

## Copyright on final dissertation: what is it, and what does it safeguard.

The final dissertation is not only an administrative document, but each student's intellectual and creative project, and therefore it needs to be protected by copyright.

The Italian regulation on copyright (law n. 633 22 April 1941) establishes the safeguard of intellectual properties of any kind, let it be literature, music, figurative art, architecture, theatre, cinematography. Copyright law also protects software and creative databases. Art. 2 of the copyright law lists examples of protected intellectual properties, which includes scientific works.

To be protected by copyright, the work needs to be innovative and to have a minimum level of creativity. Copyright does not protect ideas and information included in the work as such, namely detached from their form of expression.

### What is copyright?

Copyright regulates the rights reserved to the author (or those authorized by them), and is divided into **Property rights** and **Moral rights**.

- a) **Property rights, or rights of economic use**, last for the entirety of the author's life, up until 70 years after their death. Afterwards, the intellectual property becomes "of public domain" and can be freely used by anyone. Rights included in this category are: publication right and reproduction rights (meaning creating more copies, even on a temporary basis); the right to transcribe the work, perform it or play it in public; the right to broadcast it and share it with the public; the right to elaborate it, translate it, rent it or loan it.

With the exception of few cases provided for by law, all the activities listed above are reserved to the author and need to be approved by the rights' holder, even if the actuator does not act for profit: the economic use is not limited to profit-making or commercial use, but foresees every circumstance where the work is used. Actions such as downloading a file, saving it, printing it or sending it via email, if it involves protected intellectual properties, are considered reproduction activities, and therefore need the rights' holder's authorization or license<sup>1</sup>.

Property rights can be transferred outright or licensed by the author, exclusively or not. Each right is independent from the others and can thus be given, sold or transferred – even free of charge – in a separate way and to different subjects (e.g. the rights to be published can be transferred to an Italian editor, as well as to a foreign editor).

Copyrights' transfer requires written proof: without it, the transfer remain valid, however it might become difficult to prove it in case of litigation or complaints.

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<sup>1</sup> Rights of economic use are therefore broader and different than the "royalties" or "copyright income", with whom they often get mistaken.

- b) **Moral rights** do not have an expiry date and cannot be transferred to third parties. The main right is the paternity right (the right to be acknowledged as the author of the work). Other moral rights are: right to the integrity of the work; right to remain unpublished (the author has the exclusive right to decide whether to publish the work or not); right to withdraw (reconsider the circulation of an already-published work). Such rights hold value even when property rights have ceased to be (as they are independent from each other); they are also inalienable (they do not cease even if the work has already become of public domain). After the author's passing, moral rights can be held by their spouse or offsprings and, whether neither of these categories apply, by the author's parents or direct ascendants and descendants; if the latest are missing as well, rights can be held by the author's brother or sister and their descendants.

#### **Who is the dissertation's copyright owner?**

Both the property and moral rights on a final dissertation belong to the graduating student. In the case of collaborative dissertations (where more than one student is the author), if each student's contribution is not clearly distinguishable, and unless otherwise agreed, all the students involved are equally considered as authors. In the circumstance where each student's contribution can be identified and isolated, each student will be considered the owner of the rights on their specific contribution.

#### **What should I do to protect my dissertation?**

One of the fundamental principles in copyright is that the protection is guaranteed without the need of an official registration or deposition, but just for the creation of the work. The deposit at the SIAE is possible but not required, not even for software or databases. The deposit might be useful, however, as proof of the work's completion, before it gets published (the publication's date establishes as certain the precedence of a work, without the need of a SIAE deposition).

#### **Can there be other rights on the dissertation, in addition to the graduating student's ones?**

Dissertations might be subject to additional rights other than copyrights, which might not belong to the graduating students but to a different holder.

##### **a) Rights to research results, confidentiality rights**

If the dissertation is carried out as part of a research activity (either concluded or still ongoing) that involves third parties to the University, or that is funded externally, it might happen that the research results or the data and information used in the work belong, even partially, to the third parties, or that they are covered by confidentiality (namely, they cannot be shared without authorization). Under these circumstances, the student must avoid quoting information or data belonging to third parties or covered by confidentiality rights.

##### **b) Patentable contents**

The dissertation research might lead to innovative results which could become patentable: in this eventuality, it is fundamental to ensure the complete secrecy of the results, up until 18 months after the patent deposit.

Therefore, the student must avoid including the patentable results in their dissertation, and, conservatively, in case the student wishes to publish the dissertation, it shall be defined a suitable embargo period (during which the dissertation cannot be accessed).

