

What's An Image Worth?

Rights Management 101
for Non-Lawyers





Question: Have you been responsible for securing rights for an exhibition or project at your organization?

- Yes, and I feel pretty confident doing this work
- Yes, but I feel very nervous about it
- No



Agenda

IT'S ONLINE, WHY CAN'T I USE IT?

FINDING IMAGES

GETTING IMAGES

COPYRIGHT IS NOT STATIC

INCOMING AND OUTGOING

Q&A

It's Online, Why Can't I Use It?

OBJECTIVES

An Introduction to Image Rights
Who Decides What's Included
Legal vs. Ethical Limitations
What Uses Do You Need?



An Introduction to Image Rights

why you shouldn't just use whatever looks good

Who Decides What's Included

why engaging community and stakeholders in image rights can be important
to fostering inclusive dialogues

Legal vs. Ethical Limitations

why it's important for museums to consider both the ethical as well as the legal implications of the use of images and copyright

What Uses Do You Need?

Why It Matters

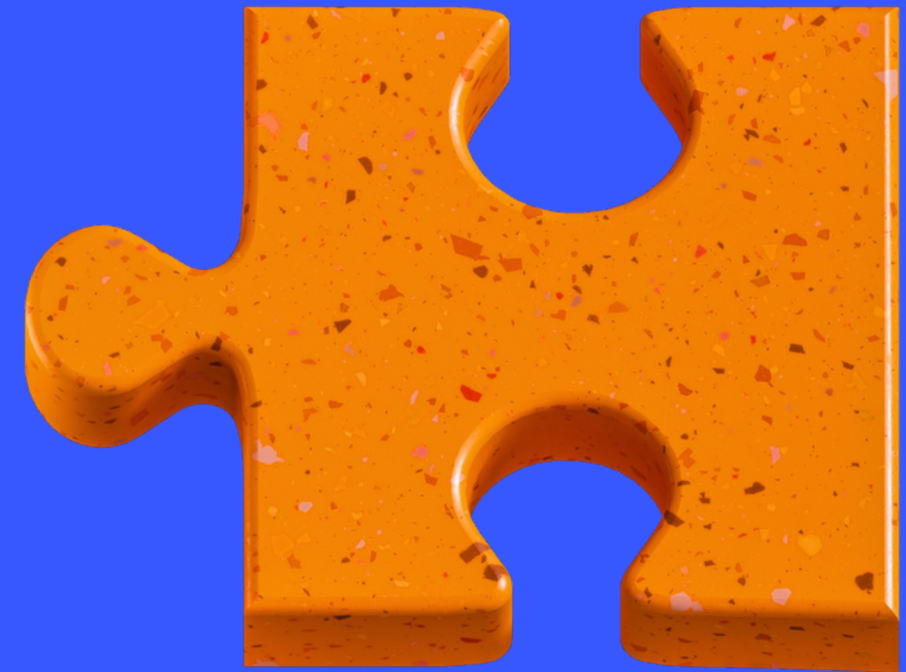
why you shouldn't just use whatever looks good

- Exhibition Use
- Social Media
- Online Use
- Publicity
- Commercial Use
- Videos
- Internal/External Reporting

Finding Images

OBJECTIVES

Commercial vs. Non-profit sources
Rights Management
Pricing





Question: Where do you look for images for exhibitions?

- Stock houses such as GettyImages
- Databases
- Archives, Historical Societies, Libraries
- In-house collections
- Internet searches
- Social media
- Partner Organizations
- Other

Commercial vs. Non-commercial Sources

GettyImages and other stock houses vs. archives, Library of Congress, Flickr,
etc.

