e. it is your own intellectual creation and not copied from elsewhere:

**AND**

you are a citizen of, domiciled or resident in a British territory or a country which is a signatory to the Berne Convention (http://www.wipo.int/treaties) or a member of the World Trade Organisation (WTO) (http://www.wto.org);

**OR**

your article’s first publication will be in the UK, a British territory or a country which is a signatory to the Berne Convention or a member of the WTO. This will be the case for articles first published in an IOP journal, but not if a preprint has been posted to a repository based in a country not covered by the above agreements.

A list of the countries to whose citizens, residents or domiciles UK copyright applies appears in the schedule to this act: http://www.legislation.gov.uk/uksi/2008/677/contents/made (last updated October 2012).

Who owns the copyright?

The author or authors of an article will be the first owners UNLESS the paper was written in the course of employment, i.e. as part of their normal, paid duties for their employer, in which case the employer will be the owner. If the author is a servant of the Crown – that is, he or she is employed by the UK government, the copyright in their article may belong to the Crown and be subject to different rules.

A list of the public bodies whose material is protected by Crown copyright can be found here: http://www.nationalarchives.gov.uk/information-management/our-services/uk-crown-bodies.htm

Government employees in Australia, Canada and New Zealand are subject to similar arrangements.

If all of the authors of an article are employees of the US federal government, their work may not be protected by copyright at all.
What is a Creative Commons licence?

The owner of a copyright work may impose conditions on its re-use. This is accomplished via a licence. Creative Commons is a not-for-profit organisation which has created and published a number of licences which allow owners to attach standard conditions to their work. Creative Commons (or CC) licences, in common with all licences, allow the copyright holder to retain ownership, whilst attaching varying degrees of restriction on the use of works by third parties.

You can read more about the different types of CC licences here: [http://creativecommons.org/licenses]. We have also included an appendix with some scenarios that may help explain how the licences operate within the context of your research work.

Assignment

An alternative to licensing, whereby the owner retains his or her copyright, is assignment, whereby a copyright owner may transfer ownership of his or her copyright to somebody else. Most peer-reviewed journals take an assignment of copyright and grant back to the author certain rights, for example the right to re-use figures in new articles or books, to use an article for teaching purposes, or in compilations of the author’s works. In this scenario, the publisher becomes the sole owner of the copyright.

The reasons that IOP prefers an assignment over a licence are outlined in the STM position paper Publishers Seek Copyright Transfers (Or Transfers Or Licences Of Exclusive Rights) To Ensure Proper Administration & Enforcement of Author Rights, which can be found at [http://www.stm-assoc.org/2007_10_01_Copyright_Assignment_Benefits.pdf].

You can read more about IOP’s assignment form in our Copyright FAQs which can be found on IOP’s Author services website at [http://authors.iop.org].

If you wish to include content for which you have already assigned the copyright to a third party, for example elements of a previous journal article, in a new article you are writing you should check the conditions of that assignment or contact the journal publisher to see on what terms you are permitted to do so.
What is Open Access publishing?

At its minimum, open access (or OA) refers to the making available of content without charge. In the context of journal publishing, the term is more often used to denote content which is free to access and free to re-use in particular ways without the permission of the copyright owner. Often, the rights granted to users are set out in a CC licence.

Broadly, two OA models have emerged:

**GREEN OA**

In this model a version of an article that has been accepted for publication is posted onto a repository, generally after an embargo period.

For IOP, and many other publishers, it is the author’s final version (the accepted manuscript) and not the final published version of the article that is permitted to be posted onto a repository.

Embargo periods vary by journal but are generally between 6 – 12 months. In this model the costs of peer review and publishing are assumed to be covered by subscription fees. Copyright is generally assigned to the publisher and the author is given rights to post onto the repository within the restrictions outlined above.

**GOLD OA**

In this model, once an article is accepted for publication the final version is made freely available upon payment of an article processing charge (APC). This is paid to the publisher by the author, his or her funder or a third party.

Copyright is usually assigned in the standard manner but the publisher makes the content free to view and to re-use (subject to some restrictions, which vary by publisher) immediately.

IOP’s OA and Hybrid journals operate on a Gold OA basis.

