

THE **RPS**

ROYAL  
PHOTOGRAPHIC  
SOCIETY

GERMANY  
CHAPTER

# A GUIDE ON HOW TO LICENSE YOUR PHOTOGRAPHIC WORK



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# 01

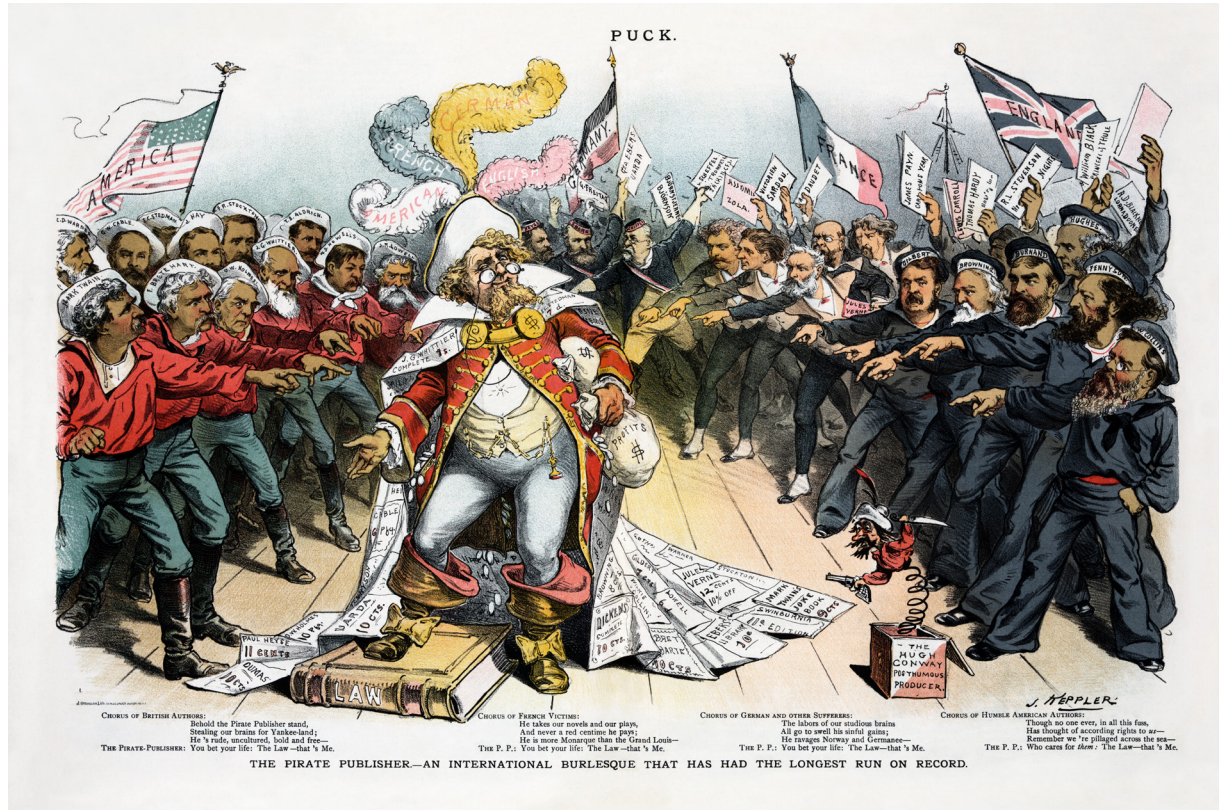
## The Copyright Law



## Legal basis for Copyright protection

- In **Germany**, the corresponding regulations are primarily defined in the Copyright Law / Urheberrechtsgesetz (2018)
- In the **UK**, the Copyright Law is governed by the Copyright, Designs and Patent Law (1988)
- The Copyright Law of the **European Union** (Directive 2006/116/EC)
- **Berne Convention** for the Protection of Literary and Artistic Works (1979)