**c) Privacy, personal rights**

The dissertation might include elements or information for which privacy rights or third parties' personal rights are owed under law. This would be the case of personal information (data identifying the individual), sensitive information, confidential correspondence by letter, portraits<sup>2</sup>. In any of these cases, the student must avoid referring to personal information in the dissertation, in order to avoid privacy or rights infringement.

**d) Specific resources belonging to third parties**

The student might have the need to include in their dissertation specific resources belonging to third parties, and protected by copyrights (for instance: drawings, images, photos, excerpts to be translated, software). In order to use such resources within their dissertation, as a general rule, the students shall request and obtain the authorization from the rights' holder.

**In which circumstances shall I obtain the authorizations to include third parties' content in my dissertation?**

Public domain materials, or materials which, according to their licence, can be reproduced (e.g Creative Commons), might be included in the dissertation. For any other case, it is required to obtain the rights' holder authorisation. This also applies to unpublished materials of any kind. It is possible to freely include summaries or quotations of specific excerpts for the purpose of analysis and review. Summaries and quotations must always be accompanied by the title of the original work, together with the names of the author(s), of the editor and, if it applies, of the translator.

**What kind of authorization shall I ask?**

It is advisable to request the authorization from third parties through a written declaration. The request shall generally be addressed to the editor, if it is an edited or published work, or to the author or their descendants, if the work has not been published.

If the student wishes to have the dissertation published, either online through the University's service or by an editor, then they will need to include the faculty to do so in their authorization's request.

If by any reason the student does not succeed in getting a written authorization, then it would be best to avoid including copyrighted materials. Otherwise, there might be the risk of infringing copyrights, which might lead to legal actions in order to ensure the economic compensation for the damages.

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<sup>2</sup> Regarding portraits, some exceptions might apply, as foreseen by art. 97 of Copyright Law: *"the portrayed person's consent is not required when the image is justified by their notoriety or public role, by justice or police necessities, by scientific, didactic or cultural reasons, or when the reproduction is linked to facts or ceremonies of public interest, or that took place in public. The portrait cannot be exhibited or put on the market, if these two actions might adversely affect the honour, the reputation or the dignity of the person portrayed."*

**I downloaded some resources from Internet that I want to include in the dissertation, but the author has not been indicated. Can I do it?**

A creative work is protected by copyright just for having been created, so no specific declaration is required: symbols such as “©”, or phrases such as “All rights reserved”, are useful and can be added, but they are not required. Therefore, the absence of these symbols or expression does not indicate that the work is freely usable.

As a general rule, it is possible to freely utilize works found in websites that clearly state the public domain of the materials, or the presence of a Creative Commons (CC) license or any other license that allow the use, reproduction, dissemination and availability for the public of such works.

Phrases such as “copyright free” or “public domain” indicate that the work is not, or ceased to be, covered by copyright, and that can be freely used, although it is still mandatory to indicate the moral rights’ holder (paternity), and/or the source.

Online, it is also possible to access digital collections of freely usable images. In any case, it is always advisable to read the relevant terms of use when downloading and using freely available materials.

**Can I publish my dissertation online if I have already made a deal with an editor?**

If the student has established an arrangement with an editor for the publication of the dissertation, they must ensure to still be the copyright holder before authorizing the publishing the work online, even via the University service.

As a general rule, in fact, editors require the complete transfer of rights in their favour, in order to proceed with the publication: this would mean that the author must ask the editor for the permission to use their own work, as they are not entitled to make it available for others anymore. However, the author (in this case, the student) should avoid the total transfer of their copyright when making arrangements with an editor, considering that, as previously mentioned, property rights can be transferred independently and separately from each other. It is advisable to establish only the transfer of the copyrights strictly required for the print publication, within a reasonable amount of time.

It might happen that the editor requests the exclusivity for a limited period of time (for instance, two years after the date of publication). In this case, the student can authorize the publication online after an embargo period, which shall last for a span corresponding to the exclusivity requested by the editor.

On the contrary, publishing the dissertation online via the University does not prevent the student to also publish it afterwards, with an editor, as long as the University has been given non-exclusive rights. The student thus remains free to submit their dissertation to an editor, informing them about the previous publications with the University.

On the other hand, it constitutes no problem if the work submitted to the editor is a redrafting of the dissertation topic: as previously mentioned, the protection provided by copyrights (even when such rights have been transferred to third parties) concerns the form of expression and not the content of the work.