

--- The Pre-Modern Period

- Italy

3 Mona Lisa

Andrea Wallace

FOR CENTURIES, BUSINESS models have been based on reproducing copyrightfree works using the available technologies, often claiming new rights and commercializing the results. In part this is why the public domain exists: to copy or make new works that attract new copyrights, so long as they are sufficiently original. In the past two decades, however, new technologies have made this practice exponentially easier and its products much more available. Meanwhile, the role of copyright during the digitization of public domain works has become the focus of significant legal and social controversy.

There is no better artwork to illustrate how these phenomena have played out than Leonardo da Vinci's *Mona Lisa*, a painting recently valued at nearly one billion dollars, and said to be the most reproduced, written about, referenced, and parodied artwork in the world—a work that in its five centuries of existence has never once been protected by copyright.

When Leonardo set out to capture Lisa del Giocondo's likeness in 1503, copyright did not exist. Privileges, the precursor to modern copyright, were granted as a means to protect investment in the technologies necessary for reproduction in the book trade and printing industry. When modern copyright debuted in England with the 1710 Statute of Anne, it inherited its rationale for protecting reproducible subject matter from the privileges system. Yet, paintings lacked protection for centuries-not until the end of the 18th century in France, the 19th century in Italy, and in some countries like the Netherlands not until the 20th century. Similarly, no legal protection would have been awarded to Leonardo's sketches of Lisa del Giocondo, had any been made. The irony is, therefore, that printed reproductions generally received some form of copyright protection centuries before the masterpieces they reproduced.

For a work as captivating as La Joconde, as she is called in France, or La Gioconda in Italy, this meant anyone with access to da Vinci's painting could attempt its reproduction—attempt, of course, being the operative word. Leonardo's masterpiece possessed a je ne sais quoi which artists

On the left: Salvador Dali in the studio beside his gallery of mustached personalities, including his own "Self Portrait Mona Lisa" (1973). (Getty Images)





found difficult to capture due to his *sfumato* (smoke-like) technique of rendering light and darkness in her flesh and fabric. This did not stop court artists and others from trying. The production of high-quality surrogates was a respected and lucrative industry, one through which aspiring artists could become well known via their copies. With each copy's completion, a new source entered the world that could be used to make subsequent *Mona Lisa* reproductions. And though many of the artists' names have long been lost to history, at the time their painted reproductions similarly received no legal protection.

Unlike painted copies, print-based images could be reproduced in multiples and sold to many, fetching a greater profit than a single painting. As technologies developed and reproduction became cheaper and easier, new print houses emerged, dedicated to slavishly copying the engravings realized through the labor of others. By the 18th century, legislative measures sought to protect this effort—the 1735 Engravers' Act in Britain, for example, awarded a 14-year copyright on the basis of the work's design to the designer who also engraved it.

Technology has come a long way since Leonardo's time, reducing the cost and creative input required to make an accurate reproduction; but so has copyright. Today, an original work receives protection for 70 years from the author's death. And legal determinations of originality can hinge on a number of factors, including the geographical jurisdiction and the technology used—depending on where the reproduction is made, different treatment may exist for versions made with a copy machine, a scanner, or a camera.

But it was the *absence* of copyrightcoupled with technology-that created the cultural artifact that we know as the Mona Lisa. Leonardo kept the painting with him at the Castle of Clos Lucé until his death in 1519, after which King François I purchased it from his heir. It moved from room to room at Versailles until the monarchy was abolished in 1792, and it was subsequently selected for inclusion in a new public museum at the Louvre. There, the painting caught the eye of Napoleon, who reportedly removed it to his bedroom and enjoyed its company until 1804, before permanently reinstalling it on the Louvre's walls.

By the end of the 19th century, Lisa Gherardini had returned the gaze of royalty, emperors, politicians, artists, authors, musicians, and many, many others. Her image had been reproduced and referenced in culture countless times by those enjoying her company personally or publicly. Yet, the image was not thus far the icon of public consumption it is today. It was *fin-de-siècle* technological advancements that were responsible for making this possible; but it Above, left: A woman examines "Thirty Are Better Than One" (1963) by Andy Warhol. (Alberto Pizzoli / AFP / Getty Images)

Above, right: A woman examines "Double Mona Lisa, After Warhol (Peanut Butter and Jelly)" (1999) by Vik Muniz. (Gerard Julien / AFP / Getty Images) was the remarkable theft of the painting in 1911 that has been credited for catapulting the *Mona Lisa* to international recognition. At 7:30 am on Monday, 21 August 1911, Vincenzo Peruggia walked through the Louvre's back door wearing a white smock, entered the gallery exhibiting the *Mona Lisa*, and unhooked it from the wall. He then slipped into a stairwell, removed the frame, and tucked the painting under his smock. Peruggia attempted to exit through the service door at the foot of the stairs, but it was locked. Along came a workman who, rather than catch the thief red-handed and become a hero, helped open the door.

