



## **Guidance for Chapters and Councils in Avoiding Claims for Copyright and Trademark Infringement**

Trout Unlimited Chapters and Councils should be aware that the improper use of copyrighted materials or a trademark at meetings, on a website, or in materials sent to members can result in substantial damages claims against individuals as well as the chapter or council. To protect Trout Unlimited and its Councils, Chapters and members, please use the following guidelines for any copyrighted materials or trademarks you desire to use.

**Background:** First, a little background. The author of a work, such as a movie, photograph, book, picture, or video has an exclusive right to the reproduction or public display of the work as well as creating any derivative works therefrom. This is called a “copyright” and it is protected by federal law. There is no requirement that the work be registered or even marked with a copyright claim. You should assume that every work created by another is protected by a copyright. Second, individuals and companies can create a “trademark,” which is a word, name, symbol or device that identifies and distinguishes a source of goods and services (not the goods or services themselves). A trademark may include sounds, shapes, numbers, colors, packaging, design, etc. and is always used in connection with specific goods and/or services. A trademark is always used as an adjective and never as a noun. Examples of proper trademark use include:



for business management services, Orvis® fishing equipment, and Hershey’s® chocolate. A trademark protects the owner’s investment in the goodwill represented by the trademark, and protects the general public from being misled. As with copyrights, a trademark need not be registered to be protectable.

### **What Chapters and Councils Should Do to Avoid Infringing Copyrights and Trademarks:**

***Question: Our Chapter wants to play a trout fishing video purchased by one of the members as the entertainment at next chapter meeting. Is this permissible?***

***Answer:*** No, you may not play the full video without the copyright owner’s permission. The owner of the copyright has the exclusive right to the performance of the work in a public setting, even if there are no charges for attendance. The same is true for recordings made by an individual from a broadcast program. If you want to request permission, use the form that is attached to this Guidance.

***Question: One of our members would like to include a short snippet of a copyrighted video as part of a discussion on conservation at a council meeting. Is this permissible?***

***Answer:*** Yes, as long as the segment of the video is a brief portion and is used for the purpose of facilitating a further discussion or illustrating a point of discussion at the meeting. There is an exception to the owner’s exclusive right of performance called “fair use” in which a non-copyright owner’s use of a copyrighted work may be determined to be “fair” and non-infringing. This is a complicated area of the law, but, in general, as long as only a small part of the work is used by the chapter or council in the course of a meeting for the purpose of, e.g., teaching or research, that use will most likely be a “fair use”.

***Question: As part of our chapter meeting, one of the members would like to play a YouTube Video, either downloaded from the internet or by direct wifi link at the meeting. Is this permissible?***

Answer: If the YouTube video was created by the member, then that member owns the work and it can be played at the meeting. If the video was created and posted by someone else, then the answer frequently depends upon whether the video was downloaded or not. Some videos are intended by the author who posted the video to YouTube to be publicly available. Usually, where the author of the work has claimed a copyright, the video may not be downloaded directly from the YouTube site and the video should not be otherwise copied and played at the meeting. So, as a general matter, if the video can be downloaded directly from YouTube, you may play the copied video at a meeting. You may also use a Wifi link at the meeting to directly access YouTube.com and play a video for the members. Also, if you know who the author is, you can eliminate any doubt by obtaining permission to play the video.

***Question: Our chapter wishes to use in our newsletter a photo of a stream downloaded from the internet. Is this permissible?***

Answer: No, not unless you have permission from the author or it is from one of the many free image sites on the internet. One of the best sources of free images related to trout fishing is: [need URL]

***Question: Our council would like to reprint an article from a magazine to hand out at our next meeting. Is this permissible?***

Answer: No, not unless you have permission from the copyright owner (which may be the author or the publisher). Keep in mind that if you only wish to use a portion of the work as part of the meeting discussion, you are likely to be able to copy a small portion of the work under the doctrine of fair use, so long as the purpose for which the portion is used is the business of the Council.

***Question: At our Council meetings, we usually use PowerPoint presentations and we would like to include a thank you slide showing the identity of our supporters, including the trademarks of our corporate sponsors. Is this permissible?***

Answer: Yes, but not advisable. Many companies are extremely concerned about the use of their trademarks in situations not authorized by the company. In order to not alienate a supporter, it is always advisable to obtain permission before using a trademark. You can always use the name of the sponsor/supporter without using the trademark.

***Question: We are holding a raffle and will be giving away top of the line fly rod. We would like to include the trademark of the manufacturer in our promotional flyer. Is this permissible?***

Answer: Yes. In this situation, the use is likely fair use, since you are describing the goods, rather than the company and the use of the trademark facilitates an accurate description of the product.

***Question: If our chapter wants to obtain permission from a copyright or trademark owner to use the work or mark, how do we go about doing so?***

Answer: You should attempt to locate the owner of the copyright or trademark. In many situations, particularly with written works, the information concerning reprints or copyright consents will be shown on the title page or on the plastic case of the video. In other situations, you may have to do a little searching and investigation on the web to locate the contact information for the owner of the work or mark. At a minimum, your request should contain:

1. Title, author(s), or editor(s), edition number(s)
2. Exact amount of material to be used, preferably including a photocopy of the written material involved in the request
3. Number of copies to be made
4. Description of how the material is to be used, for what course, and the frequency of use if for more than one occasion
5. Process of duplication (photocopy, off-set, litho, ditto, etc.) or projection.

Attached to this Guidance is a suggested form of permission request letter for you to adapt and use.

## Permission Letter

Publisher  
Address

Dear Sir or Madam:

I am writing to ask your permission to [check, as applicable]

- Reprint
- Photocopy and disseminate
- Publicly perform

The following material:

- Photograph
- Video
- Trademark
- Written work

Described, as follows:

[Include description of the work or trademark]

The material will be distributed/published as follows:

Method of use:

Date of Use:

Extent of Distribution or performance:

Portion of work to be used:

If you do not solely control copyright or trademark in the requested materials, I would appreciate any information you can provide about others to whom I should write, including most recent addresses if available.

If you agree to the requested use, either please forward to me your standard license agreement or indicate your consent by signing the letter where indicated below and returning it to me in the self-addressed envelope enclosed with this letter.

Thank you for your consideration.

Sincerely

[name}  
[chapter or council of TU]

I am the owner of the copyrighted works described above [or trademark] and I give my consent to the use and only the use requested above.

\_\_\_\_\_  
Name: \_\_\_\_\_

Date: \_\_\_\_\_