

The Original Mickie Mouse Enters the Public Domain January 1, 2024:

Trademark, Copyright and Public Domain- Practical Guidance for Using Public Domain Images

The copyright for “Steamboat Willie,” the original version of Mickey Mouse, expired after 95 years, allowing public domain use of that version of the Mickey Mouse character image after January 1, 2024. In recent years, images of other characters such as Winnie the Pooh, Sherlock Holmes, Dracula, Frankenstein, Robin Hood, Snow White, Cinderella and Alice in Wonderland also entered the public domain after expiration of their copyright protection on original versions. While older original versions may be available for use as artistic images, more modern images of the characters are still subject to copyright protection. Users may freely use the older Mickey Mouse character in new cartoons, movies and books as long as it is clear it is not a Disney production.

While these older images of Mickey Mouse have entered the public domain, there are limits on how the images can be used, especially where they may be subject to trademark protection as an indicator of source origin. The public domain Mickey Mouse images can be freely used provided it is not in advertising in such a way that it is being adopted as a mascot or somehow implies an association with Disney. Disney will likely aggressively pursue users who they deem as diluting or tarnishing their brand or creating consumer confusion about the source of the products or services. By the use of logos, brand names, disclaimers and other techniques users can ensure there is no consumer confusion in association with use of the image.

Users will want to tread carefully when using the public domain Mickey Mouse images on products that Disney also sells (or licenses to third parties to sell). It would be valuable for a business owner to obtain a legal opinion as to whether such use might potentially create consumer confusion or deception, and potentially invite an infringement claim from the global Disney powerhouse.

Legal opinions can also be valuable for those seeking to use the character names in films, songs and books. Powerful companies often send cease and desist demands to small business owners that assert overly aggressive rights that often are not legitimately enforceable. First Amendment protections for free expression have limited the protection asserted by owners of some of these iconic characters. For example, Mattel has been unsuccessful in many of its legal challenges against users of the “Barbie” name in photographs and song titles. Courts have clarified the limits of protection for the character names and likenesses, protecting public domain uses that have some artistic relevance to the new work and do not mislead the public as to the source of the product or service.

Copyright assets present a unique set of considerations. When in doubt, knowledgeable IP counsel can advise authors, artists and corporate counsel on non-infringing use of public domain images, and the extent that new works can be protected. If you find yourself navigating public domain and copyrights, reach out to our team for representation or co-counselling.

The forgoing is not intended to be and should not be construed as legal advice. Only after an attorney client relationship is established in writing may legal advice be given.

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