Our OA articles are published under a CC-BY licence, the least restrictive, which allows all third parties to deal with them in any way, so long as IOP and the authors are credited. Some of our partner journals publish OA articles under a CC-BY-NC-SA licence. Please check the applicable journal homepage or e-mail us if you are unsure.
What can I do with other people’s copyright works?

Images

Copyright is infringed by the reproduction of the whole or any substantial part of a work and copying can take place indirectly as well as directly.

If you wish to reproduce an image in which the rights are owned by someone else, you should seek permission from the copyright owner (usually the publisher). A publisher may also require that you obtain the permission of the original author.

Modification, through the application of skill, effort and labour, of another’s image may result in the creation of a new copyright work. However, such work may still encompass the original copyright and therefore permission should be sought before the new image can be published, and adequate attribution should be included.

Even the creation, from scratch, of a new image based on one which already exists may still infringe that pre-existing image’s copyright. Whether or not the new creation infringes will depend upon whether substantial elements of the original are incorporated into the new work. Such substantiality is to be judged in terms of its qualitative importance to the original, rather than in terms of quantity. For an example of an independently created work which was found to infringe a pre-existing one, see: [http://www.bailii.org/ew/cases/EWPCC/2012/1.html](http://www.bailii.org/ew/cases/EWPCC/2012/1.html).

A number of publishers will grant permission for the use of their images free of charge upon request. Many publishers, IOP included, are signatories of the STM Permission Guidelines ([http://www.stm-assoc.org/permissions-guidelines/](http://www.stm-assoc.org/permissions-guidelines/)), which permit the re-use without charge of small numbers of figures or portions of text in articles published by co-signatories.
**Text**

Similarly, the copyright in another’s text will be infringed where there is substantial taking.

Short, properly attributed quotes will not usually need permission; however the emphasis is again on the importance of the reproduced element to the original work.

There is no ‘safe’ word-count or proportion of a work to copy.

**Ideas and data**

Copyright protects only the expression of an idea, not the idea itself. For example, you cannot infringe copyright by reporting facts or data in your own words. Re-use of graphs or tables created by another author expressing such data would, however, require permission. As a matter of best practice and professional courtesy, data sources should be acknowledged and properly referenced.

This joint statement by ALPSP and STM reflects IOP’s stance on the relationship between journals and the data they publish: [http://www.stm-assoc.org/2006_06_01_STM_ALPSP_Data_Statement.pdf](http://www.stm-assoc.org/2006_06_01_STM_ALPSP_Data_Statement.pdf)

Images inspired by contours of elastic and electric displacement, and hydrostatic stress, on the surface of a material under loading H M Wang, E Pan, A Sangghaleh, R Wang and X Han 2012 *Smart Mater. Struct.* 21 075003.
What are moral rights?

As well as the economic benefits of copyright afforded to a creator of a work, the Copyright, Designs and Patents Act 1988 introduced the concept of ‘moral rights’ which are separate from property rights. They provide the author with the ability to protect the artistic integrity of his or her work.

In order to benefit from the right of paternity, the author must assert it. IOP’s standard Assignment of Copyright includes an explicit assertion of this right.

Whilst copyright is a property right which can be transferred through being sold, assigned or through legacy, moral rights cannot be transferred, but they can be waived.

The right of paternity and the right to object to derogatory treatment last for as long as a work is protected by copyright. The right to object to false attribution continues until 20 years after the author’s death.

Moral rights are not infringed by any use by an employer of work produced by their staff during the course of their employment.

Moral rights are important to adhere to because of the ease with which content can be altered, changed and manipulated, particularly when in electronic format. If digital images are reproduced electronically, it is important to ensure that they are reproduced in their entirety unless permission has been secured from the copyright owner. Similarly, authors should be credited appropriately.

Each of the CC licences contains provisions which provide protection very similar to that afforded by moral rights. This gives the copyright holder the right to enforce the author’s moral rights on their behalf.

