Guidelines and Best Practices for Copyright Compliance in Today’s Business Environment
Increased access doesn’t have to mean increased risk

New technologies and distribution models make it easier than ever to find and share information in the course of a day’s work. According to research and advisory firm Outsell, Inc., business professionals share information with an average of nine people and 36% of that information is published by third-parties such as scientific journals, news sources and other publications. In today’s information driven economy, that is exactly the kind of behavior companies expect from their employees. But there is no reason those actions have to put a company at risk of copyright infringement.

With digital content so easily available from every desktop, it is critical that employees understand their responsibilities under copyright law. Top 10 Copyright Pitfalls identifies some common misconceptions and provides guidelines and best practices for educating employees and achieving copyright compliance.

TOP 10 COPYRIGHT PITFALLS?

1. “Our company’s newest product is featured in an influential trade journal. Our PR department cooperated with the reporter. It’s important that our top managers and marketing people see the article right away. Surely I can just copy it and send it to that small group.”

Regardless of the fact that the article mentions your firm or that you cooperated in producing it, you generally may obtain permission (or hold some other kind of license) from the copyright holder or its agent before reproducing it and distributing it to others. Failure to do so may infringe on the rights of the copyright holder.

“As long as I cite my source, I can use third-party content in my articles, reports and presentations.”

Including attribution in a work (for example, putting the author’s name on it) does not eliminate the need to obtain the copyright holder’s consent for use of its content beyond the traditional fair use analysis associated with short quotations. To use more than brief quotations from copyrighted materials lawfully, you generally may secure permission (or hold some other kind of license) from the respective copyright holder or their agents.

“A website I use provides a free ‘Send to a Friend’ feature. Since they seem to be giving content away and encouraging people to share it, what difference could it make if I just copy and paste the same content into an e-mail, post it to my intranet site, print it out and make copies, or use it in my presentations?”

Even content posted on public areas of a website is protected by copyright, just as is printed content. If publishers encourage you to forward their content to others through a mechanism they provide (which retains their advertising, branding and the like) that does not mean you may use it however you would like.

In this case, the “Send to a Friend” feature is part of a publisher’s business strategy. It expands the exposure of the publisher’s content and brings additional visitors to its sites, while enabling it to maintain control of its works. If you want to do something that is not expressly authorized, you may generally obtain permission or have a license.

“We ordered paper reprints of an article, but I also want to e-mail it to people. Because we paid for reprints, I don’t see any reason why I can’t scan it and distribute it electronically.”

Most copyright holders license content based on format and type of use. Before changing the format (for example, by scanning from paper to electronic), check your license agreement carefully. You may have to acquire additional permission to create electronic copies or to distribute that content electronically.
“I have permission to use the whole article, but I just want to use a chart from it in a presentation.”

Check your license agreement carefully before excerpting, abstracting or otherwise modifying content for which you have reuse permission. Permissions vary widely and are often limited to the use of content “as is.” Also, articles containing photos, charts and other graphic elements may have several different copyright holders. Depending on what element or collection of elements you are seeking to use, you may need to obtain permission from a copyright holder other than the one from whom you have received a license to use the intact article.

“I am only posting this newsletter article on my company’s intranet site. We’re the only ones who will see it, so I figure it’s not a big deal.”

Distributing copyrighted content by posting it to an intranet site is no different than photocopying it for each employee. Such broad distribution throughout your organization would likely require permission from the copyright holder or its agent.

“If I find something online, it is okay to use it in my company’s blog. After all, it is just a blog.”

Copyright law is the same for blogs as it is for other original works. Blogs commonly include excerpts of copyrighted material from other blogs and websites, along with links to their sources, in order to critique that content. The challenge for even the most copyright-savvy individuals is determining whether permission is required for the particular use, or whether to rely on a complex and fact-specific fair use analysis.

“I contacted the copyright holder to request permission to use his content, but he never got back to me. I assume this means he doesn’t care and it’s okay to use the material.”

When requesting copyright permission it is important to note that a lack of response from the copyright holder does not, under U.S. law, negate the need to obtain permission. In addition, some works may
contain materials—text, images and graphics—from multiple copyright holders and may require different authorizations depending upon what element or set of elements you wish to use.

**9.** “My company has an online subscription to a journal, so it should be okay if I send my customers articles from it.”

Probably not. Reuse permissions included in subscriptions vary widely, and where reuse is licensed most licenses limit distribution to other employees within your company. Check your subscription carefully before sending content outside your company. You may need to acquire additional permissions or purchase a digital or print reprint to do so.

**10.** “It is no big deal if I use content without permission. I won’t get in trouble.”

Copyright protection exists to encourage the development of new and creative works that spur innovation and can ultimately help drive your business. Failure to respect copyright infringes on the legal rights of the copyright holder, and could put you and your organization at risk.

If the copyright holder registered the work with the U.S. Copyright Office prior to the infringement, the copyright holder may sue for compensation (and an injunction). In the United States, court-ordered compensation can range, depending on willfulness, from $200 to $150,000 for each infringing copy. You may also be criminally liable if you willfully copy a work for profit or financial gain, or if the copied work has a value of more than $1,000.

**MAKING COMPLIANCE EASY**

The ability to share timely information is paramount for businesses striving to build and maintain a competitive edge. While technology has made it easy to find and use content, obtaining copyright permissions can be time-consuming and potentially expensive. Copyright Clearance Center (CCC) provides smart solutions that simplify the access and licensing of content. These solutions let businesses quickly get permission to share copyright-protected materials, while compensating publishers and creators for the use of their works.
CCC's Annual Copyright License gives your employees the freedom to share content from the most sought-after books, journals and other print and digital information sources, while respecting the rights of copyright holders. The license allows workers—no matter where they are located—to share information with colleagues through email, collaboration tools, intranet sites, photocopies and more. It’s a risk mitigation tool for the digital age, letting employees make the most of the advantages of the Internet while still respecting copyright.

The Motion Picture License allows employees to show legally obtained movie scenes for employee training, internal sales presentations and company meetings from more than 1,000 producers from around the world—including all major Hollywood studios.

RightFind® Music provides an easy-to-use, search and file management website which helps your employees quickly find, download and manage music from a collection of more than 500,000 tracks licensed for use in company presentations and videos—all while simplifying copyright compliance.

RightFind Music includes the Music Use License which gives your employees and the outside agencies (e.g., third-party video or design production companies or consultants) they hire, the rights to use high-quality music to enhance training, marketing and sales presentations and videos and the assurance that your organization is backed by indemnification.