FINDING THE PUBLIC DOMAIN: PRACTICAL RIGHTS REVIEW FOR MID-CENTURY COLLECTIONS

Katie Zimmerman,
Director, Copyright Strategy, MIT Libraries
January 7, 2020

“Technology’s Mascot,” MIT Class of 1898 25th Anniversary Book
Today’s topics

What is the public domain?

How to determine copyright status

Putting it into practice

Images public domain, courtesy of the British Library, http://www.flickr.com/photos/britishlibrary unless noted otherwise
WHAT IS THE PUBLIC DOMAIN?
How do things get into the public domain?

- Works that are not copyrightable to begin with
- Works of the US federal government
- Works placed in the public domain by their creators
- Works whose copyright has expired
Uncopyrightable works

- Facts
- Ideas
- Insufficiently creative arrangement of facts or ideas
Government documents

Works of the US federal government

“Copyright protection ... is not available for any work of the United States Government.” 17 U.S.C. § 105

(not state/municipal government)

http://copyright.lib.harvard.edu/states/
Volunteering for the public domain

Works placed in the public domain by their creators

CC0

“No Rights Reserved”

CC0 enables scientists, educators, artists and other creators and owners of copyright- or database-protected content to waive those interests in their works and thereby place them as completely as possible in the public domain, so that others may freely build upon, enhance and reuse the works for any purposes without restriction under copyright or database law.
Aging into the public domain

Works whose copyright has expired

The Congress shall have power ... To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

- US Constitution, Article 1, Section 8, Clause 8
The ever-expanding duration of copyright
January 1st, 2019

Work published

<table>
<thead>
<tr>
<th>Initial term</th>
<th>Renewal term under 1909 act</th>
<th>Renewal term under 1976 act</th>
<th>Renewal term under CTEA</th>
</tr>
</thead>
<tbody>
<tr>
<td>1923</td>
<td>1952</td>
<td>1976</td>
<td>1999</td>
</tr>
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(& check out [https://archive.org/details/mitlibrariespublicdomain](https://archive.org/details/mitlibrariespublicdomain) !)
PRACTICAL RIGHTS REVIEW
Resources

Is it in the Public Domain? Handbook

Copyright Term and the Public Domain in the United States

Never Published, Never Registered Works

<table>
<thead>
<tr>
<th>Type of Work</th>
<th>Copyright Term</th>
<th>In the public domain in the U.S. as of 1 January 2019</th>
</tr>
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<tbody>
<tr>
<td>Unpublished works</td>
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<td>Life of the author + 70 years</td>
</tr>
<tr>
<td>Unpublished anonymous and pseudonymous works, and works made for hire (corporate authorship)</td>
<td>120 years from date of creation</td>
<td>Works created before 1899</td>
</tr>
<tr>
<td>Unpublished works when the death date of the author is not known</td>
<td>120 years from date of creation</td>
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Works Registered or First Published in the U.S.

<table>
<thead>
<tr>
<th>Date of Publication</th>
<th>Conditions</th>
<th>Copyright Term</th>
</tr>
</thead>
<tbody>
<tr>
<td>Before 1924</td>
<td>None</td>
<td>None. In the public domain due to copyright expiration</td>
</tr>
<tr>
<td>1924 through 1977</td>
<td>Published without a copyright notice</td>
<td>None. In the public domain due to failure to comply with required formalities</td>
</tr>
<tr>
<td>1978 to 1 March 1989</td>
<td>Published without notice, and without subsequent registration within 5 years</td>
<td>None. In the public domain due to failure to comply with required formalities</td>
</tr>
<tr>
<td>1978 to 1 March 1989</td>
<td>Published without notice, but with subsequent</td>
<td>70 years after the death of author. If a work of corporate</td>
</tr>
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Cornell/Hirtle public domain chart
General assumptions & guidelines

- Mostly talking about printed media
- US copyright law

- Works published prior to 1924* are probably PD
- Works published after 1989 are probably not PD
- Works published outside the US can get tricky
Guiding Questions

- What?
- Where?
- When?
- Notice?
- Renewal?
What type of thing is the work you’re looking at?

