



The Sunflower is Mine

Paradoxical Patterns in the Public Domain

A talk by Doug McCarthy, [CC BY 4.0](https://creativecommons.org/licenses/by/4.0/)

Icepops 2025

Museum copyright is
messed up

[illegible]

Vincent van Gogh Painting Sunflowers, 1888. Paul Gauguin.
Van Gogh Museum, Amsterdam (Vincent van Gogh Foundation)



in

8 museum collections:

Bayerische
Staatsgemäldesammlungen DE

Kröller-Müller Museum NL

Kunstmuseum Bern CH

Metropolitan Museum of Art US

National Gallery GB

Philadelphia Museum of Art US

Sompo Museum of Art JP

Van Gogh Museum NL



What's the **copyright status** of these images? 🤔



Bayerische
Staatsgemäldesammlungen **DE**

Kröller-Müller Museum **NL**

Kunstmuseum Bern **CH**

Metropolitan Museum of Art **US**

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Van Gogh Museum **NL**

Relevant law – European Union EU & The Netherlands NL

Article 14, DCDSM 2019

Works of visual art in the public domain

‘Member States shall provide that, when the term of protection of a work of visual art has expired, any material resulting from an act of reproduction of that work is not subject to copyright or related rights, unless the material resulting from that act of reproduction is **original in the sense that it is the author's own intellectual creation.**’



‘Artikel 14 is geheel in lijn met het geldende recht en
behoeft daarom geen omzetting’

(‘Article 14 is entirely in line with current law and therefore
does not require transposition’).

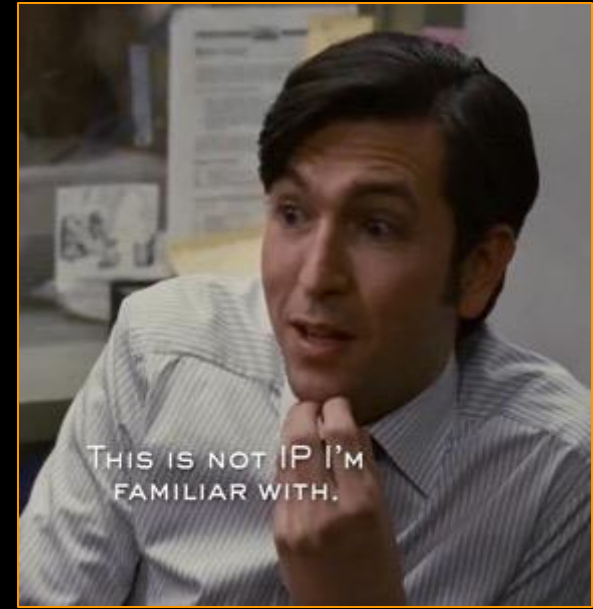


Sunflowers, January 1889
Vincent van Gogh (1853 - 1890)
Van Gogh Museum, Amsterdam
(Vincent van Gogh Foundation)

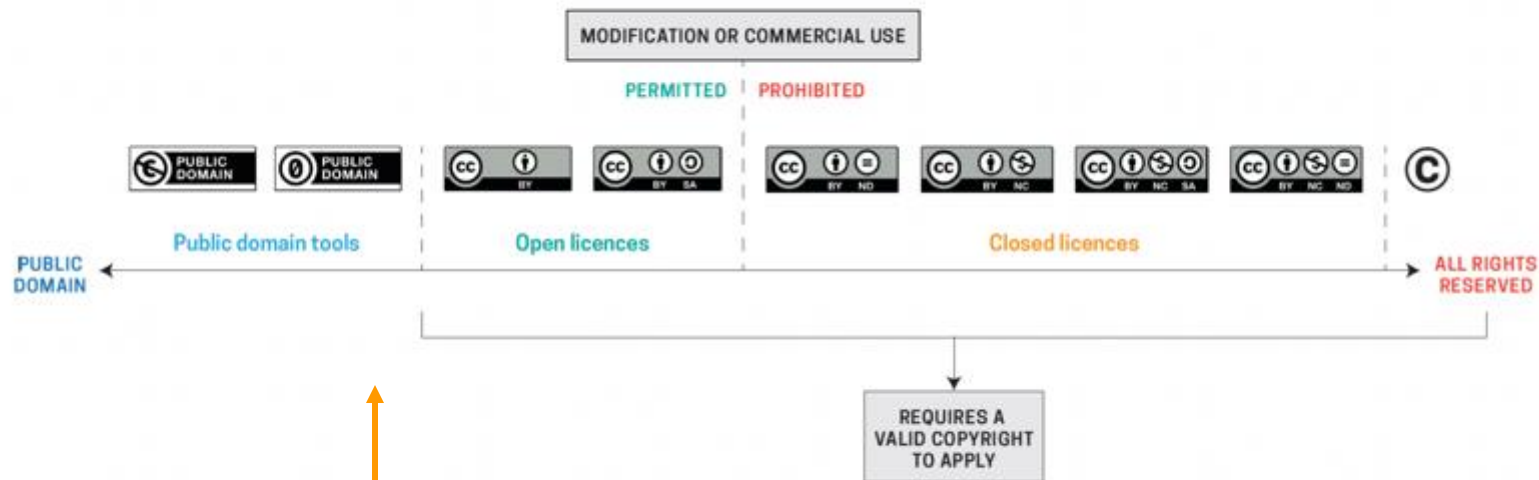
‘In our opinion, the photographs that we offer on our website do comply with the above criteria [originality].

The photographer had to make creative decisions in respect of lighting, illumination time, shutter speed, distance, angle etc.’

Van Gogh Museum,
10 February 2025



Complying with copyright law – is it optional? 🤔



Globally, 117 known organisations comply with copyright law.

The overwhelming majority claim new rights in non-original media generated during the reproduction of public domain works, including 1700+ open GLAMs.

‘The difficulties really are many and great, and not to be overcome at a stroke.

Making headway is a kind of miner’s labour that doesn’t go as quickly as one would wish and as others expect.

But if one is faced by such labour, the first things one must hang on to are patience and faith.’

Letter from Vincent van Gogh to Theo van Gogh, 11 March 1883

#Copyright



*Woman Standing in Front of Van Gogh's
Sunflowers, 1915-1920*

Isaac Israëls (1865 - 1934)

Van Gogh Museum, Amsterdam (Vincent
van Gogh Foundation)



Thank you.

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