# A Guide on how to license your Photographic Work



Original artist: Joseph Ferdinand Keppler (1838-1894) Restoration: Adam Cuerden



## What does the Copyright Law stipulate?

- The Copyright Law is considered **the central body of legislation on Copyright**
- Among other things, it **defines the various rights of authors and the conditions** that an intellectual creation must fulfil **in order to enjoy copyright protection**
- Subject to **extensive adaptations and changes**
- Ensuring that the rules do not completely lose touch with **technological and social developments**

## Intellectual Property Rights

### Copyrights

#### Copyrights

Protect rights of authors of novels, musicals works, films, computer programs, etc.

#### Neighboring Rights

Performers (Singer, Musicians)  
Producers of phonograms  
Broadcasting organizations  
Wire diffusion organizations

### Industrial Property Rights

Patents, trademarks, utility model rights, design rights, etc.

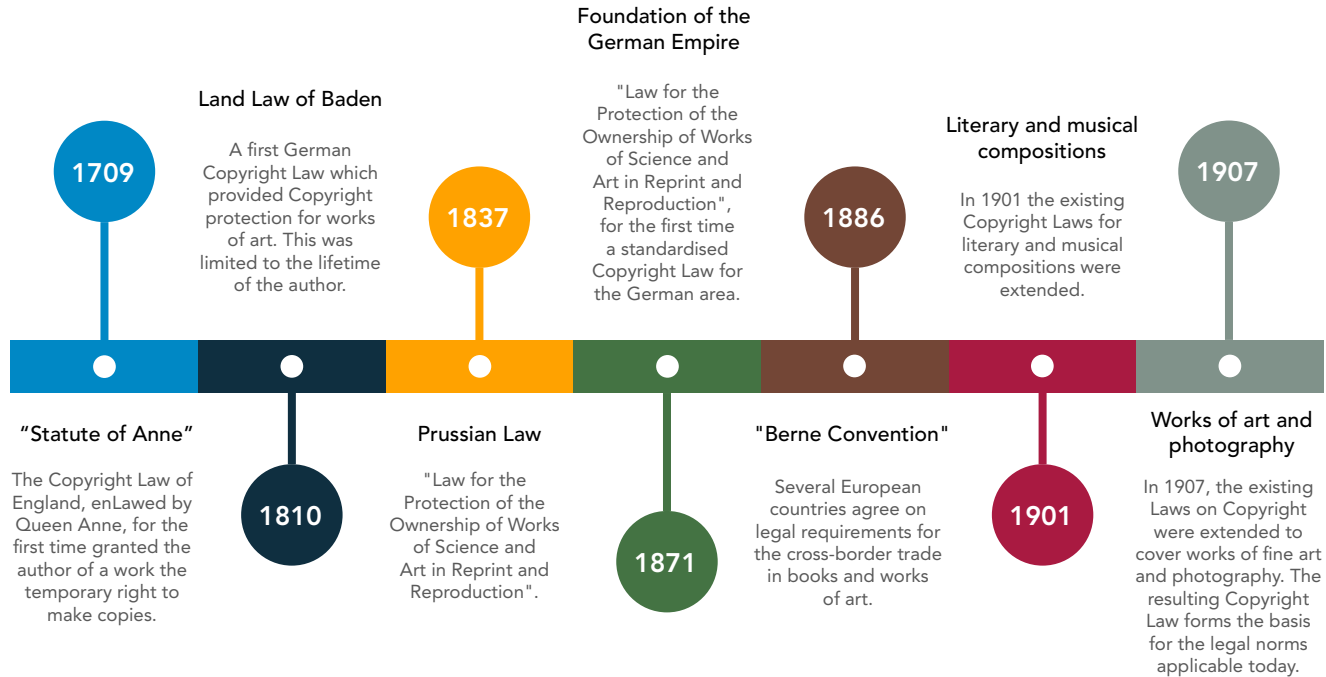


# The history of Copyright Law

- The “**Statute of Anne**” of 1709 is considered a milestone in the development of today’s legal norms.
- For the first time, the Copyright Act from England granted the author of a work the temporary right to make copies.
- This copy right - issued by Queen Anne was intended to help promote learning.
- A **first German copyright law was introduced in 1810** in the new Land law of Baden. This provided copyright protection for works, which was limited to the lifetime of the author.



