



How to Get Permission for Material Not Owned by the Speaker

A creator, inventor or author owns the copyright of intellectual property (IP) from the moment it is created in a tangible form - in other words, written or recorded as the spoken word.

.....

The owner has the right to determine who can and who cannot use this material. and can accordingly decide to give permission to anyone or deny permission. The owner can also decide to charge for the work or limit the time or context in which it can be used. For instance, the owner can say it can only be used for a single presentation, only in handouts, only in one edition of an ebook or have a much broader permission and say that it can be used in all media, in all languages and for the duration of the copyright (which in the U.S. is the owner's lifetime plus seventy years).

Speakers generally do not think copyright rules apply to their work because so much of what they do is spoken and not written. However, speakers use handouts, PowerPoints, web sites and many other written media. And while they might be able to talk about just about anything without permission, if the speaker makes an audio recording and sells it, a permissions situation may be created.

The VSA's Role in Managing the Permissions Process

1. Review the speaker's handouts, etc. Highlight any stats, interviews, images and quotes.
2. Help the speaker determine if he or she owns them, has a right to use them, or if any permissions are needed.
3. Write request letters and attach the correct permissions form.
4. Keep a permissions log during the process of what permission is given (and the terms of the permission) and what permission is denied.
5. Report back to the speaker so the speaker can make changes in his or her materials, if necessary.
6. Keep records of permissions in hard copy.
7. Stay on top of any changes the speaker makes in materials and obtain permission when required.

A lot of speakers are also faced with consultants asking them point blank, "Can I use this example of yours in a speech?" It is good to have a prepared answer for that question, such as "We have a written procedure for that, so let me look at what to do in this case and get back to you."

When is Permission Required?

The VSA might help the speaker by going through the speaker's notes, transcript or presentation with a highlighter pen and highlight all quotes, song lyrics, poetry, charts, checklists, tables and statistics that give credit to someone or some organization. Ask the speaker to verify which of these he or she would like you to work on getting permission. The speaker may choose to have his/her material reviewed by a permissions expert or by an intellectual property attorney.

There is a provision in the Copyright law to allow some material to be used without specific permission. This is called Fair Use. The determination for whether permission is required is not based on the number of words, but based on the value of the material to the originator. It may be enough to say, "Paul Smith has a great quote about timing: If you think it is off, you can be sure it is." But if the speaker were to tell an entire story from Paul illustrating this, that might not be appropriate, even if the speaker gave Paul credit. The rules are more strict in writing as opposed to speaking, so you must be extra careful to get permission if the material will be in handouts, special reports, and PowerPoints.

Organizing the Permissions Log

When you have the speaker's concurrence, create a spreadsheet that lists all of the quotes, statistics, etc. for which you will be working to obtain permission on a spreadsheet.

1. Items for which permission is needed.
2. Owner of info and contact info for owner.
3. When the permissions form was created and sent.
4. Follow up (every week to 10 days if possible) and handle concerns.

Finding the Information Owner

Developing Permissions Request Letters

When you know the owner of the material, you will be ready to send that person or organization a letter requesting permission. Generally there is a cover letter and a form with legal language, depending on the type of intellectual property you wish to use. A faxed response is fine – an original signature is not needed.

The exact quote you want to use in the context should be duplicated in the permissions request form. The entire webinar handout should be attached if possible so the owner can see it in context.

Keeping Track of Responses

Keep track of your follow up efforts and any responses on your log or spreadsheet. You can expect to get any of these responses:

- Yes, with a signature and date faxed back
- Yes, but...for limited rights, or only if the author pays a fee
- No
- No response at all after months of follow up

It will be up to the speaker to determine what to do with any of the last three responses. It is good for the speaker to consider a back up plan in case this is what he or she gets.

When the log is complete, keep a copy and send the log, plus hard copies of permissions received to the speaker in a file marked “Permissions.” Mark the log FINAL in the “updated” spot.

Quote from Publications Permissions

Some speakers use a lot of factual information in their speeches and doing thorough fact checking might be important for their VSA to do for them.

Most speakers have collected “facts” from attending seminars or reading books, have written them down, and filed them away years before. When they are ready to write speeches, they get into these files and when years have passed, they need to double-check those

facts, for a number of reasons:

- To be sure they quoted the fact correctly
- To make sure the fact is still accurate at this time
- To determine if they need the permission of the owner of the primary research to use the fact

It is not always that easy to find the source of a statistic that was taken from a presentation or jotted down a long time ago. The first thing to do to find the source and see if it is still accurate is to type the stat or the entire quote or piece of it in a Google search. You may find many references to it, but you are looking for the reference that gives an original source.

If you can't find it on your own, take the statistic or quote to a reference librarian who may be able to help you find the original source.

