

IMPORTANT BACKGROUND INFORMATION FOR IPR SURVEY

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1. ABOUT COPYRIGHT

Copyright protects original literary, artistic, musical and dramatic works, broadcasts, recordings of works (including sound and film) and typographical arrangements.

Copyright works may not copied, adapted, translated, made available to the public, broadcast, performed or rented without permission from the rights owner.

The first owner of copyright is usually the author, however copyright in works created in the course of employment is likely to be owned by the employer.

Copyright generally last for 70 years after the death of the author.

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2. COPYRIGHT IN THE DIGITAL OBJECT

There is much debate over whether or not faithful 2-d digital representation an original work attracts copyright protection. For BHL-Europe we will assume that copyright **does** exist in such digital works, although we may choose not to assert these rights.

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3. ABOUT 'PUBLIC DOMAIN'

A work is in the Public Domain if it is free of all copyright restrictions. For this to be the case one or more of the following must apply:

- * Copyright and any related rights in it have expired
- * The work does not qualify for copyright protection (e.g. it is not original)
- * The rights owner has chosen to relinquish all rights conferred by law over its re-use, forever, thereby effectively releasing it into the Public Domain.

IMPORTANT - A work is NOT in the Public Domain purely because:

- * it has been published or otherwise made available to the public
- * it is online
- * it has been created by, or is owned by a public institution

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4. ABOUT RIGHTS METADATA

Rights Metadata is the data associated with a digital file concerning copyright status, ownership, license terms and restrictions.

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5. ABOUT 'OPEN ACCESS'

BHL-Europe content will be made available under Open Access terms. 'Open Access' in this project means that content is not only free to access but also free to re-use, subject to the following limited restrictions or conditions:

1. Where an original work is out of copyright or otherwise in the Public Domain, no restrictions will be placed on re-use of the digital object.
2. Where an original work is protected by copyright the digital object shall be licensed under a free, irrevocable, worldwide, perpetual right of access to, and a license to copy, use, distribute, transmit and display the work publicly and to make and distribute derivative works, in any medium for any responsible purpose, subject to proper attribution of authorship and the condition that any derivative works must be distributed under the same or similar Open Access licence.
3. In exceptional circumstances where an original work is protected by copyright and the rights owner insists upon a more restrictive license, the digital object may be made available under the licence described above in '2.' with the caveat that re-use be limited to **non-commercial** purposes.

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6. ABOUT ATTRIBUTION

Attribution shall be to both the copyright owner and author of the original work (where that work is in copyright) and to the copyright owner of the digital object, not to the BHL-Europe project

Institution, project and other proprietary information will be captured and associated or embedded with all digital objects to enable users to identify the source of the work and ownership to be traced throughout onward uses of the digital object.

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7. ABOUT DIGITAL RIGHTS MANAGEMENT (DRM) AND TECHNICAL PROTECTION MEASURES (TPM)

These are technologies encoded into a digital file to attempt to manage, track and control the way the file is used and shared. These technologies are designed to be irremovable to prevent illegal copying of copyright protected files. It is illegal to circumvent DRM technologies.

TPMs operate in various ways, including:

- * limiting the number of times a piece of software can be installed
- * limiting the number of different computers upon which it can be installed
- * disabling files if user subscriptions are cancelled
- * preventing use of file with anything other than certain proprietary software
- * imposing a digital watermark on media files
- * tracing the onward use of digital files.

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8. ABOUT DUE DILIGENCE

Due diligence is the term used to describe the types of efforts that you should consider undertaking to trace rights holders in order to fulfil the requirements of a "reasonable" search for a copyright owner. This is particularly important in the case of works for which rights owners cannot be traced - so called Orphan Works. Whilst carrying out reasonable efforts to trace rights will not eliminate the risk of infringement, keeping paper and digital files of these efforts could be used to try and mitigate the consequences of infringing copyright.

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