Open Licenses and GLAM: What makes sense?

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Creative Commons
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DISCLAIMER!
DISCLAIMER!
IANAL, TINLA, OMGWTFBBQ
Answers?
Sorry.
Caveats
• US Centric (mostly)

• Only really addressing stuff you create, not others'
Why me?
Previous Jobs:
Copyright Specialist @ U of Michigan Library
Open Education Specialist @ OpenMichigan

Current Job:
Edu Tech & Policy Coord @ Creative Commons
Quick, *quick, quick* refresher...
1. Something you created (eg: photograph, drawing, etc)
2. Not a derivative of something else.
1. Something you created (eg: photograph, drawing, etc)
2. Not a derivative of something else.
3. Great for not claiming any hypothetical or 'thin' copyright (eg: scans/photos of 2D PD material)
4. Maximal reuse potential.
1. NOT something you created*.
2. In the public domain (copyright expired) in at least some jurisdiction.
GLAM?
My recommendation...
Assuming:

1. No Fair Use/Dealing
2. PD (somewhere) source content
Controversial?
open.michigan
OER Clearing Casebook
1 Casebook
  1.1 General Statements
  1.2 Pictorial Works
    1.2.1 Paintings
    1.2.2 Charts
    1.2.3 Graphs
    1.2.4 Illustrations
    1.2.5 Cartoons
    1.2.6 Representations of Chemical Structures
    1.2.7 Computer Graphic
    1.2.8 Sketch or Drawing or Diagram
    1.2.9 Scientific Image
      1.2.9.1 Radiograph (X-Ray)
      1.2.9.2 Microscopy Image
      1.2.9.3 Histology / Pathology Slide Image
      1.2.9.4 Ultrasound scan
      1.2.9.5 Other
    1.2.10 Photograph
    1.2.11 Maps
    1.2.12 Screenshot
    1.2.13 Advertisements
    1.2.14 Book & Magazine Covers
    1.2.15 CD, Record, DVD, Movie, etc
  1.3 Recording
  1.4 Text
  1.5 Trademark Uses
DISCLAIMER!
**Casebook**

This casebook is currently a work in progress. Do not accept the suggestions here as final answers.

None of the information presented below should be considered legal advice in any way. If you are in need of counseling on copyright or any other form of law, please seek the advice of a licensed attorney.
THIS CASEBOOK IS CURRENTLY A WORK IN PROGRESS. DO NOT ACCEPT THE SUGGESTIONS HERE AS FINAL ANSWERS.

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<table>
<thead>
<tr>
<th>Content Object</th>
<th>Explanation / Rationale</th>
<th>Recommended Action</th>
<th>Advanced Explanation / Rationale</th>
</tr>
</thead>
</table>
| A Reproduction of a Painting | - This image is an accurate representation of the original painting.  
- The original painting is in the public domain (published before 1923).  
- As such, this digital image is also in the public domain. | Mark as: Retain: Copyright Analysis | Effectively, the copyright status of the faithful reproduction (e.g., scan or photograph) of an artwork is determined by the copyright status of the original artwork. This is because there is no new creative expression.  
**Case Law:**  
  - *Cornell Law*. *Wikipedia* |
| A Reproduction of a Painting | - This image is an accurate representation of the original painting.  
- The original painting, however, is still protected by copyright (not in the public domain).  
- As such, this digital image is also protected by copyright. | Mark as: Remove & Annotate  
(or Search for a replacement) | The reproduction (the scan/photograph) of the original is governed by the copyright of the original.  
**Case Law:**  
  - *Cornell Law*. *Wikipedia* |
<table>
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</thead>
</table>
| A Basic Chemical Representation | - This is a chemical representation.  
- The essential purpose of this image is to represent the composition of a chemical.  
- This depiction shows common/standard /typical/ordinary/basic /routine choices for chemical compositions. | - Mark as:  
Retain:  
Copyright Analysis | - There really is no other basic way to represent this chemical structure. The idea has merged with the expression, and as such, the image is not subject to copyright protection. |

**Statute**
- 17 U.S.C. § 102(b)- In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

**Case Law:**
- *Morrissey v. Procter & Gamble* 379 F.2d 675 (1st Cir. 1967) - when there is only one or a few ways of expressing an idea then courts will find that the idea merges with the expression and the work is not subject to copyright protection. This is a natural outflow of the Court’s reasoning in *Baker v. Seldon*.
  - resource.org/courts.gov
- *Atari, Inc. v. North American Phillips Consumer Electronics*, 672 F.2d 607 at 616 “incidents. Characters, or settings which are as a practical manner indispensable, or at least standard, in the treatment of a given topic,” are not subject to copyright protection.
<table>
<thead>
<tr>
<th>Image</th>
<th>Description</th>
<th>Mark as:</th>
<th>Case Law:</th>
</tr>
</thead>
<tbody>
<tr>
<td><img src="image1" alt="Map" /></td>
<td>This is a map of a fictitious location.</td>
<td>Remove &amp; Annotate (or Search for a replacement)</td>
<td>Maps can be very tricky. This is a map of a fictitious location, and as such, is at the heart of creative expression, and merits strong copyright protection.</td>
</tr>
</tbody>
</table>
| ![Satellite](image2) | This is a satellite photographic map. | Retain: Copyright Analysis | Case Law:  
- As a satellite map, this image is a faithful representation of its subject matter, and therefore does not enjoy copyright protection.  
- *Meshwerks, Inc. v. Toyota Motor Sales, U.S.A., Inc.* - there is no copyright protection when the purpose is to faithfully represent the underlying object, to depict the object as the object "is."  
  - ca10.uscourts.gov |
| ![Topographical](image3) | This is a topographical map. | Retain: Copyright Analysis | As a topographical map, this image is a faithful representation of its subject matter, and therefore does not enjoy copyright protection.  
Case Law:  
  - Cornell Law ☞, Wikipedia  
- *Hoehling v. Universal City Studios, Inc.*, 618 F.2d 972 (2nd Cir. 1980)  
  - Cornell Law ☞  
btw.....
Meshwerks v. Toyota

From Wikipedia, the free encyclopedia

Wikipedia does not have an article with this exact name. Please search for Meshwerks v. Toyota in Wikipedia to check for alternative titles or spellings.

- Search for "Meshwerks v. Toyota" in existing articles.
- Look for pages within Wikipedia that link to this title.

Other reasons this message may be displayed:

- If a page was recently created here, it may not yet be visible because of a delay in updating the database; wait a few minutes and try the purge function.
- Titles on Wikipedia are case sensitive except for the first character; please check alternative capitalizations and consider adding a redirect here to the correct title.
- If the page has been deleted, check the deletion log, and see Why was the page I created deleted?.

Look for Meshwerks v. Toyota on one of Wikipedia's sister projects:
- Wiktionary (free dictionary)
- Wikibooks (free textbooks)
- Wikiquote (quotations)
- Wikisource (free library)
- Wikiversity (free learning resources)
- Commons (images and media)
- Wikinews (free news source)
Hoehling v. Universal City Studios, Inc

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- Wikibooks (free textbooks)
- Wikiquote (quotations)
- Wikisource (free library)
- Wikiversity (free learning resources)
- Commons (images and media)
- Wikinews (free news source)
American Institute of Architects v. Fenichel

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Restorations?
Other questions?

Thanks!

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