Is it published or unpublished?
## Unpublished works

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<td>Unpublished works</td>
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<td>Works from authors who died before 1950</td>
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[https://copyright.cornell.edu/publicdomain](https://copyright.cornell.edu/publicdomain)
Kinda published works

“General publication”
- Sold in stores, available in libraries
- Made available to the public regardless of who they are or their intended use
- = published, use rules for published works

“Limited publication”
- Only available through public performance or exhibition
- Made available to a limited group for a limited purpose (“Do not Distribute”)
- = unpublished, use rules for unpublished works
For most of 20th century, US protection required compliance with US formalities.

1991 – US passes a copyright amendment to fix this.

Resulting in us “copyright restoration” for many works that were previously in the US public domain.
THE ATOM
AND
THE BOHR THEORY
OF ITS STRUCTURE
An Elementary Presentation

BY
H. A. KRAMERS
DIRECTOR OF THE INSTITUTE OF THEORETICAL PHYSICS IN THE
UNIVERSITY OF COPENHAGEN
AND
HELGIE HOLST
DIRECTOR OF THE ROYAL TECHNICAL INSTITUTE OF COPENHAGEN
WITH A FOREWORD BY
SIR ERNEST RUTHERFORD, F.R.S.

NEW YORK
ALFRED A. KNOPF
1923

Original Title: "Bohrs Atometori, almenfattelig fremstillet"
Translated from the Danish by R. B. LINDSAY,
Fellow of the American-Scandinavian Foundation,
1923, and RACHEL T. LINDSAY

https://archive.org/details/atombohrtheoryof00kram
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</tr>
<tr>
<td>1925 through 1963</td>
<td>Published with notice but copyright was not renewed</td>
<td>None. In the public domain due to copyright expiration</td>
</tr>
<tr>
<td>1925 through 1963</td>
<td>Published with notice and the copyright was renewed</td>
<td>95 years after publication date</td>
</tr>
<tr>
<td>1965 through 1977</td>
<td>Published with notice</td>
<td>95 years after publication date</td>
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<tr>
<td>1978 to 1 March 1989</td>
<td>Created after 1977 and published with notice</td>
<td>70 years after the death of author. If a work of corporate authorship, 95 years from publication or 120 years from creation, whichever expires first</td>
</tr>
<tr>
<td>1978 to 1 March 1989</td>
<td>Created before 1978 and first published with notice in the specified period</td>
<td>The greater of the term specified in the previous entry or 31 December 2047</td>
</tr>
<tr>
<td>From 1 March 1989 through 2002</td>
<td>Created after 1977</td>
<td>70 years after the death of author. If a work of corporate authorship, 95 years from publication or 120 years from creation, whichever expires first</td>
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Gathering information from the work

From: https://archive.org/details/tomboftutankhame00cart_1
Gathering information from the work of

Foreword

As a result of research extending over a period of years, and a study of the medical and scientific literature available, we have prepared from time to time bulletins giving chemical and therapeutic information in connection with the manufacture and use of "Difco" Digestive Enzymes and Animal Derivatives.

This material has been compiled and amplified. It is now presented to you in the form of a booklet which we believe will prove a convenient reference manual for the manufacturing pharmacist and chemist. The booklet comprises a summary of the available authoritative information on the subject of Endocrine, Digestive Enzymes and Protein Compounds.

Digestive Ferments Co.
Detroit, Michigan U. S. A.

August, 1923
Sec. 18. That the notice of copyright required by section nine of this Act shall consist either of the word "Copyright" or the abbreviation "Copr.", accompanied by the name of the copyright proprietor, and if the work be a printed literary, musical, or dramatic work, the notice shall include also the year in which the copyright was secured by publication. In the case, however, of copies of works specified in subsections (f) to (k), inclusive, of section five of this Act, the notice may consist of the letter C inclosed within a circle, thus: (C), accompanied by the initials, monogram, mark, or symbol of the copyright proprietor: Provided, That on some accessible portion of such copies or of the margin, back, permanent base, or pedestal, or of the substance on which such copies shall be mounted, his name shall appear. But in the case
<table>
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<tr>
<th>Type of Material</th>
<th>Books or Printed Publications</th>
<th>Periodicals</th>
<th>Musical Compositions</th>
<th>Pictorial, Graphical, or Sculptural Works</th>
<th>Sound Recordings created after February 15, 1972</th>
</tr>
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<td><strong>Notice Form and Elements</strong></td>
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<td><strong>Special form (required):</strong> (1) The symbol ℗ (2) Year of first publication (3) Author’s name, abbreviation of name, or generally known designation</td>
</tr>
<tr>
<td><strong>Example:</strong> “© 1974 Jane Doe”</td>
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<td><strong>Example:</strong> “© 1974 Jane Doe”</td>
<td><strong>Example:</strong> “© 1974 Jane Doe”</td>
<td><strong>Example:</strong> “ ℗ 1978 XYZ Records, Inc.”</td>
</tr>
<tr>
<td><strong>Acceptable Locations for Notice</strong></td>
<td>On the title page or the page immediately following the title page.</td>
<td>On the title page, on the first page of text of each separate volume number, or under the title heading.</td>
<td>On the title page or on the first page of sheet music.</td>
<td>The author’s name should appear in an accessible place, such as the margin, back, permanent base, or pedestal of the work.</td>
<td>On the surface of reproductions, or on the label or container the phonorecord is in, so long as it gives “reasonable notice.”</td>
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Foreword

