

Legal Glossary for U-M Library Digital Project Proposal

If you have questions about any of the legal terms in the Digital Project Proposal, please contact the Library Copyright Office at copyright@umich.edu.

author

Under copyright law, the author is the person who creates the work, unless the work is a *work made for hire*.

contract

A contract is a legal agreement. It can be written or oral. To transfer a copyright to another person, you need a written contract. To give someone else permission to use copyrighted material, you can use either a written or an oral contract.

contractual restrictions

Contractual restrictions are parts of a *contract* that require you to do (or not do) certain things. For example, if you agreed in a contract that you would not reuse a photograph of an item without naming the institution that holds that item, that would be a contractual restriction.

copyright holder

A copyright holder is the person or corporation that controls the copyright in a work. A work can have more than one copyright holder. For example, an *author* might transfer to a publisher the right to publish her book in North America. Then, the publisher would be the copyright holder for the North American publishing rights, and the author would be the copyright holder for the rest of the copyrights. It is also possible for a group of people to hold a copyright jointly. Copyright holders can also be called *rightsholders*.

copyright status

A work's copyright status indicates whether it is protected by copyright or is in the *public domain*. Copyright status can vary by country. For example, James Joyce's book *Finnegan's Wake* is in the public domain in Ireland but is protected by copyright in the United States. Many older works, such as the plays of Shakespeare, are in the public domain worldwide.

fair use

Fair use is a right for users of copyrighted material. It allows certain uses of copyrighted material without permission from the *copyright holder*.

gift agreement

A gift agreement is a *contract* with a donor. Gift agreements are typically completed when materials are donated.

heir

An heir is someone who inherits property when someone else dies. An heir can inherit tangible property (such as manuscripts) as well as intangible property (such as copyrights). State laws, and the will of the person who has died, tell you who qualifies as an heir.

IRB protocol

An IRB protocol is the protocol reviewed and approved by an institutional review board ("IRB"). Institutional review boards must approve protocols for all research involving human subjects.

license

A license is a *contract* that gives one party permission to exercise rights (such as copyrights) held by another party.

public domain

A work is in the public domain if it is not protected by copyright.

purchase agreement

A purchase agreement is a *contract* with a seller. Purchase agreements are typically completed when materials are purchased.

release

A release is a *contract* under which someone waives a right.

rightsholder

A rightsholder is the person or corporation that controls the copyright in a work. A work can have more than one rightsholder. For example, an *author* might transfer to a publisher the right to publish her book in North America. Then, the publisher would be the rightsholder for the North American publishing rights, and the author would be the rightsholder for the rest of the copyrights. It is also possible for a group of people to hold a copyright jointly. Rightsholders can also be called *copyright holders*.

work made for hire

A work made for hire is a work whose *author* (under copyright law) is the person who employed or commissioned the creator of the work, rather than the creator of the work herself. There are two ways a work can be a work made for hire. First, a work is a work made for hire if it is created by an employee who is acting within the scope of her employment. For example, if someone who works at an advertising agency creates an advertisement at work, that advertisement is a work made for hire.

Second, a work is a work made for hire if it is commissioned "for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test,

as answer material for a test, or as an atlas," (17 U.S.C. § 101) and the commissioner and the creator of the work agreed in writing that it would be treated as a work made for hire.