Don’t Be Wrong About Rights

Upper Midwest Digital Collections Conference
November 8th, 2018
Title: Pyxidanthera barbulata, Mx; Alternative Title: Pyxie, Flowering Moss. Creators: Williams, Agnes. Date: April 19, 1887.

Access conditions Use of this image may be governed by U.S. and international copyright laws. Please contact the Andersen Horticultural Library for permission to publish this image.
What we’ve been doing about rights

• Assessing whether *we* can digitize/share
• Adding “rights information” of varying quality
  • suggests we can give/withhold copyright permission, or
  • is totally hands-off, doesn’t even tell people “there is no copyright on this”

• (“we” = most libraries and lots of other cultural orgs that digitize)
Wanting to do better!
Wanting to do better!
Doing better!

• Assessing whether anyone owns
• Adding more accurate rights information
• STANDARDIZING rights information
Rights Statements Standardization Project

rightsstatements.org
About Rights Statements

• The 12 standardized rights statements are high level summaries of the underlying rights statuses of the digital objects they apply to.

• The rights statements have been designed with both human and machine users in mind and are provided as a linked data vocabulary.

• Drafted by lawyers: these are our best guesses, and that we don’t guarantee accuracy. Addresses concerns some orgs have had about liability.
Important clarification: not open licenses

- Rights Statements are *labels*, specifically for use by cultural organizations, for *describing items* for which we are not the copyright owners.
  - We are usually not the copyright owners of items in our collections.
  - The Public Domain Mark (PD) developed by the Creative Commons organization is another such label. It says “This work has been identified as being free of known restrictions under copyright law, including all related and neighboring rights”

- Creative Commons licenses (and waivers) are legal tools to enable public use, can *only* be used by copyright owners.
  - Licenses retain ownership but allow certain uses
  - CC0: Waives all rights in the work to the extent possible by law (looks a lot like the labels, but unlike them is a legally active document)
Three Categories of Rights Statements

**IN COPYRIGHT**

Statements for works that are in copyright

**NO COPYRIGHT**

Statements for works that are not in copyright

**OTHER**

Statements for works where the copyright status is unclear
DPLA Rights Statements: In Copyright

**IN COPYRIGHT**
This Rights Statement can be used for an Item that is in copyright. Using this statement implies that the organization making this Item available has determined that the Item is in copyright and either is the rights-holder, has obtained permission from the rights-holder(s) to make their Work(s) available, or makes the Item available under an exception or limitation to copyright (including Fair Use) that entitles it to make the Item available.

URI: [http://rightsstatements.org/vocab/InC/1.0/](http://rightsstatements.org/vocab/InC/1.0/)

**IN COPYRIGHT - EDUCATIONAL USE PERMITTED**
This Rights Statement can be used only for copyrighted Items for which the organization making the Item available is the rights-holder or has been explicitly authorized by the rights-holder(s) to allow third parties to use their Work(s) for educational purposes without first obtaining permission.

URI: [http://rightsstatements.org/vocab/InC-EDU/1.0/](http://rightsstatements.org/vocab/InC-EDU/1.0/)
DPLA Rights Statements: In Copyright

IN COPYRIGHT - NON-COMMERCIAL USE PERMITTED

This Rights Statement can be used only for copyrighted items for which the organization making the Item available is the rights-holder or has been explicitly authorized by the rights-holder(s) to allow third parties to use their Work(s) for non-commercial purposes without obtaining permission first.

URI: http://rightsstatements.org/vocab/InC-NC/1.0/

IN COPYRIGHT - RIGHTS-HOLDER(S) UNLOCATABLE OR UNIDENTIFIABLE

This Rights Statement is intended for use with an Item that has been identified as in copyright but for which no rights-holder(s) has been identified or located after some reasonable investigation. This Rights Statement should only be used if the organization that intends to make the Item available is reasonably sure that the underlying Work is in copyright. This Rights Statement is not intended for use by EU-based organizations who have identified works as Orphan Works in accordance with the EU Orphan Works Directive (they must use InC-OW-EU instead).