Rights Management

Artists Rights Society

The Price of an Image

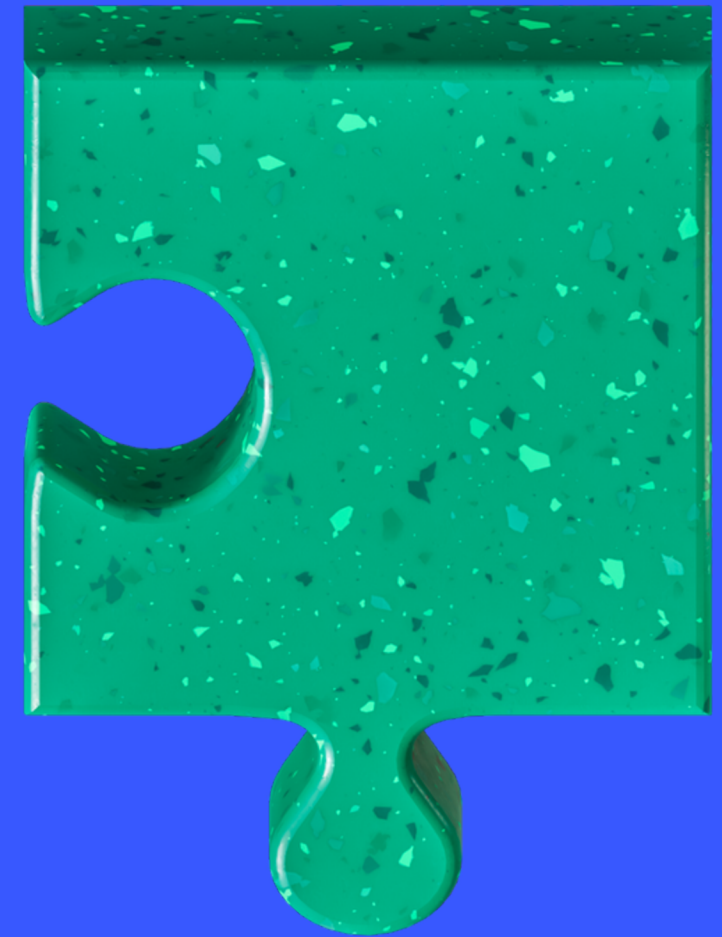
strategies and resources for low/no cost images

when spending a little more may prove to be a benefit

Getting Images

OBJECTIVES

Copyright, Creative Commons, Public Domain and Fair Use
Personality (or Publicity) Rights
It's Not Just Images
In Case That's Not Enough, There's AI



Public Domain in the United States

If the work was published prior to 1930, it is in the public domain.

2. For works published between 1930 and March 1, 1989:

a. Public Domain = Published between 1930 and 1977 without a notice.
(Note: If the work published during this period has a notice, it may be protected for 95 years from the date of publication.)

b. Public Domain = Published between 1978 and March 1, 1989 without a notice and was not registered within the next five years.
(Note: If the work published during this period has no notice, but was registered, it is protected for 70 years from the death of the creator.)

c. Public Domain = Published between 1930 and 1963 with a notice, but copyright was not renewed, it is in the public domain.

3. After March 1, 1989, all works (published and unpublished) are protected for 70 years from the date the creator dies. For works of corporate authorship (works made for hire), the copyright term is the shorter of 95 years from publication, or 120 years from creation.

Copyright, Creative Commons, Public Domain and Fair Use –

what you need to know before you start

Creative Commons

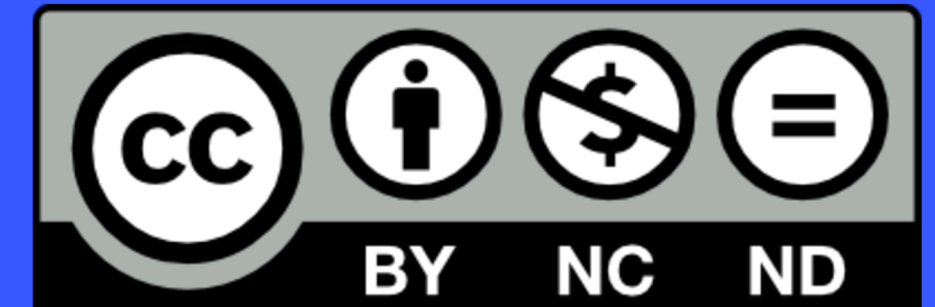
know the differences - six different types of licenses

<https://creativecommons.org/share-your-work/cclicenses/>

CC BY



CC BY NC ND



CC Zero or CC0



A public dedication tool, enables creators to give up their copyright and put their works into the worldwide public domain. Reusers can distribute, remix, adapt, and build up in any medium or format.

Fair Use

there isn't a blanket standard, each instance is evaluated separately

Four factors that must be evaluated in each case:

- The purpose and character of the use (including whether it is transformative, commercial, non-profit, or educational)
- The nature of the copyrighted work
- The amount and substantiality of the portion to be used
- The effect upon the potential market for the copyrighted work

Personality (or Publicity) Rights

you've gotten permission to use an image, but what about the person shown in that photograph?

Open Access

many museums and libraries now have open access policies

remember to follow each museum's guidelines regarding use and credit

Open Access - A Selection of Sources

- Art Institute of Chicago
- Belvedere, Vienna
- Biodiversity Heritage Library
- Birmingham Museums Trust
- Cleveland Art Museum
- Harvard Art Museums
- J. Paul Getty Museum, Los Angeles
- Kunstmuseum Basel
- Library of Congress, Washington, D.C.
- Los Angeles County Museum of Art
- Mauritshuis, The Hague
- Metropolitan Museum of Art, New York
- Minneapolis Institute of Art
- Munch Museet, Norway
- Museum of New Zealand Te Papa Tongarewa, Wellington
- Národní galerie Praha
- National Archives and Records Administration, Washington, D.C.
- National Gallery of Art, Washington, D.C.
- Nationalmuseet Danmark
- Nationalmuseum, Stockholm
- Newfields (The Indianapolis Museum of Art)
- New York Public Library
- Paris Musées
- Pinakotheken, Munich
- Rijksmuseum, Amsterdam
- Smithsonian Institution, Washington, D.C.
- Staatliche Museen zu Berlin
- Städtische Galerie im Lenbachhaus, Munich
- Statens Museum for Kunst, Copenhagen
- The Walters Art Museum
- Wellcome Collection, London
- Yale University Art Gallery
- Yale Center for British Art