It took two days for the Louvre to notice. Newspapers reported her disappearance, speculating on the motive. It must have been a blue-eved visitor, who had been seen gazing at the painting, enamored. No, it was a wealthy American who took it to make a copy but would later return it. Suddenly everyone was an expert on the painting, spinning tales of the dancing jesters that the strikingly-handsome Leonardo had employed in his studio to keep Lisa's face in a perpetual smile. On the front pages of newspapers worldwide that smile could be admired; but on her wall at the Louvre *La Joconde*'s place remained empty. A larger number of visitors than ever came to witness her absence, including Franz Kafka. Postcards and reproductions exploded through Parisian streets. Musicians wrote songs of her theft. A reward was offered, arrests were made-even Pablo Picasso was a suspect.

The mystery continued for two years, until Florence antique dealer Alfredo Geri received a letter signed by "Leonardo." The sender claimed to have the painting and wanted to discuss a price. Inviting Leonardo to Florence, Geri and Uffizi Gallery curator Giovanni Poggi met with Peruggia and verified the painting's authenticity using photographic reproductions. Peruggia was arrested.

Once again, front pages around the world reported Mona Lisa's recovery, the trial, and the painting's Italian tour, until she was restored to her wall in the Louvre. Another vandalism attempt in 1956 and subsequent world tours provided more reportable content in the following years. In 1963, the Kennedys paid homage to Lisa at the National Gallery of Art during her first trip outside Europe; afterward she traveled to the Metropolitan Museum of Art to greet more than one million visitors in less than a month. Ten years later, she visited Japan and Russia, accompanied this time by a massive merchandizing campaign, before returning to France to retire behind the bulletproof glass where she remains today.

Like the artists Marcel Duchamp, Salvador Dali, and Andy Warhol, we may all use the Mona Lisa without paying a copyright fee, just as we may use the majority of the historical reproductions of the painting fee-free. However-public domain or not-one cannot simply walk into the Louvre and remove the Mona Lisa from the wall to make a reproduction, and it remains no small feat to make one within the gallery. Those who travel to Paris and pay the admission fee will find difficulty getting close enough to capture her with any fidelity. Regardless, under the Louvre's visitor photography policy, any photograph is restricted to *private* use only.

Without the ability to make our own reproduction, we must rely on stewards of public domain works to make and release surrogates for others to use. This endeavor is easier than ever to accomplish, due to advancements in digital technologies and industry guidelines that have not only simplified the process but also eliminated many of the creative choices once

On the following pages: "Mona Lisa Mural, Columbus Ohio" (2009) by Carol M. Highsmith. (Carol M. Highsmith's America, Library of Congress, Prints and Photographs Division)







recognized as bestowing originality on the surrogate. Despite this, a new copyright is usually claimed during the transition from analog to digital, potentially restricting use of the surrogate unless permission is granted by the alleged rightsholder.

The internet provides few reliable alternatives. An extensive online search for copyright-free surrogates of the Mona Lisa and her reproductions made available by legitimate sources reveal that the majority come with copyright-strings attached, sometimes hidden among the many reproduction layers that a single image can hold. Even the image in Wikipedia's Mona Lisa entry is taken from a surrogate that is subject to a copyright claim, a detail that potentially exposes users to secondary infringement. Few institutions openly license the digital surrogates in their collectionan image that, in some cases, might be a surrogate of a surrogate of a surrogate. A visualization of this relationship and the difficulty in finding copyright-free surrogates online is illustrated across pages 44-51. In truth, the reproduction timeline should follow not a linear path, but that of a family tree with each off-shoot spawning its own lineage of surrogates. Considering the lack of information about many reproductions—early and contemporary—such a reconstruction is likely impossible.

Despite this difficulty and uncertainty, it is impossible to escape the image of the Mona Lisa in modern culture. Over the years, reproductions have appeared on playing cards, cigarettes, coffee mugs, postcards, t-shirts, in advertising, and in various corners of pop culture. She provoked Théophile Gautier's cult of the femme fatale, and surfaced among the writings of authors like Oscar Wilde, Marcel Proust, Henry James, D.H. Lawrence, Jean-Paul Sartre, and Mary McCarthy. Sigmund Freud theorized Lisa's smile was Leonardo's attempt to reproduce his mother's. The film The Theft of the Mona Lisa (1931) follows Vincenzo Peruggia's saga, and a fictional theft occurs in GOOD MORN-ING BOYS (1937). She makes a cameo in The Prime of Miss Jean Brodie (1969) during an art history lesson with Maggie Smith. Both Lucile Ball in the I Love Lucy Show ("Lucy Goes to Art Class," 1963)

Above: "Mona Lisa Barn Art, Wisconsin" (1990) by Carol M. Highsmith. (Carol M. Highsmith Archive, Library of Congress, Prints and Photographs Division)





Above, left: The "Mona Lisa" handbag from Jeff Koons' collection entitled "Masters" (2017) made in collaboration with Louis Vuitton. (Alamy)

Above, right: Marlon Brando sitting before Mona Lisa portrait in a scene from ONE-EYED JACKS (US 1961, Dir. Marlon Brando). (Getty Images)

On the following pages: "Mona Lisa: A Reproduction Timeline, ca. 1503–2017," by Andrea Wallace. and Elizabeth Montgomery in *Bewitched* ("Mona Sammy," 1970) transform into Lisa del Giocondo before audiences. She has been serenaded by Nat King Cole, Bob Dylan, The Fugees, and will.i.am; her face has been plastered across surfaces from barns to luxury handbags.

