

Copyright Term and the Public Domain in the United States

1 January 2015¹

Never Published, Never Registered Works²

| Type of Work | Copyright Term | What was in the public domain in the U.S. as of 1 January 2015³ |
|--|--|---|
| Unpublished works | Life of the author + 70 years | Works from authors who died before 1945 |
| Unpublished anonymous and pseudonymous works, and works made for hire (corporate authorship) | 120 years from date of creation | Works created before 1895 |
| Unpublished works when the death date of the author is not known ⁴ | 120 years from date of creation ⁵ | Works created before 1895 ⁵ |

Works Registered or First Published in the U.S.

| Date of Publication⁶ | Conditions⁷ | Copyright Term³ |
|--|--|---|
| Before 1923 | None | None. In the public domain due to copyright expiration |
| 1923 through 1977 | Published without a copyright notice | None. In the public domain due to failure to comply with required formalities |
| 1978 to 1 March 1989 | Published without notice, and without subsequent registration within 5 years | None. In the public domain due to failure to comply with required formalities |

| | | |
|--------------------------------|--|--|
| 1978 to 1 March 1989 | Published without notice, but with subsequent registration within 5 years | 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 |
| 1923 through 1963 | Published with notice but copyright was not renewed ⁸ | None. In the public domain due to copyright expiration |
| 1923 through 1963 | Published with notice and the copyright was renewed ⁸ | 95 years after publication date |
| 1964 through 1977 | Published with notice | 95 years after publication date |
| 1978 to 1 March 1989 | Created after 1977 and published with notice | 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 |
| 1978 to 1 March 1989 | Created before 1978 and first published with notice in the specified period | The greater of the term specified in the previous entry or 31 December 2047 |
| From 1 March 1989 through 2002 | Created after 1977 | 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 |
| From 1 March 1989 through 2002 | Created before 1978 and first published in this period | The greater of the term specified in the previous entry or 31 December 2047 |
| After 2002 | None | 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 |
| Anytime | Works prepared by an officer or employee of the United States Government as part of that person's official duties. ²¹ | None. In the public domain in the United States (17 U.S.C. § |

Works First Published Outside the U.S. by Foreign Nationals or U.S. Citizens Living Abroad⁹

| <i>Date of Publication</i> | <i>Conditions</i> | <i>Copyright Term in the United States</i> |
|----------------------------|-------------------|---|
| Before 1923 | None | In the public domain (But see first special case below) |

Works Published Abroad Before 1978¹⁰

| | | |
|-------------------|---|--|
| 1923 through 1977 | Published without compliance with US formalities, and in the public domain in its source country as of 1 January 1996 (but see special cases) ²⁰ | In the public domain |
| 1923 through 1977 | Published in compliance with all US formalities (i.e., notice, renewal) ¹¹ | 95 years after publication date |
| 1923 through 1977 | Solely published abroad, without compliance with US formalities or republication in the US, and not in the public domain in its home country as of 1 January 1996 (but see special cases) | 95 years after publication date |
| 1923 through 1977 | Published in the US less than 30 days after publication abroad | Use the US publication chart to determine duration |
| 1923 through 1977 | Published in the US more than 30 days after publication abroad, without compliance with US formalities, and not in the public domain in its home country as of 1 January 1996 (but see special cases) | 95 years after publication date |

Works Published Abroad After 1 January 1978

| | | |
|-------------------------------|---|---|
| 1 January 1978 - 1 March 1989 | Published without copyright notice, and in the public domain in its source country as of 1 January 1996 (but see special cases) ²⁰ | In the public domain |
| 1 January 1978 - 1 March 1989 | Published without copyright notice in a country that is a signatory to the Berne Convention and is not in the public domain in its source country as of 1 January 1996 (but see special cases) ²⁰ | 70 years after the death of author, or if work of corporate authorship, 95 years from publication |
| 1 January 1978 - 1 March 1989 | Published with copyright notice by a non-US citizen in a country that was party to the Universal Copyright Convention (UCC) | 70 years after the death of author, or if work of corporate authorship, 95 years from publication |

