

Introducing



An Interactive Query Program for Assessing
Intellectual Property Rights in Images
Intended for Educational Use

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Seminar 4: Using Digital Images in a Copyrighted World

Visual Resources Association, Baltimore

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DIRC is a web-based interactive query program designed to guide educators, academic image curators, and administrators through the layers of intellectual property rights that may affect a given digital image.

The goal of DIRC is to enable image users to make an informed assessment of rights in a selected image, and to apply the results in a manner consistent with their institution's copyright compliance policies.

Each query sequence in the interactive DIRC program will guide the user through a series of questions assessing five variables:

- 1. The copyright status of the underlying work represented in the image.**
- 2. The copyright status of the photographic reproduction.**
- 3. The specific source from which one has obtained the image under consideration.**
- 4. Any terms of use or contractual agreements that may govern the uses of this image.**
- 5. The intended use(s) of the image.**

The Conference on Fair Use (CONFU), 1996-1997

< <http://www.utsystem.edu/ogc/intellectualproperty/imagguid.htm> >

Image Collection Guidelines: The Acquisition and Use of Images in Non-Profit Educational Visual Resources Collections (VRA, 2000)

< <http://www.vraweb.org/copyright/guidelines.html> >

Copy Photography Computator (VRA, 2002)

< <http://www.vraweb.org/computator/welcome.html> >

Digital Image Rights Computator (VRA, 2004-2006)

- * Is it legal to digitize an existing analog slide?**

- * Is it legal to share an image, originally acquired by a departmental collection, through a consortium or other such extra-departmental, or extra-institutional, project?**
 - Shared-governance public institutions (e.g. SUNY, CSU)**
 - Affiliated independent institutions (e.g. AICAD)**
 - Softwares supporting shared collections (e.g. Almagest, MDID2)**

- * Is it legal to acquire and use a digital image downloaded from the Internet? (or, by extension, to acquire and use any image obtained "without pedigree"?)**



Basic Information: Albert Bierstadt. *The Falls of Saint Anthony*, ca. 1888.
Oil on canvas. Private collection.

Additional information: Digital scan from a slide. The source notes for this slide say that it was acquired via copy-stand photography from p. 40 of the September, 2004, issue of *ARTnews*, where it appeared as part of a gallery advertisement.



Basic Information: Gino Severini. *Red Cross Train Passing a Village*, 1915. Oil on canvas. Collection of the Solomon R. Guggenheim Museum, New York. **Additional information:** Digital scan from a slide. The slide label says “Sandak 1 330 0117” The slide was originally purchased by a former staff member while on a visit to the Museum at some time during the early 1980s. Sandak is no longer in business; some of their images are still available from other vendors. The Guggenheim no longer sells slides of works from its collection.



Basic Information: Gutson Borglum. Mount Rushmore National Memorial. 1927-1941.

Additional information: You have been asked to digitize this slide for inclusion in a regional digital image consortium. There is no source information on the slide. Borglum died in 1941. The Mount Rushmore site is owned by the Federal Government, and is administered by the National Park Service. There are no restrictions on visitor photography. This image appears identical to many others taken of the same work.



