

Ethical Dressmaking

The vast majority of dressmakers and sewists are unaware of many legal aspects of their hobby or profession— aspects that can greatly affect their future. This article presents only a brief overview; for additional research, visit www.copyright.org and consult an intellectual property & copyrights attorney. (At the copyright office, you'll find information on patterns under Applied Arts, as well.)

There are two considerations when using patterns to make historic clothing: **copyright**, and **licensing**. A publisher holds copyright on the physical pattern pieces, the written instructions, illustrations, and written documentation of the pattern. The publisher holds licensing rights that define and govern the use of the pattern and the items it is used to produce.

The owner of the copyright (usually the designer and/or publisher) is the only person who can give written permission to act outside the general copyright and licensing laws. They can grant limited or sweeping permissions, refuse them altogether, or mandate fees for the use of the pattern in commercial circumstances.

The pattern designer and publisher own:

- The physical pattern, written instructions, and images drawn/ photographed for the pattern
- The rights to restrict use of the pattern
- The rights to use or restrict the use of the pattern for workshops and samples
- The rights to create & sell any derivative works or variations from the pattern

The majority of patterns are marked "For Home, Non-Commercial Use" (or with similar phrasing). But what does "Non-Commercial" mean?

You are a **home sewist** if you are sewing to dress yourself, family, and friends, and do not accept money, goods, or services (barter) for your efforts. When you purchase a pattern, or use a

published pattern (even the free patterns on our website), you "buy" the right to make garments from the pattern for **personal use**. You do not buy the rights to use the pattern for costuming the entire church play, for making charity auction items, or other "bulk" uses. (Now, if you have eight daughters, and one pattern, you're fine!)

If you accept money, goods, or services for your sewing efforts, you fall into a **commercial**, business category. Your ability to use published patterns is limited, and strict adherence to the legalities is important. Even if you have not officially "filed" as a business, you should adhere to ethical practices from the start, to avoid potential problems down the way.

Unless specific written permission is granted by the copyright and licensing right holder, in most cases it is **NOT LEGAL** for a dressmaker to:

- Buy one copy of a pattern to use for several clients
- Use one copy of a pattern to make multiple "off the rack" items to sell
- Use individual copies of a pattern to make "off the rack" items to sell

The only sure legal way for a professional sewist to use published patterns is to purchase and use a brand new copy of the pattern for each client, and custom-fit or adjust the pattern to that one client's individual body. The client can pay the dressmaker for her skill and time, and the publisher and designer are paid for the legal right to use that copy of that pattern for that client. (Using published patterns in this way also provides the revenue publishers need to stay in business and put out new patterns.)

Copyright Myths

Some of the most common copyright and licensing violations are made in complete innocence. Ignorance of the law won't protect a dressmaker who is sued by Simplicity®, though! And the penalties for violating copyright and licensing can be stiff, so it's best to use

Drafting From Original Garments

"Using patterns is a hassle!" I hear many dressmakers express this frustration. "I'm going to draft my own patterns off of the original item in Museum X, and avoid the whole thing!"

While copying original items is indeed an excellent way to learn about the period construction and materials, and excellent reproduction work is a treat to behold, anyone working from originals needs to be aware of the item's owner's rights.

In addition to copyrights and licensing rights, museums and owners of original items have property rights: the right to restrict access to their collections, and to restrict any patternmaking off their items (including the right to charge you a royalty fee).

Always ask for written permission before using someone else's original item as your drafting base.

any published pattern within the bounds of legality.

I Made Some Changes—It's a New Work and I Own It

This is a common misconception: that you can take an existing published pattern, change several design or construction details, and hold rights to the "new" work.

The old "3-Changes-And-It's-A-New-Work" rule was struck down by the courts well over a decade ago; it is not legal to use a published pattern as a base for your own published or sold designs, without permission from the owner of the copyright.

To stay legal, a dressmaker must start from her own base, even if she will be translating certain visual features from a drawing to her own design.

I'm Only Making a Few—I'm Not Really Commercial

If you accept goods, services, or payment for your work, you're going to fall into a "commercial" zone. Period.

