

Making Digital Facsimiles of Documents

Part 2: Copyright Considerations

Before making a digital facsimile of a document, it is important to be sure that the document is in the public domain and not covered by copyright, or that permission to republish has been obtained from the copyright owner.

Copyright law is complicated and there are many obscure and difficult issues. Here are some simple guidelines:

- Anything published prior to 1909 is in the public domain.
- Anything published prior to 1923 in the United States is in the public domain in the United States. This date does not change until 2019.
- Anything published in the United States between 1923 and 1963 whose copyright was not renewed is in the public domain. This can be checked at

<http://www.scils.rutgers.edu/~lesk/copyrenew.html>

- Anything published in the United States prior to 1978 without a proper copyright notice is in the public domain in the United States.
- Almost all publications of the United States government are in the public domain.
- Reprints of public-domain works are in the public domain provided they have not been changed. Only additions and changes may

be copyrighted. Be aware that copyright often is falsely claimed for reprints of public-domain material.

- Copyright terms vary from country to country.

It is legal to copy anything in the public domain in a country and publish it in that country. (placing a document on the Web constitutes publication in all countries).

Some additional points deserve mention:

- Fair-use provisions of the copyright law allow limited copying of copyrighted works for some purposes. They do not allow republication, for example, on the Web.
- Starting in 1989, works need not have a date, copyright notice, or author's name. Many things on the Web fall are in this category and must be assumed to be covered by copyright.
- Works published between 1978 and 1989 without a copyright notice may or may not be in the public domain.
- Unpublished works are protected by copyright until 70 years after the death of their authors.

Disclaimer: What appears above is my understanding of the copyright law, but I am not an attorney. For an expert opinion, consult an attorney who specializes in intellectual property law.

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