# A Guide on how to license your Photographic Work



# What does the current Copyright Law cover?

**"The authors of works of literature, science and art enjoy protection for their works in accordance with this Law."**



What criteria a person must meet to be considered an author and even if the work is considered worthy of protection



**Definition to Intellectual Property and Ownership**



## What is a work under Copyright Law?

**“Only personal intellectual creations from the various fields of literature, science and art can be considered as protected works”**

- Linguistic works, such as written works, speeches and computer programmes
- Works of music
- Pantomime works including works of dance art
- Works of visual arts, including works of architecture and applied arts, and drafts of such works
- **Photographic works, including works created in a similar way to photographic works**
- Cinematographic works, including works created in a similar way to cinematographic works
- Representations of a scientific or technical nature, such as drawings, plans, maps, sketches, tables and sculptures

# Photographic works under Copyright Law

## PHOTOGRAPHIC WORKS

Characterised by their personal intellectual creation and reach a certain level of creativity and individuality

Copyright protection continues to apply **70 years** after the death of the author and is then passed on to his heirs.

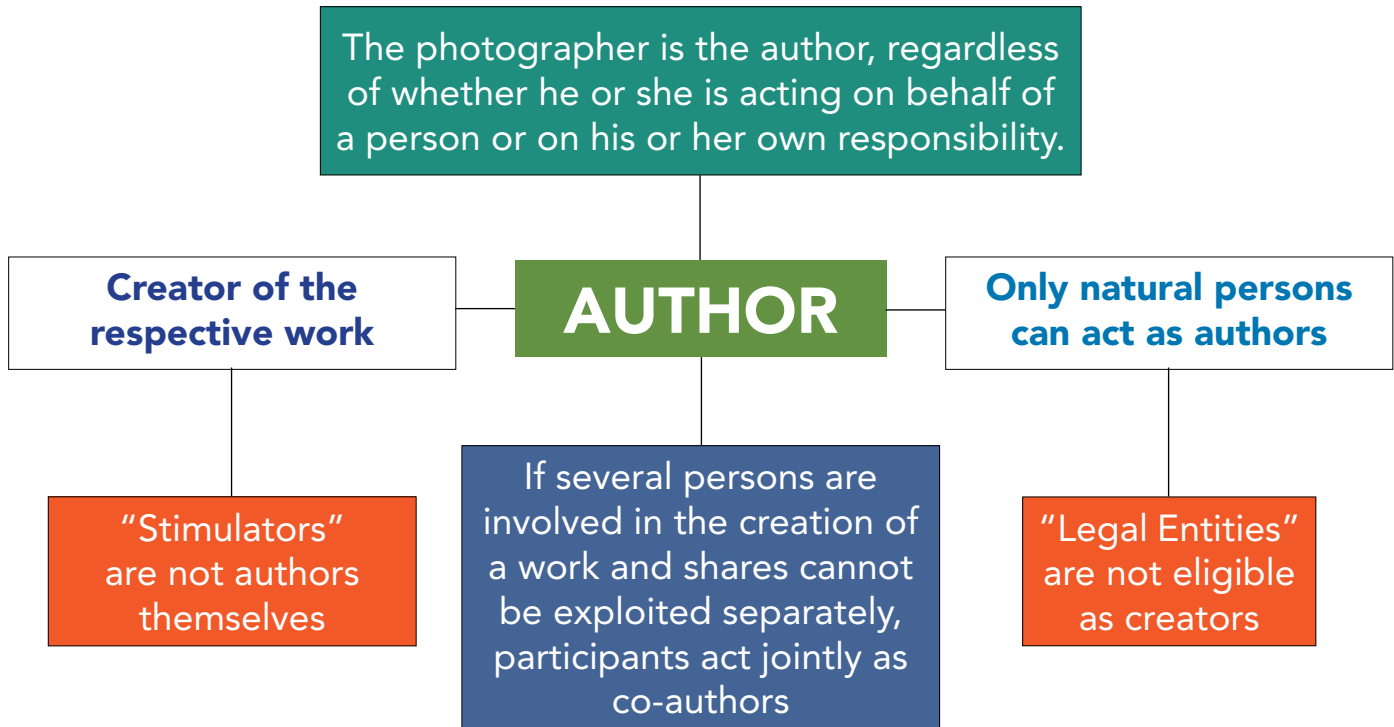


## PHOTOGRAPHS

An unaltered and lifelike reproduction (i.E. Event Documentation, Product Photography)

Copyright protection continues to apply **50 years** after the death of the author.

## Who is considered an author in the Copyright Law?



# The rights of the author



## Exploitation and usage rights according to Copyright Law

**If third parties wish to exploit a copyrighted work in any form, they need the permission of the creator!**

Among the exploitation rights listed in the Copyright Law are:

- Reproduction right: making copies of the respective work
- Distribution right: distribution or sale of copies made
- Exhibition Law: Public exhibition of pictures or works of fine arts
- Right of lecture, performance and demonstration: presentation of a text work, performance of a musical or theatrical work
- Right of public access: making creations available on the Internet

