

# Copyright for dummies

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Presented by BU Rob I3 – burob13@gmail.com at Wikimania 2017

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# Why copyright?

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- “Copyright is a legal right created by the law of a country that grants the creator of an original work exclusive rights for its use and distribution.” ~ *Copyright* article on English Wikipedia
- When a text or image is under copyright protection, a third party (Wikipedia!) can only use the work by permission of the copyright holder.
- Copyright infringements can pose a substantial legal risk both to the Wikimedia Foundation and to editors who upload infringing content. More importantly, we want to respect the rights of copyright holders and encourage them to offer up portions of their content for free.

# Why “for dummies”?

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- Copyright is notoriously complex and difficult to understand. Most editors know that we can't upload a random image found on the internet, but when we go beyond obvious copyright infringement, most are completely lost.
- It doesn't have to be this way! Understanding the complexities of copyright may be difficult, but you don't need to understand everything when editing Wikipedia.
- Any editor can feel comfortable with copyright so long as they learn when they need to seek out help and where to find it.

# Who's the copyright holder?

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- The creator of a work owns the copyright.
- If I paint a painting and you buy it, I'm still the copyright holder unless we draw up a contract specifying that I'm also selling you the copyright to the painting. This type of transfer is *extremely* rare.
- If someone is hired to create a work, the copyright sometimes transfers to the employer. This is fact-specific and depends on the country. In general, you should not assume this.
- When a copyright holder dies, their copyrights transfer to the beneficiaries of their will. This usually means children and/or spouses.

# What images are acceptable on the English Wikipedia?

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- Works that are in the public domain in the United States. A work enters the public domain in a particular country when its copyright term expires.
- Freely-licensed works. A copyright holder can release their work under a “license” which allows use by anyone for free, subject to certain conditions.
- Limited non-free content/fair use. Copyright law contains limited exceptions to allow copyrighted works to be used even without the copyright holder’s permission. Fair use is beyond the scope of this presentation, but see [en:WP:NFC](#) and [en:WP:NFCC](#) for more.

# What images are acceptable on Wikimedia Commons?

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- Works that are public domain in the United States *and* the source country. The source country is whichever country the work was created in.
- Freely-licensed works.

# Which freely-licensed works are acceptable?

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- For use on the English Wikipedia or the Wikimedia Commons, a license must have the following characteristics:
  - Allows use by anyone for free. We do not accept “Wikipedia only” licenses/permission.
  - Allows commercial use, not just non-commercial use.
  - Allows the creation of derivative works (new works based on the original work).
  - Irrevocable. The copyright holder cannot later decide to revoke the license on their works.
- We do allow some restrictions on how freely-licensed works may be used. At most, we accept the following restrictions:
  - Attribution to the author (or copyright holder).
  - ShareAlike. Derivative works must be shared under a similar free license.

# What common licenses meet these criteria?

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- Creative Commons Public Domain Dedication (CC0)
  - Allows use by anyone for free with no restrictions
- Creative Commons Attribution (CC BY)
  - Allows use by anyone for free, with attribution to the author
- Creative Commons Attribution-ShareAlike (CC BY-SA)
  - Allows use by anyone for free, with attribution to the author and the ShareAlike restriction
- GNU Free Documentation License (GFDL)
  - Allows use by anyone for free, with attribution to the author and the ShareAlike restriction. Full text of the license must be available with the work.
- Note that these licenses are often accompanied by version numbers (CC BY 3.0), but the versions are similar.



# Where do I find out if a license is acceptable? or Where can a copyright holder pick the right license for them?

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- You can find a great resource for choosing an appropriate free license at [c:Commons:Choosing a license \(c:COM:CAL\)](#).
- That page also contains an overview of which license restrictions are acceptable and which aren't.



# What's in the public domain?

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- Each country sets their own standards for when a work's copyright term expires.
- Usually, these restrictions are for a set number of years after either creation of the work, publication of the work, or the death of the author of the work.
- In the United States, all works published before January 1, 1923 are in the public domain.
- Some works published in later years are also in the public domain, but things get complicated. You can find a chart explaining the copyright duration of works first published in the United States at [en:WVP:PD](#).

