

Table of Contents

	Your Legal Companion.....	1
1	Introduction to the Public Domain.....	3
	What Is the Public Domain?.....	4
	Dealing With Public Domain Gray Areas.....	11
	What If Someone Challenges Your Public Domain Claim?.....	14
	Documenting Your Use of Public Domain Materials.....	15
2	The Use and Abuse of Copyright.....	17
	What Copyright Protects.....	18
	The Looting of the Public Domain.....	24
3	Writings.....	31
	What Can You Do With Public Domain Writings?	33
	Determining Copyright Status of Written Works	38
	Is the Work Eligible for Copyright Protection?.....	38
	Has the Work Been Published?.....	61
	Has the Work's Copyright Expired?.....	67
	Is the Work in the Public Domain Due to Lack of a Copyright Notice?	68
	Does a Copyright Trap Apply?	68
	Misuse of Copyright Notices.....	80
	Sources of Public Domain Writings.....	83

4	Music	85
	The Difference Between Music and Sound Recordings.....	87
	What Can You Do With Public Domain Sheet Music?	88
	Has the Sheet Music Been Published?	92
	Has the Copyright in the Music Expired?.....	99
	Is the Music in the Public Domain Due to Lack of a Copyright Notice? ...	99
	Is It a Derivative Work?	100
	Is It an Arrangement or Adaptation?.....	101
	Is the Music a Collective Work?.....	113
	Does the Music Have Public Domain Elements?.....	116
	Sources of Public Domain Sheet Music.....	118
	Sound Recordings	119
5	Art	125
	Part I:Original Works of Art	127
	What Good Is Public Domain Art?	127
	Deciding If Original Art Is in the Public Domain.....	130
	Has the Art Been Published?.....	130
	Has the Copyright in the Art Expired?.....	135
	Is the Art in the Public Domain Due to Lack of a Copyright Notice?	135
	Is the Artwork Eligible for Copyright Protection?	136
	Do You Intend to Use the Art in Advertising or on Merchandise?	144
	Is the Art Protected by a Design Patent?	145
	Sources of Original Art.....	146
	Part II: Art Reproductions	147
	Is the Original Work of Art in the Public Domain?	147
	Has the Reproduction Been Published?	147
	Has the Copyright in the Reproduction Expired?.....	148

Is the Reproduction in the Public Domain Due to Lack of a Copyright Notice?.....	148
Does the Reproduction Lack Originality?.....	148
Is the Reproduction Dedicated to the Public Domain?.....	154
Will You Use the Reproduction in Advertising or on Merchandise?.....	155
Are Elements of the Reproduction in the Public Domain?.....	155
Sources of Art Reproductions.....	155
6 Photography.....	157
What Good Are Public Domain Photographs?.....	158
Deciding Whether Photographs Are in the Public Domain.....	158
Sources of Public Domain Photographs.....	167
7 Movies and Television.....	169
Part I: Films.....	171
What Good Are Public Domain Films?.....	171
Has the Film Been Published?.....	172
Has the Copyright Expired?.....	174
Is the Film in the Public Domain Due to Lack of a Copyright Notice?.....	182
Is the Film Protected by Copyright?.....	182
Does the Film Contain Copyrighted Visual Art?.....	184
Do You Plan to Use the Film for Advertising or Other Commercial Purposes?.....	185
Part II: Television Programs.....	185
Has the Television Program's Copyright Expired?.....	186
Is the Television Program in the Public Domain Due to Lack of a Copyright Notice?.....	188
Is It a U.S. Government TV Program?.....	188
Does the Program Contain Copyrighted Visual Art?.....	189

	Will You Be Using Public Domain TV Programs for Advertising or Other Commercial Purposes?	189
	Sources of Public Domain Films and TV Programs	190
8	Computer Software	191
	Is the Software Dedicated to the Public Domain?	192
	Was the Software Created by the U.S. Government?.....	196
	Has the Copyright in the Software Expired?	197
	Is the Software in the Public Domain Due to Lack of a Copyright Notice?.....	198
	Sources of Public Domain Software.....	200
9	Architecture	201
	What Good Is Public Domain Architecture?.....	202
	Architectural Plans.....	203
	Constructed Buildings.....	209
10	Maps	215
	Has Copyright in the Map Expired?	216
	Is the Map in the Public Domain Due to Lack of a Copyright Notice?	217
	Was the Map Created by the U.S. Government?	217
	Is the Map Eligible for Copyright Protection?	218
	Are Elements of the Map in the Public Domain?.....	218
	Sources of Public Domain Maps	220
11	Choreography	221
	Deciding If Choreography Is in the Public Domain	222
	Sources of Public Domain Choreography.....	225

12	Databases and Collections.....	227
	Part I. Databases.....	229
	Is the Work a Database?	230
	Does the Database Lack Creativity?	233
	Was the Database Created by the U.S. Government?	236
	Has the Copyright in the Database Expired?.....	238
	Is the Database in the Public Domain for Lack of a Copyright Notice?	239
	Is the Database Protected by Means Other Than Copyright?	240
	Part II: Collections of Public Domain Works.....	243
	Are the Collected Materials in the Public Domain?	244
	Does the Collection Lack Minimal Creativity?	247
	Is It a De Minimis Collection?	248
	Is It a U.S. Government Collection?.....	248
	Has the Collection's Copyright Expired?.....	248
	Is the Collection in the Public Domain for Lack of a Copyright Notice?	248
	Is the Collection Protected by Means Other Than Copyright?	248
13	Titles	251
	Titles of Copyrighted Works.....	252
	Titles of Public Domain Works.....	256
	Using Disclaimers to Avoid Public Confusion	258
	Titles Used on Merchandise and Other Products.....	259
	The First Amendment and Titles.....	259
14	Public Domain Elements in Copyright Writings.....	261
	Ideas	262
	Facts	266
	Unprotected Elements in Works of Fiction	271
	Unprotected Elements in Works of Fact.....	274

15	Copyrights Restored From Public Domain	281
	The GATT Agreement	282
	What Works Were Restored?.....	284
	Which Works Were Not Restored?.....	287
	Who Owns Restored Works?.....	289
	Copyright Infringement of Restored Works.....	289
16	The Public Domain Outside the United States.....	295
	Introduction	296
	Copyright Duration in Other Countries.....	299
	The Rule of the Shorter Term.....	308
	Researching Foreign Copyright Laws.....	310
17	The Internet and the Public Domain.....	313
	Two Preliminary Rules	314
	Internet Content in the Public Domain.....	316
	Potential Problems Using Public Domain Materials on the Internet	323
	Hyperlinks and the Public Domain.....	328
	Copyright and the Internet's Global Dimension	329
18	Copyright Protection: How Long Does It Last?	333
	Works First Published in the United States	334
	Copyright Term for Unpublished Works.....	340
	Works First Published Outside the United States	345
19	Copyright Notice Requirements.....	353
	Copyright Notices and the Public Domain	354
	Does the Work Lack a Valid Notice?.....	356
	Is a Copyright Notice Required?.....	360

	Is the Omission of a Valid Notice Excused?.....	365
	What If You Make a Mistake?.....	370
20	Traps for the Unwary	373
	Should You Worry About Trademark or Publicity Problems?	374
	The Right of Publicity.....	375
	Trademarks.....	379
21	Researching Copyright Office Records	387
	Researching Copyright Renewal Records for Works Published 1923-1963.....	388
	Researching Copyright Registration Records	405
22	What if a Work Is Not in the Public Domain?.....	409
	Find Another Public Domain Work	410
	Obtain Permission to Use the Work.....	410
	Use the Work Without Permission on the Grounds of Fair Use	413
	Index	425