URI: http://rightsstatements.org/vocab/InC-RUU/1.0/
DPLA Rights Statements: In Copyright

IN COPYRIGHT - EU ORPHAN WORK

This Rights Statement is intended for use with Items for which the underlying Work has been identified as an Orphan Work in accordance with Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of Orphan Works. It can only be applied to Items derived from Works that are covered by the Directive: Works published in the form of books, journals, newspapers, magazines or other writings as well as cinematographic or audiovisual works and phonograms (note: this excludes photography and visual art). It can only be applied by organizations that are beneficiaries of the Directive: publicly accessible libraries, educational establishments and museums, archives, film or audio heritage institutions and public-service broadcasting organizations, established in one of the EU member states. The beneficiary is also expected to have registered the work in the EU Orphan Works Database maintained by EUIPO.

URI: http://rightsstatements.org/vocab/InC-OW-EU/1.0/
DPLA Rights Statements: No Copyright

NO COPYRIGHT - UNITED STATES
This Rights Statement should be used for Items for which the organization that intends to make the Item available has determined are free of copyright under the laws of the United States. This Rights Statement should not be used for Orphan Works (which are assumed to be in-copyright) or for Items where the organization that intends to make the Item available has not undertaken an effort to ascertain the copyright status of the underlying Work.

URI: http://rightsstatements.org/vocab/NoC-US/1.0/

NO COPYRIGHT - CONTRACTUAL RESTRICTIONS
This Rights Statement can only be used for Items that are in the Public Domain but for which the organization that intends to make the Item available has entered into contractual agreement that requires it to take steps to restrict third party uses of the Item. In order for this Rights Statement to be conclusive, the organization that intends to make the Item available should provide a link to a page detailing the contractual restrictions that apply to the use of the Item.

URI: http://rightsstatements.org/vocab/NoC-CR/1.0/
DPLA Rights Statements: No Copyright

**NO COPYRIGHT - NON-COMMERCIAL USE ONLY**

This Rights Statement can only be used for Works that are in the Public Domain and have been digitized in a public-private partnership as part of which, the partners have agreed to limit commercial uses of this digital representation of the Work by third parties. It has been developed specifically to allow the inclusion of Works that have been digitized as part of the partnerships between European Libraries and Google, but can in theory be applied to Items that have been digitized in similar public-private partnerships.

URI: [http://rightsstatements.org/vocab/NoC-NC/1.0/](http://rightsstatements.org/vocab/NoC-NC/1.0/)

**NO COPYRIGHT - OTHER KNOWN LEGAL RESTRICTIONS**

This Rights Statement should be used for Items that are in the Public Domain but that cannot be freely re-used as the consequence of known legal restrictions that prevent the organization that intends to make the Item available from allowing free re-use of the Work, such as cultural heritage or traditional cultural expression protections. In order for this Rights Statement to be conclusive, the organization that intends to make the Item available should provide a link to a page detailing the legal restrictions that limit re-use of the Item.

URI: [http://rightsstatements.org/vocab/NoC-OKLR/1.0/](http://rightsstatements.org/vocab/NoC-OKLR/1.0/)
DPLA Rights Statements: Other

COPYRIGHT UNDETERMINED
This Rights Statement should be used for items for which the copyright status is unknown and for which the organization that has made the Item available has undertaken an effort to determine the copyright status of the underlying Work. Typically, this Rights Statement is used when the organization is missing key facts essential to making an accurate copyright status determination.

URI: http://rightsstatements.org/vocab/UND/1.0/

COPYRIGHT NOT EVALUATED
This Rights Statement should be used for Items for which the copyright status is unknown and for which the organization that intends to make the Item available has not undertaken an effort to determine the copyright status of the underlying Work.

URI: http://rightsstatements.org/vocab/CNE/1.0/
DPLA Rights Statements: Other

**NO KNOWN COPYRIGHT**

This Rights Statement should be used for Items for which the copyright status has not been determined conclusively, but for which the organization that intends to make the Item available has reasonable cause to believe that the underlying Work is not covered by copyright or related rights anymore. This Rights Statement should not be used for Orphan Works (which are assumed to be in-copyright) or for Works where the organization that intends to make the Item available has not undertaken an effort to ascertain the copyright status of the underlying Work.

