

# 4. When Copyright Ends (or Never Was): Understanding the Public Domain

## Description

Copyright law's purpose is to foster the development of a rich public domain of knowledge available to all, by permitting rightsholders to control certain uses of original works for a limited (though still quite long) time. When copyright to a work finally expires, the work is said to rise into the "public domain." Public domain works may be used freely without permission of the (former) copyright holder, making them ideal raw material for other types of published work.

In this class, participants will learn the basics of determining whether a work has risen into the public domain in the US, either because the copyright term has expired, or because the work is one of the limited categories of works that are not eligible for copyright protection. The class will focus on the types of copyrighted works most frequently found in archival, museum, and library collections, including books, unpublished archival materials, works of art, and scientific data. Participants will learn about tools and resources to help their public domain determinations, as well as ways to communicate those determinations with their users.

This class assumes participants have taken Copyright 101 offered through LYRASIS and/or have a basic understanding of copyright concepts in order to delve into the more specialized aspects of the public domain.

## Learning Outcomes

- Identify relevant facts and law to assess when copyright protection begins
- Identify whether a given work is or is not encumbered by copyright
- Apply basic rules and standards for copyright eligibility to examples based on real-world situations
- Apply basic rules to measure the duration of copyright, including the important threshold question of whether a work has been published
- Distinguish between types of works that are eligible for copyright protection and those that are not (i.e., born public domain)

## Access

Access to the recording of the class delivered live on 3/10/21 is available to LYRASIS Learning subscribers in the [Learning Library](#) and through partnerships with advisory group members, instructors, and other copyright education programs.

## Instructors

- **Brandon Butler** is the first Director of Information Policy at the University of Virginia Library. He provides guidance and education to the Library and its user community on intellectual property and related issues, and advocates on the Library's behalf for provisions in law and policy at the federal, state, local, and campus level that enable broad access to information in support of education and research. Butler is the author or co-author of a range of articles, book chapters, guides, presentations, and infographics about copyright, with a focus on libraries and the fair use doctrine.

Before joining the UVA Library, Brandon was the Practitioner-in-Residence at the Glushko-Samuelson Intellectual Property Law Clinic at the Washington College of Law at American University in Washington, D.C., where he supervised clinic student attorneys who represented clients in a variety of IP matters. He also taught traditional law courses, including Copyright and Fair Use in Practice.

Before teaching at the law school, Butler was the Director of Public Policy Initiatives at the Association of Research Libraries (ARL), an association of 125 academic and research libraries in North America. After graduating from law school, Butler was an associate in the Media and Information Technologies practice group at the Washington, D.C., law firm Dow Lohnes PLLC (now Cooley LLP). He received his J.D. from the University of Virginia School of Law where he was an editor at the Journal of Law and Politics, obtained an M.A. in philosophy from the University of Texas, and did his undergraduate degree at the University of Georgia.

- **Greg Cram** is the Director of Copyright, Permissions and Information Policy at The New York Public Library. Greg endeavors to make the Library's collections broadly available to researchers and the public to be used to advance knowledge. He is responsible for developing and implementing policies and practices around the use of the Library's collections, both online and in the Library's physical spaces. Greg has helped steer projects through a maze of complex intellectual property issues, including the release of more than 290,000 high-resolution images of public domain collection items. Greg has represented the Library in advocating for better copyright policy and has testified before Congress and the United States Copyright Office.

Before joining the Library in 2011, Greg served as the copyright clearance consultant to Leadership Team Development, a business support company that organizes thousands of meetings, seminars and conferences. He also worked as a licensing associate at Sanctuary Records, a large independent record label. He is a graduate of Boston University and The Benjamin N. Cardozo School of Law and a licensed attorney in New York and Massachusetts.