**RIGHTS OF USE AND  
EXPLOITATION**

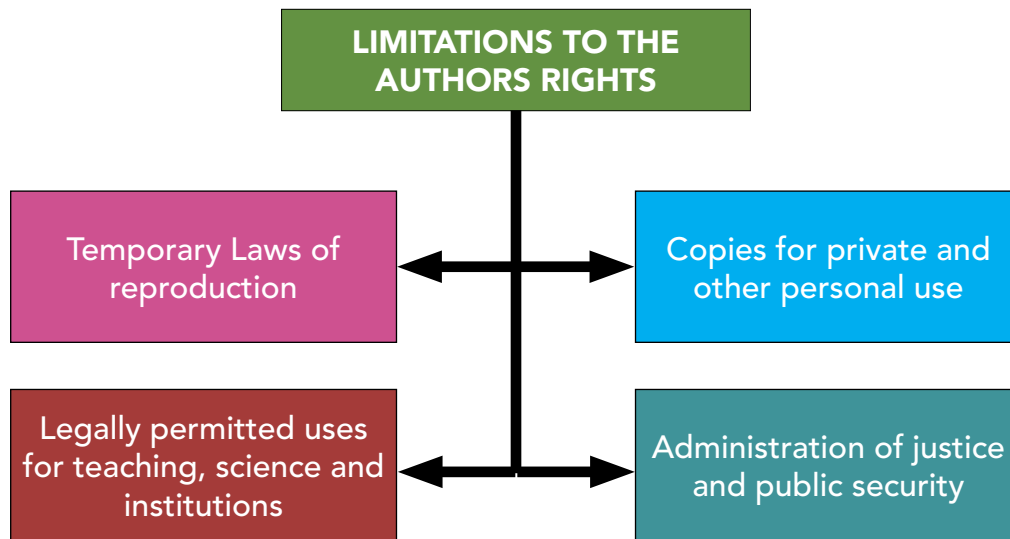


Unlikely Moral Rights,  
transferable to a certain extent



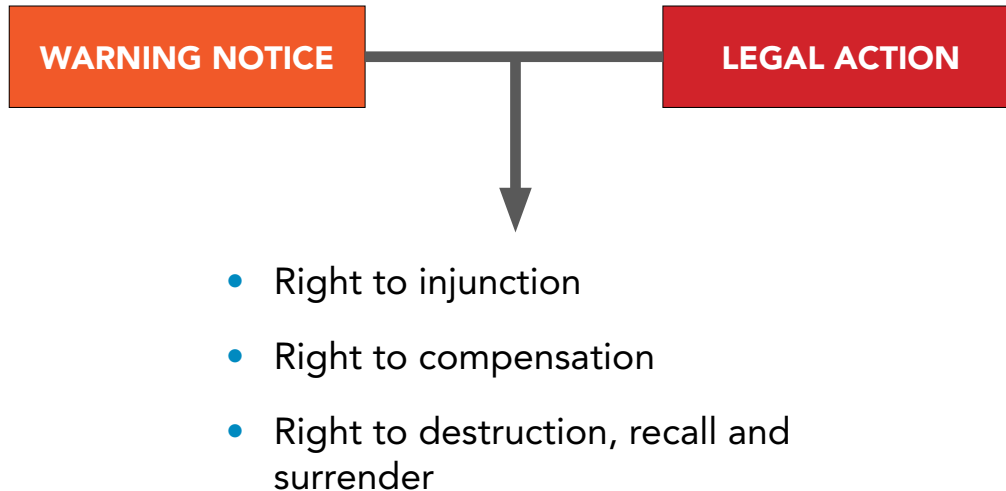
**3RD PARTIES**

# Limitations in Copyright Law





## How can you take action against a Copyright infringement?



As a rule, the injured parties use the warning notice, a civil Law option to avoid legal Action.

## Links to “Copyright Law”

<https://www.gov.uk/intellectual-property-an-overview>

<https://www.gesetze-im-internet.de/urhg/BJNR012730965.html#BJNR012730965BJNG000101377>

<https://en.wikipedia.org/wiki/Copyright>

<https://www.copyright.gov/help/faq/faq-general.html>

