



DUALE, OVIA &
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Expiration of Copyright Protection: The Mickey Mouse Example

Introduction

Copyright protection only lasts for a limited period. When the protection expires, the work (literary, musical, artistic, photographic, or film) enters the public domain. Public domain refers to the collection of creative materials that are not protected by intellectual property laws such as copyright. Once a work enters the public domain, it can legally be shared, performed, reused, repurposed or sampled without getting permission or cost. The public owns these works, not an individual author or creator.

The expiration of copyright is a relatively uncommon topic of discussion, given its lengthy duration, making it an infrequent occurrence. This IP Watch edition explores the legal considerations surrounding the duration of copyright particularly within the context of Nigerian law, drawing insights from the expiration of Disney's copyright in the Mickey Mouse character in Steamboat Willie.

The Mickey Mouse Example

Disney's copyright in "Steamboat Willie" expired on January 1, 2024. Steamboat Willie is the first short film of Walt Disney ("**Disney**") released in November 1928, which featured the earliest version of the Mickey Mouse character. The Mickey Mouse became one of the most iconic characters of the Disney brand, and is, today, featured in nearly all aspects of Disney's branding. The copyright expiration means that the Steamboat Willie version of the Mickey Mouse character ("**Steamboat Mickey**") is now in the public domain, available for anyone in the United States of America to use, without fear of copyright infringement.

Time Magazine reports that Disney fought to keep its copyright of Steamboat Mickey for as long as possible. Originally set to expire in 1984, lawmakers agreed in 1976 to change to law to allow owners to retain copyright protection for the duration of the life of the author plus an additional 50 years, In 1998, Disney once more successfully lobbied along with other entertainment companies to extend copyright protection to life of the author plus 70 years (for a maximum of 95 years), Consequently, the expiration of the copyright of Steamboat Mickey is pursuant to the Copyright Term Extension Act of 1998.

It pertinent to note that only the copyright for the Steamboat Mickey has expired and is currently in public domain, as Disney has continuously modified the Mickey Mouse character over the years to feature its quintessential red shorts and big eyes and may maintain copyright protection over these newer versions. The original Steamboat Willie character which is currently in public domain was a 2-D, had a nose more reminiscent of a rat than a mouse, and had a very long tail¹.

¹ Available at <https://blogs.luc.edu/ipbytes/2023/08/13/is-disney-losing-mickey-mouse-because-of-copyright-law/>, accessed on January 10, 2024.

Other Works Entering Public Domain

Trigger, the famous animal sidekick will join Winnie the Pooh in the public domain this year, as “The House at Pooh Corner” (the book in which the bouncing tiger first appeared) turns 96. Winnie the Pooh attained public domain status in 2022, paving the way for diverse and imaginative interpretations of the iconic yellow teddy bear, including the 2023 horror film, “Winnie the Pooh: Blood and Honey.”² Other works entering the United States public domain include Charlie Chaplin’s film “Circus”, Virginia Woolf’s novel “Orlando”, and Bertolt Brecht’s musical play “The Threepenny Opera”.

Copyright Duration around the World

Copyright laws vary from country to country, and creative works can be in the public domain in one country, but not necessarily in another. This is because the terms of copyright protection vary and the duration may depend on publication and creation dates. Copyright protection always expires at the end of the calendar year of the year it is set to expire. In other words, the last day of copyright protection for any work is December 31.

Table of copyright duration by country

S/N	Country	Duration
1.	Canada	Life + 70 years (except certain posthumous works) [Life + 50 years (death before 1972)]
2.	Egypt	Life + 50 years
3.	France	Life + 70 years (except posthumous works published after this term)
4.	Ghana	Life + 70 years
5.	Kenya	Life + 50 years (literary, musical or artistic work other than photographs)
6.	Mexico	Life + 100 years (effective 23 July 2003 non-retroactively)
7.	Nigeria	Life + 70 years (literary, musical, or artistic works other than photographs)
8.	South Africa	Life + 50 years (literary or musical works or artistic works, other than photographs)
9.	United Kingdom	Life + 70 years (if there are multiple authors, life of last surviving author + 70 years) For films, life + 70 years for the last to die of: principal director, author of screenplay, author of dialogue, or composer of music specifically created for and used in the film.
10.	United States	Life + 70 years (works published since 1978 or unpublished works)

² Carlianna Dengel, “Winnie-the-pooh: Blood and Honey – Is this what is to come for New Public Domain Characters?” (Romano Law, March 16, 2023) available at [Winnie-the-Pooh: Blood and Honey – Is This What’s to Come for New Public Domain Characters? - Romano Law](#), accessed on January 10, 2024.

