

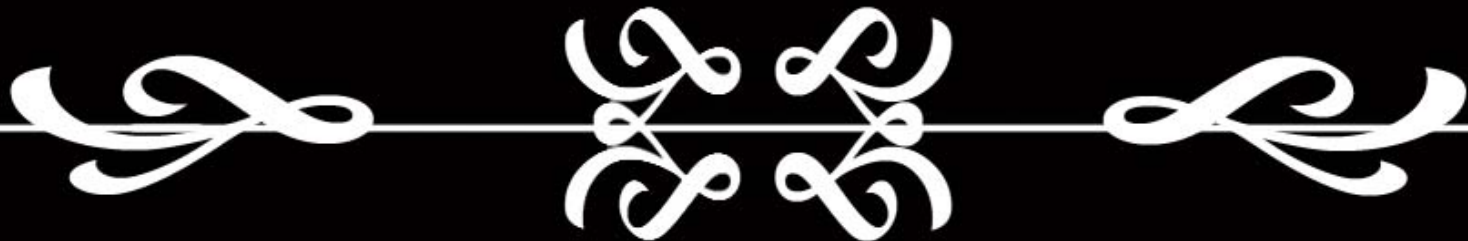
WELCOME TO THE UUK/GuildHE COPYRIGHT WORKING GROUP SUMMER EVENT

