

PLRB Presenter Copyright FAQs

by Len Murphy

Copyrights are protections awarded to original works of authorship. The owners of these rights have the sole and exclusive right to reproduce the work. Copyrights extend to writings, graphics, and sounds.

PLRB seeks to avoid infringing copyrights of others. To accomplish this, PLRB needs the help of its presenters who prepare handouts and visual aids, such as papers, checklists, case summaries, and PowerPoint slide shows, for their presentations at PLRB events.

PLRB asks all presenters to sign a PLRB Presenter's Agreement. With this agreement, presenters grant PLRB a license to reproduce (1) the presenter's original works of authorship and (2) portions of their presentations that are not their original works, but for which the presenter secured permission from the true copyright owner. Having these releases allows PLRB to make paper copies and electronic copies for distribution to attendees and make files downloadable and searchable on the PLRB website. It also ensures that presenters have the right to display the works in the classrooms.

Below is a list of answers to frequently asked questions regarding presenter copyright issues.

Should my work be original?

Yes. An essential quality of a PLRB/LIRB presenter is the ability to create original written papers, Power Point presentations, outlines, sample scenarios, checklists, and other written work. PLRB looks for presenters who can add valuable informational resources to the industry knowledge base.

Furthermore, PLRB attendees want to see original work. They don't like to see presentations from an earlier PLRB conference or a conference put on by another organization.

From the standpoint of copyright law, original works are preferable because presenters can easily grant license to PLRB to publish the materials. If presenters are not the authors or if the work is not original, then complications can arise.

Should I use and refer to other sources?

Absolutely. Presenters are expected to research their topic. All outside sources should be listed in a bibliography and/or cited where appropriate. Not only is this best practices for scholarly works, it helps PLRB identify areas where permission for use might be an issue.

Most original works created by presenters for PLRB/LIRB events will incorporate ideas, concepts, or short excerpts from works created by others. Authors should pick out the important facts and ideas that they want to use. Incorporate these into their original work. Authors should not unnecessarily include others complete documents.

Copyright does not extend to facts and ideas. Nonetheless, presenters must give credit or attribution to those sources. Anything less might be plagiarism.

Should I use pictures, photographs, charts, and graphs in my Power Point Presentation and other materials?

Absolutely. Presenters are encouraged to be creative and to make their presentations engaging. Graphics can bring a topic to life. However, the presenter must have the right to use all graphics in a presentation or paper.

If the picture, chart, graph, or other image was created by the presenter, attribution should be included near the chart or graphic (i.e. "Photo by Mrs. Presenter © 2006"). In other words, include the citation even if you were the creator of the work. This helps the PLRB and others who read your work identify the source.



Image courtesy FEMA with permission

If you, the presenter, did not create the graphic, then the presenter must have permission from the rightful owner of the work or works. It is best that you secure written permission and that the permission be broad enough to extend to PLRB's republication of the work at the conference or meeting and other electronic and print uses such as on the PLRB website. (A sample letter requesting permission for use is attached at the end of this document.)

Furthermore, you should cite to the source. It is helpful for PLRB staff and the audience if you indicate that permission was received for such usage and place the notice close to the image.

I found the picture on the internet and downloaded it for free; isn't it in the public domain?

No. It is a common myth that free information on the internet can be used without permission. This is not true. Works on the internet are protected by copyright laws and require permission from the owner for use in a PLRB/LIRB presentation. If the work has a note from the author clearly indicating that the owner grants the work to the public domain, then such information should be included with the submission to the PLRB and noted near the work.

How do I get permission to use an image or other work?

Just ask. Many websites have information regarding copyright information and usage guidelines. If you check these guidelines they will often list their policy or provide contact information for the person or department that can grant such permission.

To see an example, visit FEMA's website at: <http://www.fema.gov/help/usage.shtm>

For another example visit:

<http://www.ccl.org/leadership/forms/contact/republishForm.aspx?pagelid=1067>

You can also send a letter requesting permission. A sample letter requesting permission for use is attached at the end of this document. Note that if you prepare your presentation and paper in accordance with PLRB guidelines, you will usually have time to get permission or find a substitute image.

Where can I get images to use in my power point?