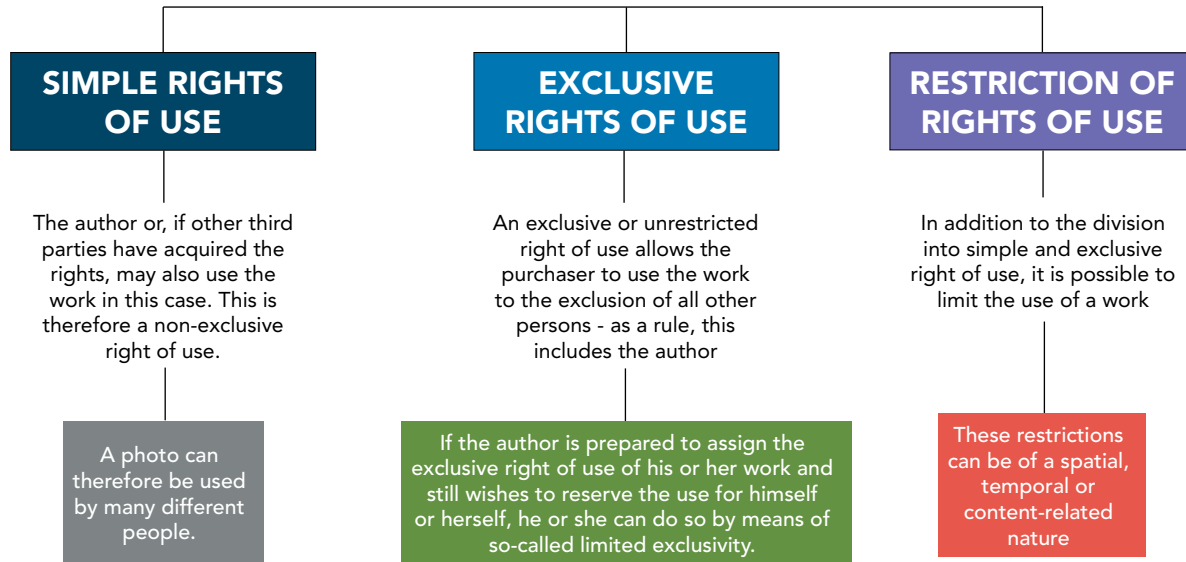
<https://www.wipo.int/copyright/en/>

<https://global.oup.com/booksites/content/9780198259466/15550001>

# 02

## The rights of use

# Rights of use in photography



## How do photographers draft their license agreement?

Although there are no mandatory content requirements due to the freedom of contract, some points are typically regulated in a licence agreement:

- Types of right of use granted
- Duration, content and spatial modalities of photo licenses
- The type of use
- The author's name
- The right to edit



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# What else to consider when licensing a photograph?