Prof Ronan Deazley
Queen's University Belfast





**EXCEPTIONS, LICENCES
AND GENERAL CONFUSION**

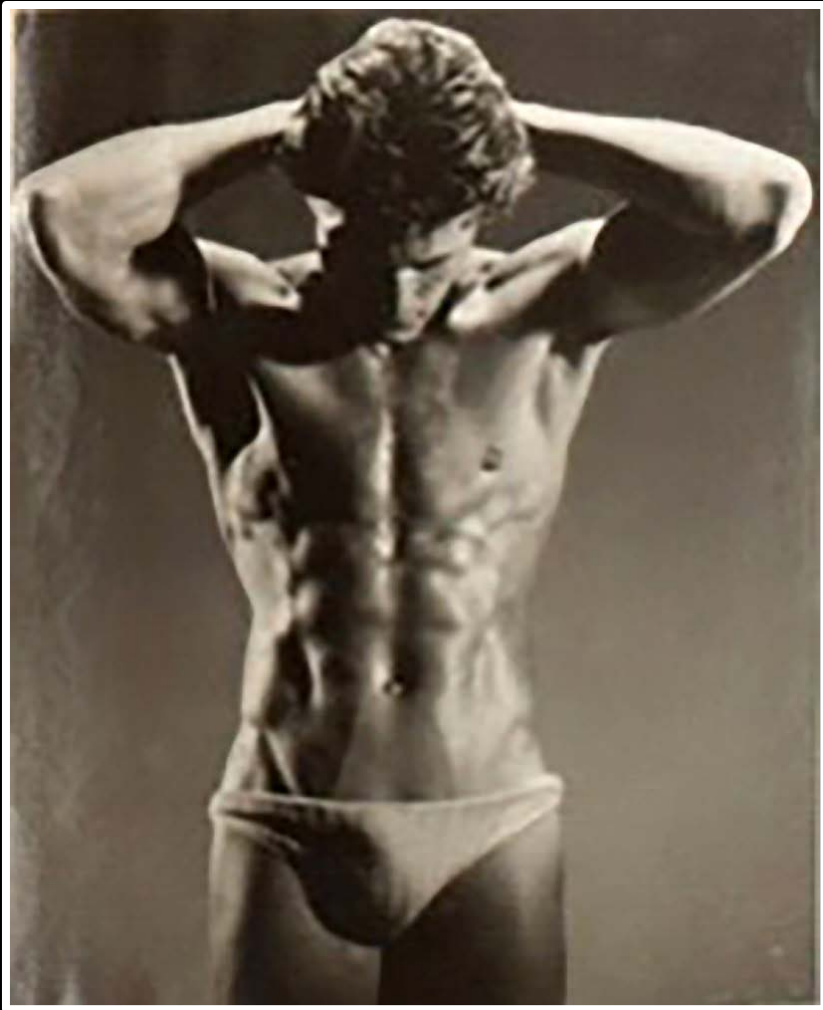


**NO PERMISSION
IS NEEDED**

**PERMISSION
IS NEEDED**

**PERMITTED ACTS
(EXCEPTIONS)**

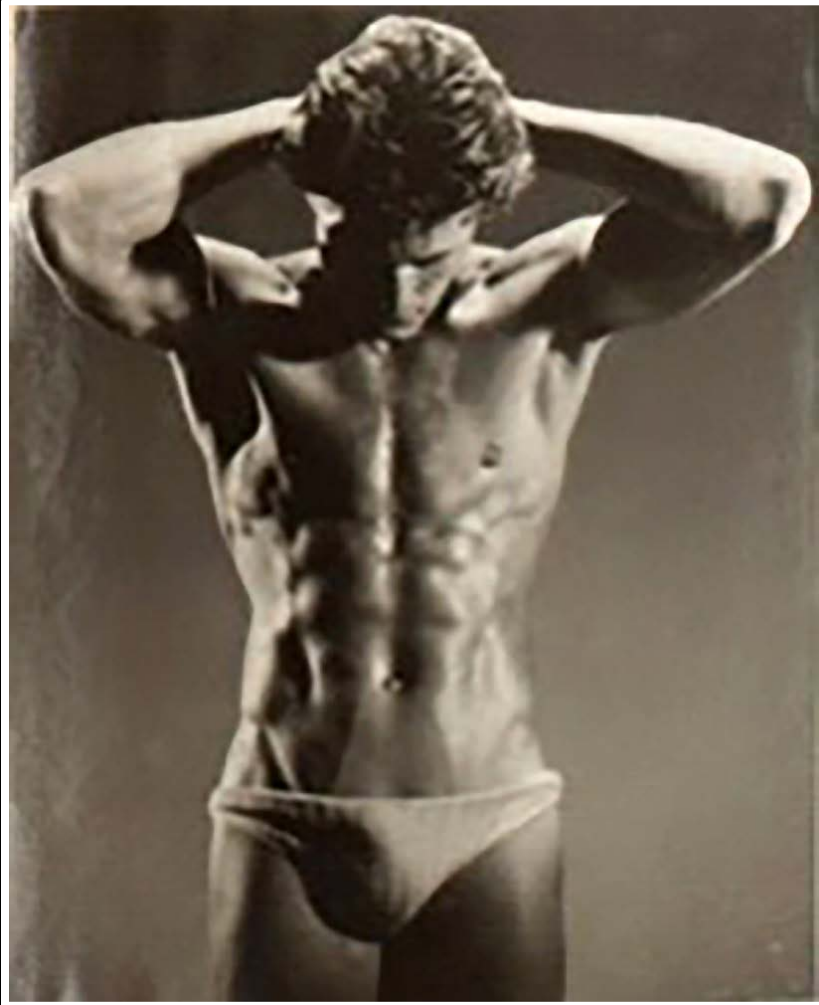
**PERMISSION
GRANTED
(LICENSING)**



**ORPHAN WORKS
EXCEPTION
(CDPA s.44B)**

**ORPHAN WORKS
LICENSING
SCHEME**

Note: assume the image is an 'embedded work' and so falls within the scope of the Directive, as well as OWLS. Which route should you choose?



Intellectual
Property
Office

Orphan Works Licence

Issued under UK orphan licensing scheme

Licence number: OWLS000057

Licensee: The University of Glasgow

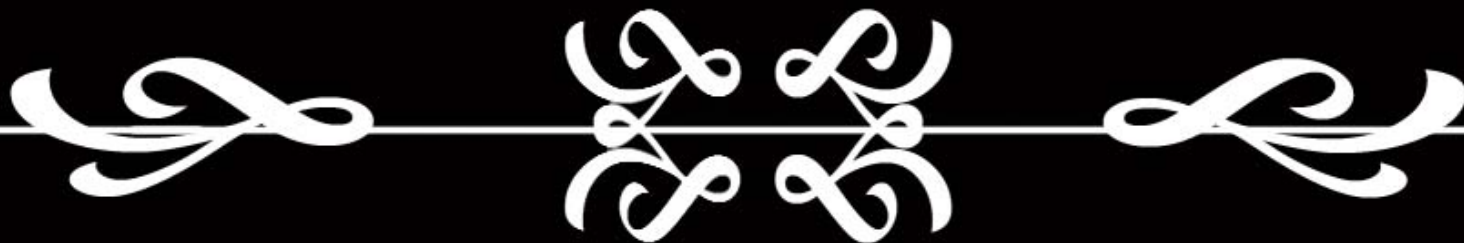
Date of issue: 09/06/2016

Diligent Search activity:

- The Orphan Works Register
- Internet-based reverse image searches (Google, PicScout and Tineye)
- Association of Photographers
- British Association of Picture Libraries and Agencies
- British Institute of Professional Photographers
- 25 minutes, in one day



EXCEPTIONS and CONTRACT OVERRIDE



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- text and data analysis for non-commercial research (s.29A(5))
- quotation (s.30(4))
- caricature, parody or pastiche (s.30A(2))
- enabling access and use for disabled persons (s.31F(8))
- illustration for instruction (s.32(3))
- copying by librarians (ss.41(5), 42(7), 42A(6))
- recording of a broadcast for archival purposes (s.75(2))

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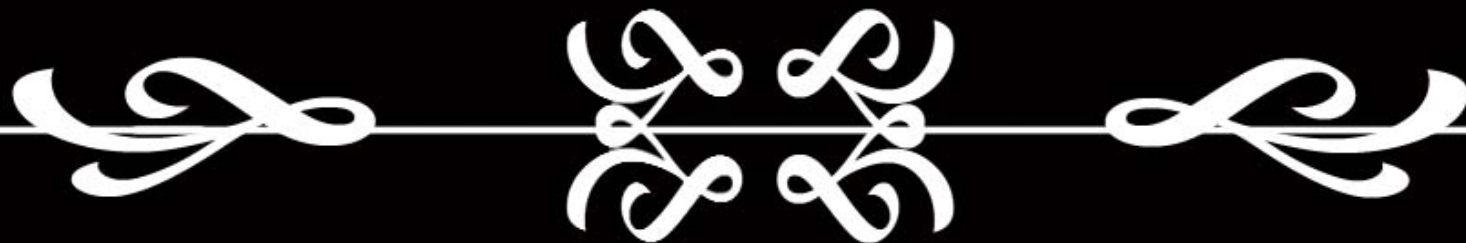
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- research and private study
- text and data analysis
- quotation
- parody
- enabling access and use for disabled persons
- illustration for instruction
- certain copying by librarians
- archiving broadcasts



**CONTRACT OVERRIDE and
STATUTORY FRAUD**



FRAUD ACT 2006

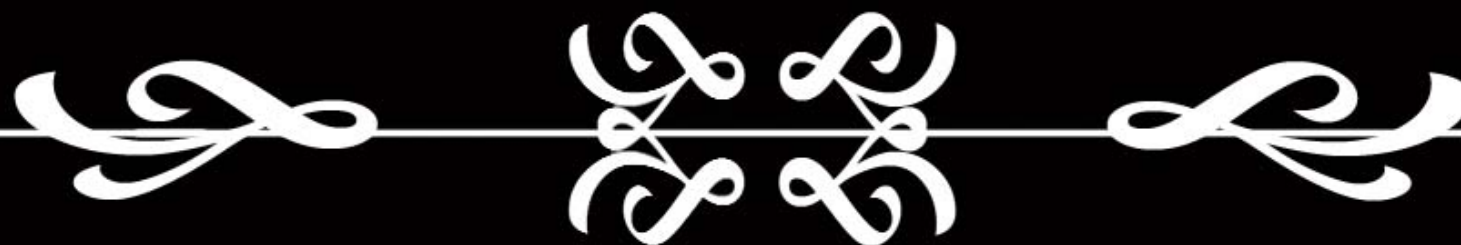
Introduced a single, broadly based offence of statutory fraud which can be committed in three different forms:

- fraud by false representation
- fraud by failing to disclose information
- fraud by abuse of position

Is this an example of fraud by making a dishonest false representation? (Is the representation dishonest?)