It doesn't matter if you violate copyright and licensing with two dresses, or two hundred; the violation is the same, though the penalties will differ.

The penalties for copyright and licensing violations can range from civil judgments and monetary awards, to criminal prosecution... these are not things to be taken lightly! (You'll find hyperlinks to different sections of the copyright site from our Legal Department.)

One great thing about clothing from the mid-1800s is that the styles actually help you abide by the law! The personalized fit needed for good reproduction clothing means you really can't make "bulk" runs of most things (such as dresses or corsets), because you need some key measurements from the person who will wear the garment in order for it to fit correctly.

This means it really isn't a big deal to purchase a brand new copy of the pattern for each client, and adjust it to their individual body. (The cost of the pattern should be built into your labor and materials costs.)

No One Will Notice My Stuff

Not to sound preachy, but "getting away with it" doesn't mean you haven't violated an ethical standard. Even if no one ever sues you, **you** will know you've been less than honest in your use of another's work. That's not an upbeat way to live.

Ethical Dressmaking

With all these restrictions, what is an honest dressmaker to do? There are many options open, and one or more will be a good fit for your personal situation.

When In Doubt, Ask!

While Simplicity® won't grant you a commercial use permission (their copyright and licensing is very clear and unwavering on commercial use—read the fine print on the patterns!), many smaller designers may. You won't know until you ask.

You can do this by writing a polite letter to the publisher of the patterns you want to use. You'll want to introduce yourself, explain what you want to do

with their patterns, and ask what requirements and terms they have for commercial use of their designs.

Your answer back might be as casual as "Thanks for asking, go ahead and use the patterns as much as you like," to a very detailed usage agreement with fees. The details could range from "buy a new pattern for each client," to "keep track of how many times you use it, and pay \$X per use at the end of the year."

If you want to use their designs, abide by their restrictions.

Say, for instance, you want to use our infant patterns, and write us to ask about it. We'll tell you that they're for home sewing, but can be used by professionals if they purchase a new set of patterns for each client family, and that no pattern can be used to make "ready to wear" things.

You then have a choice: abide by this agreement, or do not use the pattern line.

Don't be afraid to ask about commercial use. Most designers are terribly flattered to hear that someone likes their designs well enough to use them professionally!

Go Back To Sources

Because clothing is a "useful item" which cannot be "copyrighted", any person can return to original sources, research and draft her own version of a garment, and publish a pattern for it, even if that finished pattern is similar to an already published pattern for the same item.

In general, this means that three dressmakers can copy a bodice style out of original magazines, and each can publish her own pattern; each holds the copyright and licensing for her version, and even though they are similar, each has an original work.

Since good documentation is vital in historic dressmaking, going back to original sources (images, publications, original garments) provides the research you'll want for your work.

Drape Your Own!

Draping is a method of pattern construction wherein the dressmaker creates a pattern right on the client's

body, by pinning, arranging, and draping a large square of muslin. This eliminates a step or two of drafting and fitting, and is quite a lot of fun, too.

When a dressmaker drapes a pattern on a client's body, the work and pattern are her own, and copyrighted to her should she choose to draw out the pattern.

There are many books available to help you learn and hone draping (including *The Dressmaker's Guide* and accompanying volumes); it's worth your time to get hold of a few yards of muslin, some straight pins, a pencil, and a friend, and just give draping a try.

You'll likely find that once you've seen the resulting pattern shapes of several different people, you'll have a better understanding of alterations, fitting solutions, and even "flat-pattern alteration." (Especially if you're a hands-on learner!)

When it comes to copyrights and the professional dressmaker, it pays to be aware of your legal obligations. Keep to the ethical side of dressmaking, and you'll find you work with the best clients!

Keep It Ethical!

If you sew, keep this checklist in mind:

- ✓ Be aware of copyrights!
- ✓ Ask permission for commercial use.
- ✓ Hone your drafting and draping skills, and make your own patterns!
- ✓ Do your own research.
- ✓ Use your best skills on every project.
- ✓ Never stop asking questions!