URI: [http://rightsstatements.org/vocab/NKC/1.0/](http://rightsstatements.org/vocab/NKC/1.0/)
Categories

- When you own the Rights
- When Someone Else Owns the Rights, Or You Think That’s the Case
- When You Think, Or Are Certain, That No One Owns The Rights
- When You’re Unsure About the Rights
- Probably Not Applicable

<table>
<thead>
<tr>
<th>Rights Statement</th>
<th>Abbreviation</th>
<th>Definition</th>
<th>Should You Use?</th>
</tr>
</thead>
<tbody>
<tr>
<td>In Copyright</td>
<td>CDD</td>
<td>Waives all rights in the work to the extent possible by law.</td>
<td>Yes</td>
</tr>
<tr>
<td>In Copyright</td>
<td>All CC licenses</td>
<td>Retains ownership of rights, but allows certain uses.</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Table 2: When Someone Else Owns the Rights, Or You Think That’s the Case

<table>
<thead>
<tr>
<th>Rights Statement</th>
<th>Abbreviation</th>
<th>Definition</th>
<th>Should You Use?</th>
</tr>
</thead>
<tbody>
<tr>
<td>In Copyright</td>
<td>InC</td>
<td>This Rights Statement can be used for an item that is in copyright. Using this statement implies that the organization making this item available has determined that the item is in copyright and either is the rights holder, has obtained permission from the rights holder(s) to make the Work available, or makes the Work available under an exception or limitation to copyright (including Fair Use) that entitles it to make the Work available.</td>
<td>Yes</td>
</tr>
<tr>
<td>In Copyright - Rights-holder(s) unlocatable or unidentified</td>
<td>InC-RU</td>
<td>This Rights Statement is intended for use with an item that has been identified as in copyright but for which no rights holder(s) has been identified or located after some reasonable investigation. This Rights Statement should only be used if the data provider is reasonably sure that the work is in copyright. This statement is not intended for use by EU-based data providers who have identified works as Orphan Works in accordance with the EU Orphan Works Directive (they must use InC-O-W-EU instead).</td>
<td>With Caution</td>
</tr>
</tbody>
</table>

*Contributors should be aware that 1) this doesn’t provide any legal cover if the rights holder becomes available, 2) this statement implies a claim of fair use, and 3) this statement should only be used after serious inquiry.*
DPLA Rights Statements and MDL

- In Copyright
- In Copyright - Educational Use Permitted
- In Copyright - Non-Commercial Use Permitted
- In Copyright - Rights-holder(s) Unlocatable or Unidentifiable
- In Copyright, EU Orphan Work

- No Copyright – United States
- No Copyright – Contractual Restrictions
- No Copyright – Non-Commercial Use Only
- No Copyright – Other Known Legal Restrictions

- Copyright Undetermined
- Copyright Not Evaluated
- No Known Copyright
The Pillars of Hercules

Created Date: 1550

Partner: The New York Public Library

Contributing Institution: The Miriam and Ira D. Wallach Division of Art, Prints and Photographs: Print Collection.
The New York Public Library

Type: image

Format: Engravings
Prints

URL: http://digitalcollections.nypl.org/items/a17691b0-2efe-0133-ac53-58d385a7b928

Standardized Rights Statement: The organization that has made the item available believes that the item is in the Public Domain under the laws of the United States, but a determination was not made as to its copyright status under the copyright laws of other countries. The item may not be in the Public Domain under the laws of other countries. Please refer to the organization that has made the item available for more information.
http://rightsstatements.org/vocab/NoC-US/1.0/
Parkeerd Kromstraat, de Walburgpassage tussen Maasstraat en Emmasingel (1995)
View at Gemeentearchief Weert

De Sint Martinustoren gezien vanaf de Emmasingel, op de voorgrond de oude stadsmuur (1995)
View at Gemeentearchief Weert