As a result of research extending over a period of years, and a study of the medical and scientific literature available, we have prepared from time to time bulletins giving chemical and therapeutic information in connection with the manufacture and use of “Difco” Digestive Enzymes and Animal Derivatives.

This material has been compiled and amplified. It is now presented to you in the form of a booklet which we believe will prove a convenient reference manual for the manufacturing pharmacist and chemist. The booklet comprises a summary of the available authoritative information on the subject of Endocrines, Digestive Enzymes and Protein Compounds.

Digestive Ferments Co.
Detroit, Michigan U. S. A.

August, 1923
Copyright registration

1929 Copyright registration:

Via [1929 Catalogue of Copyright Entries](https://en.wikipedia.org/wiki/File:ARoomOfOnesOwn.jpg)
Copyright renewal

About renewals

• Renewal was required to continue copyright protection after the first 28 years
• Renewals became automatic in 1964
• Renewals must be filed during the 28th year of the initial copyright term

Therefore

• If published prior to 1964 and NOT in the renewal records, public domain

A Room of One’s Own, published 1929 + 28 years = renewal required in 1957
How to find renewal records

https://onlinebooks.library.upenn.edu/cce/
How to find renewal records
https://onlinebooks.library.upenn.edu/cce/

Copyright registrations for 1957

Copyright registrations from 1957 are available from this page. Registrations were classified by category, with renewals included in the same volume as original registration in most cases.

The following types of records are available here:

- **Books and Contributions to Periodicals** (at least 60,847 original registrations; more than 3,983 renewals)
- **Periodicals** (59,783 original registrations; 3,734 renewals)
- **Drama and Works prepared for oral delivery** (3,792 original registrations; 736 renewals)
- **Music** (63,278 original registrations; 10,988 renewals)
- **Maps and atlases** (1,796 original registrations; 177 renewals)
- **Artwork and photographs** (11,461 original registrations; 32 renewals)
- **Commercial prints and labels** (9,024 original registrations; 10 renewals)
- **Motion pictures and filmstrips** (3,512 original registrations; 5 renewals)

- **Books and Contributions to periodicals**

The volumes for Part 1 (Books, Pamphlets, Serials, and Contributions to periodicals)

- **Overview of Part 1: Books, Pamphlets, Serials, and Contributions to periodicals**
  - January-June 1957
    - **Renewals** (pp. 687-758; see also a Project G
    - **Title index** (pp. 759-914)
  - July-December 1957
    - **Renewals** (pp. 1559-1619; see also a Project G
    - **Title index** (pp. 1621-1776)
How to find renewal records

https://onlinebooks.library.upenn.edu/cce/
How to find renewal records

https://exhibits.stanford.edu/copyrightrenewals

- Only books
- Only books published 1923-1963
Summary

- Published prior to 1925: In public domain*
- Published prior to 1964: Requires renewal
- Published prior to 1989: Requires copyright notice
Practice!


- After your investigation – would you be confident making the book available?
Share what you know

- https://rightsstatements.org
Resources

- **Copyright Term and the Public Domain in the United States:**
  [https://copyright.cornell.edu/publicdomain](https://copyright.cornell.edu/publicdomain)

- **Is it in the Public Domain Handbook:**

- **Copyright and Cultural Institutions:**
  [https://ecommons.cornell.edu/handle/1813/14142](https://ecommons.cornell.edu/handle/1813/14142)

- **Index to the Catalog of Copyright Entries online versions** via UPenn Online Books Page

- **Stanford Copyright Renewal Database**