- To regulate the right to grant sub-licenses and transfer rights
- A rights guarantee can be useful, it confirms that the licensor really owns the rights and may pass them on
- To specify the purpose of the commission



**To avoid conflicts with the licensee, the licence terms should be defined as precisely as possible!**



## How do you determine the royalty for an image?

The amount of the license fee can be determined freely and depends on various factors:

- The types of use permitted
- The duration and the place where the photo license is valid
- Whether a simple or an exclusive right of use is granted
- Whether the author must be named

Many stock agencies have a calculation tool that gives a rough overview of what amount is usual for which types of use.

National Journalist Organisations also providing price reference books and tools for calculation.



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## Pre-formulated licensing terms: CC Licences

Those who are primarily concerned with the distribution of their images have other options than complex and costly licensing agreements.

- Free licensing with the generator from Creative Commons
- Publishing with out reserving any rights

### The Spectrum of Rights





## Creative Commons Licenses

- A non-profit organisation
- Handy tool makes it quick and easy to create Creative Commons (CC) licence
- Simplified licensing schemes that are standardised and valid throughout the world
- Pre-formulated licensing terms eliminate the need for costly contracts and image users can see at a glance whether the licence is suitable for their use
- Photographers use Creative Commons licenses to promote themselves and their images. Use is free of charge, the works are usually widely distributed



### Attribution

Other can copy, distribute, display, perform, and remix your work if they credit your name as requested by you.



### No Derivative Works

Other can only copy, distribute, display or perform verbatim copies of your work.



### Share Alike

Others can distribute your work only under a licence identical to the one you have chosen for your work.



### Non-Commercial

Others can copy, distribute, display, perform or remiy your work but for non-commercial purposes only.

Drawback is that CC licenses are irrevocable. Once the images have been published under a CC licence, the free licence cannot be revoked.



## Links to “Image Licensing”

<https://www.pixpa.com/blog/licensing-your-images-online>

<https://fineartamerica.com/imagelicensing.html>

<https://creativecommons.org/licenses/>

<https://www.bipp.com/Portals/0/PDF/TheBIPPGuidetoUsingImages.pdf>

<https://www.copyrightlaws.com/legally-using-images-presentation-slides/>

<https://www.nuj.org.uk/news/useitpayforit-guidelines-for-selling-your-pictures/>

# 03

## Protection against theft



# How do I protect my photos on the Internet?

Image theft on the internet is very common and affects almost everyone who puts their pictures online.

Research has shown that **about 85% of the more than three billion photos circulated on the net every day are stolen!**

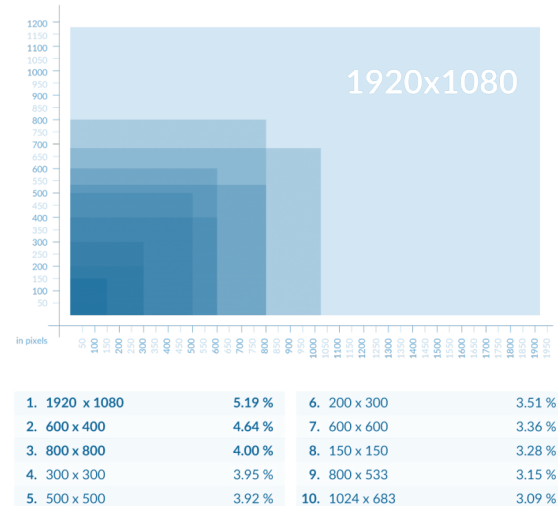


"Copyright shop, Fort, Mumbai, india.JPG" by gruntzooki is licensed under CC BY-SA 2.0