# Copyrights of works first published in US

<b>Year of first publication</b> <b>Note: publication is not creation</b>	<b>Copyright duration</b>
<ul style="list-style-type: none"> <li>* before 1923</li> <li>* during 1923-63: without notice, or with notice but not renewed within 28 years of first publication</li> <li>* during 1964-77: without notice</li> <li>* from 1978 to March 1, 1989: without notice and without registration within 5 years of first publication</li> </ul>	Work has entered US public domain
<ul style="list-style-type: none"> <li>* during 1923-63: with notice and renewed</li> <li>* during 1964-77: with notice</li> </ul>	Copyrighted for 95 years after first publication
<ul style="list-style-type: none"> <li>* from 1978 to March 1, 1989: pre-1978 creation with notice, or without notice but registered within 5 years of first publication</li> <li>* from March 2, 1989 to 2002: pre-1978 creation</li> </ul>	If author is known, copyrighted until the later of either 70 years pma or Dec 31, 2047. If author is unknown or corporate authorship, the earlier of 95 years after first publication or 120 years after creation, but not earlier than Dec 31, 2047.
<ul style="list-style-type: none"> <li>* from 1978 to March 1, 1989: post-1977 creation with notice, or without notice but registered within 5 years of first publication</li> <li>* from March 2, 1989 to 2002: post-1977 creation</li> <li>* unpublished before 2003 (i.e. first published after 2002)</li> </ul>	If author is known, copyrighted for 70 years pma. If author is unknown or corporate authorship, the earlier of 95 years after first publication, or 120 years after creation.

Glossary:

\* pma: post mortem auctoris, or "after the author's death"

This looks complicated, but it's not that bad. First, find the publication date of the work in question. Then locate which box or boxes that date appears in and search for additional information to determine which copyright duration applies.

Example: A work is published in 1965. That means it has either already entered the public domain (if published without a copyright notice – ©) or will enter the public domain in 2061 (if published with a copyright notice).

Source:

[https://en.wikipedia.org/wiki/File:PD-US\\_table.svg](https://en.wikipedia.org/wiki/File:PD-US_table.svg)

# What's in the public domain in the source country?

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- Public domain works on Commons need to be public domain in both the United States and the source country. The rules for copyright in foreign countries vary dramatically.
- A table of basic copyright terms in most countries can be found at [en:Wikipedia:Non-U.S. copyrights](#) ([en:WP:NUSC](#)).
- More comprehensive information can be found on Commons at [c:Commons:Copyright rules by territory](#) ([c:COM:CRT](#)) and its subpages (e.g. [c:Commons:Copyright rules by territory/United Kingdom](#)).

# Where do I go for help?

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- IRC: #wikimedia-commons on the Freenode network
  - <https://webchat.freenode.net/?channels=#wikimedia-commons>
  - More details on how to connect at en:WP:IRC.
- Commons Help Desk (for simple inquiries): c:COM:HD
- Copyright Noticeboard on Commons (for advanced inquiries): c:COM:VPC
- English Wikipedia “Media copyright questions” page: en:WP:MCQ
- When in doubt, ask any editor familiar with copyright. We’re happy to help!
  - en:User talk:BU Rob I 3
  - c:User talk:Revent
  - Check the process for file deletions on your local wiki. Most editors commenting on those discussions are likely able to help you.

# Advanced copyright topics – What am I looking for?

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- There are many other concerns when figuring out whether a work is sufficiently free for use on the English Wikipedia or the Wikimedia Commons. Time permitting, I'll briefly discuss each of the following:
  - Derivative works
  - Freedom of panorama
  - *De minimis*
  - Threshold of originality

# Derivative works

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- Say I paint a painting. You make a shirt that has a picture of my painting on it. Have you infringed upon my copyright?
- Yes! When one work contains elements of another copyrighted work, the new work is considered a “derivative work” of the first. It is literally “derived” from the first work.
- In this case, we would need both the original work and the derivative work itself to be suitable for inclusion on the English Wikipedia and/or Wikimedia Commons.
- Resources:
  - [c:Commons:Derivative works \(c:COM:DW\)](#)
- Questions to ask yourself:
  - Is there anything creative in this work that wasn't created by the artist herself? If so, it's likely a derivative work.
  - Is the work based on another work? If so, it might be a derivative work.

