



Q & A SESSION

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Newspaper Digitization

- How does copyright apply to the digitization of newspapers on microfilm? What copyright restrictions are there when it comes to digitizing an obituary from a newspaper for an obituary index?

There is a large ongoing project with the Library of Congress to digitize newspapers. The Library of Congress is helping with this project to protect our national history.

Newspaper Digitization

Things to consider re: ©

- Newspapers published in US pre-1925 are in the public domain
- Some newspapers between 1925 and 1968 are in the public domain for failure to comply with © formalities
- Generally, advertisements and other things not “owned” by the newspaper can be digitized under fair use

<https://blog.newspapers.library.in.gov/fair-use-and-copyright-research/>

Also, do not forget Section 108 preservation! (above is for putting the digital copy on the open web, not for just making a copy for preservation purposes)...

© and Contracts . . .

- When a company such as Criterion Collection reissues a public domain film such as *My Man Godfrey*, is that version still public domain...can we offer a public viewing?

Criterion License

- **LICENSES AND INTELLECTUAL PROPERTY**

- **License to Programs:** Subject to the terms hereof, you have the right to stream and/or (if offered) download for your personal entertainment purposes . . .
- You may not resell streams or downloads, use any Program for any commercial purpose, redistribute or retransmit any Program, publicly perform or display any Program, or make derivative works from any Program. All rights not expressly granted herein are reserved by the applicable Producer.

Patron Photos/Copying

- Students often take pictures of books on reserve using their smart phones.
- Is it okay, if this is only limited to less than a certain amount?
- What do we tell them at the time of check out or if we see them taking pictures?

Patron Photos/Copying

- This would be similar to a question about what to do with patrons using a photocopy machine.
- The library is not responsible for the patron's use of the copy/scanner machine as long as a copyright notice is visibly posted.
- If your library policies let patrons know that books are under copyright protection, then you are not responsible for patron copying.
- Is it fair use? It may be. Who decides? The patron.

17 U.S.C. Section 108(f)

(f) Nothing in this section—

(1) shall be construed to impose liability for copyright infringement upon a library or archives or its employees for the unsupervised use of reproducing equipment located on its premises: Provided, That such equipment displays a notice that the making of a copy may be subject to the copyright law;

The law is not only for copyright holders. Users have rights too.

Fair use (Title 17, U.S. Code §107) allows users to make certain uses of copyrighted works without permission. **Learn about fair use and then use your best judgment.**

Learn more: www.lib.umich.edu/copyright/fair-use

**KNOW YOUR
COPYRIGHTS**

University of Michigan Copyright Office | www.lib.umich.edu/copyright | copyright@umich.edu



Univ. of Mich. © notice:

www.lib.umich.edu/sites/default/files/services/copyright/copyright-printer-card.pdf

Public Domain

- What year is the beginning of items in the public domain?

For anything published in 1924 or before in the US it is in the public domain. In 2021, it will be 1925 . . .

For works between 1923 and 1968, if published without a copyright notice they are in the public domain.

For works between 1923 and 1963, if published and copyright was not renewed properly, they are in the public domain.

For easy reference, see: <https://copyright.cornell.edu/publicdomain>

Copyright Question Resources

- US Copyright Office's Circulars (except take Circular 21 with a grain of salt)
- Peter Hirtle's copyright chart
- Kenneth Crews' fair use checklist
- Here are a few library guides I've created:
- <https://guides.library.illinois.edu/digitizationoflibrarymaterials>
- <https://guides.library.illinois.edu/copyrightforgradstudents>
- <https://guides.library.illinois.edu/copyrightreferenceguide>
- <https://guides.library.illinois.edu/coursematerialsandcopyrightforprofessors>

\$\$\$ Requests/Copyright Permissions

- How to address broad rights requests from media companies. I receive a lot of requests like this, and I'm never sure how to respond to them. Except, of course to tell them 'no.'

Well, as you know, many of the rights in Section 108 would not apply, such as inter-library loan because the requests must be made for private study/research.

They can most certainly still visit the library and check out materials if they are an authorized user, but beyond that, many of the Section 108 rights do not apply.

And, of course, often they are asking for copyright permissions and often the library does not own the copyright of the materials in the collections.

Creative Commons Licenses

- When adapting an open resources with a CC-BY license, what should the license statement you use look like (if you choose to also use a CC-BY license)?
- Creative Commons licenses were intended to be built upon.



Attribution (by)



ShareAlike (sa)

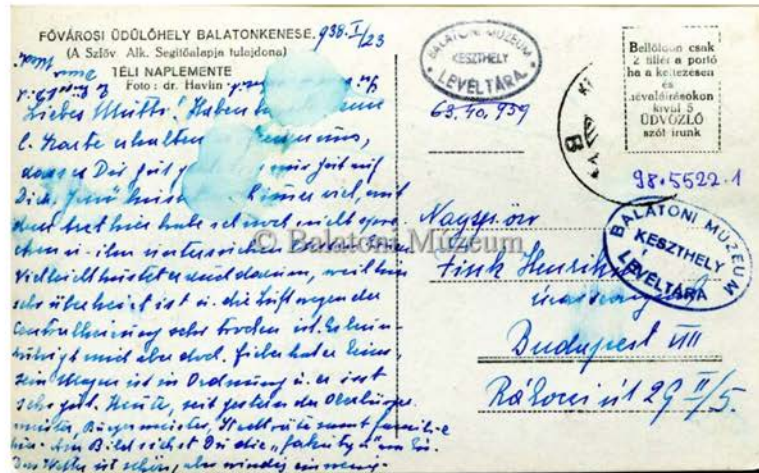


NonCommercial (nc)



NoDerivatives (nd)

- CC BY
- CC BY-SA
- CC BY-ND
- CC BY-NC
- CC BY-NC-SA
- CC BY-NC-ND



Balatonkenese, Fővárosi üdülőhely, Téli naplemente

Balatonkenese, Holiday resort, Sunset in winter. view, lake
Balaton in winter, holiday resort, sunset



SHARE

DOWNLOAD

CAN I USE IT?

Yes

View more at Balatoni Múzeum - Keszthely



Corallorrhiza maculata Raf.

SHARE

DOWNLOAD

CAN I USE IT?

Yes 

Is it Published?

- Why does it matter? (copyright terms differ)
- How to tell?

It is defined under current 1976 Copyright Act:

“Publication” is the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance, or public display, constitutes publication. A public performance or display of a work does not of itself constitute publication.

Was it published pre-1976?

1909 Act:

Publication occurs “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.”

Case law interpreting the 1909 Act:

public performance alone was not enough to constitute publication, nor was a limited publication enough to constitute publication.

Limited publication occurs when the work is offered to a small amount of people with a limitation on their further distribution of the work (e.g. the rightsholder asks that it not be further transmitted to others).

Was it a WMFH?

Why does it matter? Again, copyright length can differ depending on whether it was a WMFH.

Under the 1976 Copyright Act:

“A ‘work made for hire’ is—

a work prepared by an employee within the scope of his or her employment; or

a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire”

Was it a WMFH?

Under case-law pre-1976, a WMFH is defined as:

In making such a determination under the 1909 law, courts have considered many factors, such as whether the author was a full-time salaried employee at the time the work was created and, in the case of commissioned or independently contracted works, whether the work was created at the "instance and expense" of the employer, and whether the employer was the "motivating factor" in its creation.

<https://www.copyright.gov/comp3/chap2100/doc/appendixE-madeforhire.pdf>