

Open Licenses and GLAM: What makes sense?



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Creative Commons
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DISCLAIMER!

DISCLAIMER!

IANAL, TINLA, OMGWTFBBQ

Answers?

Sorry.

Caveats

- US Centric (mostly)
- Only really addressing stuff you create, not others'

Why me?

Previous Jobs:

Copyright Specialist @ U of Michigan Library

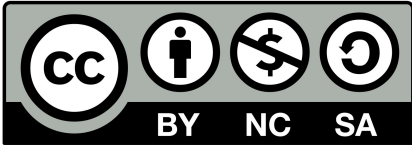
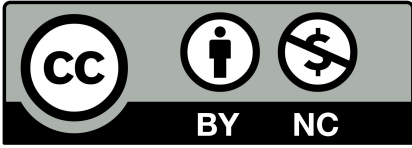
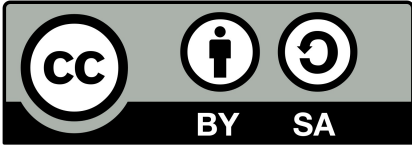
Open Education Specialist @ OpenMichigan

Current Job:

Edu Tech & Policy Coord @ Creative Commons

Quick, *quick*, quick refresher...

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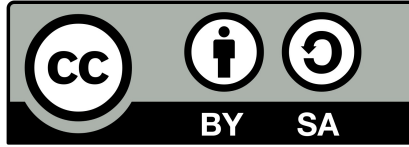
Public Domain Mark



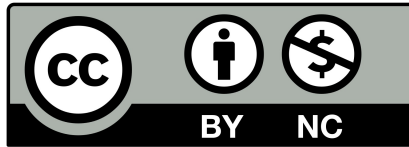
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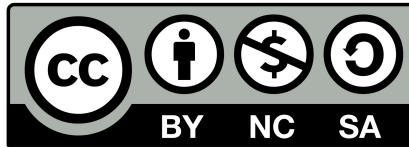
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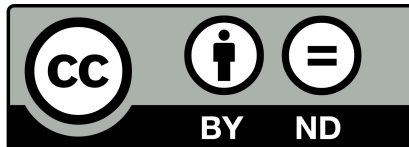
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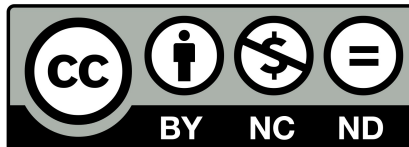
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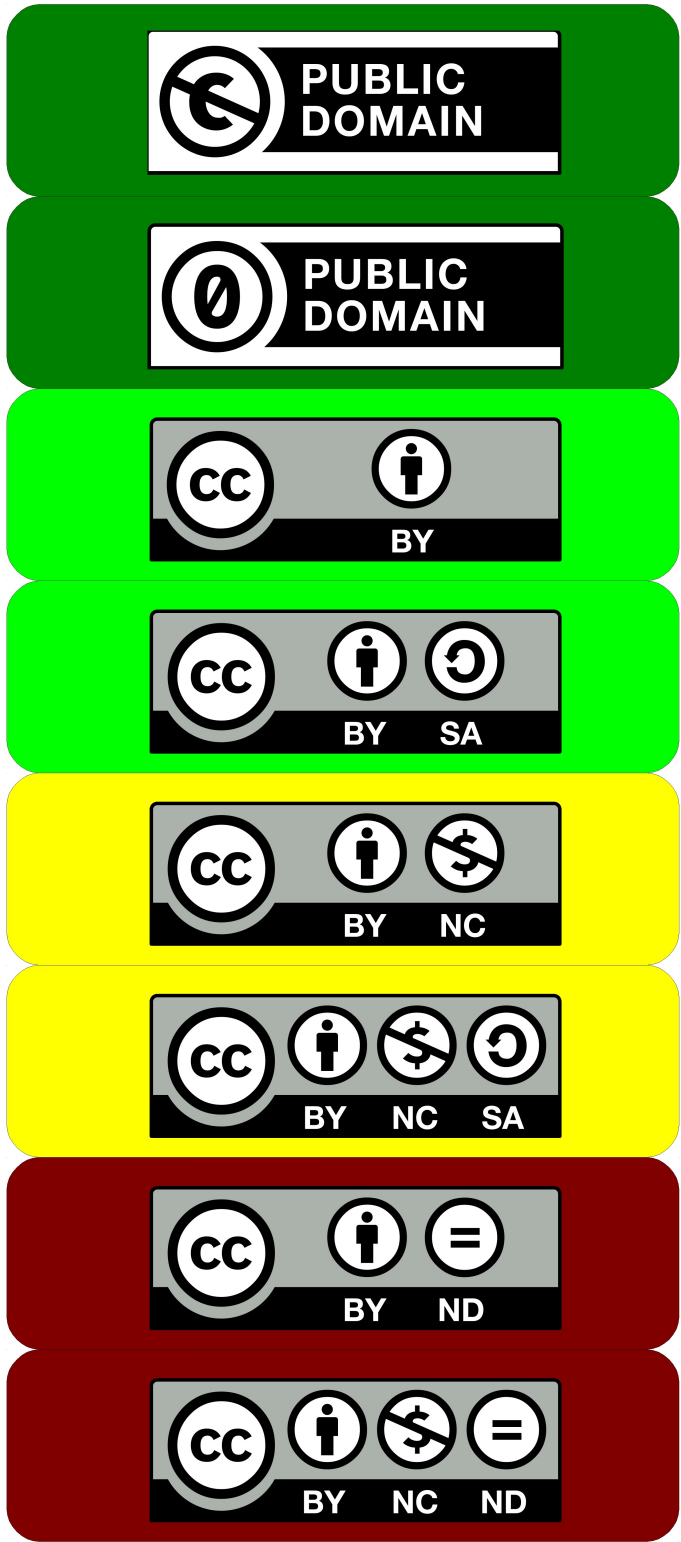


