

Copyright Term and the Public Domain in the United States
1 January 2005

Category of Work

Unpublished works

Published works

Published works created before 1978 that were published before 1 January 2003

Published works created before 1978 that were published after 31 December 2002

Published works on the death date of author is not known³

UNPUBLISHED WORKS		
Copyright Term	What was in the public domain in the U.S. as of 1 January 2005²	
Life of the author + 70 years	Works from authors who died before 1935.	
120 years from date of creation	Works created before 1885.	
Life of the author + 70 years or 31 December 2047, whichever is greater	Nothing. The soonest the works can enter the public domain is 1 January 2048	
Life of the author + 70 years	Works of authors who died before 1935.	
120 years from date of creation ⁴	Works created before 1885. ⁴	
WORKS PUBLISHED IN THE US		
Conditions⁶	Copyright Term²	
None	In the public domain	
Published without a copyright notice	In the public domain	
Published without notice, and without subsequent registration	In the public domain	

Year of Publication⁵

Before 1923

1923 through 1977

1978 to 1 March 1989

18 to 1 March 1989	Published without notice, but with subsequent registration	70 years after the death of author, or if work of corporate authorship, the shorter of 95 years from publication, or 120 years from creation ²	
1913 through 1963	Published with notice but copyright was not renewed ⁷	In the public domain	
1913 through 1963	Published with notice and the copyright was renewed ⁷	95 years after publication date ²	
1964 through 1977	Published with notice	95 years after publication date ²	
1978 to 1 March 1989	Published with notice	70 years after death of author, or if work of corporate authorship, the shorter of 95 years from publication, or 120 years from creation ²	
After 1 March 1989	None	70 years after death of author, or if work of corporate authorship, the shorter of 95 years from publication, or 120 years from creation ²	
WORKS PUBLISHED OUTSIDE THE US⁹			
Year of Publication	Conditions	Copyright Term in the United States	
Before 1 July 1909	None	In the public domain	
Works Published Abroad Before 1978 in Compliance with US Formalities⁸			
July 1909 through 1977	Published in compliance with US formalities	In the public domain	

1933 through 1977	Published with notice, and still in copyright in its home country as of 1 January 1996	95 years after publication date ⁹	
Works Published Abroad Before 1978 Without Compliance with US Formalities¹⁰			
July 1909 through 1922	Published in a language other than English and without subsequent republication with a copyright notice	In the 9 th Judicial Circuit, the same as for an unpublished work; in the rest of the US, likely to be in the public domain ¹¹	
1933 through 1977	In the public domain in its home country as of 1 January 1996	In the public domain	
1933 through 1977	Published in a language other than English, without subsequent republication with a copyright notice, and not in the public domain in its home country as of 1 January 1996	In the 9 th Judicial Circuit, the same as for an unpublished work; in the rest of the US, likely to be 95 years after publication date ¹¹	
1933 through 1977	Published in English, without subsequent republication with a copyright notice, and not in the public domain in its home country as of 1 January 1996	95 years after publication date ⁹	
Works Published Abroad After 1 January 1978			
after 1 January 1978	Copyright in the work in its home country has not expired by 1 January 1996	70 years after death of author, or if work of corporate authorship, the shorter of 95 years from publication, or 120 years from creation	
Special Cases			

<p>January 1 July 1909</p>	<p>Created by a resident of Afghanistan, Bhutan, Ethiopia, Iran, Iraq, Nepal, San Marino, and possibly Yemen, and published in one of these countries¹²</p>	<p>Not protected by US copyright law because they are not party to international copyright agreements</p>	
<p>January 1 July 1909</p>	<p>Works whose copyright was once owned or administered by the Alien Property Custodian, and whose copyright, if restored, would as of January 1, 1996, be owned by a government¹³</p>	<p>Not protected by US copyright law</p>	

This chart was first published in published in Peter B. Hirtle, "Recent Changes To The Copyright Law: Copyright Term Extension," *Archival Outlook*, January/February 1999. This version is current as of 1 January 2005. The most recent version is found at http://www.copyright.cornell.edu/training/Hirtle_Public_Domain.htm.

This chart is based in part on Laura N. Gasaway's chart, "When Works Pass Into the Public Domain," at <<http://www.unc.edu/~uncclng/public-d>>, and similar charts found in Marie C. Malero, *A Legal Primer On Managing Museum Collections* (Washington, D.C.: Smithsonian Institution Press, 1998): 155-156. A useful copyright duration chart by Amy Minow, organized by year, is found at <<http://www.librarylaw.com/organizationTable.htm>>. A "flow chart" for copyright duration is found at <http://www.bromsun.com/practice/copyrights/copyright_durations>. See also Library of Congress Copyright Office. Circular 15a, *Clarification of Copyright: Provisions of the Law Dealing with the Length of Copyright Protection* (Washington, D.C.: Library of Congress, 2004) <<http://www.copyright.gov/circls/circ15a.pdf>>.