| | | |
|--------------------------|--|--|
| After 1 March 1989 | Published in a country that is a signatory to the Berne Convention | 70 years after the death of author, or if work of corporate authorship, 95 years from publication |
| After 1 March 1989 | Published in a country with which the United States does not have copyright relations under a treaty | In the public domain |
| Special Cases | | |
| 1 July 1909 through 1978 | In Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Washington, Guam, and the Northern Mariana Islands ONLY. Published in a language other than English, and without subsequent republication with a copyright notice ¹² | Treat as an unpublished work until such date as first US-compliant publication occurred |
| Prior to 27 May 1973 | Published by a national of Turkmenistan or Uzbekistan in either country ¹⁹ | In the public domain |
| After 26 May 1973 | Published by a national of Turkmenistan or Uzbekistan in either country ¹⁹ | May be protected under the UCC |
| Anytime | Created by a resident of Afghanistan, Eritrea, Ethiopia, Iran, Iraq, or San Marino, and published in one of these countries ¹³ | Not protected by US copyright law until they become party to bilateral or international copyright agreements |
| Anytime | 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 government ¹⁴ | Not protected by US copyright law |
| Anytime | If published in one of the following countries, the 1 January 1996 date given above is replaced by the date of the country's membership in the Berne Convention or the World Trade Organization, whichever is earlier: Andorra, Angola, Armenia, Bhutan, Cambodia, Comoros, Jordan, Democratic People's Republic of Korea, Laos, Malaysia, Micronesia, Montenegro, Nepal, Oman, Papua New Guinea, Qatar, Samoa, Saudi Arabia, Solomon Islands, Sudan, Syria, Tajikistan, Tonga, United Arab Emirates, Uzbekistan, Vanuatu, Vietnam, Yemen | |

Sound Recordings

(Note: The following information applies only to the sound recording itself, and not to any copyrights in underlying

| <i>Date of Fixation/Publication</i> | <i>Conditions</i> | <i>What was in the public domain in the U.S. as of 1 January 2015³</i> |
|--|--------------------------|--|
|--|--------------------------|--|

Unpublished Sound Recordings, Domestic and Foreign

| | | |
|-----------------------|---|--|
| Prior to 15 Feb. 1972 | Indeterminate | Subject to state common law protection. Enters the public domain on 15 Feb. 2067 |
| After 15 Feb. 1972 | Life of the author + 70 years. For unpublished anonymous and pseudonymous works and works made for hire (corporate authorship), 120 years from the date of fixation | Nothing. The soonest anything enters the public domain is 15 Feb. 2067 |

Sound Recordings Published in the United States

| <i>Date of Fixation/Publication</i> | <i>Conditions</i> | <i>What was in the public domain in the U.S. as of 1 January 2015³</i> |
|--|--|--|
| Fixed prior to 15 Feb. 1972 | None | Subject to state statutory and/or common law protection. Fully enters the public domain on 15 Feb. 2067 |
| 15 Feb 1972 to 1978 | Published without notice (i.e., ©, year of publication, and name of copyright owner) ¹⁵ | In the public domain |
| 15 Feb. 1972 to 1978 | Published with notice | 95 years from publication. 2068 at the earliest |
| 1978 to 1 March 1989 | Published without notice, and without subsequent registration | In the public domain |
| 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. 2049 at the earliest |
| 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. 2049 at the earliest