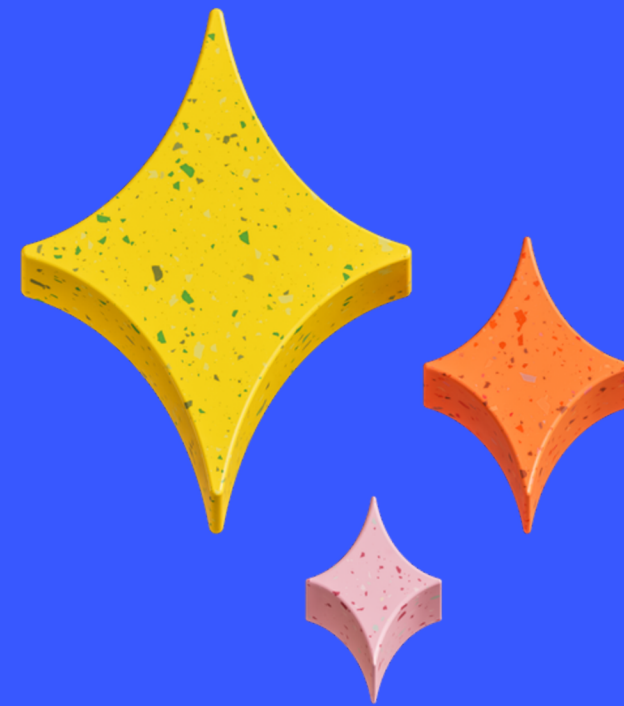
It's Not Just About Images

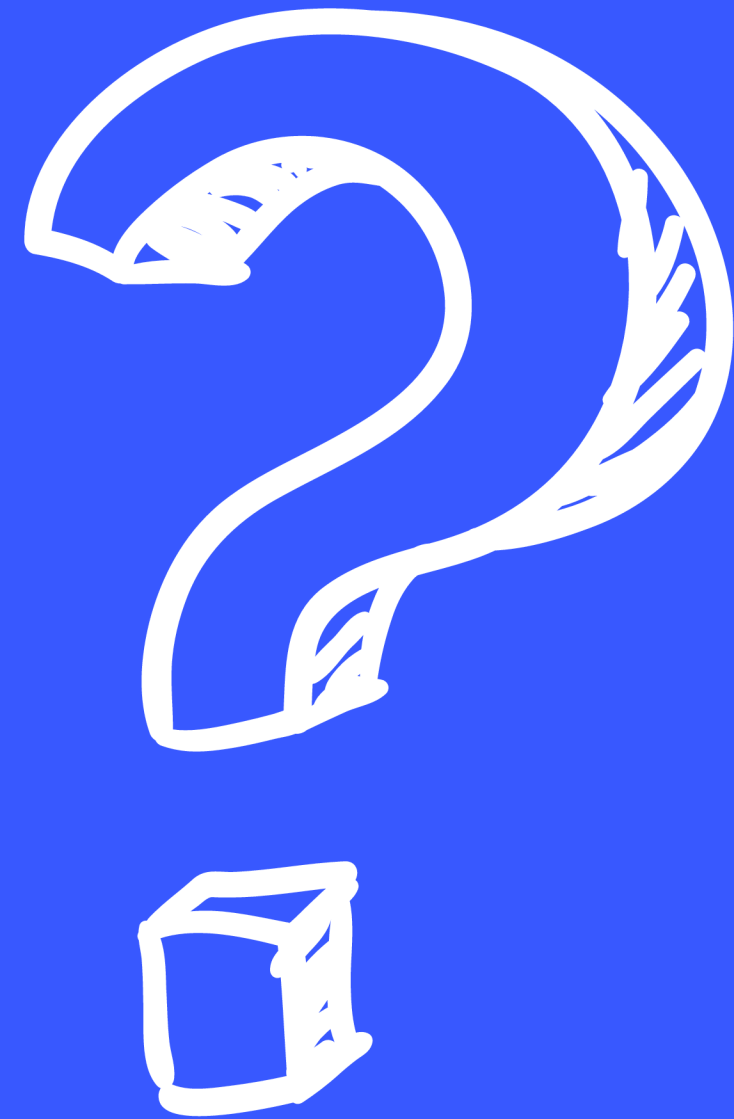
copyright beyond images

- Music
- Video
- Text
- Translation

In Case That's Not Enough, There's AI...

