

# Copyright and Digital Collections

A Data Driven Roadmap for Rights Statement Success



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# Copyright and digital collections: Why?

**2017**

Estell & Saunders  
survey:  
95% self-ranked as  
having “strong familiarity  
with Digital Institutional  
Repositories . . . and  
copyright’s role in  
digitization.”



**2018**

Analysis of IDHH  
contributor rights  
statements:  
32% included © status  
statement

# Research methodology



Inquiry: Better understand SRS workflows and implementation



DPLA Member Hub Listserv



Thirty minute phone interviews



Atlas.ti coded applying grounded research methodology

# Qualitative interviews

- 21 Interviewees
- 19 institutions
- 14 questions

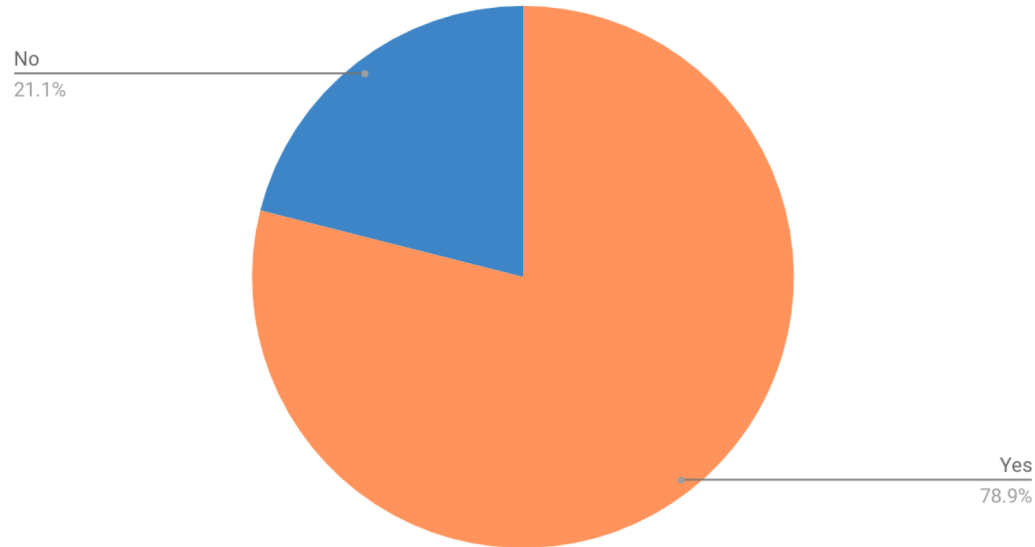
Institution Type	Total
Academic Library	9
Consortium	3
Public Library	3
Non-Profit	2
Research Library	1
State Library	1

# Interview Design

- Digitization decisions
- Rights metadata
- Challenges & solutions
- Copyright knowledge
- Risk assessment workflows
- Boilerplate statement useage

# Do physical and digital objects have the same copyright status?

## Responses



# Access to a copyright professional

Type of Access	Institution Total (out of 19)
No access to a copyright professional	11
Access to general council	4
Access to an attorney on limited term basis	2
Copyright librarian	2

What is "risk assessment"?

Whether the copyright owner would object to the digital distribution of their work without permission

# Managing risk



## Copyfraud

Getty Images has been accused of “tricking customers into buying fake copyright licenses for images in the public domain that can already be used freely.”

-Tiffany Hu, Law 360 re: *CixxFive v. Getty Images*



# Using Standardized Rights Statements

# Research Questions

- What would you need to begin implementation?
- Is there anything preventing you from using standardized rights statements?
- What is the biggest copyright challenge you face when developing digital collections?
- What is the biggest copyright challenge you face when adding rights information to digital collections?

# Barriers to implementation

- 1 Legacy issues
- 2 CMS/DAMS issues
- 3 Local buy-in

# Structural and institutional challenges

- 1 Time
  - 2 Staffing
  - 3 Administrative buy-in
-

Where to next?



