

CRMS Guidelines for Checking Copyright Status of US works published from 1923-1963

(Last updated 5/11/10)

General:

The copyright status of US works published 1923-1963 is dependent on conformance with various copyright formalities that used to be required in order to secure and maintain copyright under US law (such formalities are no longer required today.) CRMS work involves checking that the work was a) registered with the copyright office and renewed in the 28th year after publication, and b) includes a valid copyright notice on the piece.

Publication:

Copyright review of works in HathiTrust via the CRMS is generally limited to US works *published* during the years 1923-1963. If a copyright holder authorized the distribution of copies of a work to the public (i.e., sale, lending, lease, rental, free hand-outs, etc.), it is considered a published work.

US works:

General Guidelines

Published prior to 1923	Public domain
Published 1923-1963 but not renewed	Public domain
Published 1923-1963 without copyright notice	Public domain
Published 1923-1963 w/copyright notice and renewed 28 years after date of original registration (between 1951 ¹ -1991)	In copyright

Rules of thumb:

a) Renewals for works not in the Stanford Renewal Database - we currently use the Stanford Copyright Renewal Database (<http://collections.stanford.edu/copyrightrenewals>) to check the renewal status of a work. The Stanford Database covers "Class A" materials (monographic books and pamphlets) only. If a work does not qualify as a "Class A" work, or includes/incorporates non-Class A materials (see section [b] on "Inserts" below), we cannot make a determination as to its renewal status. We mark these volumes to indicate that further investigation is required.

¹ Keep in mind that if you find a renewal for a work in the Stanford Renewal Database and the date is 1950 or earlier, the work is now in the public domain.

U.S. Works (cont.)

b) Work that incorporates separately copyrighted works (“Inserts”) – the status of any separately copyrighted works incorporated in the volume being reviewed must be taken into account in making copyright determinations.

Example 1: A book published in 1953 includes works such as photographs, stories, poems, portions of articles that are separate copyrights not owned by the copyright holder of the overall work.

c) Reissues and Reprintings (even with a change in title or new cover but no new/additional content) – only check renewal in the original work.

d) New edition – the status of both works is relevant if it is a truly new version based on the original or the original version with added content.

Note: “First Paperback Edition” or “First American Edition” are often not anything new. So unless there is indication that it is a different edition, you can use the copyright date of the original. But if it’s the First American Edition, you will need to consult the rules for Foreign works (see below).

Example 2: Take a book published in 1930 with a revised and expanded version published in 1940. If you are checking the status of the later revised version, the status of both works is relevant.

- *If the 1940 work was renewed the work is in copyright. (If the 1930 work was not renewed, it’s only the later changes and additions that have copyright protection, but this still prevents you from showing the book.)*
- *If the 1940 work was not renewed, but the 1930 work was, then the underlying work is still in copyright (even though the later modifications lack copyright protection).*

Foreign works:

Definition: For purposes of the CRMS, we define foreign works as works that were first published abroad

The volumes that are queued for review in the CRMS should be US books published from 1923-1963. Selection of these works is dependent on date and place of publication information in the bibliographic record. Sometimes information on the title page or other front matter will not match up with the bibliographic record, and you will notice that a work is based on or is a non-US publication.

Rules of thumb:

a) Foreign publications get “undetermined” copyright status - For purposes of CRMS review, all foreign publications will be marked to indicate that further investigation is required. Additional

training for new CRMS reviewers to make specific determinations regarding the status of foreign works may be scheduled at some point in the future.

b) Identifying foreign works – to determine whether something was previously published as a foreign work, use your best (quick) judgment based on what you see on the title page and verso. If you find indication on the title page/verso that the work may have been previously published outside the US, treat it as a foreign publication.

c) US printings of foreign works in their original form (often referred to as new “editions” or “First American Edition”) - copyright status is determined in accordance with the rules for foreign works.

Example: if the original (foreign) work was published in 1918 but the work being reviewed is a 1925 American publication of the foreign work, consider the work a foreign publication.

IMPORTANT FINAL NOTE:

Please make all efforts to follow the rules and the order of the CRMS Decision Tree in performing copyright determinations in the CRMS. The tree is meant to reduce ambiguity in decision-making and thereby reduce conflicts.