Interviews Permissions

Another primary source of information is interviewing experts on your subject or people dealing with the subject firsthand. For instance, if the speaker were writing a special report on raising children, he or she might interview pediatricians and child psychologists, as well as talk to parents on their real-life practical solutions to challenging experiences.

Written permission of the interviewees should be obtained up front in order to refer to them by name in a presentation and/or quote them directly. Many speakers who coach or consult will use their past or current clients as examples. A rule of thumb is that if the person could be recognized, their permission must be obtained.

Image Permissions/Licenses

Whenever a photographer takes a photo, that photographer owns the copyright, meaning he or she can decide when and how that photograph is reproduced. To use a photograph you didn't take you have to arrange for that before the photo is taken (you hire the photographer to take photographs as a “work for hire”) or you need the photographer's permission by acquiring a license to use the photos from the photographer. The photographer can limit the rights to use the photo either by time or by use if he or she wishes and charge to use the photographs as well.

Please note that cartoons are also “images” (illustrations) and permission must be obtained for these as well.

Stock Images

Stock images are photographs various photographers have made available that can be purchased from an image bank. They might be royalty-free, meaning you pay a one-time fee and then you can use the photo without paying for it again. Some stock images are expensive, others are as little as \$5.

The downside of using stock images is that they are not exclusive. You might see the same photo on a book cover or on a web site.

Image Licenses

Image licenses are the way you get permission to use images, either for commercial or non-commercial use. Commercial use means that the photo will be used in something (like a book) that the user will financially benefit from. Photos just used on a web site are a non-commercial use.

Broadcast Media Clip Permission

Anytime a clip of audio or video is used, like a movie, TV show, or radio show, permission must be obtained.

A lot of speakers, especially newer speakers, are really excited to include clips of TV shows and movies in presentations. This is not a simple process. You have to go to the networks (ABC, CBS and NBC) and studios and ask them. Unfortunately, they rarely respond and if they do they often don't understand that it's just one speech. Their legal departments want to get involved and it can end up costing thousands of dollars. If you can talk a speaker out of it that would be great, but if they really want the clip, send a letter to the studios.

You can always just create a link to the media's website if you want to show a speaker being interviewed on network or cable TV or on a radio show.

Music Clip Permission

If speakers decide to use music, there are three places that might be able to help access licensing rights. The one organization that has made it easiest is the American Society for Composers and Authors (ASCAP), which has 4.5 million songs in their repertoire. The first step when a speaker uses music is to go to the ASCAP website and do a title search to make sure that ASCAP owns it or handles the royalties.

ASCAP (American Society of Composers, Authors) 800/952-7227, www.ascap.com, info@ascap.com

You can also do a title search on this site with this link: www.ascap.com/ace/

For NSA members - a 35% discount on licensing fees: www.ascap.com/licensing/pdfs/brochures/a_great_speech.pdf

BMI (Broadcast Music, Inc.), 800/925-8451, www.BMI.com

BMI does not have a specific license for speakers. You are treated as a meeting planner and the fee is based on the number of meetings and expected audience per year.

SESAC (Society of European State Authors and Composers), www.sesac.com, 800/826-9996 (Nashville), (212/586-3450 (New York) SESAC licenses the venue and does not have a license for speakers or meeting planners.

There are four different kinds of music licenses:

1. A performance license allows you to perform or play music during a live presentation. This is what the blanket ASCAP license for speakers covers. Many meeting planners will already have performance licenses that will cover your presentation, so check with them first.
2. A synchronization license is required if you use music in conjunction with another media such as slides or a video. This license is obtained from the music publisher. Very high hassle factor.
3. If a speaker plans on selling a video of their speech, (or a trainer sells their programs to Corporate America), a mechanical license is necessary. Under the law, the music publisher is required to give you this license. This license allows you to reproduce your own production of a song, but it does not give you the right to reproduce a CD or tape that you have purchased commercially.
4. A master license. To duplicate a commercially purchased recording, in addition to the mechanical license, you must obtain a so-called "master license" from the record producer or publisher. Again, depending on the song, this may be very expensive.

Royalty Free Music

There is also royalty-free music available that is in the public domain that the VSA may be able to research and make available for the speaker.

For music licenses:

Quote From Publication Permission Request

Date: _____

To: _____

I am preparing a nonfiction book manuscript as follows:

Author: _____

Title: _____

Publication date: _____

Approximate number of pages: _____

Publisher: _____

I request your permission to include the following material about you or your organization in this and all subsequent editions of the above-referenced book, in all media of expression now known or later developed and in all foreign language translations and other derivative works published or prepared by _____(publisher) or its licensees, for distribution throughout the world, and also in versions made by nonprofit organizations for use by blind or physically handicapped persons.

The selection is in Chapter _____

beginning with the words _____

ending with the words _____

(See attached sheet for full manuscript wording, and please initial)

Please indicate your agreement by signing and returning the enclosed copy of this letter. In signing, you warrant that you are the sole owner of the rights granted and that your material does not infringe upon the copyright or other rights of anyone. If you do not control these rights, I would appreciate your letting me know to whom I should apply.