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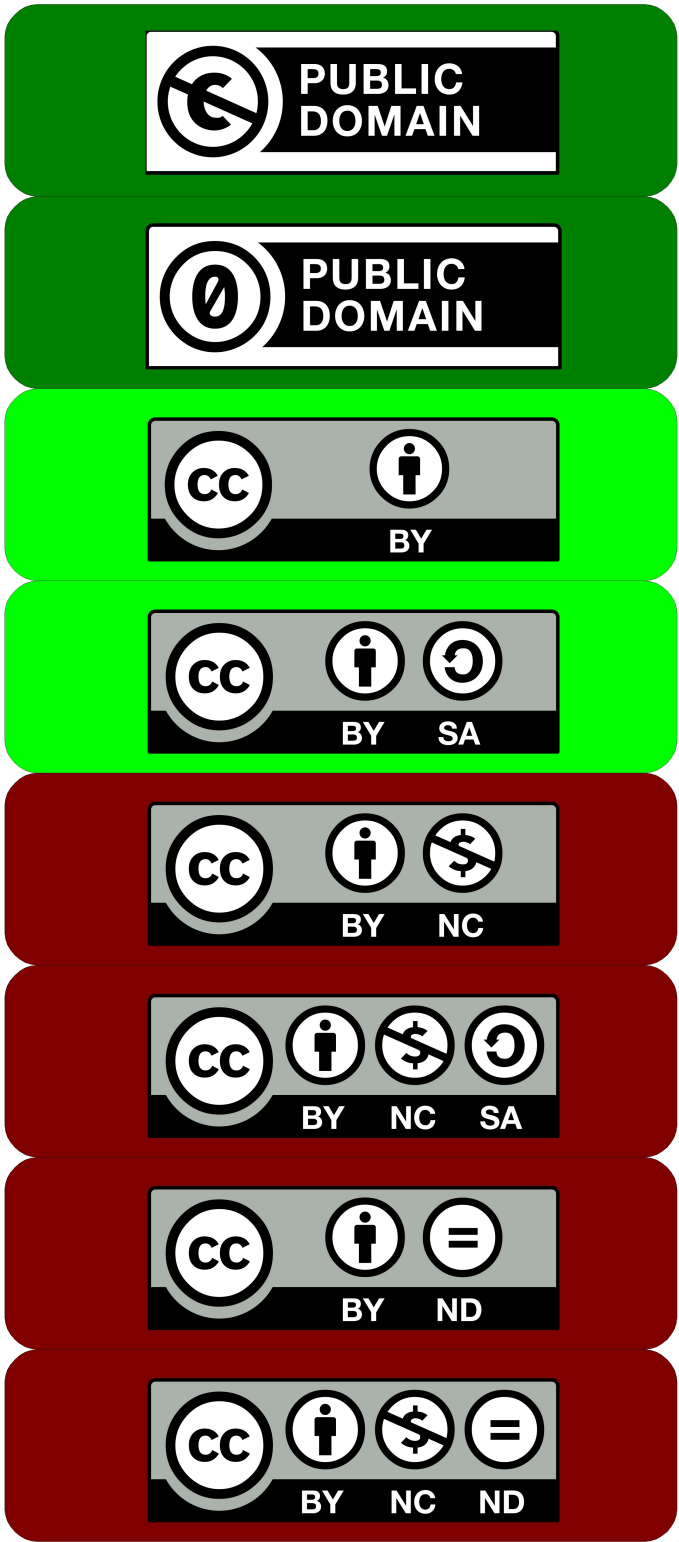


