

COPYRIGHT 101: The Public Domain

The legal concept of the public domain as it applies to copyright law should not be confused with the fact that a work may be publicly available, such as information found on the Internet. The public domain comprises all those works that are either no longer protected by copyright or never were.

Essentially, all works first published in the United States prior to 1923 are considered to be in the public domain in the United States, as are works published between 1923 and 1963 on which copyright registrations were not renewed. Materials created since 1989, other than those created by the U.S. federal government, are presumptively protected by copyright. Therefore, the likelihood that materials of greatest interest to most business professionals are in the public domain is low. In addition, one must also consider other forms of legal protection, such as trademark or patent protection, before using third-party content.

Public domain materials generally fall into one of four categories:

1. Generic information, such as facts, numbers and ideas.
2. Works whose copyrights have lapsed due to the passage of time or the failure of the copyright holder to renew a registration (a requirement that applies to works created before 1978).
3. Works created prior to March 1989 that failed to include a proper notice of copyright.
4. Works created by the U.S. federal government.

Also, in rare instances, works may be “dedicated” (donated) to the public domain.