Duration of Copyright in Nigeria

Under the Nigerian Copyright Act 2022 (the “Act”), the duration of protection for various creative works is outlined with distinct timelines as follows:

S/N	Type of work	Date of expiration
1.	Literary, musical, or artistic works other than photographs.	70 years after the end of the year in which the author dies; in the case of the government or a corporate body ³ , 70 years after the end of the year in which the work was first published. ⁴ An example is “The Grammar of the Yoruba Language”, by Samuel Ajayi Crowther (Died in 1891)
	Audiovisuals films and photographs	50 years after the end of the year in which the work was first published or 50 years after the work was created, if not made available to the public within that time. ⁵ Examples are pictures and audiovisuals taken prior to 1973.
2.	Sound recordings	50 years after the end of the year in which the recording was first published. Example, ‘Ewo Ijamba Moto’ (1967) by King Sunny Ade
3.	Broadcasts	50 years after the end of the year in which the broadcasting first took place. Example, the broadcast announcing Nigeria’s independence by Sir Emmanuel Aghanjuebitsi Ewetan Omatsola (KSC, OON), (October 1, 1960 at 12.00 am)
4.	Performances and expressions of folklore	50 years from the end of the year in which the performance first took place.
5.	Anonymous or pseudonymous literary, musical, or artistic works	70 years after the year in which the work was first made available to the public with the consent of the author. Or 70 years after the work was created, if not made available to the public within that time. ⁶

³ Section 19(1)(a) Copyright Act 2022

⁴ Section 19(1)(b) Copyright Act 2022

⁵ Section 19(1)(d) Copyright Act 2022

⁶ Section 19(2) Copyright Act 2022

According to the Act, in cases of joint authorship, the reference to the author's death pertains to the individual who passes away last, ensuring that the collaborative work remains protected for the stipulated period⁷.

Other Legal Considerations in Utilizing Works with Expired Copyright

Intellectual property protection may not automatically cease in respect of work that goes into public domain by virtue of copyright expiration. This is typical with works that are eligible for both copyright and trademark protection. For instance, although the Steamboat Willie is now in the public domain, the use of the Steamboat Mickey may come with a myriad of legal consequences. This is because Disney has the Steamboat Mickey trademarked. Additionally, the copyright lapse only affects the Steamboat Mickey and not the subsequent versions of the Mickey Mouse character after 1928 in which Disney's copyright in same remains valid and subsisting. The Steamboat Mickey has a few differences from the contemporary Mickey Mouse including the absence of his current gloves and oversized shoes, with his eyes being small black ovals without pupils.⁸ A Disney spokesperson reportedly stated that the Mickey character will continue as a global ambassador, unaffected by the "Steamboat Willie" copyright lapse, in storytelling, theme park attractions, and merchandise.⁹

Conclusion

In practical terms, the expiration of copyright in a work doesn't necessarily signal the end of intellectual property protection. Certain works, with expired copyright, might be under trademark protection. The original work may be followed by creation of newer and similar versions as is the case of the Mickey Mouse character might introduce legal complexities. Additionally, copyright protection duration varies from country to country. Though in the public domain, the use of such works requires caution to avoid potential legal consequences, emphasizing the delicate balance between creative freedom and legal boundaries in the realm of intellectual property.

⁷ Section 19(3) Copyright Act 2022.

⁸ Samantha Delouya, "An Early Version of Mickey Mouse now in Public Domain" (CNN, January 2, 2024), available at ['Steamboat Willie': An early version of Mickey Mouse is now in the public domain | CNN Business](#), accessed January 8th 2024.

⁹ Ibid.

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