## Upload images in low resolution

### The easiest way to protect yourself against picture theft:

- You can reduce the resolution of your photos before uploading them.
- On high-resolution monitors the pictures then no longer look particularly good and your fans will still get an impression of your work.
- In surveys it was found that photos with an aspect ratio of 16 : 9 are preferred to be stolen.

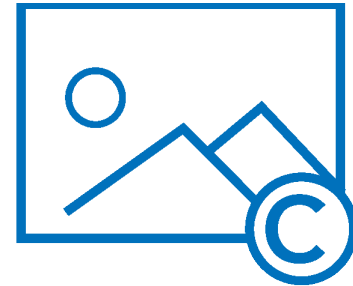


Global Infringement Report 2019 © COPYTRACK [www.copytrack.com](http://www.copytrack.com)

**This method does not offer a safe protection against picture theft, but picture thieves who need the photo in a better quality should be deterred.**

## Indicate copyright information

- An often-recommended protective measure is to clearly indicate on the website that your images are protected by copyright.
- If a licence must be purchased to use your images, make this clearly visible. In this way, every visitor will understand that your photos are not available for free.
- Also mention that you will have copyright infringements prosecuted and that penalties may be imposed.



- **Image Title**
- **Naming the Author**
- **Copyright Notice**

**Such information does not provide 100% certainty, but it does provide clarity and increases the inhibition threshold to use your images unlicensed.**

## Indicate author and source directly in the image

**"A general misconception is that images can be used freely on the Internet."**

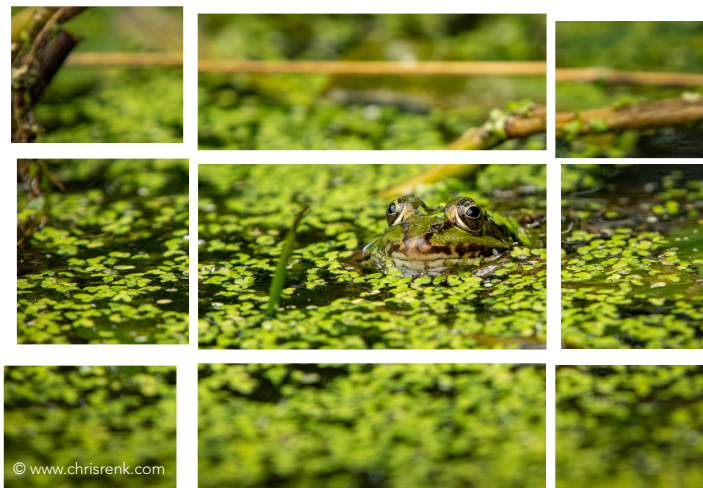
- This is partly due to the fact that Google still displays many images without precise information about their origin
- You should therefore name the author and the source directly in the image - for example at the bottom margin



**This way it is immediately visible to everyone who owns the image rights or where the image comes from**

## Further protection against picture theft

- Image protection with **watermark**
- **Overlay** images with **transparent file**
- Block **right mouse button**
- Prevent **screen shots** with **plug-ins**
- Uploading **split images**
- **Register** copyright





## **Find stolen pictures on the Internet**

Image theft on the net is widespread and difficult to detect. Over 3 billion images are shared on the Internet every day.

Around 85 percent of these images are used without a valid licence - that is image theft on a very large scale, causing enormous economic damage.