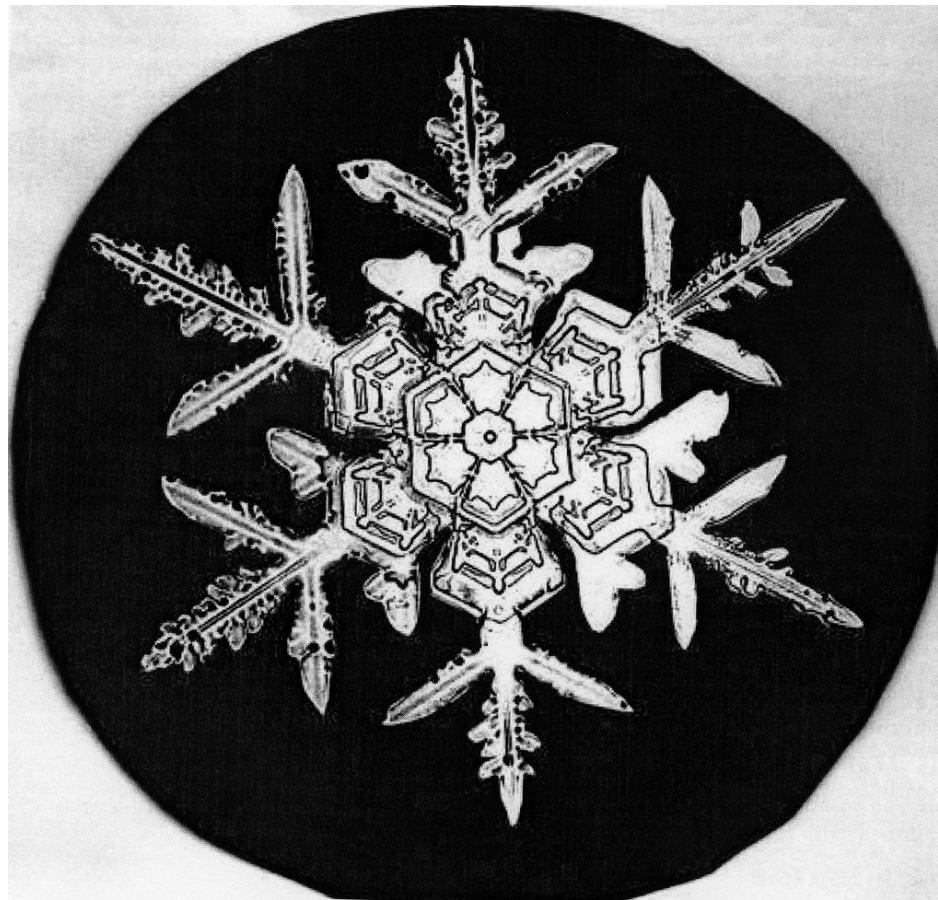
Basic Information: Frank Lloyd Wright. Solomon R. Guggenheim Museum, New York: exterior, view from northwest, 1956-1959. Renovated and expanded, with 10-story annex by Gwathmey Siegel & Associates, completed 1992.

Additional information: You have been asked to digitize this slide to share with other MDID2 users. This slide was donated to your collection by a former faculty member at your institution, who took the photo himself.



Basic Information: Peter Paul Rubens.
Prometheus Bound, 1611-1612.
Oil on canvas. Collection of the
Philadelphia Museum of Art.

Additional information: A faculty member wants you to add this image to the departmental collection. He has given it to you in the form of a generically-tagged JPG file, with no descriptive or source information other than “I got it off the internet.”



Basic Information: Wilson A. Bentley. Snowflake crystal. B&W photograph. [dated somewhere between 1885 and 1931]

The faculty member who brought you a copy of this image on a CD “to add to the collection” noted that it had been obtained from a website having the following URL: < <http://snowflakebentley.com/> >

The faculty member wants to have his graphic design students make derivative works using this and other images as source materials. While this work appears to be in the public domain, the specific rights statement on the website is somewhat ambiguous on this point.

Principles and Definitions

(for quick definitions click on any sub category located below)

I. Basic Principles

- A. What Is Copyright?*
- B. How Does Copyright Work?*

II. Essential Information and Definitions

A. Essential Information

1. What Is the “Bundle of Rights” in a Copyright?
2. When Does Copyright Protection Begin?
3. How Long Does Copyright Protection Last?

B. Essential Definitions

1. What Is the Public Domain?
2. What Is Fair Use?
3. What Are Derivative Works?
4. What is an “Underlying Work?”
5. What Is a Photographic Reproduction?
6. What Is a Photographic Documentation?
7. What Is a Photographic Interpretation?

How Does Copyright Work?

Copyright protects the specific form, way or manner in which ideas or information have been expressed, and begins as soon as a work is actually created and realized, or “fixed,” in a tangible form of expression.

In some cases copyright is limited by the doctrine of **fair use**. In other instances, limitation takes the form of a “compulsory license,” under which certain uses of copyrighted works are permitted upon payment of royalty or licensing fees, and compliance by the user with contractual conditions specified by the owner. Many works are distributed with certain permissions expressly granted; in such cases, you must use the work only for the purposes stated. If you wish to use the work for any other purpose, you must seek prior permission from the copyright owner.

Works that are not subject to copyright are considered to be “in the **public domain**,” and anyone may freely use such works for any purpose.

HOW TO USE THIS PROGRAM:

You can begin a query sequence by clicking on the Begin query sequence link.

The interactive program will guide you through a series of questions addressing five variables:

1. **The copyright status of the underlying work represented in the image.**
2. **The copyright status of the photographic reproduction.**
3. **The specific source from which you have obtained the image under consideration.**
4. **Any terms of use or contract that may govern the uses of this image.**
5. **The intended use(s) of this image.**

Each page will prompt you to answer a question about the particular image you are assessing. Some questions require you to make a **"YES"** or **"NO"** response. Other questions provide a wide range of responses, from which you should select the most appropriate. While DIRC is designed to allow only one response per question, you may at any time return to the previous query level by clicking on the "back" button (in the form of a small cube located on the left side of the query page) if you wish to enter a different response without having to start the entire query sequence over again.