If you have a digital camera, you can create your own images. With digital technology, images can be easily transferred to a PowerPoint presentation or a paper.

If not, a very good source for property damage images is the FEMA photo library. Make sure you follow their guidelines and give attribution. Their web address is:

<http://www.photolibrary.fema.gov/photolibrary/index.jsp>

A good website for low cost royalty free images is www.bigstockphoto.com. For a small fee, you can download great images for less than \$2.00 each. Note that you are required to give attribution to the photographer and to bigstockphot.com.

You can also obtain images from other electronic resources. However, be sure to get written permission from the copyright owner. Make sure you clearly indicate the use and purpose and note that the work will be reproduced on the PLRB website after the conference. An example e-mail letter is attached.

Microsoft Clipart should not be used. Their website now indicates that their work should not be used for commercial purposes.¹

I don't need to get permission because it's a "fair use" under the law?

Wrong. Presenters should not rely on fair use. Whether usage is fair usage is a question of fact. This is a very gray area. There is no guarantee that a certain usage will be viewed as a fair use. Fines for infringement can be severe. Presenters should either get permission, purchase a license, or find another source.

According to the U.S. Copyright Office, examples of activities that courts have regarded as fair use include "quotation of excerpts in a review or criticism for purposes of illustration or comment; quotation of short passages in a scholarly or technical work, for illustration or clarification of the author's observations; use in a parody of some of the content of the work parodied; summary of an address or article, with brief quotations, in a news report; reproduction by a library of a portion of a work to replace part of a damaged copy; reproduction by a teacher or student of a small part of a work to illustrate a lesson; reproduction of a work in legislative or judicial proceedings or reports; incidental and

¹ See <http://www.microsoft.com/about/legal/permissions/default.aspx#E4>.

fortuitous reproduction, in a newsreel or broadcast, of a work located in the scene of an event being reported.”²

For purposes of PLRB presentations, the doctrine of fair use should only be relied upon for an image if the image is being critiqued and then only if permission could not be obtained or a license purchased at a reasonable rate. Furthermore, it should only be used if you have a legal copy of the original and you are only using a very small portion of the original.

I don't need to get permission because usage is permissible under the Teach Act?

Wrong. Protections provided under the Teach Act apply to accredited nonprofit educational institutions. This means universities and colleges.

PLRB is not a university or college. PLRB is a nonprofit trade association that prepares educational materials and events. However, it is not an accredited nonprofit educational institution.

Can I use Microsoft clipart?

No. Microsoft Clipart should not be used. Their website now indicates that their work should not be used for commercial purposes.³

This comes as a surprise. We examined their website for years regarding permission to use clipart. Previously, Microsoft appeared to grant license to qualified users of their software to use clipart. A short time ago, the only restrictions we found related to uses that were competitive with Microsoft such as reselling the clipart in collections and similar types of misuses. Use in publications seemed to be implicitly or even expressly offered by Microsoft when including the images as a tool. However, that no longer is the case.

Can I use just a comic clipping that I found?

Probably not. You can only use a comic if you have express written permission from the owner.

Can I present someone else's paper?

No. PLRB wants you to present your original work. However, in a rare situation where PLRB agrees that it is acceptable, you must obtain written permission and clearly give attribution.

² U.S. Copyright Office - Fair Use (<http://www.copyright.gov/fls/fl102.html>).

³ See <http://www.microsoft.com/about/legal/permissions/default.aspx#E4>.

Should I use my old presentation from an earlier event or publication?

No. If you are presenting materials that you submitted to another publisher such as the ABA, DRI, or Mealy's, those organizations may have copyright interest in any editing or formatting of your materials. If their name appears on the publication, they may have trademark infringement concerns with redistribution. Therefore, such materials should not be submitted for PLRB events unless specifically requested by PLRB and approved in writing by the original organization. Best practices would be to create new supporting materials. The old materials could be cited as a reference.

Furthermore, even if it might not present a copyright problem, attendees at PLRB/LIRB events expect to see original work and will take away points in their evaluations of your session for a repeat performance.

Many attendees at PLRB events have seen you present before at either PLRB events or events put on by others. They may be returning because they liked your presentation. However, they might not like to see a repeat. Attendees will make negative comments for materials which is a repeat performance.