Sound Recordings Published Outside the United States

| | | |
|----------------------|--|--|
| Prior to 1923 | None | Subject to state statutory and/or common law protection. Fully enters the public domain on 15 Feb. 2067 |
| 1923 to 1 March 1989 | In the public domain in its home country as of 1 Jan. 1996 or there was US publication within 30 days of the foreign publication (but see special cases) | Subject to state common law protection. Enters the public domain on 15 Feb. 2067 |
| 1923 to 15 Feb. 1972 | Not in the public domain in its home country as of 1 Jan. 1996. At least one author of the work was not a US citizen or was living abroad, and there was no US publication within 30 days of the foreign publication (but see special cases) | Enters public domain on 15 Feb. 2067 |
| 15 Feb. 1972 to 1978 | Not in the public domain in its home country as of 1 Jan. 1996. At least one author of the work was not a US citizen or was living abroad, and there was no US publication within 30 days of the foreign publication (but see special cases) | 95 years from date of publication. 2068 at the earliest |
| 1978 to 1 March 1989 | Not in the public domain in its home country as of 1 Jan. 1996. At least one author of the work was not a US citizen or was living abroad, and there was no US publication within 30 days of the foreign publication (but see special cases) | 70 years after death of author, or if work of corporate authorship, the shorter of 95 years from publication, or 120 years from creation |
| 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 |

Special Cases

| | | |
|---------------------|--|--|
| Fixed at any time | Created by a resident of Afghanistan, Eritrea, Ethiopia, Iran, Iraq, or San Marino, and published in one of these countries ¹³ | Not protected by US copyright law because they are not party to international copyright agreements |
| Fixed prior to 1996 | Works whose copyright was once owned or administered by the Alien Property Custodian, and whose copyright, if restored, would as of 1 January 1996 be owned by a government ¹⁴ | Not protected by US copyright law |
| Fixed at any time | <p>If fixed or solely published in one of the following countries, the 1 January 1996 date given above is replaced by the date of the country's membership in the Berne Convention or the World Trade Organization, whichever is earlier:</p> <p>Algeria, Andorra, Angola, Armenia, Bhutan, Cambodia, Comoros, Jersey, Jordan, Democratic People's Republic of Korea, Laos, Malaysia, Micronesia, Montenegro, Nepal, Oman, Papua New Guinea, Qatar, Samoa, Saudi Arabia, Solomon Islands, Sudan, Syria, Tajikistan, Tonga, United Arab Emirates, Uzbekistan, Vanuatu, Vietnam, Yemen</p> | |

Architectural Works¹⁶

(Note: Architectural plans and drawings may also be protected as textual/graphics works)

| <i>Date of Design</i> | <i>Date of Construction</i> | <i>Copyright Status</i> |
|------------------------------|---|--|
| Prior to 1 Dec. 1990 | Not constructed by 31 Dec. 2002 | Protected only as plans or drawings |
| Prior to 1 Dec. 1990 | Constructed by 1 Dec. 1990 | Protected only as plans or drawings |
| Prior to 1 Dec. 1990 | Constructed between 30 Nov. 1990 and 31 Dec. 2002 | Building is protected for 70 years after death of author, or if work of corporate authorship, the shorter of 95 years from publication, or 120 years from creation ¹⁷ |
| From 1 Dec. 1990 | Immaterial | Building is protected for 70 years after death of author, or if work of corporate authorship, the shorter of 95 years from publication, or 120 years from creation ¹⁷ |