**Moral rights can be summarised as:**

1. The right of the author of a literary work to be acknowledged as the author or creator (known as the right of paternity)
2. The right of the author to object to false attribution
3. The right of the author not to have his or her work subjected to ‘derogatory’ treatment
Frequently asked questions

Q: How do I know if I am a servant of the Crown?
A: A list of the public bodies whose material is protected by Crown copyright can be found here: [http://www.nationalarchives.gov.uk/information-management/our-services/uk-crown-bodies.htm](http://www.nationalarchives.gov.uk/information-management/our-services/uk-crown-bodies.htm). If your employer is not listed then it is unlikely that your work is protected by Crown copyright.

Q: I am employed by a university; who owns the copyright in my article?
A: The default owner of works created by employees in the course of their usual duties is the employer. However, many universities allow for employees to retain the copyright in their work. If you are employed by a university, you should check to see if there is a copyright policy in place or if the matter of copyright is addressed in your employment contract. If not, then you should assume that the copyright is owned by the University and that they should sign the copyright form.

Q: My co-authors and I are each employed by different companies / universities. Who owns the copyright?
A: If the article was created collaboratively, the copyright is owned by each of the companies in undivided shares (ie each of the owners owns all of the copyright, rather than a particular percentage or proportion).

If each author made a distinct contribution, for example one author wrote the text, whilst another created the illustrations, then each of the authors’ respective employers will own the copyright in their contributions.

Q: The research my article is based upon was funded by a third party. Do I need them to sign the copyright form?
A: No, unless agreed otherwise, you will be the first owner of the copyright, so there is no need for them to sign the form.

Q: I wrote a paper which was included in a conference proceedings but wasn’t peer reviewed. Will I still own the copyright and can I submit the paper?
A: Whether the conference organiser or publisher of the proceedings takes a full assignment (so that you no longer own the copyright), an exclusive licence (whereby you retain copyright but give the publisher the exclusive right to publish the article) or a non-exclusive licence (you retain the copyright and grant limited rights to the publisher) varies between conferences. You should check the terms under which you submitted your paper to the conference.

If you assigned the copyright or granted an exclusive licence, you will need to obtain the permission of the publisher or conference organiser before submitting your article.

Even if you granted a non-exclusive licence, you may be prohibited by the publisher from submitting your article, or there may be certain conditions attached.

What if my question is not answered here?

Your question may be answered in the Copyright FAQs, available on IOP’s Author services website at [http://authors.iop.org](http://authors.iop.org), which deal with the practical issues of copyright in relation to IOP journals. Otherwise, please e-mail [copyright@iop.org](mailto:copyright@iop.org) and we will be happy to answer specific questions wherever possible.
Appendix

IOP’s use of Creative Commons licences

IOP can license articles under different Creative Commons licences if required but the main licence used by IOP Publishing is Creative Commons Attribution (CC-BY).

We moved from the original licence adopted, CC-BY-NC-SA, as we have had some feedback that the SA element of the licence (ShareAlike, whereby derivative works must be shared under the same licence conditions as the original work) has potential difficulties for authors wishing to re-use content in a book, for example, where the content will not be published on an OA basis.

The NC (non-commercial) part of the licence has generated similar concerns and it also makes it difficult for the authors to post on services like Wikipedia, for example, which is published under a CC-BY-SA licence and therefore permits commercial re-use. The Creative Commons definition of what constitutes NC use is untested in court, leading to a variety of interpretations and some uncertainty. If clear guidance emerges, this guidance note will be updated to reflect it.

Given these factors and the increasing requirement of funding bodies that OA content be published under a CC-BY licence, IOP has adopted the licence to support authors in meeting funder mandates and for the funders to meet their own requirements. However if you have any concerns about using the CC-BY licence or are unsure if it is suitable please do contact us at copyright@iop.org.
Some potential scenarios

The main thing to remember is that Creative Commons licences protect the copyright in work; they do not replace copyright. The copyright stays with the copyright holder, whether that is the author, journal, institution, government etc. whilst the Creative Commons licence permits use of the content and sets out any relevant restrictions.

CC-BY Scenarios

Q: My work has been published under a CC-BY licence and another research group has re-used my published data, added their analysis and comments and published this as a new paper. They have also reproduced the figures I published in my article without asking my permission or that of the publisher. Is this allowed under a CC-BY licence?
A: Yes, all forms of re-use are allowed under the CC-BY licence provided the authors of the new paper have cited the original source of the work.