**COPYRIGHT, ANXIETY
AND UNCERTAINTY**



George
University Library



MS Morgan

C 480 112

SCRAPBOOK N° 12



PAGES 2240 - 2559



1954 - 1960



СТРОИТЕЛЬ
The main task is to create the most efficient
of modern engineering in space but
adapting to new (space) and another industry
concerns investment in time but in different
dimensions of space (space) in which all
technical and other possibilities under the
conditions of the modern world are in fact



FORTEANA

"The White-Haired Girl"

Wörther

See

amroads and road



Concrete Image

The Grave of Prometheus

No one comes here now, neither god nor man.
For long the animals have kept away,
Scared by immortal cries and the screams of vultures;
Now by this silence. The heavenly thief who stole
Heaven's dangerous treasure turned to common earth
When that great company forsook Olympus.
The fire was out, and he became his barren,
Ten yards long there he lay outstretched, and grass
Grew over him: all else in a breath forgotten.
Yet there you still may see a tongue of stone
Shaped like a calloused hand where no hand should be
Extended from the ward as if for alms,
Its palm all icked and blackened as with fire.
A mineral change made cool his fiery bed,
And made his burning body a mound of earth,
And his great face a vacant ring of daisies.

Homer

"Great care must always be
exercised on tethering horses to
trees, as they are apt to bark and
sharply destroy the trees."—Army
Order.

DR. KINSEY'S collection of
five and a half million weaps
has been donated by his widow
to the American Museum of
Natural History. (1957)



Between Yesterday and Doomsday



A single impact to the power of 5 million tons of TNT raised the deadly cloud (above) that spread over Eastwick, Nov. 1, 1952. First of the H-bomb explosions, it was 100 times more powerful than the A-bomb set off at the Marshall Islands the year before, and 250 times more powerful than the A-bomb that killed some 90,000 human beings in Hiroshima, Aug. 6, 1945, and leveled an area larger than that of Newport News, Va. Since the 1952 tests, two other American H-bombs have been tested, on March 1 and March 26 of this year. The force of the March 1 blast equaled that of 12 to 14 million tons of TNT. Some time this month the U.S. will set off another hydrogen blast. That one is expected to equal 40 million tons of TNT, eight times more than the force expended in the explosion shown here, and 2,000 times as devastating as the terrible weapon the world first saw at Hiroshima, less than nine years ago.