Each query sequence concludes by directing the user to a highlighted portion of a color-coded grid, which indicates an image's

To begin a new query sequence
at any time click here:
NEW QUERY SEQUENCE

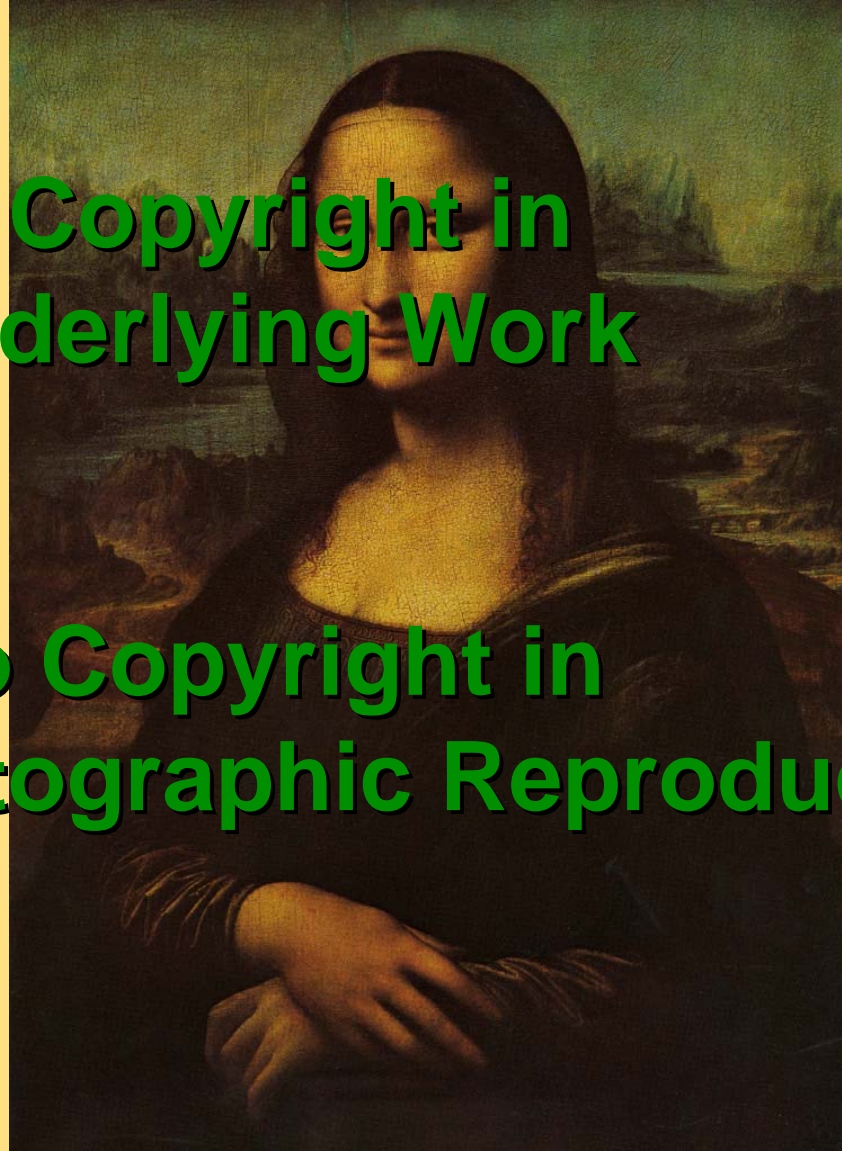
Query Levels



Level 1:
**Copyright Status
of Underlying Work**

*** No Copyright in Underlying Work**

*** No Copyright in Photographic Reproduction**



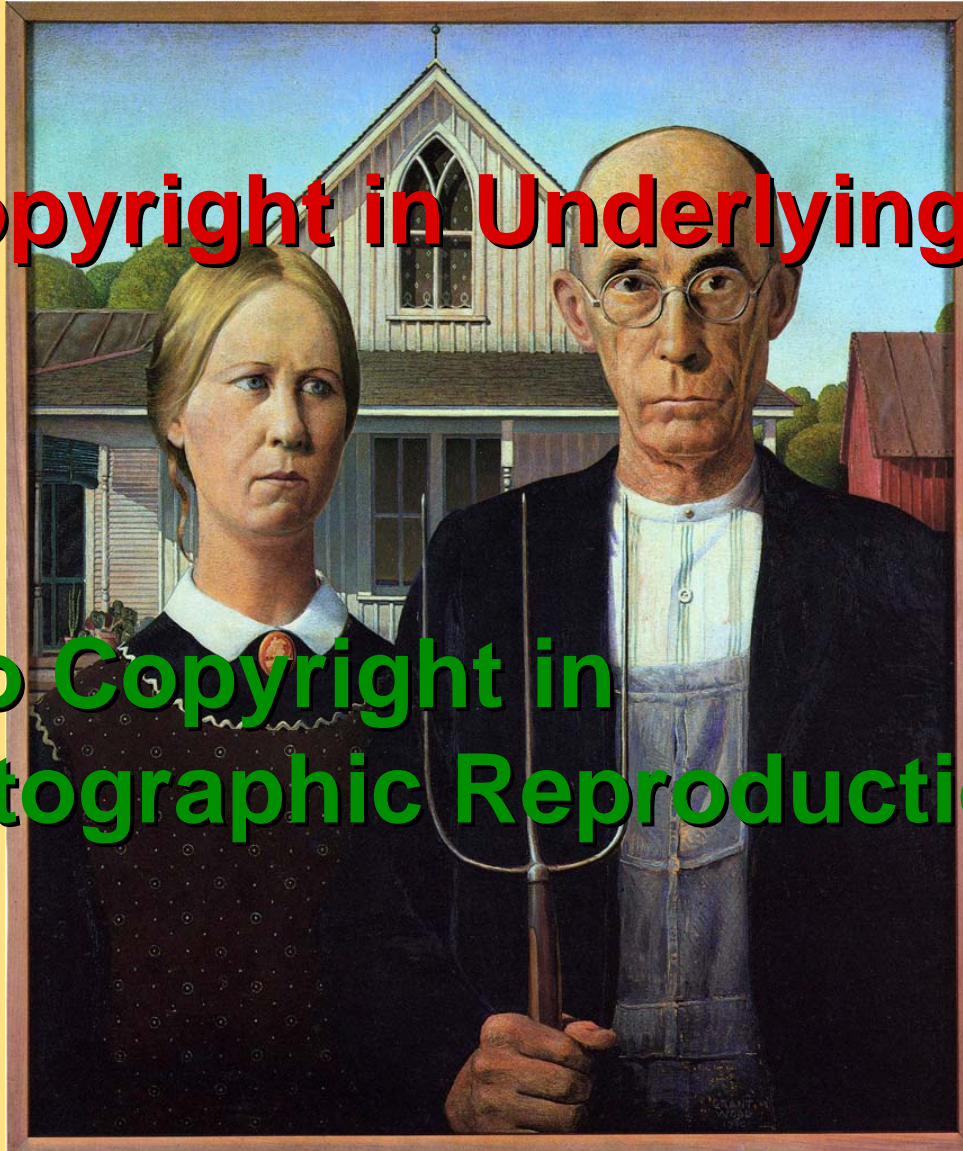
*** No Copyright in Underlying Work**

*** Copyright in Photographic Reproduction**



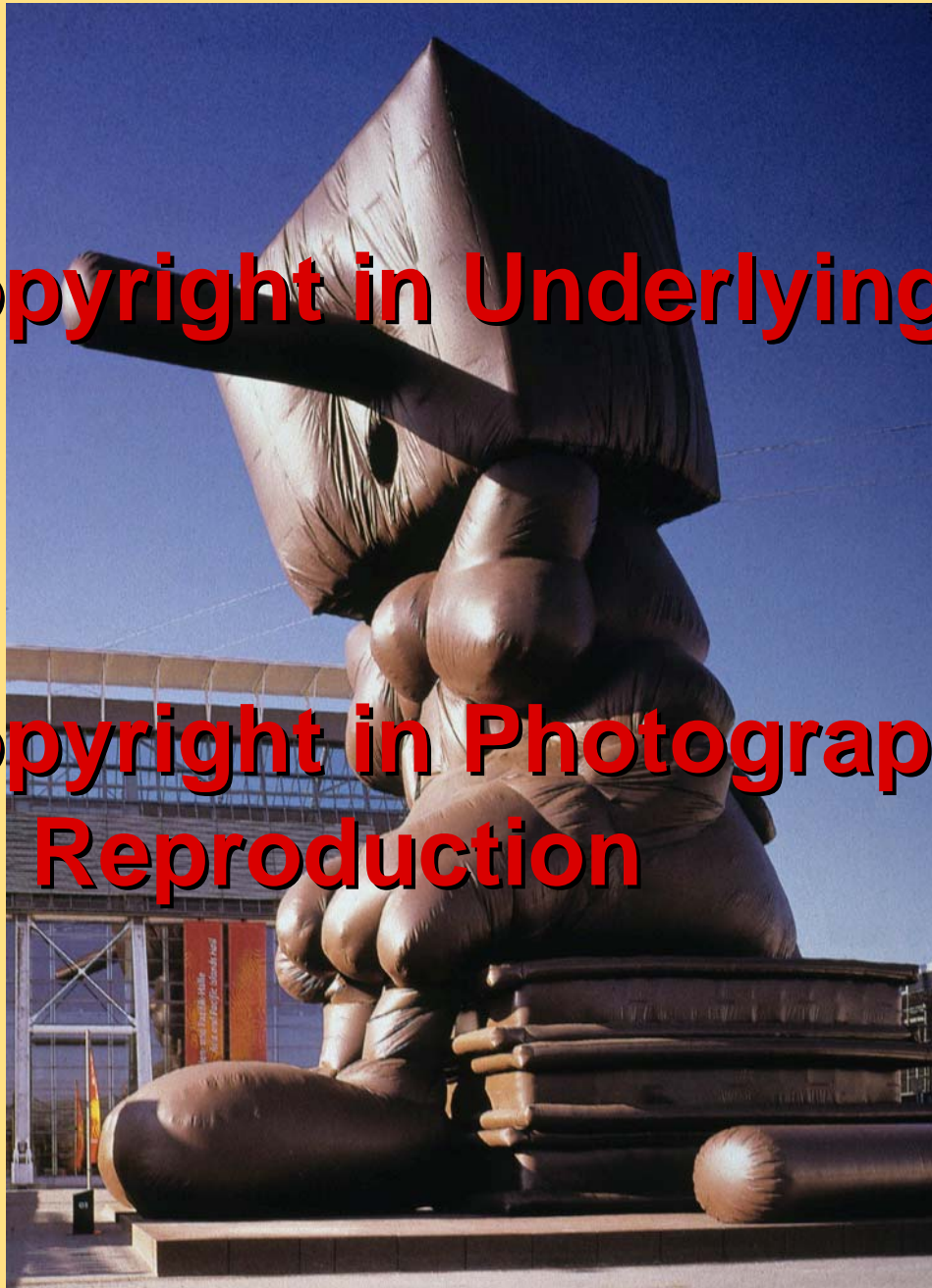
*** Copyright in Underlying Work**

*** No Copyright in
Photographic Reproduction**



*** Copyright in Underlying Work**

*** Copyright in Photographic
Reproduction**



To begin a new query sequence
at any time click here:
NEW QUERY SEQUENCE

Query Levels



Level 1:
Copyright Status
of Underlying Work

Level 2:
Copyright Status of
This Photographic
Reproduction

Level 3:
Source of This Image

Welcome to the Digital Image Rights Computator!

Begin with this Question:

Is the underlying work represented in
this image protected by copyright?



Yes



No

Is the underlying work represented in this image protected by copyright?

Yes



No



[<< back](#)

Here is a [REMINDER](#) to help you answer the above question: Works published prior to 1923 have already reverted to public domain status. Hence, most historic works of art are not subject to copyright in the United States.

The following link provides an in depth summary of Copyright Duration and U.S. Law:

- [Summary of Copyright Duration and U.S. law](#)

You may wish to use the following resource links and references to help answer this question.

- [What Does Copyright Protect?](#)
(USCO: Frequently Asked Questions About Copyright)

Summary of previous decision: You have determined that the underlying work represented in this image is protected by copyright.

continue with the following question:

Is this particular photographic reproduction of the work itself protected by copyright?



YES



NO

Query Levels

Level 1:
Copyright Status
of Underlying Work

Level 2:
Copyright Status of
This Photographic
Reproduction

Level 3:
Source of This Image

Level 4:
Terms of Use or Contract
That May Govern the
Uses of This Image

Level 5:
Intended Use of
This image

Summary of previous decision: You have determined that the underlying work represented in this photographic reproduction is currently protected by copyright, and that this particular photographic reproduction is also protected by copyright.

Continue with the following question:

What is the source of this image?
(choose one of the following)

- Digital image purchased or licensed from provider.
- Digital scan of slide purchased from provider.
- Digital image obtained by scanning or copy stand photography from a published source.
- Digital image downloaded from the internet.
- Digital image of unknown provenance.
- Original digital image, or copy thereof, to which you hold documented use rights.
- Original digital image, or copy thereof, to which you do not specifically hold documented use rights.