Q: How does this differ from traditional copyright protection and current practice?
A: Figures and text protected by traditional copyright cannot be re-used without permission. However most scientific publishers will grant permission for scholarly re-use as a matter of course; and many will not charge a fee. Data, that is, information and ideas, are not protected by copyright.

Q: What if I disagree with how they have used my content?
A: If it is a scientific argument you disagree with you may wish to address this through a ‘Comment and Reply’ process on journals that allow this, or you may wish to write a further paper discussing the differences in approach.

You may object to use of your work in ways that amount to distortion or are prejudicial to your reputation. Such use is not an infringement of copyright, but of your moral rights. Use which alters your work but does not amount to distortion is permitted under the terms of the CC-BY licence.

Q: What if my work is used to promote a cause or a commercial operation with which I do not wish to be associated?
A: Use of your work for commercial purposes is permitted by the CC-BY licence. Unless the use infringes your moral rights (see previous Q), such use is legitimate, provided it is made clear that you do not endorse or sponsor the work. Permission to endorse or sponsor something has to be obtained from you beforehand.

Q: Can I object to an inaccurate translation of my work if it is published under a CC-BY licence?
A: In the UK, moral rights do not protect translations of literary work. Misleading or inaccurate translations should be addressed directly with the translation’s publisher.
Q: What will happen if I raise an objection based upon my moral rights?
A: Since moral rights belong to and stay with the creator of a work and not the copyright holder, any objection must be raised by you personally. If you succeed in proving that a specific use infringed your moral rights, a court may order that publication of the infringing material cease, or they may allow it to continue, subject to a disclaimer dissociating you from the derivative work. Financial recompense for breach of moral rights is typically quite low. For example, in a recent case the claimant was awarded £50 in addition to the removal of the infringing images.

We are unaware of any cases specifically concerned with infringement of moral rights arising from use of material published under a CC-BY licence. We will update this guidance note if we become aware of any.

The CC licences stipulate conditions of use which echo the protection afforded by moral rights. This adds an additional, contractual, layer of protection which can be enforced by the copyright-holder (which, as noted above, may be different to the holder of the moral rights).

Q: Does publication under a CC-BY licence make plagiarism easier?
A: No. Plagiarism is an issue quite separate to copyright and licensing. Nothing in any of the Creative Commons licences permits or facilitates plagiarism. You can read more about this issue in IOP’s ethical policy which can be found on IOP’s Author services website at: http://authors.iop.org.

Q: If I re-use something published under a CC-BY licence then am I free to re-use, modify and distribute the resulting work without having to ask the original author’s permission, including use in a commercial context?
A: Yes, subject to correct attribution of the original work.

Q: My work has been published under a CC-BY licence; will this affect my ability to apply for a patent?
A: An invention’s eligibility for patent protection is not affected by publication under a CC-BY licence any more than publication under traditional copyright.

Q: What happens if I want to use a well known figure/picture in my CC-BY-licenced paper that is not available under a CC-BY licence?
A: We strongly recommend you discuss the issue with the copyright owner. We may be able to assist (as we do now) but it will be your responsibility to ensure that you can demonstrate that you have the right to use the image in an article distributed under the CC-BY licence. The figure itself will continue to be protected by traditional copyright.

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**CC-BY-NC**

This licence has the same properties as that described above except that the user cannot use the content in a commercial way. As noted above, there is some uncertainty over the definition of non-commercial in this context. Some publishers have added their own definition of ‘NC’ to the standard CC licence. You should be careful to check whether this is the case as definitions may vary from organisation to organisation.
CC-BY-SA

Any future work based on content published under this licence must be published under the same licence. This is what is meant by the ShareAlike aspect of the licence. Therefore the user can re-use the content and create a derivative work provided they publish the result under the same conditions and attribute the source. This is common in open-source computer coding for example. Licensor can also opt to include the additional requirement that material not be re-used for commercial purposes (CC-BY-NC-SA).

All of the licences above (including CC-BY) are also subject to the following conditions*

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</tr>
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* see creativecommons.org for more information

CC-BY-ND

Work published under this licence can only be used in its entirety. It can be copied and re-used provided there are no changes to the original work.

