



Introduction

When wishing to use texts, photos, maps, figures, or other images from publications published by other than Brill, it is important to ascertain:

- whether or not copyright subsists in them;
- who the copyright owner is;
- how to make your permission request;
- whether your use of the materials falls under an exception to the copyright rules;
- that the author's moral rights will be honored.

1. Requesting permissions – the process

The request

Before you request permission from the copyright owner, first check with your contact person at Brill to make sure you request a wide enough scope of permission. You will need input from Brill on the format, countries, print run, or possible adaptations of the requested materials. Please keep in mind that with the advent of printing on demand and collective e-book deals, it will become more and more necessary to have (or be able to obtain) electronic rights for all publications. Therefore always check with your contact person at Brill when you are having trouble obtaining electronic rights as well as print rights.

You can use the standard permission request attached as an **Appendix**. An Excel sheet designed to deal with the various stages of permission requests is also attached.

Finding the copyright owners

Once you ascertain where the copyright lies, the next task is to find the author or other copyright holder. This can be more difficult in the case of images than in the case of text, as images will often belong to someone else than the author of a work and are not always properly documented.

A graphic designer may be a member of a CISAC organization. If so, the organization will always have the right to license his work, rather than the author himself. Photo stock agencies are a good source of photos, but check if they indemnify against claims from third parties. Sometimes rights are transferred to the first publisher of a picture.

If you can prove, preferably in writing, that you have done all you could to find the owner but have not been successful, you can use the same disclaimer that is used for text. There is always a risk attached to this. Therefore always contact your contact person at Brill, or better: avoid it if you can, for instance by using an image from another source.

Rights in images

A cartoon, figure, map, drawing or other image is protected by copyright in the same way as a text. This means that the author (and after him his heirs) has the exclusive right to publish it until 70 years after his death. However, the author may have transferred his copyright to a publisher or an agency. This needs to be checked when requesting permission.



A photo may even be protected in two ways. If the object of the photo is copyright protected (for instance a painting), there are two copyright owners who must each give their permission: the author of the painting and the author of the photo. As photography has not been in existence for very long, the copyright in the photo usually still exists, even if the copyright in the painting has expired!

In the case of a photo of an old painting in a museum, you pay a fee for the museum's copyright in the photo only, as the copyright in the painting has expired. But even if you are given permission to make the photos yourself, you usually have to pay a fee. This fee has nothing to do with copyright. It is a contractual arrangement, whereby the museum uses its position as the owner of the physical object to charge you a fee. Should you happen to find a legally taken photo of the old painting elsewhere, the museum cannot stop you using that photo, but Brill may end up on the museum's blacklist. Therefore it is important to check with your contact person at Brill if you wish to rely on fair use in this case.

Portrait rights exist in most countries. Famous people's faces are worth money. Such people can stop anyone else publishing photos of them, even if the publisher made the photo himself. Ordinary people can stop others using photos if they are depicted in an unflattering way, or associated with something they do not want to be associated with. This can be tricky, so it is best to obtain permission in advance. This does not apply to photos of a large group of people in a public place, for instance in a street or in a football stadium.

The use of trademarks will be unusual in Brill publications, but it is as well to keep in mind that there is such a thing – for instance: a logo of a multinational in a publication about the impact of multinationals on developing countries.

2. Requesting permissions – the background

Term of copyright

In most countries copyright subsists in any work for as long as 70 years after the death of the author. In order to ascertain if the work is protected by copyright or not, you therefore need to know when the author died. It is not relevant that a work is out of print or that the publisher no longer exists. As long as the author is alive, or died less than 70 years ago, copyright still subsists in the work.

The author is likely to have transferred his copyright to his publisher, or his heirs may have inherited the copyright. You can usually find out from the publisher.

Quotation/fair use exception

In some cases copyrighted work can be used without the permission of the copyright owner. The most important exception to copyright is quotation/fair use. Images can be quoted, just like texts. Unfortunately there are no hard and fast rules as to the amount of text that is considered fair use and the various jurisdictions differ on its scope. In relying on fair use, always stay on the safe side and check with your Brill contact if in any doubt.

The quotation of the text or image must be functional and proportional and must clarify something that is relevant to the context. For instance, our author tells the readers why he agrees or disagrees with the author of a particular text, figure or map.

Permission request guidelines for authors



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

As a rule of thumb for scholarly works, short prose extracts consisting of no more than 300 words, and poetry extracts (no more than 3 or 4 lines, sometimes as few as 1 or 2 lines, depending on the length of the poem) will fall under fair use, provided they are the subject of discussion in the book. A photo used as a pretty picture to liven up the text, or for the cover, never comes under this exception!