Presentatie van het in boekwerk verschenen Oud Rechterlijk Archief van Weert: 1400-1796 in de Paterskerk, de samensteller gemeentearchivaris Jos Wassink
View at Gemeentearchief Weert
MDL Rights Statement Standardization Project

- Educated ourselves on the rights statements and what they meant
- Connected with others undertaking similar projects
- Developed training materials to communicate what we had learned

Chemistry Lab in Moss Hall, Macalester College
MDL’s Rights Pilot Project

• Pilot launched in February 2018 with five participants:
  1. Bethel University
  2. Carleton College
  3. Hennepin County Public Library
  4. Iron Range Research Center
  5. Northfield Historical Society

• Webinars and in-person workshop
• Combination of instruction and hands-on learning
• Concluded in May 2018

Bicycle Stunt, Zumbrota, Goodhue County Historical Society
Evaluation and Implementation

- Questions at final meeting
- Post-meeting survey
- Time for internal review
- How the new information will appear in Minnesota Reflections
Lessons Learned

• Best to present information iteratively
• Accurate statements can be applied fairly quickly to similar items
• Easiest if done in larger chunks rather than a few at a time
Where do we go from here?

• On-going evaluation
• Training refinements
• Educational videos
• In-person workshops
• Supporting materials
• DPLA Working Group
UMN Libraries collections implementation

- Tech limitations prevented implementing Rights Statements when they were announced
  - Item-level vs collection-level metadata
  - ContentDM upgrade/migration
- Soft launch of collections review this winter
- Intro training for curators, but their subject/collections knowledge will be essential
- Hopefully expanding retroactive review after that, and integrating into new digitization projects.
Break
Decision Workflow Text Document

- Decision Workflow asks questions which require yes/no answers
- Work through the document until you arrive at a determination – keep reviewing until you see a stop signal
- The document’s symbols have meanings:
  ➤ Skip to another step in the workflow
  △ Stop - You found a rights statement to apply
  ◇ Hold - You won’t have a conclusion or rights statement yet, but you can’t continue right now
- Some items may have more than one determination

1. Is the item a Government Document? (Ignore other countries, for now)
   a. Created by the US federal government
      ● Use PD Mark or NC-US
   b. Created by a US government (state or local) other than federal
      ● Treat like a Published Work or Unpublished Work, as appropriate

2. Is the item a Published Work?
   (Only treat an item as published if you have evidence it was widely available to the public; we’ll discuss further at the full-day training)
   a. When was it published?
      i. Prior to 1923? Copyright term has expired
         ● Use PD Mark or NC-US
      ii. After 1923?
         ➤ Check for Copyright Notice
   b. Copyright notice:
      i. Does the work bear a statement something like “Copyright [Year], [Publisher]”?
         1. If not, and published between 1923-1977, copyright was lost
            ● Use PD Mark or NC-US
         2. If not, and published between 1977-1989, might have lost the copyright
            ○ Can’t conclude anything yet, further research may pay off.
         3. If not, and published after 1989, assume in copyright
            ● Use InC
         4. If there -is- a notice, it likely has or had a copyright
            a. Published with notice between 1923 and 1977, -might-be out of copyright, further research may pay off.
            b. Published with notice 1978-1989, there is a valid copyright
               ● Use InC
      5. Any work published later than 1989, regardless of the existence of a notice, has a copyright.
         ● Use InC
Graphic Workflow Sneak Preview
Examples from Minnesota Reflections

Title: Rise and Progress of Minnesota Territory
Creator: Emerson, C.L. (editor) for the Territory of Minnesota
Date: 1855

Questions to Consider:
- Unpublished/Published/Government Doc?
  - Government Doc
- Created by the US Federal Government?
  - No
- Created by a state or local government?
  - Yes - so switch workflows
- Unpublished/published?
  - Unpublished
- When was it published?
  - 1855
- Is that date prior to 1923?
  - Yes

Rights Determination:
- No Copyright-US or No Known Copyright
Examples from Minnesota Reflections

Title: Diary of Florence C. Stork, 1914, St. Paul, Minnesota
Creator: Florence C. Stork (1877-1982)
Date: January-May, 1914