# Successful workflows





**Tools**



# Cornell University Library

## COPYRIGHT INFORMATION CENTER

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### Copyright Term and the Public Domain in the United States

(See footnote 1)

#### Never Published, Never Registered Works<sup>2</sup>

Type of Work	Copyright Term	In the public domain in the U.S. as of 1 January 2019 <sup>3</sup>
Unpublished works	Life of the author + 70 years	Works from authors who died before 1949
Unpublished anonymous and pseudonymous works, and works made for hire (corporate authorship)	120 years from date of creation	Works created before 1899
Unpublished works when the death date of the author is not known <sup>4</sup>	120 years from date of creation <sup>5</sup>	Works created before 1899 <sup>5</sup>

#### Works Registered or First Published in the U.S.

Date of Publication <sup>6</sup>	Conditions <sup>7</sup>	Copyright Term <sup>3</sup>
Before 1924	None	None. In the public domain due to copyright expiration
1924 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
1924 through 1963	Published with notice but copyright was not renewed <sup>8</sup>	None. In the public domain due to copyright expiration
1924 through	Published with notice and the copyright was renewed <sup>8</sup>	95 years after publication date

# RIGHTSSTATEMENTS.ORG

## RIGHTS STATEMENT SELECTION TOOL

### START HERE

#### INSTRUCTIONS

Start in the top left corner and work your way through the chart until you arrive at the correct RightsStatements.org statement or Creative Commons License.

Anything written or highlighted in dark blue, including the statement buttons themselves, is a clickable link that will take you to the resource named.

### RESOURCES AND INFORMATION:

**RightsStatements.org** currently provides 12 different rights statements that can be used by cultural heritage institutions to communicate the copyright and re-use status of digital objects to the public. The rights statements have been designed with both human users and machine users (such as search engines) in mind and are made available as linked data. Each rights statement is located at a unique URI. The rights statements have been specifically developed for the needs of cultural heritage institutions and online cultural heritage aggregation platforms and are not intended to be used by individuals to license their own creations. (If you are looking for a tool to license your own works you should consider using one of the **Creative Commons** licenses).

Chart structure based on the article **'Providing Quality Rights Metadata for Digital Collections Through RightsStatements.org'** by Linda Ballinger, Brandy Karl, and Anastasia Chiu. Consult the article for more information on the statements, usage examples, and case studies

This chart covers the determination of rights status and the assignment of a statement, not decisions leading up to digitization and display.



Credits: Chart designed, laid out, and structured by Gabriel Galson, 2018. Created through the PA Digital Rights Subgroup with substantial input from Linda Ballinger & Brandy Karl. Special thanks Rachel Appel & Doreva Belfiore



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<https://creativecommons.org/licenses/by-sa/4.0/>

Version 1.0  
 Revised 5/2018  
 Gabriel Galson

Was the copyright status of the Work investigated?

No Yes

(COPYRIGHT STATUS DETERMINATION TOOLS)

- Hirtle Chart
- Society of American Archivists Chart
- Sunstein Chart

IS THE WORK IN COPYRIGHT?

**? COPYRIGHT NOT EVALUATED**

Yes

No

It's unclear

**© IN COPYRIGHT**

Is the rightsholder identifiable?

No

Yes

Was the Work made available under the EU Orphan Works Act?  
 No/It's unclear → **© UNKNOWN RIGHTSHOLDER**  
 Yes → **© EU ORPHAN WORK**

Is your institution the rightsholder?  
 Yes → Does the rightsholding institution waive all or part of their copyrights and related rights worldwide?  
 No → **© NON-COMMERCIAL USE PERMITTED**  
 Yes → **© EDUCATIONAL USE PERMITTED**  
 No → **© IN COPYRIGHT**

The rightsholder has specified in a donation agreement or other contract that only non-commercial use is permitted:  
**© NON-COMMERCIAL USE PERMITTED**