[Typical example: An instructor who has since retired donated some of his original location photographs for use in a departmental collection, but has not explicitly, in writing, granted use rights to your institution.]

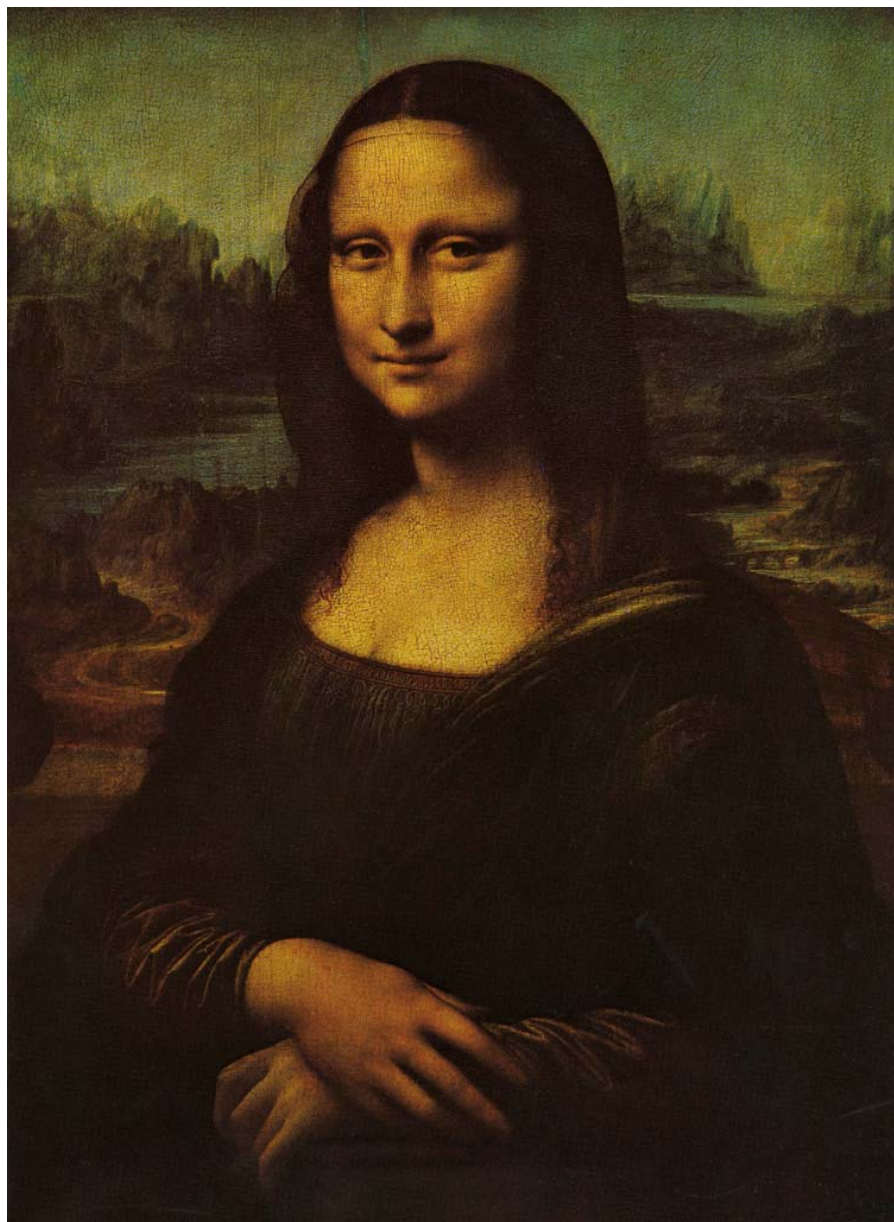
Summary of previous decision: You have determined that the underlying work represented in this image is protected by copyright, and that this particular photographic reproduction is also protected by copyright. Use of this image may be restricted by purchase or licensing conditions, or its status is uncertain.

Do the terms of use or contractual agreement stipulated by the source or provider of this image restrict what you are permitted to do with it?