Notes

1. This chart was first 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 2015 . The most recent version is found at <http://www.copyright.cornell.edu/resources/publicdomain.cfm>. For some explanation on how to use the chart and complications hidden in it, see Peter B. Hirtle, "[When is 1923 Going to Arrive and Other Complications of the U.S. Public Domain](#)," *Searcher* (Sept 2012). The chart is based in part on Laura N. Gasaway's chart, "When Works Pass Into the Public Domain," at <http://www.unc.edu/~unclng/public-d.htm>>, and similar charts found in Marie C. Malaro, *A Legal Primer On Managing Museum Collections* (Washington, D.C.: Smithsonian Institution Press, 1998): 155-156. A useful copyright duration chart by Mary Minow, organized by year, is found at <http://www.librarylaw.com/DigitizationTable.htm>>. A "flow chart" for copyright duration is found at <http://sunsteinlaw.com/practices/copyright-portfolio-development/copyright-pointers/copyright-flowchart/>>, and a "tree-view" chart on copyright is at <http://chart.copyrightdata.com>>. Several U.S. copyright duration calculators are available online, including the Public Domain Sherpa (<http://www.publicdomainsherpa.com/calculator.html>) and the Durationator (in beta at <http://www.durationator.com/>). Europeana's public domain calculators for 30 different countries outside of the U.S. (at <http://www.outofcopyright.eu/>). The Open Knowledge Foundation has been encouraging the development of public domain calculators for many countries: see <http://publicdomain.okfn.org/calculators/>. See also Library of Congress Copyright Office. Circular 15a, *Duration of Copyright: Provisions of the Law Dealing with the Length of Copyright Protection* (Washington, D.C. : Library of Congress, 2004) <http://www.copyright.gov/circs/circ15a.pdf>>. Further information on copyright duration is found in Chapter 3, "Duration and Ownership of Copyright," in *Copyright and Cultural Institutions: Guidelines for Digitization for U.S. Libraries, Archives, and Museums*, by Peter B. Hirtle, Emily Hudson, and Andrew T. Kenyon (Ithaca, NY: Cornell University Library, 2009) available for purchase at <http://bookstore.library.cornell.edu/> and as a free download at <http://ecommons.cornell.edu/handle/1813/14142> .
2. Treat unpublished works registered for copyright prior to 1978 as if they had been published in the US (though note that the only formality that applied was the requirement to renew copyright after 28 years). Unpublished works registered for copyright since 1978 can be considered as if they were an "Unpublished, Unregistered Work."
3. All 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).
4. Unpublished works when the death date of the author is not known may still be copyrighted after 120 years, but certification from the Copyright Office that it has no record to indicate whether the person is living or died less than 70 years before is a complete defense to any action for infringement. See [17 U.S.C. § 302\(e\)](#).
5. Presumption as to the author's death requires a certified report from the Copyright Office that its records disclose nothing to indicate that the author of the work is living or died less than seventy years before.
6. "Publication" was not explicitly defined in the Copyright Law before 1976, but the 1909 Act indirectly indicated that publication was when copies of the first authorized edition were placed on sale, sold, or publicly distributed by the proprietor of the copyright or under his authority.
7. Not all published works are copyrighted. Works prepared by an officer or employee of the United States Government as part of that person's official duties receive no copyright protection in the US. For much of the twentieth century, certain formalities had to be followed to secure copyright protection. For example, some books had to be printed in the United States to receive copyright protection, and failure to deposit copies of works with the Register of Copyright could result in the loss of copyright. The requirements that copies include a formal notice of copyright and that the copyright be renewed after twenty eight years were the most common conditions, and are specified in the chart.
8. A 1961 Copyright Office study found that fewer than 15% of all registered copyrights were renewed. For books, the figure was even lower: 7%. See

Barbara Ringer, "Study No. 31: Renewal of Copyright" (1960), reprinted in Library of Congress Copyright Office. *Copyright law revision: Studies prepared for the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, United States Senate, Eighty-sixth Congress, first [-second] session.* (Washington: U. S. Govt. Print. Off, 1961), p. 220. A good guide to investigating the copyright and renewal status of published work is Samuel Demas and Jennie L. Brogdon, "Determining Copyright Status for Preservation and Access: Defining Reasonable Effort," *Library Resources and Technical Services* 41:4 (October, 1997): 323-334. See also Library of Congress Copyright Office, [How to investigate the copyright status of a work. Circular 22.](#) [Washington, D.C.: Library of Congress, Copyright Office, 2004]. The Online Books Page FAQ, especially "[How Can I Tell Whether a Book Can Go Online?](#)" and "[How Can I Tell Whether a Copyright Was Renewed?](#)", is also very helpful.