Copyright terms of copyright run through the end of the calendar year in which they would otherwise expire, so a work enters the public domain on the first of the year following the expiration of its copyright term. For example, a book published on 15 March 1923 will enter the public domain on 1 January 2019, not 16 March 2018 (1923+95=2018).

unpublished works when the death date of the author is not known
y still be copyrighted, but certification from the Copyright Office that
s no record to indicate whether the person is living or died less
n 70 years before is a complete defense to any action for
ngement. See [17 U.S.C. § 302\(e\)](#).

esumption as to the author's death requires a certified report from
Copyright Office that its records disclose nothing to indicate that
author of the work is living or died less than seventy years before.

ublication" was not explicitly defined in the Copyright Law before
6, but the 1909 Act indirectly indicated that publication was when
les of the first authorized edition were placed on sale, sold, or
licly distributed by the proprietor of the copyright or under his
ority."

ot all published works are copyrighted. Works prepared by an
er or employee of the United States Government as part of that
son's official duties receive no copyright protection in the US. For
ch of the twentieth century, certain formalities had to followed to
ure copyright protection. For example, some books had to be
ted in the United States to receive copyright protection, and failure
eposit copies of works with the Register of Copyright could result
e loss of copyright. The requirements that copies include a formal
ce of copyright and that the copyright be renewed after twenty
t years were the most common conditions, and are specified in the
rt.

1961 Copyright Office study found that fewer than 15% of all
stered copyrights were renewed. For books, the figure was even
er: 7%. See Barbara Ringer, "Study No. 31: Renewal of
yright" (1960), reprinted in Library of Congress Copyright Office.
*Copyright law revision: Studies prepared for the Subcommittee on
ents, Trademarks, and Copyrights of the Committee on the
iciary, United States Senate, Eighty-sixth Congress, first [-second]
sion.* (Washington: U. S. Govt. Print. Off, 1961), p. 220. A good
le to investigating the copyright and renewal status of published
k is Samuel Demas and Jennie L. Brogdon, "Determining
yright Status for Preservation and Access: Defining Reasonable
rt," *Library Resources and Technical Services* 41:4 (October,
7): 323-334. See also Library of Congress Copyright Office, [How
investigate the copyright status of a work. Circular 22](#). [Washington,
: Library of Congress, Copyright Office, 2004]. The Online Books
e FAQ, especially "[How Can I Tell Whether a Book Can Go
ne?](#)" and "[How Can I Tell Whether a Copyright Was Renewed?](#)",

so very helpful.

The following section on foreign publications draws extensively on Stephen Fishman, *The Public Domain: How to Find Copyright-free Works, Music, Art & More*. (Berkeley: Nolo.com, 2004). It applies to works first published abroad and not subsequently published in the US within 30 days of the original foreign publication. Works that were simultaneously published abroad and in the US are treated as if they were American publications.

Foreign works published after 1923 are likely to be still under copyright in the US because of the Uruguay Round Agreements Act (URAA) modifying the General Agreement on Tariffs and Trade (GATT). The URAA restored copyright in foreign works that as of January 1, 1996 had fallen into the public domain in the US because of a failure to comply with US formalities. One of the authors of the work had to be a non-US citizen or resident, the work could not have been published in the US within 30 days after its publication abroad, and the work needed to still be in copyright in the country of publication. Such works have a copyright term equivalent to that of an American work that had followed all of the formalities. For more information, see Library of Congress Copyright Office, [Highlights of Copyright Restorations Contained in the Uruguay Round Agreements Act \(URAA\). Circular 38b](#). [Washington, D.C.: Library of Congress, Copyright Office, 2004].

US formalities include the requirement that a formal notice of copyright be included in the work; registration, renewal, and deposit of copies in the Copyright Office; and the manufacture of the work in the US.

The differing dates is a product of the question of controversial [Twin Books v. Walt Disney Co.](#) decision by the 9th Circuit Court of Appeals in 1996. The question at issue is the copyright status of a work only published in a foreign language outside of the United States and without a copyright notice. It had long been assumed that failure to comply with US formalities placed these works in the public domain in the US and, as such, were subject to copyright restoration under the URAA (see note 9). The court in *Twin Books*, however, concluded that publication without a copyright notice in a foreign country did not put the work in the public domain in the United States." According to the court, these foreign publications were in effect "unpublished" in the US and hence have the same copyright term as unpublished works. This decision has been harshly criticized in *Nimmer on Copyright*, the leading treatise on copyright, as being incompatible with previous

visions and the intent of Congress when it restored foreign copyrights. The Copyright Office as well ignores the *Twin Books* decision in its circular on restored copyrights. Nevertheless, the decision is currently applicable in all of the 9th Judicial Circuit (Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Washington, and Guam and the Northern Mariana Islands), and it may apply in the rest of the country.

See Library of Congress Copyright Office, [International Copyright Restorations of the United States. Circular 38a](#). [Washington, D.C.: Library of Congress, Copyright Office, 2004].

See 63 Fed. Reg. 19,287 (1998), Library of Congress Copyright Office, [Copyright Restoration of Works in Accordance With the Uruguay Round Agreements Act; List Identifying Copyrights Restored Under the Uruguay Round Agreements Act for Which Notices of Intent to Enforce Restored Copyrights Were Filed in the Copyright Office](#).

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