

COPYRIGHT & PHOTOCOPIES

Most people would not put unlicensed software on their computer. Yet, many people do not think twice about photocopying articles or newsletters. Almost any time that you photocopy an article from a trade magazine, a conference presentation or any other copyright-protected work, your organization faces the challenge of ensuring copyright compliance. Though unintentional, in photocopying these works you may in fact be violating copyright law.

When it comes to photocopying copyright-protected works in the course of business, several federal courts and thousands of American companies agree that most such photocopying requires a license from the copyright holder.

Copyright law allows copyright holders to sue offenders for damages or to recoup lost profits as a result of infringement. For businesses, the cost of copyright infringement can come in many forms, including attorneys' fees, potential loss of assets, negative publicity, and loss of public trust and goodwill. For companies such as Kinko's and Texaco, which faced legal action against them, unlawful photocopying cost them millions of dollars.

Education, awareness and access to convenient means to obtain copyright permission are the best ways to ensure that your organization is doing the right thing with regard to copyright law. Unless you and your colleagues understand when and how to obtain permission to re-use and distribute copyright-protected information, you cannot be sure that your organization is copyright compliant.

Examples of photocopy re-use that may require copyright permission:

- Photocopying a trade magazine article to share with your colleagues.

- Photocopying an analyst or research report to distribute to customers or prospects.

- Photocopying competitive literature to distribute to your sales force.

- Purchasing a single subscription to a publication or newsletter and photocopying it for distribution company-wide.

All of the cases above would usually be considered infringement under copyright law unless you first obtained permission from the copyright holder.

By complying with copyright law, everyone wins. Copyright holders who create the content receive fair compensation and control over their work. Organizations benefit, gaining access to the valuable information they need to be competitive, while demonstrating lawful, ethical business practices.

Notable Copyright Infringement Cases

Lowry's Reports, Inc. v. Legg Mason, Inc.

In October 2003, a Baltimore federal district court jury ordered financial services firm Legg Mason to pay \$20 million in a civil copyright lawsuit. The suit alleged that for a decade or more Legg Mason purchased a single subscription to *Lowry's Reports' Lowry's Market Trend Analysis* for approximately \$700 a year and then distributed copies of each report by fax, e-mail or intranet to as many as 1,300 Legg Mason stockbrokers and favored clients.

American Geophysical Union v. Texaco Inc.

In a 1995 settlement with six publishers Texaco paid out a seven figure settlement after litigating only one issue—whether it is fair use for a company researcher to systematically make copies of interesting scientific articles without obtaining permission from the copyright holders. The case highlighted “fair use” in corporations, as the court distinguished spontaneous copying by a researcher related to a current specific project or a teacher’s copying for non-profit classroom use, from the copying of materials to be added to an office library. As part of the settlement, Texaco agreed to purchase a license, retroactively, from Copyright Clearance Center and maintain that license for five years.

Basic Books, Inc. v. Kinko's Graphics Corporation

In 1991, eight book publishers sued Kinko's Graphics Corporation for copyright infringement. The suit alleged that, in photocopying copyright-protected materials to create university course packs, Kinko's infringed on the publishers' copyrights. Kinko's unauthorized copying covered a wide range of materials, including text, trade and professional books. Kinko's argued “fair use,” but the court disagreed. All told, Kinko's paid almost \$2 million in damages, fees and other costs.