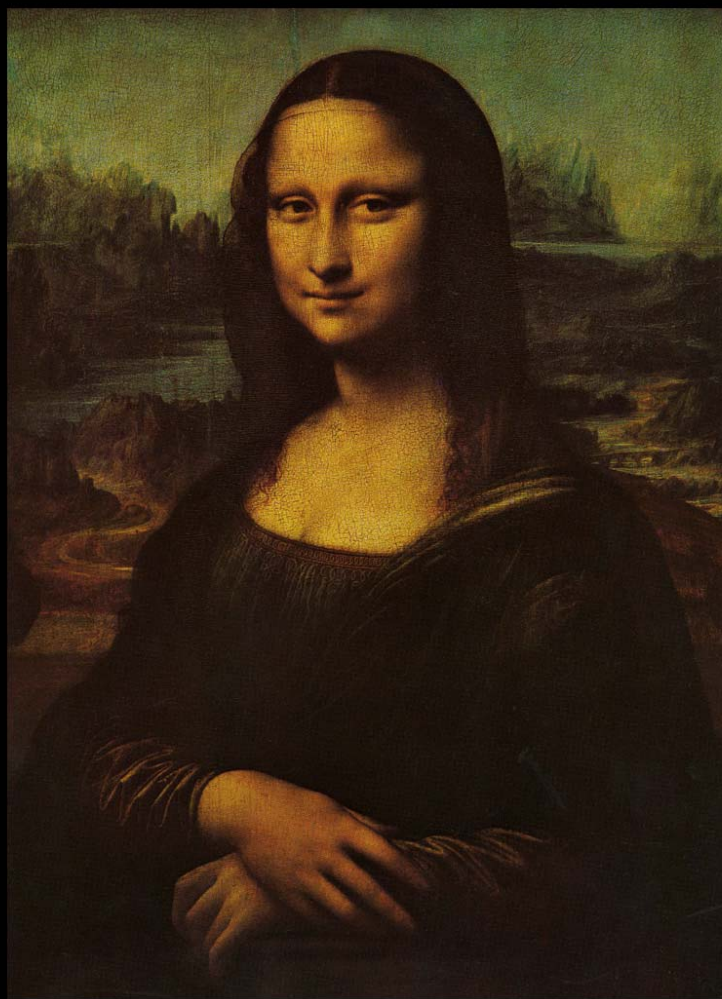
YES

NO

[<< back](#)



Use Restricted



Use Restricted

Continue with the following question:

What do I want to do with this image?

(choose one of the following)

- **[Faculty]** Use image in specific face-to-face teaching activity (lecture, class demonstration, ect.)
- **[Faculty]** Use image in a specific non-synchronous teaching activity (distance education, course didactics, on-line assignments or exams)
- **[Faculty]** Use image in web-disseminated general course resources (background materials, review image arrays)
- **[Faculty]** Use image in non-course related professional activities NOT involving publication (e.g. scholarly conference presentations).
- **[Faculty]** Use image to illustrate scholarly publication (book, journal article)
- **[Student]** Use image to give class presentation or to illustrate written assignment (including non-published thesis or dissertation)
- **[Student]** Use image to illustrate published thesis or dissertation
- **[Library/Visual Resources]** Make image available for web-based search and display to restricted user community (e.g. institutional affiliation, password access)
- **[Library/Visual Resources]** Contribute image for use in shared inter-institutional resource collections (e.g. state systems, consortia, etc.)
- **[Library/Visual Resources]** Make image available for web-based search and display by the public at large.

DIRC.

DIGITAL IMAGE RIGHTS COMPUTATOR

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Depending on your response to the questions within the query structure, the answer to your copyright computation will appear in the highlighted row.

NEW QUERY SEQUENCE

EXIT DIRC

INTENDED IMAGE USE

Faculty: Use image in face-to-face teaching activity.	Faculty: Use image in non-educational teaching activity.	Student: Use image in non-publishing course assignment.	Faculty: Use image as general on-line screen-retrieved course resource.	Faculty: Use image as general on-line presentation.	Library/Visual Resources: Make image available for search and display to selected user group.	Library/Visual Resources: Create image for use in scholarly publication.	Student: Use image to illustrate thesis or dissertation.	Library/Visual Resources: Make image available on-line for use by general public.
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INTELLECTUAL PROPERTY STATUS OF IMAGE

Underlying work in public domain. Image in public domain. No licensing restrictions.	Unlimited Use						
Underlying work in public domain. Image in public domain. Subject to licensing restrictions.	Use dependent on provisions of license.						Seek Permission before using!
Underlying work in public domain. Image protected by copyright. No licensing restrictions.	Fair Use plausible with cautionary provisions in place.						Seek Permission before using!
Underlying work in public domain. Image protected by copyright. Subject to licensing restrictions.	Use dependent on provisions of license.						Seek Permission before using!
Underlying work protected by copyright. Image also protected by copyright. No known licensing restrictions.	Fair Use plausible with cautionary provisions in place.						Seek Permission before using!
Underlying work protected by copyright. Image also protected by copyright. Subject to licensing restrictions.	Use dependent on provisions of license.						Seek Permission before using!