9. The following section on foreign publications draws extensively on Stephen Fishman, [The Public Domain: How to Find Copyright-free Writings, Music, Art & More.](#) (Berkeley : Nolo.com, 2012). 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 are American publications.
10. 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 1 January 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 Amendments Contained in the Uruguay Round Agreements Act \(URAA\). Circular 38b.](#) [Washington, D.C.: Library of Congress, Copyright Office, 2004].
11. 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.
12. 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 URAA (see note [10](#)). The court in *Twin Books*, however, concluded "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. The decision has been harshly criticized in *Nimmer on Copyright*, the leading treatise on copyright, as being incompatible with previous decisions 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.
13. See Library of Congress Copyright Office, [International Copyright Relations of the United States. Circular 38a.](#) [Washington, D.C. : Library of Congress, Copyright Office, 2011].
14. 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.](#)
15. Copyright notice requirements for sound recordings are spelled out in the Copyright Office's Circular 3, "Copyright Notice," available at <http://www.copyright.gov/circs/circ03.pdf>. Here is the exact text:

The copyright notice for phonorecords embodying a sound recording is different from that for other works. Sound recordings are defined as "works that result from the fixation of a series of musical, spoken or other sounds, but not including the sounds accompanying a motion picture or other

audiovisual work." Copyright in a sound recording protects the particular series of sounds fixed in the recording against unauthorized reproduction, revision, and distribution. This copyright is distinct from copyright of the musical, literary, or dramatic work that may be recorded on the phonorecord. Phonorecords may be records (such as LPs and 45s), audio tapes, cassettes, or disks. The notice should contain the following three elements appearing together on the phonorecord:

1. The symbol ©; and
 2. The year of first publication of the sound recording; and
 3. The name of the owner of copyright in the sound recording, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner. If the producer of the sound recording is named on the phonorecord label or container and if no other name appears in conjunction with the notice, the producer's name shall be considered a part of the notice.
 4. Example: © 2004 X.Y.Z. Records, Inc.
16. Architectural works are defined as "the design of a building as embodied in any tangible medium of expression, including a building, architectural plans, or drawings. The work includes the overall form as well as the arrangement and composition of spaces and elements in the design, but does not include individual standard features." Architectural works were expressly included in copyright by Title VII of Pub. L. 101-650.
17. What constitutes "publication" of a building is a very interesting question. As the Copyright Office has noted, "A work is considered published when underlying copies of the building design are distributed or made available public by sale or other transfer of ownership, or by rental. Construction of a building does not itself constitute publication registration, unless multiple copies are constructed." See its Circular 41, "Copyright Claims in Architectural Works," available at <http://www.copyright.gov/circs/circ41.pdf>.
19. Turkmenistan and Uzbekistan may have inherited UCC obligations and protections from the USSR , which joined the UCC on 27 May 1973 . See Peter B. Maggs, "Post-Soviet Law: The Case of Intellectual Property Law," The Harriman Institute Forum 5, no. 3 (November 1991). They have not as yet, however, filed a "Notification of Succession" with the UCC. See http://portal.unesco.org/culture/en/ev.php-URL_ID=1814&URL_DO=DO_TOPIC&URL_SECTION=201.html for signatories to the two UCC treaties.
20. If the source country's first adhered to either the Berne Treaty or the WTO after 1 January 1996, then the relevant date is the earliest date of membership. Date of membership is tracked at http://en.wikipedia.org/wiki/list_of_parties_to_international_copyright_agreements
21. Contractors and grantees are not considered government employees. Generally they create works with copyright (though the government may own that copyright). See [CENDI Frequently asked Questions about Copyright: Issues Affecting the U.S. Government](#) . The public domain status of U.S. government works applies only in the U.S.



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[Cornell Copyright Information Center <http://www.copyright.cornell.edu/>](http://www.copyright.cornell.edu/)