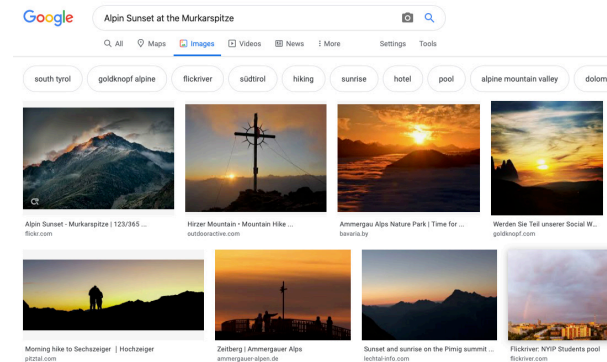
**The most common and effective methods for detecting all image plagiarism on the net are presented here:**

- The Google image search based on keywords
- Google's reverse image search
- Specialised image search service

# The Google image search based on keywords

Google image search is the most common method used to find stolen images on the Internet.

- It is best to search by keywords.
- Use as specific terms as possible that describe the image precisely.



The chances of success with this approach are very low, especially when it comes to uncovering unauthorised uses in other language areas

## **Find images with Google's reverse image search**

- Go to <https://images.google.com/>
- Click on the small camera symbol in the search bar (a window with the heading "picture search" will open)
- Select one of the 3 search methods:
  1. Paste into the search box the image URL that you see when you right-click on an image on the Internet and select "Copy image address".
  2. Click on "Upload image" and select one of your photo files.
  3. Drag and drop the photo from your computer into the "Image Search" window.
- The Google image search engine will now show you the results page.
- At the top you will see the different sizes in which the image is available.
- Below that, you will find assumptions about the title of the image as well as matching websites.
- In the middle you will see visually similar images. At the bottom you will also find pages with matching images.

## Find stolen pictures with a specialised picture search service

- Image search services make it much easier to find stolen images on the Internet.
- They are especially helpful for larger image collections, because you can search for thousands of photos at the same time, depending on the search service.
- Due to the automatic search, all results are quickly displayed in an overview and can be compared with the original pictures.
- Some search services also take care of the legal enforcement in case of picture theft and are an effective alternative to hiring a lawyer.

## **Find stolen pictures with a specialised picture search service**

Here a list of companies that provide such a service:

<https://lapixa.com>

<https://www.copytrack.com>

<https://pixolution.org>

<https://www.pixsy.com>

<https://photoclaim.com/en/>

**But beware: not all services are transparent and risk-free for you!**

# Caution: Not all image theft is the same



## Case 1: Image linking to social media

You scroll through Facebook and discover a photo you took in the Brazilian rainforest as a post by someone you follow. The post is about biodiversity and the person has linked your picture from your website so that it is displayed as a preview image. If you click on the picture, you will be directed to your website where the picture is located. There you can be clearly identified as the author. You can be happy, because the picture was only linked, it is not picture theft. Furthermore, the post is free advertising for you, which generates traffic for your website.



## Case 2: Re-upload on social media

In search of inspiration, you click through new profiles on Instagram and find your photo of a set of Teaspoon with spices, used without a valid licence in the profile of an amateur cook. Although the user has not purchased a licence from you and the picture is stolen, you will not suffer any economic loss. The hobby cook uses your picture for a private, non-commercial purpose. In this constellation, it is best to kindly ask the person to delete the picture. Since the economic damage for you is probably small.



## Case 3: Product image in online shop

You browse an online shop for collectors and discover a rocking Mainzelmännchen figure for which one of your product photos was used.

If you have not granted a valid licence for the image, this is clearly image theft.

You have suffered an economic loss, as this is an online shop - i.e. a commercial website - and the image contributes directly to the sale of the product. The operator should have asked you for permission or obtained a valid licence

## **Links to “Protection against Theft”**

<https://www.google.com/imghp?hl=EN>

<https://berify.com>

<https://wp-modula.com/protect-images-website-theft/>

<https://www.termsfeed.com/blog/sample-copyright-notice/>

<https://de.wordpress.org/plugins/wp-content-copy-protector/#installation>

# THE ROYAL PHOTOGRAPHIC SOCIETY

GERMANY CHAPTER