Educational Institutions & Libraries: Using Book Covers

In this information sheet we discuss the legal issues relating to the use of book covers by educational institutions and libraries. If you need information on copyright issues concerning educational institutions or libraries generally, see our information sheets, Education: Copyright basics, and Libraries: Introduction to copyright.

The purpose of this information sheet is to give general introductory information about copyright. If you need to know about how the law applies in a particular situation, please get advice from a lawyer.

Key points

- A book cover will often contain artistic works protected by copyright.
- A particularly unique book cover design may itself be protected by copyright.
- The Australian Publishers Association has taken the policy position that its members should allow libraries to use book covers for promotional purposes without the need for permission or payment.
- If a book cover contains protected copyright material, in order to reproduce it you will need to either rely on a specific copyright exception, or satisfy yourself that it is promotional use by a library within the meaning of the APA/ALIA agreement. Alternatively, you will need to seek permission from the publisher.

What does copyright protect?

In most cases, a book cover is likely to feature one or more “artistic works” that are protected by copyright. Copyright protects a range of imagery as “artistic works” including paintings, drawings, prints, diagrams, graphs, maps, logos and photos. In some cases, a particularly unique book cover design may itself be protected as an artistic work. For more information on what copyright protects, see our information sheet, An Introduction to Copyright in Australia.

While copyright protects a range of textual material as “literary works” (such as a novel) it does not protect names or titles. On this basis, if a very plain book cover features only a title and the name of an author, it may not be protected by copyright. In such a case, copying and communicating the material within libraries and educational institutions is unlikely to raise a particular issue.

For further information, see our information sheet, Names, Titles & Slogans.

Protection is automatic

There is no system of registration for copyright protection in Australia. Copyright protection is free and it applies automatically from the moment it is written down, or drawn or otherwise captured.
The copyright notice is not required for protection, but it notifies people that the work is protected and lets them know who is claiming the rights. Therefore, it can be helpful in working out who you need to approach to seek permission. The notice consists of the symbol ©, followed by the name of the copyright owner and the year the work was first made or published, for example: “© Booker Coverman 2012”.

What are the rights of a copyright owner?
The exclusive rights of the copyright owner include the right to:

- reproduce the work (e.g. by reproducing book covers on worksheets); and
- communicate the work to the public (e.g. by featuring book covers on a library website or emailing them to staff).

Who owns copyright?
Generally speaking, the creator of a work owns copyright in it. However, this position can be altered through a signed written agreement to the contrary. In terms of book covers, the publisher is likely to own copyright in the material.

For more information, see our information sheet, Ownership of Copyright.

When does copyright expire?
If the artistic works on a book cover are no longer protected by copyright under Australian law, you can use the material within Australia without raising a copyright issue. The general rule is that copyright lasts for the life of the creator plus 70 years. However, if the creator of an artistic work died before 1 January 1955, or if a photo was taken before 1 January 1955, copyright will generally have expired in the material. There are some additional exceptions. For detailed information, see our information sheet Duration of Copyright.

When is copyright infringed?
Generally, it is an infringement of copyright to deal with all or a “substantial part” of copyright material in any of the ways exclusively reserved to the copyright owner without the copyright owner’s permission, unless copyright has expired or a special exception applies. In most cases, where you are using book covers, you are likely to be using the entire cover. On this basis, if the book cover features artistic works or it is an artistic work in itself, you will be using a “substantial part” of the work. This generally requires permission.

Exceptions
The Copyright Act sets out some exceptions to infringement, which allow certain uses of copyright material without permission. Those working in libraries and educational institutions are able to take advantage of a range of exceptions in the Copyright Act.

Educational institutions
Educational institutions are able to copy and communicate various amounts of text and images for educational purposes under the Part VB licence administered by Copyright Agency.

