

# How to: Mixed Media and Content Licenses

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In this era of user-generated content, everyone is creating websites, videos, audio remixes and the like, with linking, embedding and streaming of multiple media sources – each potentially released under its own license – into a new digital artifact or through a site. When uploaded to independent media hosts, such as Flickr or YouTube, the content's licensing may be affected. In a world of mixed media, how do you negotiate the potential minefield of legalese surrounding your content? How can you be creative and stay legal? And how do you protect your own digital creations when you put them out there for the benefit of millions of screaming fans?

To fully answer these questions you would need a law degree. But since most of us don't, I discussed them with license diva, Mia Garlick, a lawyer at the San Francisco CC office. We came up with a few basic guidelines to help the digital artists, writers, readers, bloggers, remixers and mash-up maestros of today be Web-enabled without being the target of the next Copyright Inquisition. The common scenarios below helped to illustrate the key points.

*Q: The footer of my site says: "Except where otherwise noted, this work is licensed under a Creative Commons Attribution-NonCommercial-ShareAlike 2.0 License." Then on the [Credits page](#) is a note: "Boy photograph courtesy of Charley (Note: this image is NOT creative commons)". Is this legally sound?*

*A: Yes, it is. But there are two concerns with this approach: i) the link to a site's credits is usually in the footer and is easily missed by users who don't scroll down to the bottom of the page, and ii) the definition of "work" in "Except where otherwise noted, this work ..." should be clarified where possible.*

To address the first issue, you should put any particular licensing information as close to the content as possible. For example, on the page showing a [photo of Forest Whitaker](#), the credit is right next to the image. Even better is to put that information in the alternative (ALT) text for the image, so that if you mouse-over the image the tool tip will display "Forest Whitaker. Photo: Vince Bucci, Getty Images, AFP". Of course the same would apply to video and audio files.

For the second issue, on the credits page of your site you should explain what you consider the "work" on the site to be. For example, "Except where otherwise noted, all text and images on the site are by Steve Vosloo." It is quite feasible for you to display logos or other trademarked material on your site, that is not for purposes of commercial gain or defamation. This constitutes "fair use"; an example of this in action is the text on the [Legal page on the iCommons site](#):

*The trademarks of other organizations, including our sponsors, may be included in the site from time to time and are the property of the relevant rightsholder and subject to their terms of use.*

*Q: I take a photo, or create a video, that inadvertently has public art and advertisements in the background. Do I need to give credit for these?*

A: No. This again falls into the realm of fair use. Since you're not making money off the art or ads, there isn't a problem.

*Q: I create a short movie, comprised of a video clip and three digital photos that I took, my voice-over and a royalty-free soundtrack song, which I bought from [Premium Beat](#). How do I communicate my content's licensing and that of the sound bite? Must I always create credits for the movie, shown at the end?*

A: When deciding where to indicate licensing information, it is again a case of "more is better". CC takes a three-pronged approach to this:

- 1) Include credit information in the media itself, e.g. credits shown at the end of a video or, as in the case of [Magnatune](#), a "shout-out" at the end of their try-before-you-buy audio tracks referring listeners to Magnatune.
- 2) Include credit information on the website or other source from where the content is being downloaded, e.g. on page for [American Bach Soloists Favorite Cantatas album](#) on Magnatune there is a clear link to license information for that album. If you upload your images to Flickr, the license information is displayed on the [photo page](#).
- 3) Embed the license information directly into the file. Currently this is only possible with MP3 audio files through [embedding of metadata](#) into the file itself. The CC developers have promised this functionality in additional formats – images, video, etc. – in the future.

In the example of the movie you created, what you need to say regarding the bought song all depends on the licensing Terms of Use for the third-party from where you bought the content. Sorry folks, but you have to read those terms and act appropriately! In the case of Premium Beat, they retain ownership of the file, even though you buy a worldwide "non-exclusive" license to play the song. You can't sell the song, though. Based on the [terms](#), the credit for this video should include the song information as follows: "Sounds of Samba'. Some rights reserved, PremiumBeat.com."