AURORA'S LOOK (FROM 17,000 FT.) AT IVY CLOUD

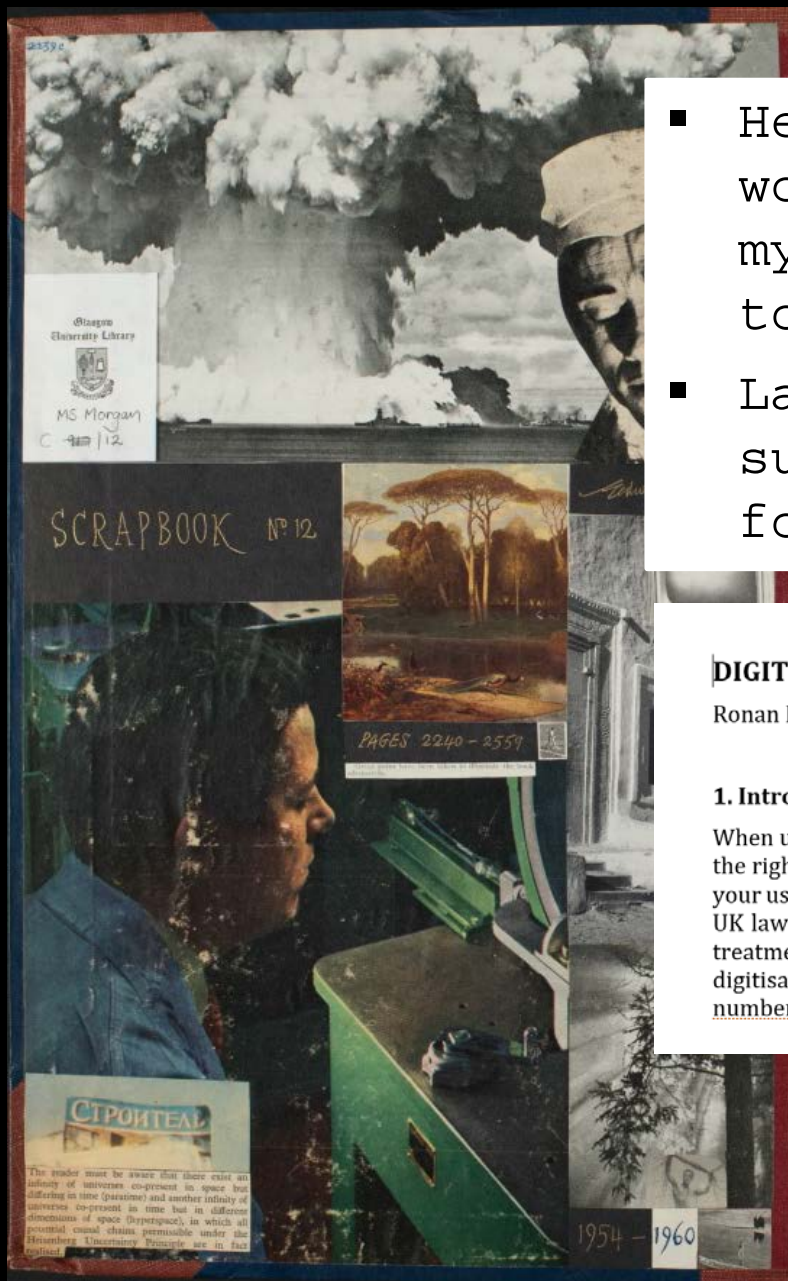


CONFIDENTIAL
ATOM BOMB

Jockey's Good Prospects

"Socummet"
"Haba-haba" "Pam-pam"

- Edwin Morgan (1920-2010), the first Scots Makar (National Poet of Scotland)
- 16 Scrapbooks, created between 1930s-1960s
- 3,600 pages full of third-party copyright material
- 30 page sample from Book 12 (10% sample), 1954-1960
- 380 individual cuttings, with 432 literary or artistic works (some cuttings contained multiple works)
- 52% of the cuttings were orphan works
- diligent search = 8 years and approximately £180K



- Helpful? A resounding YES! I would definitely consult this myself and would recommend it to others
- Language and tone: very succinct, clear and helpful for the non-expert reader

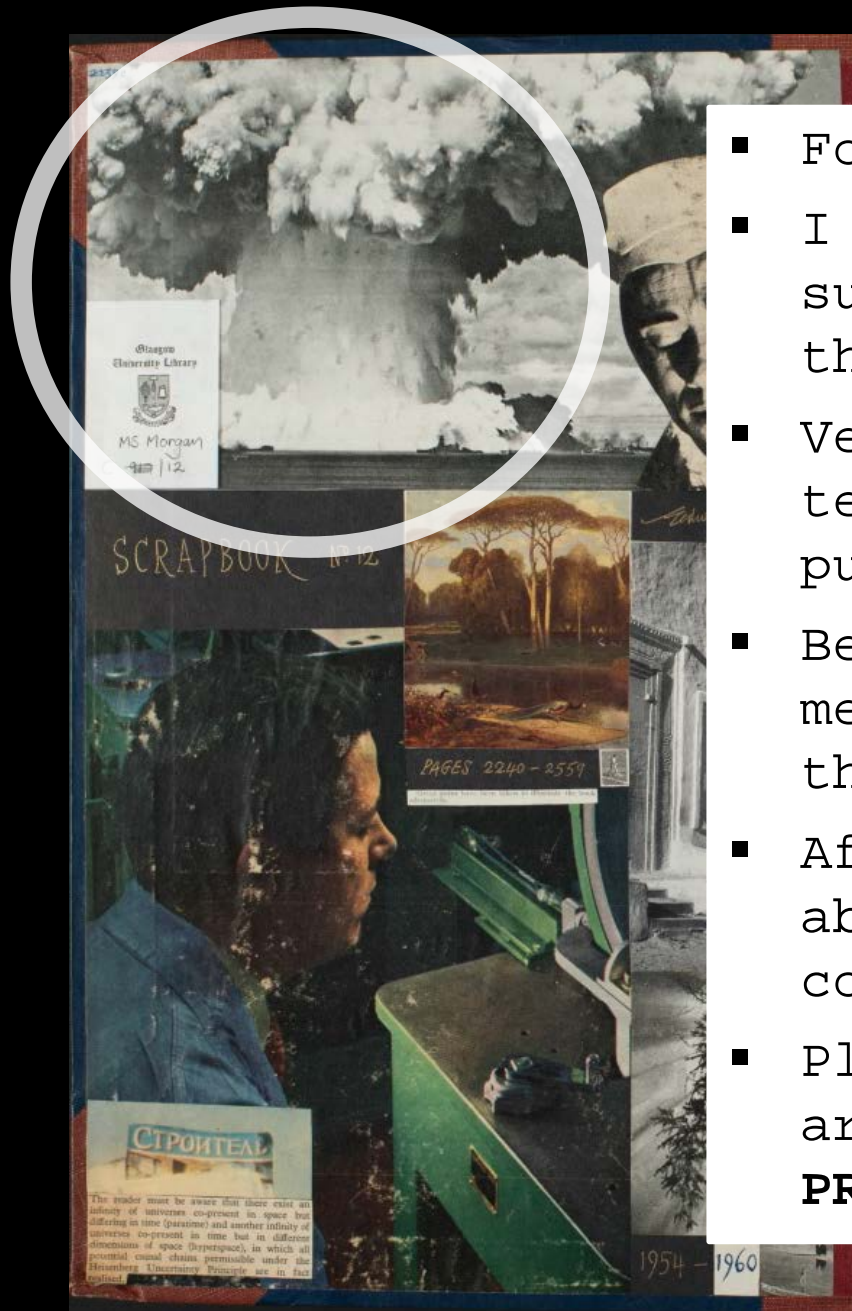
DIGITISATION AND THE MORAL RIGHT OF INTEGRITY