Fair Use plausible, seek prior approval from artists' rights organizations

DIRC.

DIGITAL IMAGE RIGHTS COMPUTATOR

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Depending on your response to the questions within the query structure, the answer to your copyright computation will appear in the highlighted area.

[NEW QUERY SEQUENCE](#)

[EXIT DIRC](#)

INTENDED IMAGE USE

IMAGE

Underlying work in public domain.
Image in public domain.
No licensing restrictions.

Unlimited Use

	Faculty: Use image in face to face teaching activity.	Faculty: Use image in non-synchronous teaching activity.	Student: Use image in non-published course assignment.	Faculty: Use image as general online access-restricted course resource.	Faculty: Use image in non-course related academic (non-commercial) presentations.	Library/Visual Resources: Make image available for search and display to restricted user group.	Library/Visual Resources: Contribute image for use in shared inter-institutional collections.	Faculty: Use image to illustrate scholarly publication.	Student: Use image to illustrate thesis or dissertation.	Library/Visual Resources: Make image available for use by general user.
	Unlimited Use									

DIRC

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Depending on your response to the questions within the query structure, the answer to your copyright computation will appear in the highlighted area.

[NEW QUERY SEQUENCE](#)

[EXIT DIRC](#)

INTENDED IMAGE USE

Faculty:
Use image in face to face teaching activity.

Faculty:
Use image in non-synchronous teaching activity.

Student:
Use image in non-published course assignment.

Faculty:
Use image as general on-line access-restricted course resource.

Faculty:
Use image in non-course related academic (non-commercial) presentations

Library/Visual Resources:
Make image available for search and display to restricted user group

Library/Visual Resources:
Contribute image to shared inter-institutional

STATUS OF IMAGE

Underlying work in public domain.
Image in public domain.
No licensing restrictions.

Unlimited Use

Underlying work in public domain.
Image in public domain.
Subject to licensing restrictions.

Use dependent on provisions of license.

DIRC

DIGITAL IMAGE RIGHTS COMPUTATOR

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Depending on your response to the questions within the query structure, the answer to your copyright computation will appear in the highlighted area.

[NEW QUERY SEQUENCE](#)

[EXIT DIRC](#)

INTENDED IMAGE USE

Faculty:
Use image in face to face teaching activity.

Faculty:
Use image in non-synchronous teaching activity.

Student:
Use image in non-synchronous course assignment.

Faculty:
Use image in non-published access-restricted course resource.

Faculty:
Use image as general on-line, academic (non-commercial) presentations.

Library/Visual Resources:
Make image available for search and display to restricted user.

Library/Visual Resources:
Contribute to shared image repository.

COPYRIGHT STATUS OF IMAGE

Underlying work in public domain.
Image in public domain.
No licensing restrictions.

Unlimited Use

Underlying work in public domain.
Image in public domain.
Subject to licensing restrictions.

Use dependent on provisions of license.

Underlying work in public domain.
Image protected by copyright.
No licensing restrictions.

Fair Use plausible with cautionary provisions in place.

DIRC

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Depending on your response to the questions within the query structure, the answer to your copyright computation will appear in the highlighted area.

[NEW QUERY SEQUENCE](#)

[EXIT DIRC](#)

INTENDED IMAGE USE

COPYRIGHT STATUS OF IMAGE

	Faculty: Use image in face to face teaching activity.	Faculty: Use image in non-synchronous teaching activity.	Student: Use image in non-published course assignment.	Faculty: Use image as general on-line access-restricted course resource.	Faculty: Use image in non-course related academic (non-commercial) presentations.	Library/Visual Resources: Make image available for search and display to restricted user group.	Library/Visual Resources: Contribute image for use in shared inter-institutional collections.	Faculty: Use image to illustrate scholarly publication.	Student: Use image in published thesis or dissertation.	Library/Visual Resources: Make image available for use in...	
Underlying work in public domain. Image in public domain. No licensing restrictions.	Unlimited Use										
Underlying work in public domain. Image in public domain. Subject to licensing restrictions.	Use dependent on provisions of license.							Seek Permission before using!			
Underlying work in public domain. Image protected by copyright. No licensing restrictions.	Fair Use plausible with cautionary provisions in place.							Seek Permission before using!			

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