

Information on the use of out-of-commerce works at the National Széchényi Library



The main goal of the regulation related to out-of-commerce (OOC) works is to foster the educational and cultural accessibility of works in public collections that are no longer available on the market. For this purpose, the copyright law allows cultural heritage institutions (libraries, archives, etc.) **to make out-of-commerce works that are permanently in their collections available online, for non-commercial purposes**, either by facilitating licensing through a collective management organisation (CMO) or, in the absence of a CMO, ensuring free use.

Should the use be based on a licence agreement with a CMO (e.g. in the case of certain photographs, illustrations), it may include

- **copying and digitization (reproduction),**
- **publishing (reproduction and distribution),** and
- **communication to the public** (e.g. making online available, i.e. uploading to the interface of content providing services of NSL)

of OOC works.

Should the use be considered free use (e.g. in the case of literary works), it may include

- **copying and digitization (reproduction),**
- **communication to the public** (e.g. making online available, i.e. uploading to the interface of content providing services of NSL), and

- **distribution and adaptation (in case of software)**

of OOC works.

However, the **copyright holder may object** to the use of his/her work **at any time**. The right to object may be exercised both when the use is based on a license granted by the collective management organisation, and when it is a free use based on the application of the exception provided by the law. In either case, the objection may apply to a single work or to the whole collection of works of the copyright holder.

In the case of a **licence agreement with a CMO**, objection can be declared in a form of a private document providing full evidence submitted to the CMO. In this case, the rightholder objects to authorisation of the use of his/her work(s) as OOC work(s) through collective licensing. In such a case, ongoing use(s) should be terminated by the library by the last day of the affected calendar semester. This shall be subject to the condition that the rightholder submits its objection in time, by the last day of the third month of the relevant calendar semester.

In the case of **free use**, objection can be declared in a form of a private document providing full evidence submitted to the National Széchényi Library (NSL). If declaration in a form of a private document providing full evidence is received by the 15th of the given month, NSL shall terminate the use by the last day of the next month at the latest.

Collective management organizations on the website of the Hungarian Intellectual Property Office: kjk.sztnh.gov.hu/en/szervezetek_nev_szerint_angol [1]

Either in the case of free use or in the case of use based on a licence agreement with a collective management organisation, the rightholder can object via the Out-Of-Commerce Works Portal maintained by the European Union Intellectual Property Office (EUIPO).

General opt-out option for **all works** by the rightholder on the EUIPO website:

<https://euipo.europa.eu/out-of-commerce/#/ooc/generaloptout> [2]

The rightholders can demand an opt-out for their individual works by clicking on the "Request opt-out" button at the relevant records uploaded to the EUIPO database.

In the case of free use, the rightholder is not entitled to any kind of compensation for previous uses.

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Links:

[1] http://kjk.sztnh.gov.hu/en/szervezetek_nev_szerint_angol

[2] <https://euipo.europa.eu/out-of-commerce/#/ooc/generaloptout>