The rightsholder has specified in a donation agreement or other contract that only educational use is permitted:  
**© EDUCATIONAL USE PERMITTED**

The Work has been acquired without input from the rightsholder, or via a contract that does not specify a type of use:  
**© IN COPYRIGHT**

Rightsholding institution retains all rights but allows non-commercial use

Rightsholding institution retains all rights but allows educational use

Rightsholding institution retains all rights; only uses covered by Fair Use allowed

**© NOT IN COPYRIGHT/PUBLIC DOMAIN**

Do usage restrictions apply nonetheless?

Yes

No

- Restrictions imposed via a contract: **© CONTRACTUAL RESTRICTIONS**
- Restrictions imposed on commercial use via a public/private digitization partnership: **© NON-COMMERCIAL USE ONLY**
- Restrictions imposed because of other legal restrictions: **© OTHER LEGAL RESTRICTIONS**
- © IN THE UNITED STATES**

Yes

A portion of rights waived? → **Creative Commons 'Which CC License is Right for Me?' chart**

All rights including attribution waived? → **© PUBLIC DOMAIN**

**? COPYRIGHT STATUS AMBIGUOUS**

Is the Work probably, but not definitely, in the public domain?

No/It's unclear

Yes

Is the Work's copyright status impossible to determine with the available information?  
 Yes → **? COPYRIGHT UNDETERMINED**  
 No → **? NO KNOWN COPYRIGHT**

Is the Work a United States federal government document?

Yes

No

Was it created before 1835?

Yes

No

**© PUBLIC DOMAIN**

**CC creative commons**

**© PUBLIC DOMAIN**

OR, START HERE

# Rights Review

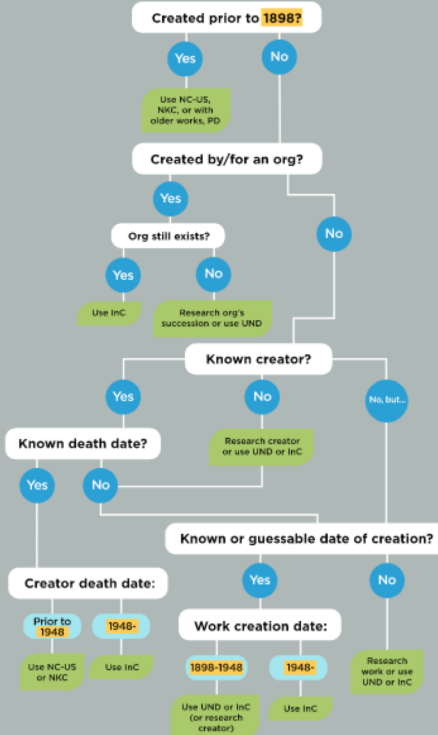
An approach to applying Rights Statements from RightsStatements.org

## Published Document\*

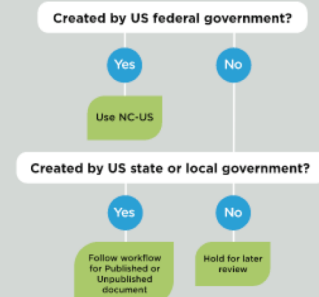


This is an illustration of one possible approach to determining which rights statement to associate with a digital object. More than one rights statement may be appropriate for some objects, and organizations may choose among these based on a variety of factors. This illustration is not intended as legal advice.

## Unpublished Document\*



## Government Document



### \* Published or Unpublished?

It's not always obvious whether something should follow the published or unpublished workflow. For example, a seemingly unpublished item may in fact be an earlier instance of a published item, and therefore be under copyright. You should consult with legal and collection-specific experts about items that may have evolved towards publication.