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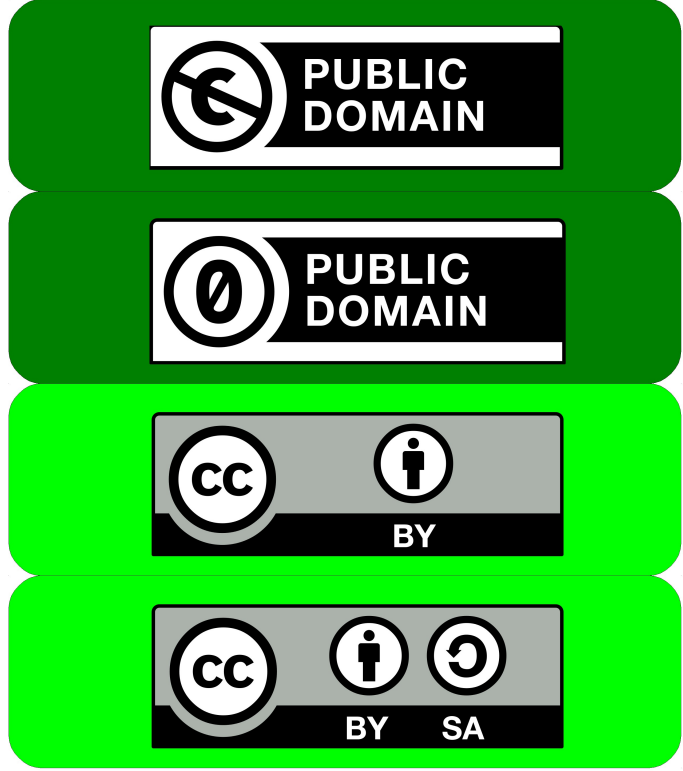
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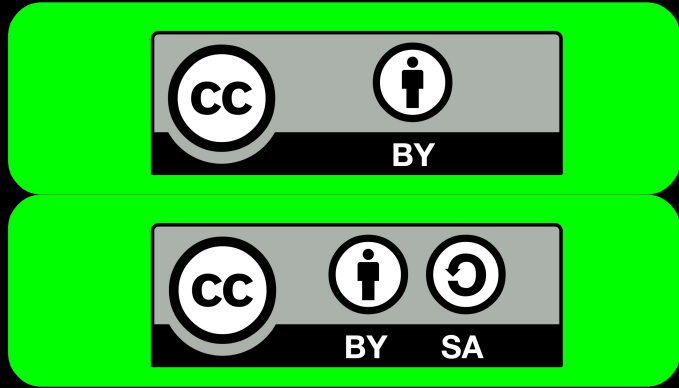


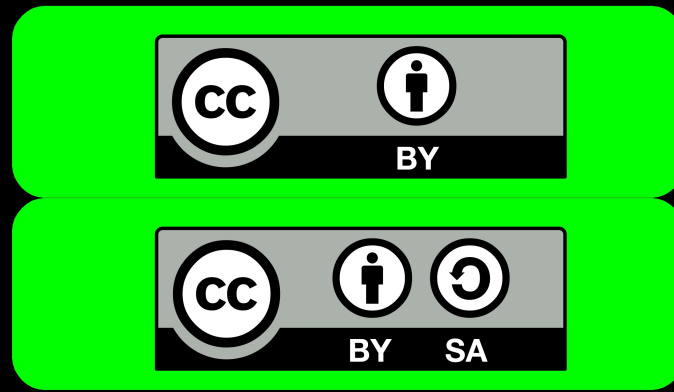
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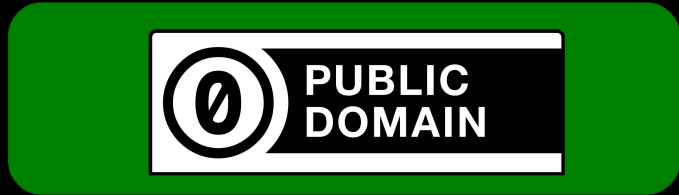
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1. Something you created (eg: photograph, drawing, etc)
2. Not a derivative of something else.
3. Between BY and BY SA? Personal choice.