*Q: I upload the movie to YouTube.com. Now who has licensing rights to the piece?*

There are two fundamental issues to remember here. Number one: if the content is yours, you always own it. Assigning ownership to someone else can only happen in writing and with your signature. This is pretty much a universal truth. Number two: when posting your content to external sites you agree to their Terms of Use. This means that you don't lose ownership of the content, but you agree to whatever terms the company that operates the site has. Usually this means, granting that company a "worldwide, non-exclusive, etc." license to do certain things with your content. YouTube's Terms of Use include the following:

*For clarity, you retain all of your ownership rights in your User Submissions [your submitted content]. However, by submitting the User Submissions to YouTube, you hereby grant YouTube a worldwide, non-exclusive, royalty-free, sublicenseable and transferable license to use, reproduce, distribute, prepare derivative works of, display, and perform the User Submissions in connection with the YouTube Website and YouTube's (and its successor's) business, including without limitation for promoting and redistributing part or all of the YouTube Website (and derivative works thereof) in any media formats and*

*through any media channels. The foregoing license granted by you terminates once you remove or delete a User Submission from the YouTube Website.*

As discussed on [Boing Boing](#) last July, this means that YouTube can make an advert for itself using a snippet of your uploaded video without having to pay you for it. Furthermore, any of its successor businesses, i.e. Google, can do the same. On the other hand, if this happens and you don't like it, you can delete your video off YouTube and they can't use it anymore.

A similar situation exists with MySpace.com, which is why the artist Billy Bragg decided to [pull his music off MySpace](#) based on their old terms. After [causing quite a stir](#), Bragg actually got MySpace to reword their terms, which now require you to grant less rights to them than before. Below is an excerpt from the updated MySpace Terms of Use (nicely worded, in fairly plain English. Thank you, MySpace):

*The license you grant to MySpace.com is non-exclusive (meaning you are free to license your Content to anyone else in addition to MySpace.com), fully-paid and royalty-free (meaning that MySpace.com is not required to pay you for the use on the MySpace Services of the Content that you post), sublicensable (so that MySpace.com is able to use its affiliates and subcontractors such as Internet content delivery networks to provide the MySpace Services), and worldwide (because the Internet and the MySpace Services are global in reach). This license will terminate at the time you remove your Content from the MySpace Services. The license does not grant MySpace.com the right to sell your Content, nor does the license grant MySpace.com the right to distribute your Content outside of the MySpace Services.*

Again, by posting your content onto this site you give some of your rights – not ownership, but other important rights – to MySpace and its affiliates, i.e. News Corporation.

As a final example to drive home the point, in [Fighting sites that hijack rights](#) Bill Thompson explains that the BBC News encourages members of the public to send in amateur news photos and assures that “you still own the copyright to everything you contribute”. But again, by sending in a picture you give the BBC the right to “publish and otherwise use the material in any way that [it] wants, and in any media worldwide”.

Of course some sites are more user rights-friendly than others, e.g. [Blip.tv](#) for video and [Flickr.com](#) for images. When uploading photos to Flickr an All Rights Reserved license (for the person uploading the images) is applied by default. The site also offers the option of various CC licenses. An interesting blunder happened in late January, though, when Yahoo!, who owns Flickr, broke its own [Terms of Service](#) by streaming Flickr images tagged with “wii” – regardless of their license – onto the Yahoo! Wii portal page. Users responded almost immediately with [outrage](#) and an impressive display of mass online civil disobedience that involved tagging any Flickr image with “wii” and thereby polluting the Flickrstream. The result ranged from the [funny](#) to the mildly unsavory. Yahoo! soon realized their mistake and rectified it.

The bottom line is, **read the fine print** and make sure you're happy with the terms of a particular media hosting service. The exposure that you enjoy on sites like YouTube, MySpace or BBC News might be tempered by what you have to give up.