Ronan Deazley and Kerry Patterson

1. Introduction

When undertaking a digitisation initiative, it is important to have a clear idea as to when the right of integrity is relevant or not to works held within a collection, as well as when your use of a work might trigger liability. This briefing note explains the protection which UK law provides for the moral right of integrity – the right to object to the derogatory treatment of a work. It considers the implications of this right for non-commercial digitisation initiatives, explores the definition of ‘derogatory treatment’ and addresses [a number of](#) related questions.

DIGITISING THE EDWIN MORGAN SCRAPBOOKS



- Forbidding / Intimidating
- I want an 'in a nutshell' summary ... [I] want answers that are easy to find
- Very legalistic and wordy: terms like 'proviso' are off-putting
- Be cautious with [the] mention of cataloguing as this is worrying
- After reading, I was worried about things I hadn't been concerned about before
- Please reinforce that archivists **ARE NOT SENT TO PRISON**

The Grave of Prometheus

No one comes here now, neither god nor man.
For long the animals have kept away,
Scared by immortal cries and the scream of vultures;
Now by this silence. The heavenly thief who stole
Heaven's dangerous treasure turned to common earth
When that great company forsook Olympus.
The fire was out, and he became his harrow.
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Extended from the mound as if for alms,
Its palm all ticked and blackened as with fire.
A mineral change made cool his fiery bed,
And made his burning body a mound of earth,
And his great face a vacant ring of daisies.

FLOWER MUSE

"Dead cars must always be
removed off thoroughfares to
prevent accidents and to
prevent the cars from
becoming a nuisance."
—Army Order.

DR. KINNEY'S collection of
five and a half million weaps
has been donated by his widow
to the American Museum of
Natural History. 1947



Between Yesterday and Doomsday



ARMY'S LOOK (FROM 12,000 FT.) AT JET CLUSTER

CONFIDENTIAL
ATOM BOMB

Jockey's Good Prospects

"Scoutinet"
"Iaba baba" "Pawant"

- Works that we deemed to be insubstantial and so did not require permission (84 works in total)
- For only 10 of the 226 identified orphans did we make use of the Directive or OWLS (five each)
- 19 works for which permission was offered subject to a fee, from £15 to \$2000 (no fees paid)
- No response from five copyright owners (we were confident of contact details for only two of these five)

Electricals showed some hesitancy, and Radio shares were down, notably Radio Rentals, while, shrill n shrill n—



Regarding copyright material for which we could not secure express permission - either because we could not identify the owner concerned or because permission was contingent upon payment of a fee - **we reproduce it here in accordance with sections 29 and 30 of the Copyright Designs and Patents Act 1988 (the CDPA) permitting use for non-commercial research and for the purposes of criticism, review and quotation ...**

If you are the owner of any material that remains in copyright, and you consider that our use of the material does not fall within the scope of the copyright exceptions referenced above, or is not otherwise lawful, then please contact us so that we can discuss this issue and hopefully address any concerns you may have.