1. Something you created (eg: photograph, drawing, etc)
2. Not a derivative of something else.
3. Great for not claiming any hypothetical or 'thin' copyright (eg: scans/photos of 2D PD material)
4. Maximal reuse potential.





1. NOT something you created*.
2. In the public domain (copyright expired) in at least some jurisdiction.

GLAM?

My recommendation...

Assuming:

1. No Fair Use/Dealing
2. PD (somewhere) source content



PUBLIC
DOMAIN

OR



PUBLIC
DOMAIN

Controversial?

open.michigan

OER Clearing Casebook

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Casebook

[Casebook](#)

Casebook

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Paintings

Content Object

A Reproduction of a Painting



Explanation / Rationale

- This image is an accurate representation of the original painting.
- The original painting is in the public domain (published before 1923).
- As such, this digital image is also in the public domain.

Recommended Action

Mark as:

Retain:
Copyright
Analysis

Advanced Explanation / Rationale

Effectively, the copyright status of the faithful reproduction (eg: scan or photograph) of an artwork is determined by the copyright status of the original artwork. This is because there is no new creative expression.

Case Law:

- *Bridgeman Art Library, Ltd. v. Corel Corp.*, 36 F. Supp. 2d 191 (S.D.N.Y. 1999)
 - [Cornell Law](#) [Wikipedia](#)

A Reproduction of a Painting



- This image is an accurate representation of the original painting.
- The original painting, however, is still protected by copyright (not in the public domain).
- As such, this digital image is also protected by copyright.

Mark as: **Remove & Annotate**

(or **Search** for a replacement)

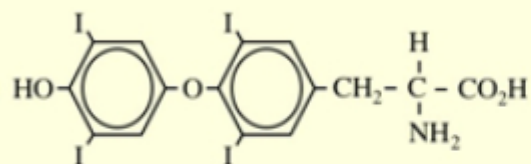
The reproduction (the scan/photograph) of the original is governed by the copyright of the original.

Case Law:

- *Bridgeman Art Library, Ltd. v. Corel Corp.*, 36 F. Supp. 2d 191 (S.D.N.Y. 1999)
 - [Cornell Law](#) [Wikipedia](#)

Content Object

A Basic Chemical Representation



Explanation / Rationale

- This is a chemical representation.
- The essential purpose of this image is to represent the composition of a chemical.
- This depiction shows common/standard /typical/ordinary/basic /routine choices for chemical compositions.

Recommended Action

- Mark as:
Retain:
Copyright
Analysis

Advanced Explanation / Rationale

- There really is no other basic way to represent this chemical structure. The idea has merged with the expression, and as such, the image is not subject to copyright protection.

Statute

- 17 U.S.C. § 102(b)- In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

Case Law:

- *Morrissey v. Procter & Gamble* 379 F.2d 675 (1st Cir. 1967) - when there is only one or a few ways of expressing an idea then courts will find that the idea merges with the expression and the work is not subject to copyright protection. This is a natural outflow of the Court's reasoning in *Baker v. Seldon*.
 - [resource.org/courts.gov](https://www.resource.org/courts.gov)
- *Atari, Inc. v. North American Phillips Consumer Electronics*, 672 F.2d 607 at 616 "incidents. Characters, or settings which are as a practical manner indispensable, or at least standard, in the treatment of a given topic," are not subject to copyright protection.



- This is a map of a fictitious location.

■ Mark as:
Remove & Annotate
(or **Search** for a replacement)

- Maps can be very tricky. This is a map of a fictitious location, and as such, is at the heart of creative expression, and merits strong copyright protection.



- This is a satellite photographic map.

■ Mark as:
Retain: Copyright Analysis

Case Law:

- As a satellite map, this image is a faithful representation of its subject matter, and therefore does not enjoy copyright protection.
- *Meshwerks, Inc. v. Toyota Motor Sales, U.S.A., Inc.* - there is no copyright protection when the purpose is to faithfully represent the underlying object, to depict the object as the object "is."
 - ca10.uscourts.gov



- This is a topographical map.

■ Mark as:
Retain: Copyright Analysis

- As a topographical map, this image is a faithful representation of its subject matter, and therefore does not enjoy copyright protection.