Other combinations of the licence include:

CC-BY-NC-SA

CC-BY-NC-ND

Full descriptions can be found at creativecommons.org
Glossary

**Accepted manuscript**
The author’s original version of an article after any changes made during peer review but before any editing, typesetting etc. by the publisher.

**Assignment**
The process by which a copyright owner may transfer ownership of his or her copyright to somebody else. In UK law an assignment must be in writing.

**Creative Commons**
Creative Commons is a not-for-profit organisation dedicated to making it easier for people to share and build upon the work of others within the framework of national copyright laws. The Creative Commons suite of free copyright licences provides a simple, standardised way to give users permission to share and use creative and scholarly work. At the time of writing there were six licences. The website for Creative Commons is [creativecommons.org](http://creativecommons.org).

**Copyright**
In the UK, copyright is a property right which automatically arises when a new intellectual work is created. The protection afforded to copyright works varies by country.

**Copyright holder**
The copyright holder is the owner of the copyright and has the exclusive right to prevent or impose restrictions upon the use by others of his or her work.

**Derivative works**
A work based upon one or more pre-existing copyright works; for example an adapted figure or a rewritten article.

**Final published version**
The typeset and copy-edited version of an article published by the publisher in the relevant journal.

**Licensing**
The owner retains his or her copyright and grants permission for use of their work within set terms and conditions.

**Open Access**
Content is made available to read and re-use with no financial or technical barriers.

**Plagiarism**
A form of scientific misconduct where the authors copy results or material from someone else’s work, claiming it as their own.

**User rights**
In this context, the rights granted to someone using a copyright protected work, laying out what can and cannot be done with the content.

**Version of record**
The final published version on the publisher’s website that is maintained and updated. Examples of changes include an error found in the paper requiring a corrigendum or erratum, or a retraction notice if the article is found to have been plagiarised.

Artistic interpretation of countour map for the density probability of an electron state in a graphene ring calculated at the absolute minimum eigen-value as a function of the radial coordinate (horizontal axis) and the relative height of the core barrier (vertical axis) L Villegas-Lelovský et al 2012 Nanotechnology 23 385201.
IOP publications

- Advances in Natural Sciences: Nanoscience and Nanotechnology
- The Astronomical Journal
- The Astrophysical Journal
- The Astrophysical Journal Letters
- The Astrophysical Journal Supplement Series
- Biofabrication
- Bioinspiration & Biomimetics
- Biomedical Materials
- Chinese Physics B
- Chinese Physics C
- Chinese Physics Letters
- Classical and Quantum Gravity
- Communications in Theoretical Physics
- Computational Science & Discovery
- Environmental Research Letters
- EPL
- European Journal of Physics
- Fluid Dynamics Research
- Inverse Problems
- IOP Conference Series: Earth and Environmental Science
- IOP Conference Series: Materials Science and Engineering
- Izvestiya: Mathematics
- Journal of Breath Research
- Journal of Cosmology and Astroparticle Physics
- Journal of Geophysics and Engineering
- Journal of Instrumentation
- Journal of Micromechanics and Microengineering
- Journal of Neural Engineering
- Journal of Optics
- Journal of Physics A: Mathematical and Theoretical
- Journal of Physics B: Atomic, Molecular and Optical Physics
- Journal of Physics: Condensed Matter
- Journal of Physics: Conference Series
- Journal of Physics G: Nuclear and Particle Physics
- Journal of Radiological Protection
- Journal of Semiconductors
- Journal of Statistical Mechanics: Theory and Experiment
- Laser Physics
- Laser Physics Letters
- Measurement Science and Technology
- Methods and Applications in Fluorescence
- Metrologia
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- Nonlinearity
- Nuclear Fusion
- Physica Scripta
- Physical Biology
- Physics Education
- Physics in Medicine & Biology
- Physics—Uspekhi
- Physiological Measurement
- Plasma Physics and Controlled Fusion
- Plasma Science and Technology
- Plasma Sources Science and Technology
- Quantum Electronics
- Reports on Progress in Physics
- Research in Astronomy and Astrophysics
- Russian Chemical Reviews
- Russian Mathematical Surveys
- Sbornik: Mathematics
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- Semiconductor Science and Technology
- Smart Materials and Structures
- Superconductor Science and Technology
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