# Freedom of panorama

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- I go outside and take a picture of my house, which I did not design. Can I post that online?
- It depends where I live.
- Freedom of panorama is a copyright exception available in many countries that allows one to freely photograph certain works that are permanently affixed in a public area. Buildings and 3D works (sculptures, etc.) are commonly eligible for freedom of panorama.
- In the United States, freedom of panorama applies only to buildings.
- The laws elsewhere vary. For example, there is no freedom of panorama at all in France.
- For the purposes of the English Wikipedia and the Wikimedia Commons, we accept images of works that fall under freedom of panorama in the source country.



# Freedom of panorama (cont.)

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- Resources:
  - [c:Commons:Freedom of panorama \(c:COM:FOP\)](#) – contains detailed information on the laws of each country
- Questions to ask yourself:
  - Does this picture depict a copyrighted building or work of art in a public place? If so, ensure that freedom of panorama applies in the country the image was taken.

# *De minimis*

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- I take a picture of someone. In the far background is a billboard that contains copyrightable images. Did I commit a copyright infringement?
- No, I did not.
- *De minimis* (Latin for “about minimal things”) is a copyright concept that states some uses of copyright material are so small that they are not a violation of copyright law.
- When determining whether the appearance of copyrighted material in a work is *de minimis*, you must look at it holistically.
- *De minimis* cannot be applied as a “workaround” to depict copyrighted material. It only applies when the copyrighted material is incidental.

## De minimis (cont.)

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- Note that context matters here. If I show a picture of a subject wearing a shirt with a band logo on it on the article of the subject, this is likely *de minimis*. If I show that exact same picture on the article of the band to depict the logo, it is no longer *de minimis*. In particular, cropping a photo to depict the previously-minimal copyrighted material can cause problems.
- Resources:
  - [c:Commons:De minimis \(c:COM:DM\)](#)
- Questions to ask yourself:
  - Does the copyrighted material change the work in a substantial manner? Would the work be different if the copyrighted material were removed? If no to both, it's possible that the appearance of copyrighted material falls under *de minimis*.

# Threshold of originality

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- I draw a circle on a piece of paper. Is that copyrighted?
- No, it is not. A circle does not pass the threshold of originality.
- In order to be copyrightable, a work must be sufficiently creative and original. This doesn't mean it has to reflect artistic talent, but it does have to contain some “spark of creativity” on the part of the artist.
- If a work fails the threshold of originality, it is ineligible for copyright. Such works are in the public domain.
- In the United States, simple typefaces and geometric shapes are not eligible for copyright. This most often applies to company logos. If the logo is just a box with their name written inside, it fails the threshold of originality.

# Threshold of originality (cont.)

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- Outside the United States, standards vary wildly. You should seek assistance, even if it looks extremely simple. For instance, Australia's threshold of originality is extremely low, meaning even the most simple works of art or designs may be eligible for copyright. For foreign works, seek help in determining their copyright status.
- Resources:
  - [c:Commons:Threshold of originality \(c:COM:TOO\)](#) – some examples are out of date
- Questions to ask yourself:
  - Is the work from the United States and contains only words and very simple geometric shapes (circles, squares, triangles)? If so, it may fail the threshold of originality.
  - Is the work foreign and looks simple? If so, it's possible the work fails the threshold of originality, but seek advice from an experienced editor who deals with advanced copyright issues.

# And we're done!

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- You don't need to know everything we learned today perfectly. It's quite a lot.
- Instead, you want to be able to look at an image and know what questions you need to ask and where you can seek the answers (online resources, experienced editors, etc).
- If you can do that much, you're much farther along than almost all other editors on the English Wikipedia!
- Don't be afraid to ask for help. I'd much rather answer a question today than find a copyright violation tomorrow!