Thank you.

(Requestor's Name and Return Address)

AGREED TO AND ACCEPTED:

Signature _____

Title _____

Date _____

SAMPLE

CONSULT WITH AN ATTORNEY TO MAKE SURE THIS FORM IS RIGHT FOR YOUR PROJECT

Image Permission Request

I, _____ (photographer/photo owner) grant a license to use certain photographs listed below to _____ (user) for his/her personal use in developing his/her own intellectual property such as books, handouts and promotion of the user and his/her work, including web sites.

This license will allow user to use the photographs for exclusive and limited commercial use in and with these limitations:

- Electronic media with no limitations limitations _____
- Print media with no limitations limitations _____
- Quantity with no limitations limitations _____
- Duration of license with no limitations limitations _____
- Worldwide with no limitations limitations _____

For these Photographs

This permission does not allow the user to resell the image as ownership is retained by the photographer. This permission starts as of the date of the signature of both parties.

Photographer/Date

User/Date

SAMPLE

CONSULT WITH AN ATTORNEY TO MAKE SURE THIS FORM IS RIGHT FOR YOUR PROJECT

Interview Permission Form Request

_____ (“Author”) has informed me that he/she is researching, writing, and publishing one or more books and related works on the subject of _____
_____ (collectively “the Work”), and has asked me to grant interviews and to otherwise cooperate with Author in connection with the Work.

In order to assist Author in the preparation of the Work, I have agreed to be interviewed and to provide information and other materials to be used in connection with the Work, including my personal experiences, remarks, and recollections, as well as any photographs and documents that I may choose to give to Author (“the Interview Materials”).

I hereby grant and assign to Author, and his/her licensees, successors and assignees, the following rights in connection with the Interview Materials for use as part of the Work, or any advertising, packaging, or promotional materials for the Work, in any and all editions, versions, and media, in perpetuity and throughout the world.

1. The right to quote or paraphrase all or any portion of the Interview Materials, and to generally use and publish the Interview Materials, including my experiences, recollections, incidents, remarks, characters, dialogue, actions, scenes, situations, and information, as well as any photographs and documents that I may give to Author.
2. The right to use my name, image, voice, likeness, and biographical data.
3. The right to develop, produce, distribute, advertise and promote the Work as a book or any other work in any manner that Author deems appropriate. I understand and acknowledge that Author will be the sole owner of all copyright and other rights in and to the Work.

In order to enable Author to develop the Work in any manner that Author may deem best, I hereby release and discharge the Author and his/her licensees, successors and assignees, from any and all claims, demands, or causes of action that I may have against them by reason of anything contained in the Work, or any of the above uses, including any claims based on the right of privacy, the right of publicity, copyright, libel, slander, or any other right.

I acknowledge and agree that I am not entitled to receive any form of payment from Author and/or his/her licensees, successors, and assignees.

Thank you.

(Requestor’s Name and Return Address)

AGREED TO AND ACCEPTED:

Signature _____

Title _____

Date _____

SAMPLE

CONSULT WITH AN ATTORNEY TO MAKE SURE THIS FORM IS RIGHT FOR YOUR PROJECT

SAMPLE PERMISSIONS LETTER

Dear

I am contacting you on behalf of Susan Jones, a speaker in the Washington, DC area.

Ms. Jones would like to include a quote of Hillary Clinton's as the opening of one of her speeches. She will also use it to begin webinars and in various handouts.

The quote is as follows:

“When I say ‘It Takes a Village’, I’m not talking about geographical villages any longer, but about the network of relationships and values that do connect us and bind us together.”

Your early attention to this request is greatly appreciated. Please contact me by replying to this email or through the phone or fax noted below.

Thank you for your time and consideration.

Sincerely,

Pat Smith
Professional Virtual Speaker's Assistant
Pat@SpeakersAssistPro.com
www.SpeakersAssistPro.com
310-906-0978
FAX: 310-496-2728

SAMPLE BROADCAST MEDIA PERMISSIONS REQUEST LETTER

Dear

I am contacting you on behalf of Susan Jones, a speaker in the Washington, DC area.

Ms. Jones is a former executive of the XYZ Companies and she is now speaking full time to inspire individuals who want to take on leadership roles in their companies.

We would like to use a clip from your recent TV special (see this link) to help show what great leadership looks like. Ms. Jones will acknowledge your contributions to this field in the speech as she shows the clip.

Your early attention to this request is greatly appreciated as she begins her speaking tour in just about eight weeks.

Thank you for your time and consideration.

Sincerely,

Pat Smith
Professional Virtual Speaker's Assistant
Pat@SpeakersAssistPro.com
www.SpeakersAssistPro.com
310-906-0978
FAX: 310-496-2728