– that's another session





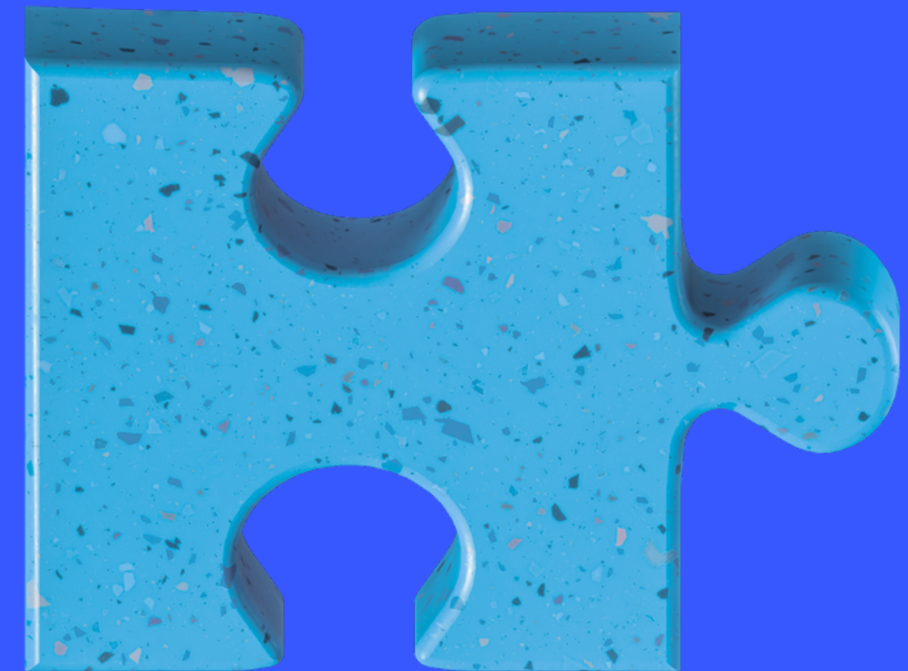
Question: Do you have legal counsel you can turn to for advice in licensing image rights?

- Yes
- No

Copyright Is Not Static

OBJECTIVES

Recent Legal Actions
Return to Fair Use
Building Relationships



Recent Legal Actions

here's why this really matters (recent court cases involving copyright)

2024 - Copyright Infringement Time Period

Warner Chappell Music, Inc., et al., Petitioners v. Sherman Nealy, et al.

2023 - Fair Use

ANDY WARHOL FOUNDATION FOR THE VISUAL ARTS, INC. v. GOLDSMITH ET AL.

2023 - Trademark

JACK DANIEL'S PROPERTIES v. VIP PRODUCTS

2023 - Fair Use

ANDY WARHOL FOUNDATION FOR THE VISUAL ARTS, INC. v. GOLDSMITH ET AL.



A portrait of Prince taken by Lynn Goldsmith in 1981 (left) and 16 silk-screened images Andy Warhol later created using the photo as a reference (right).

Collection of the Supreme Court of the United States

2023 - Trademark
JACK DANIEL'S PROPERTIES v. VIP PRODUCTS



Image from SCOTUSblog

Building Relationships

like everywhere else in life, it's important



Incoming and Outgoing

OBJECTIVES

Licensing Your Own Images
Know When You Are Out of Your Depth!
Where Can You Learn More?



**It's not just about bringing
things in, it's also about what
you put out**

Licensing your own
images and videos taken in your space

Know when you are out of your depth!

when it's time to seek legal guidance on these topics

What are your organization's policies?

Do you have a set of policies?

Where can you learn more?

General

- <https://www.aam-us.org/programs/resource-library/collections-stewardship-resources/copyright-and-intellectual-property/>
- <https://www.collegeart.org/standards-and-guidelines/intellectual-property/image>
- <https://www.copyright.gov/>
- <https://www.loc.gov/legal/understanding-copyright/>
- Open Copyright Education Advisory Network (OCEAN) - free resources and trainings (<https://www.oceancopyright.org/>)
- Anne Young's *Rights and Reproductions: The Handbook for Cultural Institutions* (fee associated)

Copyright & Public Domain

- <https://guides.library.cornell.edu/copyright/publicdomain>
Includes a handy PDF table of Copyright Terms for the U.S., updated yearly

Creative Commons

- <https://creativecommons.org/>

Fair Use

- <https://www.copyright.gov/fair-use/>
- <https://www.collegeart.org/programs/caa-fair-use/best-practices>
- <https://fairuse.stanford.edu/>



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