

## When Works Pass into the Public Domain by Lolly Gasaway, University of North Carolina

Definition: A public domain work is a creative work that is not protected by copyright and which may be freely used by everyone. The reasons that a work is not protected include:

- (1) the term of copyright for the work has expired
- (2) the author failed to satisfy statutory formalities to perfect the copyright
- (3) the work is a work of the U.S. Government.

Created 1/1/78 or after	When work is fixed in tangible medium of expression	Life + 70 years <sup>1</sup> (or if work of corporate authorship, the shorter of 95 years from publication, or 120 years from creation <sup>2</sup> )
Published before 1923	In public domain	None
Published from 1923 to 1963	When published with notice <sup>3</sup>	28 years + could be renewed for 47 years, now extended by 20 years for a total renewal of 67 years. If not so renewed, now in public domain
Published from 1964 to 1977	When published with notice	28 years for first term; now automatic extension of 67 years for second term
Created before 1/1/78 but published between then and 12/31/2002	1/1/78, the effective date of the 1976 Act which eliminated common law copyright	Life + 70 years or 12/31/2047 whichever is greater

<sup>1</sup>Term of joint works is measured by life of the longest-lived author.

<sup>2</sup> Works for hire, anonymous and pseudonymous works also have this term. 17 U.S.C. § 302(c).

<sup>3</sup> Under the 1909 Act, works published without notice went into the public domain upon publication. Works published without notice between 1/1/78 and 3/1/89, effective date of the Berne Convention Implementation Act, retained copyright only if efforts to correct the accidental omission of notice was made within five years, such as by placing notice on unsold copies. 17 U.S.C. § 405. (Notes courtesy of Professor Tom Field, Franklin Pierce Law Center and Lolly Gasaway)

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<http://www.unc.edu/~uncclng/public-d.htm>