

Potential Concerns With Copyrighted Characters Entering the Public Domain

Article

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Celebrated on the first day of every year, Public Domain Day marks the day works with copyrights that expired the year prior enter the public domain. While the calculations to determine copyright expiration can be complicated by the availability (or lack thereof) of renewals, authorship/ownership, and publication information, works from 1929 can generally be expected to enter the public domain on Jan. 1, 2025. While some third parties may be eagerly anticipating the day they can use works they admire, those works are not necessarily free to use without limits.

When a work enters the public domain, others can copy those works and use them as inspiration for further creativity. This was seen in past years, such as with the 2023 Winnie the Pooh-inspired horror movie, *Winnie the Pooh: Blood and Honey*. But as we saw with the litigation around the character Sherlock Holmes in the mid-2010s, just because a first instance of a work enters the public domain does not mean a character is free game. It was determined that Holmes is a complex character with attributes that change and deepen through the works. So while an initial portrayal of a character may enter the public domain, the entirety of a character's copyrightable persona may still be protected until the last work enters the public domain.

In 2025, we should see the first Popeye comics enter the public domain. It's not a requirement that off-copyright works be turned into slasher movies, but there have already been several announcements for upcoming Popeye-inspired horror films. Other re-imaginings of Popeye and supporting characters are possible as well, as long as they stick with the characters as portrayed in the original comic. That means no girlfriend Olive Oyl, Wimpy, Sweet Pea, or spinach.

Entities and individuals who are inspired by public domain characters should be aware that the characters they know may not be entirely free to use, especially in the case of characters appearing as part of a series or in more than one work. It is important to determine whether the source of your inspiration is the same as the character snapshot set out in the public domain work(s).

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