Questions to Consider:
Unpublished/Published/Government Doc?
Unpublished
When was it created? Prior to 1897?
No
Is the creator’s death date after 1947?
Yes – Florence died in 1982

Rights Determination:
In Copyright

More research: her estate could authorize a CC license, or if you can’t find them, could apply In Copyright-Rightsholder Unlocatable
Examples from Minnesota Reflections

Title: “North Country Librarian” Journal of the Minnesota Library Association
Creator: Minnesota Library Association, Audrey McClellan, editor
Date: Spring 1973

Questions to Consider:
Unpublished/Published/Government Doc?
PUBLISHED
When was it published?
1973
Does the work bear a copyright statement?
No
If not, was it published between 1923 and 1977?
Yes

Rights Determination:
No Copyright-US or No Known Copyright
Examples from Minnesota Reflections

Title: People listen to a concert in front of Stewart Hall, St. Cloud University, St. Cloud, Minnesota
Creator: Unknown
Date: 1970 - 1979

Questions to Consider:
Unpublished/Published/Government Doc?
Unpublished
When was it created?
1970-1979
By whom?
An organization still in existence (St. Cloud University) or unidentified individual

Rights Determination:
In Copyright or Copyright Undetermined

More research: could ID photog/org, and they could authorize a CC license. Or, if no answer, could apply In Copyright-Rightsholders Unlocatable or Unidentifiable
Examples from Minnesota Reflections

**Title:** Theodore Roosevelt International Highway, location unknown  
**Creator:** Hugh McKenzie (1879-1957)  
**Contributor:** McKenzie Photo Studio, Duluth  
**Date:** 1920?  

https://reflections.mndigital.org/catalog/nemhc:2501#/image/0
Examples from UMN Libraries Collections

Listed as: “Incoming Correspondence, O-Z” as part of Bell Museum of Natural History organization records

Title on scan: Guide for Taking Censuses of Waterfowl

Creator: USDA, Bureau of Biological Survey

Date: 1927

https://umedia.lib.umn.edu/node/782122/859694
Examples from Minnesota Reflections

Title: Dakota Odowan
Creator: John P. Williamson and Alfred L. Riggs
Contributor: Dakota Mission
Date: 1898

Title: Clara Barton Diary, January 1 - June 2, 1899
Creator: Barton, Clara (1821-1912)
Date: January 1 - February 14, 1899 and May 2 - June 1, 1899
Collection: Owen H. Wangensteen Historical Library of Biology and Medicine

https://umedia.lib.umn.edu/node/947488/948080
Examples from Minnesota Reflections

**Title:** Big Island Steamboat Dock, Orono, Minnesota  
**Creator:** Unknown  
**Publishing Agency:** V.O. Hammon Publishing Co.  
**Date:** 1906

https://reflections.mndigital.org/catalog/msn:639#/image/0
Examples from UMN Libraries Collections

Title: Melodier till Hemlands-Sanger: samt Ahnfelts sanger
Creator: Engberg, Jonas
Contributors: Ahnfelt, Oscar, 1813-1882.
Svenska Luterska Tryckforeningen
Date: 1875
Bonus! Publication information:
Engberg, Holmberg & Lindells forlag; Chicago 1875
Collection: UMN Music Library

https://umedia.lib.umn.edu/node/1199
717/1213325
Examples from Minnesota Reflections

**Title:** Girls sitting on porch with dog, Springfield, Minnesota

**Creator:** John Reverend Gmeiner (1847-1913)

**Date:** 1902-1910

https://reflections.mndigital.org/catalog/p15160coll17:134#/image/0
Examples from UMN Libraries Collections

Title: Schwartz, George A.: Duluth Area, 1
Creator: Geological Survey of Minnesota
Date: 1938

Bonus! information:
Finding aid available at:
http://purl.umn.edu/38400
https://umedia.lib.umn.edu/node/713282/
733083
Examples from Minnesota Reflections