Case Law:

- *Feist Publications, Inc., v. Rural Telephone Service Co.*, 499 U.S. 340 (1991)
 - [Cornell Law](#), [Wikipedia](#)
- *Hoehling v. Universal City Studios, Inc.* 618 F.2d 972 (2nd Cir. 1980)
 - [Cornell Law](#)
- *American Institute of Architects v. Fenichel*, 41 F.Supp. 146 (S.D.N.Y. 1941)

btw.....



Meshwerks v. Toyota

From Wikipedia, the free encyclopedia

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Morrissey v. Procter & Gamble

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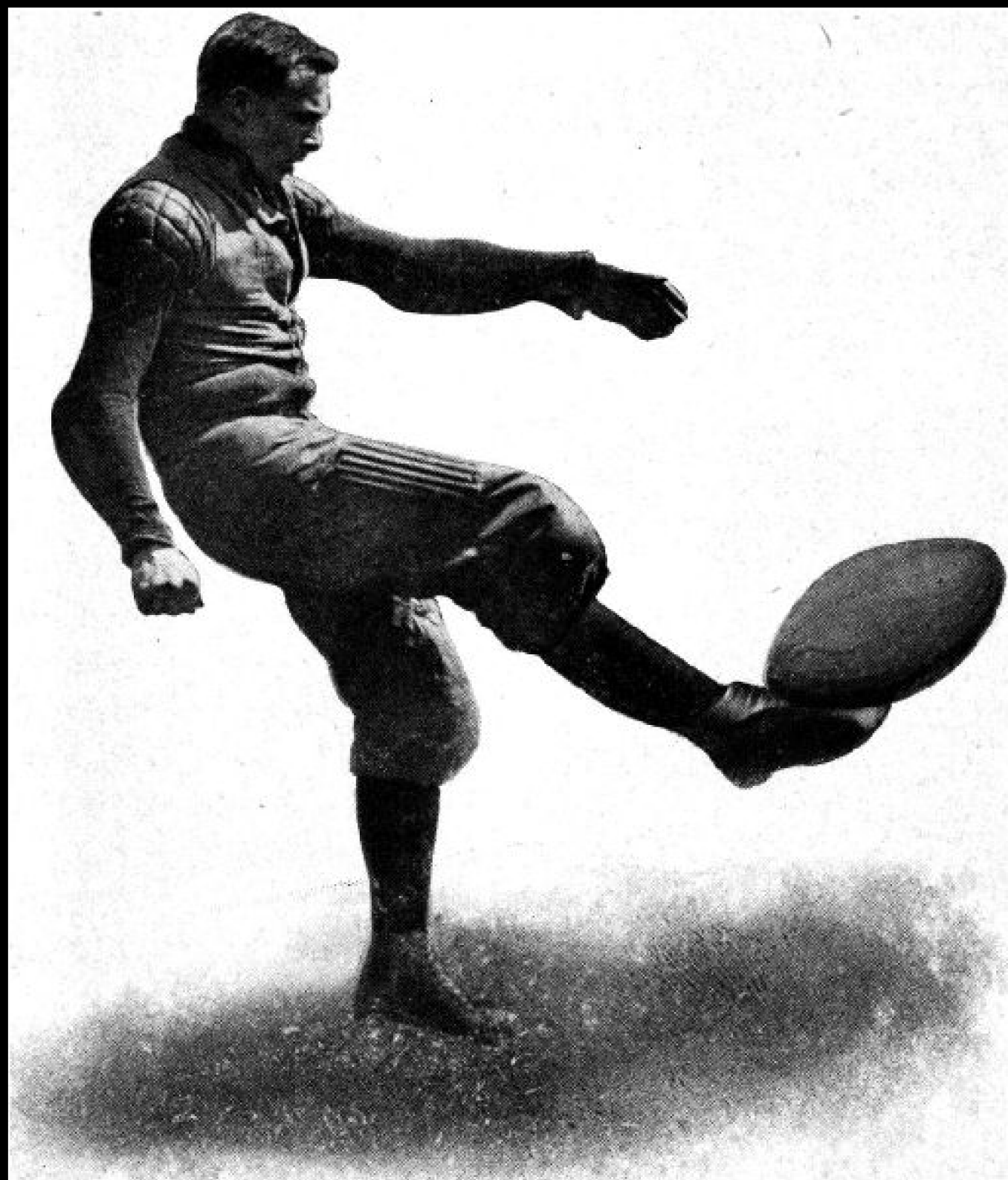
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Restorations?



Other questions?

Thanks!

Greg Grossmeier
greg@creativecommons.org



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