Under this licence, the rules on how much you can copy of an artistic work are broader where the work is in an electronic format, as opposed to in a hard copy format. Essentially, educational institutions can copy and communicate any artistic work in electronic format, provided it is for the educational purposes of the institution and access to the content is restricted to staff and students of the institution.
This would allow, for example, printing off a copy of a book cover from the internet, or communicating a digital version of a book cover on an internal school blog (provided access was restricted). Given that most books are sold online, it shouldn’t be too difficult to locate electronic versions of the covers. If you only have a book in hard copy format, then you need to apply the hard copy rules. An artistic work in hard copy format can generally only be copied if it is not separately published, or not commercially available within a reasonable time at an ordinary commercial price.

Libraries
Libraries have a number of exceptions available to them to reproduce copyright material without permission. For example, if a book cover is damaged, then arguably you could make a replacement copy, provided a copy of the cover is not available for purchase.

Libraries can also copy and communicate works (including artistic and literary works) for internal administrative purposes. This might be useful for internal cataloguing purposes (although this exception does not cover public access). For more detailed information about the library exceptions, see our book, Libraries: A copyright guide.

Fair Dealing
In some cases, libraries and educational institutions may be able to apply one of the “fair dealing” exceptions to reproduce book covers without permission. When you are relying on fair dealing, there is no requirement to restrict who can access the material, provided you can argue that your use is fair in all the circumstances. Given this, the fair dealing exceptions may be useful where you want to use a book cover in a context where the general public can access the content. However, in each case, the dealing must be “fair” and so these exceptions are never clear-cut. To avoid all risk, permission should be sought.

For more detailed information, see our information sheet, Fair Dealing: What Can I Use Without Permission?“

Fair dealing for criticism or review
People can use copyright material for the purpose of criticism or review without infringing copyright, provided they acknowledge the author and title, and provided the dealing is “fair”. An example might be a book review where the reviewer is using an image of the cover for the purposes of carrying out the review. The criticism or review may relate to the work being used or to other material.

Fair dealing for reporting news
Copyright material may be used in reporting news in a newspaper, magazine or in a newsletter providing the author and title of the work is acknowledged and provided the dealing is “fair”. An example may include where a library wishes to tell its community that it has acquired a new book, and features an image of the cover in its newsletter.

Special case exception
Both educational institutions and libraries may in some circumstances apply the “special case” exception (Section 200AB) to use book covers without permission where no other exception would apply to the particular use. In each situation, it’s necessary to establish why the particular case is a “special case”. For more information about this exception, see our information sheet, Special case or flexible dealing exception: Section 200AB.

Getting permission
In August 2016, the Australian Publisher’s Association (APA) announced its position that it is in the public interest that libraries be able to reproduce book covers to promote library programs and
collections, and to connect readers with books and authors (alia.org.au/copyright-and-book-covers). The APA has therefore agreed with the Australian Library and Information Association (ALIA) that APA members allow libraries to use book covers for promotional purposes, such as posters, library displays, catalogues, bookmarks, other marketing materials, and also websites and social media posts, without needing to seek prior permission or make payments to copyright owners.

The APA/ALIA agreement applies to libraries, including libraries within educational institutions. For educational institutions in general, or library non-promotional uses not covered by the APA/ALIA agreement, you will need to consider whether an exception to copyright applies to your intended use of book covers. If an exception does not apply, you can always seek permission directly.

Publishers can generally license the use of copyright material contained on book covers. If a publisher cannot provide you with a licence directly, it should be able to put you in touch with the relevant artist or designer. It's a good idea to obtain any licences in writing so that you have a record of what was agreed. For more information, see our information sheets, Permission: How to Get It and Assigning & Licensing Rights.

Moral rights

You should be aware that creators of copyright works have “moral rights” whether or not they own copyright. These include the right to be attributed as the creator, the right not to be falsely attributed, and the right not to have the work treated in a derogatory manner. When it comes to the use of book covers, you should ensure you attribute the relevant artist or designer (provided he or she is attributed within the book), and that you do not distort the material in a way that might prejudice the creator’s honour or reputation.

There are some exceptions to an infringement of moral rights including where the creator consents, and in some cases, where you can establish that the treatment was reasonable. See our information sheet, Moral Rights, for more information.