### Rolling Dates are Highlighted

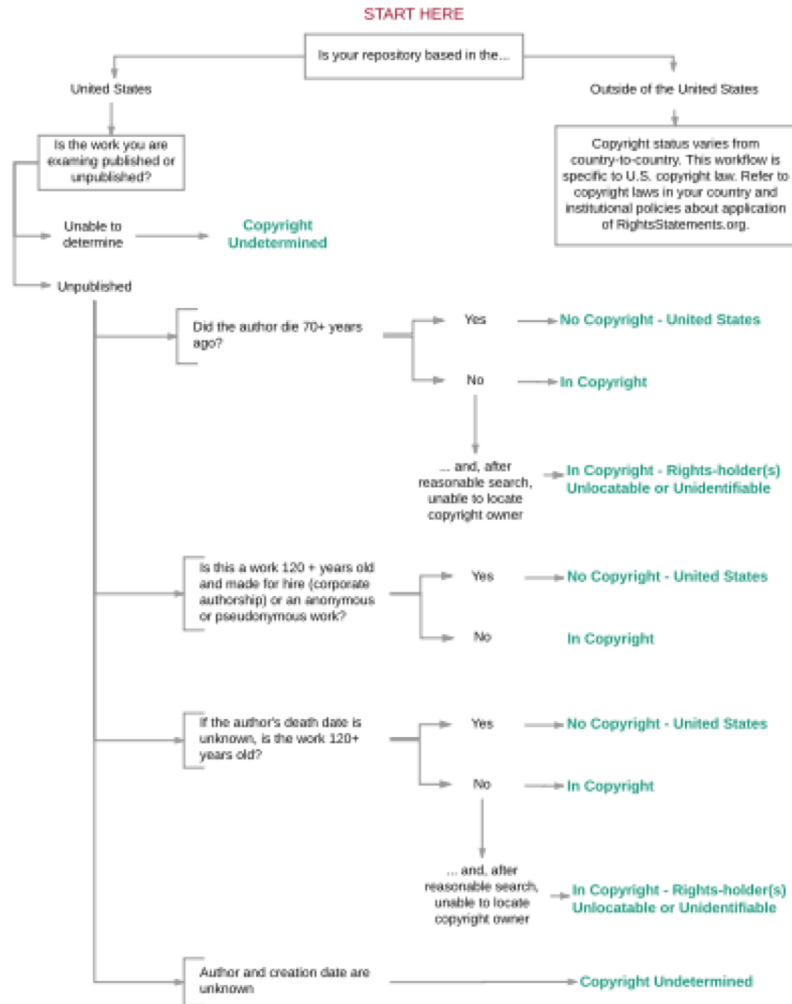
Published prior to XXXX? XXXX-XXXX

These dates change on January 1 every year. This is the 2018 version. Please check the latest version of this document at [z.umn.edu/rightsreview](http://z.umn.edu/rightsreview)



Created by Greta Bahnmann, Molly Huber, Sara Ring, and Nancy Sims. Information design by Andrew Palahniuk. Graphic design by Jordan Wagaman.





# Code of Best Practices in Fair Use for the Visual Arts

**COLLEGE ART ASSOCIATION**

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# Challenges and Possible Solutions



## Challenges and possible solutions

“Where do I even begin?”

## Challenges and possible solutions

“I hope that [the use of RightsStatements.org] is a requirement because I don’t feel that I have the stature on campus to make that happen.”

# Some institutions implementing RS.org



CHICAGO  
PUBLIC  
LIBRARY

THE  
PUBLIC  
LIBRARY  
of Cincinnati  
and  
Hamilton County



TEMPLE  
UNIVERSITY

UNIVERSITY OF  
Cincinnati



MDL

MINNESOTA  
DIGITAL LIBRARY

KENT STATE  
UNIVERSITY



PennState



MIAMI



KNOX  
COLLEGE

# Challenges and possible solutions

“We have our own internally developed blanket statement that we apply to nearly everything we put online unless it’s in the public domain...it always starts out by saying the copyright holder is unknown, which is not always true.”

# Questions

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