Do I need permission to take a picture of a building for use in my presentation?

Probably not. If you are taking a photograph of a house or building and you are standing on a public street, you probably don't need permission to use the photo.⁴ However, note that this does not extend to works of art such as monuments, sculptures, statues, etc.

Do I need a written release to use images that include individuals?

Yes. You should always use a model release especially when a person may be recognized. This is a matter of a person's right to privacy rather than a copyright issue. For more information, visit <http://www.publaw.com/photo.html>.

A model release might read as shown in the example attached at the end of this document. Consult with an attorney for additional information and a legal review of your release.

Does PLRB own my work and do I need PLRB's permission to use it for other purpose?

No. Presenters grant PLRB a broad license for non-exclusive use. This means that PLRB can use it, but doesn't have the exclusive right to use the work. In other words, presenters can grant licenses to others in the same way they granted license to PLRB.

⁴ Dianne Brinson, Do I Need Permission? [<http://www.photosecrets.com/p14.html>] accessed 2/11/2005; and Lloyd L. Rich, Publications of Photographs: Is a release required? [<http://www.publaw.com/photo.html>] accessed 2/11/2005.

Additional Resources

U.S. Copyright Office - Fair Use (<http://www.copyright.gov/fls/fl102.html>)

USP Copyright Policy (<http://www.usip.edu/policies/uspcopyright.shtml>)

<http://www.utsystem.edu/OGC/IntellectualProperty/copypol2.htm>

Sample Permission Request Letter

Via e-mail

Dear sir/madam,

I am working on an educational piece regarding insurance coverage for overflows and backup of sewers or drains into homes and businesses. For part of the discussion, we talk about combined sewer systems. I planned on mentioning that combined sewer systems have been used as early as 3000 B.C.E. by the Indus civilization.

My presentation will be at a conference on _____ in _____. I would like to include the images in my paper and PowerPoint slide show. The PowerPoint and paper will be handouts at the event and will also be included in part of a research database for a not-for-profit trade association <http://www.plrb.org>. I was hoping to include a couple of images, such as:

Image of what is believed to be an ancient Indus plumbing.

<http://www.mohenjodaro.net/latrine47.html>

And possibly a general image such as:

<http://www.harappa.com/serai/gif/serai.jpg>

I will, of course, give credit to the source of the images including a copyright notice.

The Property Loss Research Bureau (PLRB) is a not-for-profit trade association located in Downers Grove, Illinois. The purpose of the materials is education.

Please let me know if I may have permission to use the images as indicated.

Thank you.

Sincerely,

Len Murphy
Vice President & General Counsel
Property Loss Research Bureau
630 724 - 2213

PLRB MODEL RELEASE FOR IMAGES

Photographer: Roger King, RKM Productions

Date of photographs: January 31-February 1, 2002

Model Number: _____

Model Name: _____



Image Description: Four businessmen engaged in discussion while standing.

MODEL RELEASE

For valuable consideration received, namely one PLRB/LIRB (gift item) _____, I, _____, irrevocably grant to the Property Loss Research Bureau ("Owner"), an Illinois not-for-profit corporation, the right to distribute, transmit, publish, copy, display, license, sell, or otherwise exploit, either in whole or in part, either digitally, in print, or in any other medium now known or later discovered, the photographs attached to this release, whether negative or positive, color or black and white, mechanical or electronic, (the "Photographs"), for all purposes including advertising and trade. I understand and agree that the Photographs may be used without identifying me as their subject.

I release and discharge and save harmless, the photographer, Owner and its agents, representatives, and assignees, including any firm publishing or distributing the finished product, even though the finished product may be distorted, blurred, altered or used in conjunction with factual or fictional text, either intentionally or otherwise, from any claim or cause of action, now known or later discovered, for, among other things, invasion of privacy, right of publicity, and defamation arising out of the use and exploitation of the Photographs.

I have read this release and am fully familiar with and understand its contents.

I represent and warrant that I am over the age of eighteen years.

Dated: _____

Signature of Model: _____

Optional

Witness Name: _____ Dated: _____

Witness Signature: _____