**Title:** Indians Travelling  
**Creator:** Seth Eastman (1808-1875)  
**Contributor:** John C. McRae  
**Date:** 1853?

https://reflections.mndigital.org/catalog/nico:1610?pn=false#/image/0
Examples from UMN Libraries Collections

**Title:** Wall hanging portraying Ganesh  
**Description:** Patchwork portrayal of Ganesh.  
**Extent:** 16 x 20 inches  
**Physical Form:** Wall hanging  
**Subject:** Religious textile  
**Geographic location:** Countries: INDIA

https://umedia.lib.umn.edu/node/89252
Examples from Minnesota Reflections

Title: Indians Travelling
Creator: Architects and Engineers Supply Company
Contributor: Ernest Oberholtzer?
Publishing Agency: Merritt and Hector, Printers, Duluth

https://reflections.mndigital.org/catalog/p16022coll65:2#image/0
Examples from UMN Libraries Collections

**Title:** Keith's Home Builder, Volume 2, Number 1  
**Creators:** Walter J Keith (Walter Jewett), 1866-  
**Date:** July 1899  
**Collection:** Northwest Architectural Archives

https://umedia.lib.umn.edu/node/1181546
Examples from Minnesota Reflections

**Title:** Marquette Avenue and 6th Street with streetcar, Minneapolis, Minnesota  
**Creator:** Ray DeGroote  
**Date:** 1953

https://reflections.mndigital.org/catalog/msn:760#/image/0
Examples from UMN Libraries Collections

**Title:** General Mills, Annual Report, 1972-1973  
**Date:** 1972-1973  
**Collection:** Business Library

https://umedia.lib.umn.edu/node/1117793
Examples from Minnesota Reflections

**Title:** 10-Story Office Building, Minneapolis, Minnesota  
**Creator:** Harvey Ellis  
**Contributor:** Leroy S. Buffington  
**Date:** 1888

https://reflections.mndigital.org/catalog/naa:109#/image/0
Examples from UMN Libraries Collections

**Title:** The enchanted Island of Yew  
**Creators:** Baum, L. Frank (author)  
**Contributors:** Cory, Fanny Y. (illustrator)  
**Date:** 1903  
**Publication information:** Bobbs-Merrill Company Publishers; Indianapolis, Indiana 1903  
**Collection:** Children's Literature Research Collections

https://umedia.lib.umn.edu/node/473075
Examples from Minnesota Reflections

**Title:** Coming Attractions Poster at Lakeside Ballroom, Glenwood, Minnesota

**Creator:** Lakeside Ballroom

**Publishing Agency:** Central Show Printing Co., Mason City, Iowa

**Date:** June 3, 1961

https://reflections.mndigital.org/catalog/pch:88#/image/0
Title: Helenium autumnale, L.
Alternative Title: Autumn Sneeze-weed
Creators: Williams, Agnes
Date: September 28, 1885
Collection: Andersen Horticultural Library, Agnes Williams Collection

Bonus info: (1860-1946)

https://umedia.lib.umn.edu/node/949789
Examples from Minnesota Reflections

Title: The Organizer, Minneapolis, Minnesota, Volume 1, Number 9
Creator: Teamsters Union, General Drivers Local 574
Date: July 27, 1934

https://reflections.mndigital.org/catalog/p16022coll43:32?#/image/0?searchText=organizer&viewer=OSD_VIEWER
Examples from UMN Libraries Collections

**Title:** Title Gaze TV “The Quilt”  
**Creators:** Thiessen, Brad  
**Date:** unlisted (likely late 1980s/early 1990s)  
**Collection:** The Jean-Nickolaus Tretter Collection in Gay, Lesbian, Bisexual and Transgender Studies.

https://umedia.lib.umn.edu/node/992350
Questions?

Student asking a question in class, St. Cloud State University
Thank you!

Stephanie Hess  
Curator of Special Collections and Digitization  
Northfield Historical Society  
[link to contact information]

Molly Huber  
Outreach Coordinator  
Minnesota Digital Library  
[link to contact information]

Nancy Sims  
Copyright Librarian  
University of Minnesota Libraries  
[link to contact information]