Is Digitising
the Edwin Morgan
Scrapbooks
lawful?

We don't know

We can't know
...

... but it
probably is

**LICENSE WHEN
YOU NEED TO**

**LICENSE WHEN
IT MAKES SENSE**

**FLEX YOUR
COPYRIGHT MUSCLES**

LOVE UNCERTAINTY

LOVE EXCEPTIONS

LOVE COPYRIGHT



Welcome to the Copyright Cortex

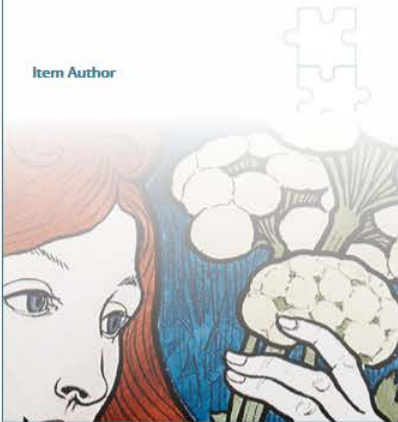
[About](#)[Copyright 101](#)[Research](#)[Tools & Resources](#)[Policy & Evidence](#)

Recently Added Items

Policy & Evidence

Towards a modern, more European copyright framework

Item Author



Research

Museums' claims of copyright in digital reproductions of public domain works of art - a conflict with the right to access culture?

Item Author



Tools & Resources

Developing Intellectual Property Policies: A How-To Guide for Museums

Item Author



Research

How Copyright Keeps Works Disappeared

Item Author



THE COPYRIGHT CORTEX IS TWO THINGS:

A CATALOGUE. It collates material relating to copyright and digital cultural heritage – scholarly publications, practical guidance, policy documents, and real world case studies – organised under three broadly defined headings: (i) Research; (ii) Tools & Resources; and (iii) Policy & Evidence

A BOOK. A comprehensive introduction to copyright law for memory institutions, focussing specifically on how copyright impacts access to and use of digital cultural heritage materials within and across national borders



COPYRIGHT
CORTEX

CHAPTER:

1/15

Copyright and Digital Cultural Heritage: Introduction

Ronan Deazley

June 2017

C1: P6



A139790, National Gallery of Art

Image 1

www.displayatyourownrisk.org

We did not seek permission to make use of any of the surrogates included in the exhibition, or in the accompanying materials. Instead, we relied on the copyright regime, specifically the exception permitting use for non-commercial research purposes. Not everyone will agree with our approach. For example, one could argue that our use does not fall within the scope of the exception at all: perhaps, it is not the right kind of research, or the exception was never intended to enable our type of use. Alternatively, even if it is the right kind of research or the right kind of use, one might argue that our use is not fair; and, if our use is not fair the exception will not apply. We have considered these (and other) arguments but on balance we believe we can avail of the exception. However, we do not *know* that we can. In this respect, the best we can say is that we have a *high level of confidence* that the project is *probably lawful*. We cannot make any stronger claim than that. Nor should we need to. But, inevitably, this means we must assume a certain amount of risk in making our project available online. We have considered the risk, and we are comfortable with it.

We encourage others to take a similar approach to copyright management. Don't ask: who do I need to ask for permission? Ask: do I need to ask anyone for permission? Don't ask: can I be sure that this activity is lawful? Ask: how confident am I that this activity is probably lawful? Ask: what is the nature of the risk involved in this activity, and am I comfortable with it? Ask: is this an appropriate risk to take so that I can deliver on my institution's public mission? Ask: how are my colleagues in other similar institutions managing these issues?

Incidentally, since launching *Display At Your Own Risk*, we have received no complaints from any institutions that feature in the exhibition, only compliments, thanks and encouragement. Some institutions have even been prompted to revisit and revise their policies and practices in response to the exhibition. You can view *Display At Your Own Risk* [here](http://www.displayatyourownrisk.org).

Chapter 1/15

Copyright and Digital Cultural Heritage: Introduction

THE COPYRIGHT CORTEX IS WRITTEN FOR:

- Librarians, archivists, museum curators and other information professionals
- Researchers and academics who work in the digital humanities
- Researchers with an interest in copyright and digitisation practices
- People who are anxious about copyright



THE COPYRIGHT CORTEX

**COMING SOON TO A
SMALL SCREEN NEAR YOU**