Moral rights

The main moral right of the author is the right always to have his work attributed to him when it is used or quoted in any way. This goes both for text and for images.

Another moral right is that it is not permissible to change or mutilate a work without the author's permission. This is something to remember if you plan on doing something to an image, for instance cutting and pasting for a cover design. Even if the author transferred his copyright to a publisher and the publisher agreed, you will still need the real author's permission to do it – moral rights cannot be sold!

Appendix

Request for images

XXX Museum [insert name and address of the museum here]

Re: application for illustration

..... (place), (date)

Dear Madam, Sir,

I am writing you, also on behalf of BRILL, the academic publishing house based in Leiden, The Netherlands, with regard to my forthcoming publication [insert title of publication here]. BRILL has agreed to publish my research in its book series/journal/a monograph [insert name book series or journal here] and it is scheduled for publication in (date).

I would like to request an image from the [insert name of the museum here] Museum's collection for reproduction in my essay in the above mentioned publication. The image may be delivered either as a digital image or as a colour transparency, whichever is more convenient, but a digital image would be preferred.

As a scholarly publication, we hope that [insert title of publication here] will be used by universities and libraries alike, and therefore we would like to ask if the fees for image reproduction and rights can be waived. We of course will credit the use of your image in an appropriate manner in the

Permission request guidelines for authors



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publication. If you have particular specifications for the credit line, please send us the credit line you wish us to include in the publication.

The description of the desired image is as follows (see also enclosed photocopy/attached digital image [delete what does not apply, please enclose an image for reference when sending/e-mailing the application]):

Artist: [insert name of print artist]

Title: [insert title of print]

Date: [insert date of print]

Inventory number: [insert museum's inventory number of the particular print]

The details of the publication are as follows:

Title: [insert title of publication here]

Author: [insert your name here]

Publisher: BRILL (PO BOX 9000; 2300 PA Leiden; The Netherlands; brill.nl)

Brill's book series: [insert name book series here] series, volume nr. ? (print and e-book version)

Publication date: [ask your Brill contact for estimated publication date]

Print run: ?? copies (+ all later editions) [ask your Brill contact for estimated first print run]

Rights: Worldwide (print and electronic edition*)

Language: English (and any translated editions)

**Brill requests permission to use the image in book form and in any other form including, without limitation, mechanical, digital, electronic and visual reproduction, electronic storage and retrieval systems, including internet and intranet delivery and all other forms of electronic publication now known or hereinafter invented.*

Required specifications for illustrations

Colour illustrations are preferred, but when that is not available black/white illustrations are also fine.

The publisher can handle all formats of illustrations (transparencies, slides, photo prints, digital images [in jpeg, tiff, eps format]), but if at all possible, high resolution digital images (in TIFF format, 300 dpi, RGB colors) are preferred. If digital images are not possible, any other format is most welcome.

Shipping address for the image:

[please insert your own address here]

I would like to thank you in advance for your attention to this matter, and I look forward to hearing from you again.

Yours sincerely,

[please insert your name here]

Permission request guidelines for authors



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Request for text

Re: application for re-use of text

..... (place), (date)

Dear Madam, Sir,

I am writing you, also on behalf of BRILL, the academic publishing house based in Leiden, The Netherlands, with regard to my forthcoming publication *[insert title of publication here]*. BRILL has agreed to publish my research in its book series/journal/a monograph *[insert name book series or journal here]* and it is scheduled for publication in (date).

I would like to request permission to re-use the following text from the work published by you entitled *[insert name of the work and the name of the author here]* in my above mentioned publication.

Title:

Author:

ISBN:

Year of publication:

Pages:

The details of my publication are as follows:

Title: *[insert title of publication here]*

Author: *[insert your name here]*

Publisher: BRILL (PO BOX 9000; 2300 PA Leiden; The Netherlands; brill.nl)

Brill's book series: *[insert name book series here]* series, volume nr. ? (print and e-book version)

Publication date: *[ask your Brill contact for estimated publication date]*

Print run: ?? copies (+ all later editions) *[ask your Brill contact for estimated first print run]*

Brill requests worldwide permission to use the abovementioned text in book form and in any other form including, without limitation, mechanical, digital, electronic and visual reproduction, electronic storage and retrieval systems, including internet and intranet delivery and all other forms of electronic publication now known or hereinafter invented.

I would like to thank you in advance for your attention to this matter, and I look forward to hearing from you again.