

PUBLIC DOMAIN: WHAT DOES IT REALLY MEAN?



On January 1, 2022, a version of the beloved character "Winnie the Pooh" entered the public domain. January 1st is also known annually in the United States as Public Domain Day. But what exactly is the "public domain"?

Using Public Domain Works



Public domain works can be used without permission because there is no "owner" or property rights. However, a derivative work can be created from the original, and this could be copyrighted.

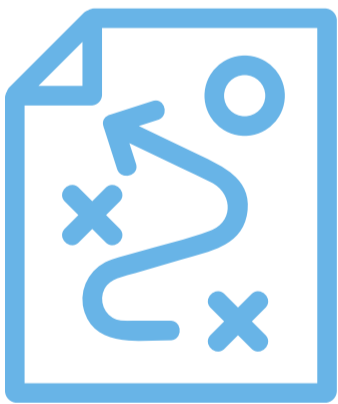
Limitations of Using Public Domain

There may be scenarios in which works in the public domain have copyright protection. For example, a book of images in the public domain may still be copyrighted as a "collective work."

William Shakespeare's *The Taming of the Shrew* is in the public domain, but the film "Ten Things I Hate About You," an adaptation of the Shakespeare tale, has an active copyright.



Can a Creator Bypass Public Domain?



Copyrights after 1978 are not subject to renewal so they generally cannot bypass the public domain.

However, there are ways to obtain ownership protections, including **trademarking** certain aspects of works, such as **characters, or creating and copyrighting a derivative work** that gives the creator some future control.

How to Determine Fair Use

Fair use is a "legal doctrine that promotes freedom of expression by permitting the unlicensed use of copyright-protected works in certain circumstances" through four factors:

- 1) The nature of the work used
- 2) The amount and substantiality of the work used
- 3) The effect of the use on its potential market
- 4) The value of the work used

