

A Question of Missing Acknowledgment

As a freelance editor assigned by an author to abbreviate an article, you manage to do so effectively, particularly with a peer reviewer's request to delete acknowledgments so as to save space. You understand, however, that it is generally a good policy to include acknowledgments and especially not to delete existing ones. One particular acknowledgment is of someone for assistance with preparation of an illustration, which you believe could even require copyright permission. Where might you obtain advice for the author on how to proceed with publication of the article and any necessary documentation?

Solutions

Acknowledgment of those who have contributed to a manuscript (or the work described therein) but whose contribution does not qualify them for authorship is important for maintaining the integrity of authorship. However, acknowledgment is not necessary for persons who have provided nonsignificant assistance with a manuscript but is at the discretion of the author. I would therefore query the author to ensure that the author supports the deletion of contributors' acknowledgments.

Many journals note potential conflicts of interest and sources of support in the acknowledgments. Therefore, I would ensure that potential conflicts of interest and sources of support, if applicable, are not deleted; I would move them to the title page for final placement by the journal editorial staff (in acknowledgments or as a footnote according to journal style).

Most journals place acknowledgments for borrowed (reproduced) material in figure captions or table footnotes of the borrowed items. If I thought that an illustration was reproduced from another published source, I would ask the author to determine whether the illustration had been published and, if so, to check the journal-specific instructions for authors regarding reproduction of borrowed material.

Becky Norquist

Freelance Editor and Managing Editor
Journal of Endotoxin Research
San Francisco, California

The key words in this situation are "assistance with preparation of an illustration, which you believe could even require copyright permission." Copyright is the creator's (author's) bundle of rights to an original work fixed in a tangible medium of expression that is protected by copyright. Therefore, it's clear that this illustration is protected by copyright law.

The illustration is a collaborative work; copyright is owned jointly by the author and the person who contributed to the illustration. Here we must stop and ask, What is the intent of the two parties? Do they intend each of their contributions to become part of a single unitary work? I assume that is the case, although I don't know it as a fact. Another assumption I am making is that the journal's standard contributor agreement requires authors to warrant that a contribution is original and that if copyrighted material is used, the author will secure the necessary permissions license from copyright owners.

We have established that copyright exists in the illustration and that the author must secure an appropriate license to use it. Under these circumstances, I would advise the author to use a copyright assignment. The copyright assignment must be in writing and be signed by the illustrator. The assignment should convey the ownership of all rights to the author. Care should be taken to describe the nature and scope of the rights being conveyed. The grant of rights must be clear and explicit on the question of what rights are granted and what rights, if any, are being reserved.

The most important principle when dealing with copyright is to be cautious and conservative. Mistakes in handling copyright matters can be expensive and time-consuming. Shortcuts are to be avoided, given the costly downstream consequences.

My commentary is designed to provide accurate and authoritative information regarding subject matter covered and is given with the understanding that the author is not engaged in rendering legal, accounting, or other such services. If legal advice or such services are required, a

competent professional with the appropriate expertise should be contacted.

John B McHugh

Publishing Management Consultant
Milwaukee, Wisconsin

Try to save the acknowledgments unless the reviewer's request to delete them reflects the journal's policy requirement. For example, you might retain the acknowledgments by decreasing the number of words if necessary. State your reason in the cover letter responding to the reviewers by referring to the Uniform Requirements for Manuscripts Submitted to Biomedical Journals' statement regarding Acknowledgments for guidance: "List all contributors who do not meet the criteria for authorship, such as a person who provided purely technical help, writing assistance, or a department chair who provided only general support. Financial and material support should also be acknowledged."

Regarding copyright-holder permission from the illustrator for assistance with preparation of the illustration, determine who created the illustration. Is your author's illustrator the sole creator? Was the work done as work for hire? Ask your author who holds copyright permission. Ask the illustrator whether he or she is the copyright holder. Some illustrators (for example, professional medical illustrators) retain copyright to their work.

Determine whether the illustrator modified already-published material to create an adapted illustration. If so, copyright permission must be obtained to adapt and reuse material from the author, publisher (possibly including the book editor), and possibly the illustrator of the original work. Some publishers may require that permission be obtained from the author of the already-published material as a condition of the publisher's permission. Determine whether the original material is in the public domain, in which case no permission is necessary. The Uniform Requirements state: "If a figure has been published, acknowledge the original source and submit written permission from the copyright holder to repro-

duce the material."

Some resources for information on copyright-holder permissions:

- Uniform Requirements for Manuscripts Submitted to Biomedical Journals (updated October 2001). Available at International Committee of Medical Journal Editors Web site: www.icmje.org (accessed 20 November 2001).
- United States Copyright Office Web site: www.loc.gov/copyright/ (accessed 20 November 2001).
- Copyright Clearance Center Web site: www.copyright.com (accessed 20 November 2001).
- Your author's workplace legal department.
- Strong WS. The copyright book: a practical guide. Fifth ed. Cambridge, MA: MIT Press, 1999. 386 pp. ISBN: 0-262-19419-8.

Janet Startt

Assistant Editor-Copyright
Department of Medical Editing
Kaiser Permanente Medical Care Program
Oakland, California

New Question: A Question of Transfer

An author prepares a manuscript for a journal and, at submission, is required to have all coauthors sign a statement that "in consideration of the journal's taking action in reviewing and editing the submission, all authors transfer, assign, or otherwise convey all copyright ownership to the publisher in the event that it is published in the journal." A coauthor has created several of the illustrations. On acceptance of the manuscript, the authors receive a copyright transfer for all to sign, but the illustrator-coauthor decides to retain copyright and publish the figures instead on a scientific Web site in his field to establish priority; he also removes his name from the paper. Do the main author and the journal representing the publisher have the right to publish these illustrations in the print journal without the now-former coauthor's permission on the basis of the original letter he signed transferring copyright? What alternatives does the main author have?

The situations described as new questions in this column are not necessarily based on actual situations, and the ones that are may have been modified to focus the question. Send your responses to the new question to Della Mundy, Department of Medical Editing, Kaiser Foundation Research Institute, 1800 Harrison Street, 16th Floor, Oakland CA 94712-3429. Telephone 510-625-2373; fax 510-625-5231; e-mail della.mundy@kp.org.