Frequently Asked Questions (FAQs)

*We want to use thumbnail images of book covers to review books on our blog. Do we need permission?*

Most book covers contain images that are protected by copyright. In some cases, even a distinctive layout for a book cover may be protected by copyright. Given this, you will have to consider:

- whether an exception such as fair dealing for criticism or review, or fair dealing for reporting news, can apply to your intended use;
- whether your intended use is use by a library for promotional purposes under the APA/ALIA agreement; or
- obtain permission to use the book cover from the book’s designer or publisher.

If you are in an educational institution with a Copyright Agency licence and you restrict access to staff and students of the institution, you may be able to rely on the Part VB exceptions.

*Our library is holding a Book Week event, and we want to create posters that feature famous book covers. How do I know when a use of book covers falls under the APA/ALIA agreement?*

A library using book covers to make posters to promote an event will be permitted under the APA/ALIA agreement. The August 2016 APA/ALIA agreement means that publisher members of
the APA have adopted a policy of allowing libraries to use book covers to promote library programs and collections, and connect readers with books and authors. A use of a book cover will likely fall under this agreement where:

- the use is by a library; and
- the use of the book cover is for promotional purposes. This is likely to cover most library activities (eg., on posters, newsletters, library displays, catalogues, marketing materials, social media posts, and web pages).

If you are not a library, you do not come under the APA/ALIA agreement, and will need to either rely on a copyright exception to use the book cover, or seek permission to do so. If you are a library, but you wish to use the book covers in a way that is not for “promotional purposes” (eg., to create merchandise for sale or fundraising), this will not come under the APA/ALIA agreement, and you will either need to rely on a copyright exception or seek permission.

**We are working in a school that has the Copyright Agency educational licences. Can we use book covers in an online exam so that the students are able to remember the books referred to?**

You will be able to do this if you can source electronic versions of the book covers. You should ensure adequate attribution is given to the creators of any art works on the covers and that the exam is made available only to the students and not the public at large. You’ll also need to use the relevant warning notice is displayed under the terms of your licence with Copyright Agency.

If you can only source book covers in hard copy format, you’ll need to consider whether the artworks are separately published or commercially available. If they are, you may not be able to rely on the Copyright Agency licence in this instance.

**We work in a library and want to digitise book covers for cataloguing purposes. Is this permitted?**

Assuming the book covers contain material that is protected by copyright, libraries are able to copy and communicate these for “administrative purposes”. This would enable a library to digitise book covers for cataloguing purposes as long as access was provided only on the library premises, and restricted to the library staff.

The administrative copying exception does not apply where the public can access the content. You may, however, allow public access to such digitised book covers in a catalogue for promotional purposes under the APA/ALIA agreement.

**Further information and advice**


For information about book publishers, contact the Australian Publishers Association: [www.publishers.asn.au](http://www.publishers.asn.au)

For further information about copyright, see our website: [www.copyright.org.au](http://www.copyright.org.au)

If you meet our eligibility guidelines, Copyright Council lawyer may be able to give you free preliminary legal advice about an issue not addressed in an information sheet. This service is primarily for professional creators and arts organisations but is also available to staff of educational institutions and libraries. For further information about the service, see: [www.copyright.org.au](http://www.copyright.org.au).
Reproducing this information sheet

Our information sheets are regularly updated - please check our website to ensure you are accessing the most current version. Should you wish to use this information sheet for any purpose other than your reference, please contact us for assistance.

About Us

The Australian Copyright Council is an independent, non-profit organisation. Founded in 1968, we represent the peak bodies for professional artists and content creators working in Australia’s creative industries and Australia’s major copyright collecting societies.

We are advocates for the contribution of creators to Australia’s culture and economy; the importance of copyright for the common good. We work to promote understanding of copyright law and its application, lobby for appropriate law reform and foster collaboration between content creators and consumers.

We provide easily accessible and affordable practical, user-friendly information, legal advice, education and forums on Australian copyright law for content creators and consumers.

The Australian Copyright Council has been assisted by the Australian Government through the Australia Council, its arts funding and advisory body.

© Australian Copyright Council 2016