Regardless of how far technology has come, the Mona Lisa cannot yet be cloned to satisfy public consumption-nor can we accurately predict how such a thing might be treated by copyright law. Still, imagine what we might learn by analyzing the historical, technological, and geographical path taken by Leonardo's image, a task potentially achieved via meaningful online access to her surrogates (and their surrogates). A champion in the pursuit of knowledge, Leonardo gave us the ideal opportunity to study not only the generation of knowledge over five centuries from a single painting, but also an ideal example of the public domain's potential once truly freed from copyright claims.



Further Reading

Taylor Bayouth (2016) *How to Steal the Mona Lisa: And Six Other World-Famous Treasures.* New York: Perigee.

Susan M. Bielstein (2006) Permissions, A Survival Guide: Blunt Talk about Art as Intellectual Property. Chicago: University of Chicago Press.

Michael Burrell (2006) "Reynolds's Mona Lisa," *Apollo*, Vol. CLXIV, No. 535.

Martin Kemp and Giuseppe Pallanti (2017) Mona Lisa: The People and the Painting. Oxford: Oxford University Press.

Darian Leader (2002) *Stealing the Mona Lisa: What Art Stops Us From Seeing.* London: Faber & Faber.

Donald Sassoon (2006) Leonardo and the Mona Lisa Story: The History of a Painting Told in Pictures. London: Duckworth.

Andrea Wallace and Ronan Deazley (2016) Display at Your Own Risk: An Experimental Exhibition of Digital Cultural Heritage. Available at: displayatyourownrisk.org copyright

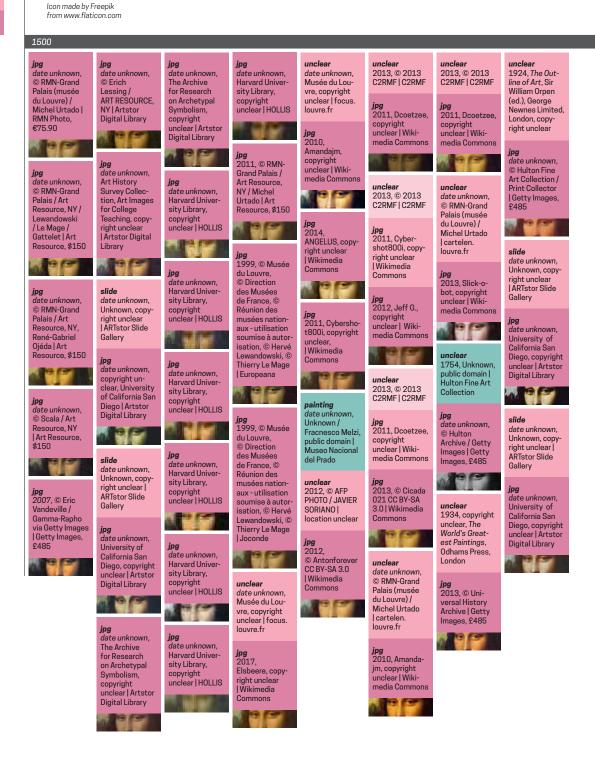
public domain



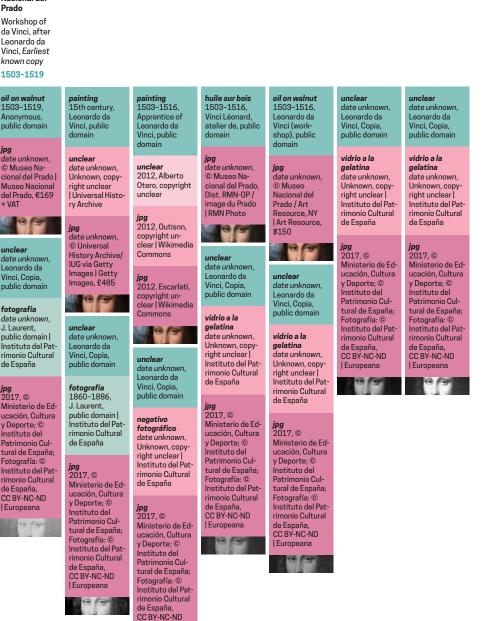
Musée du Louvre, Paris Leonardo da Vinci (1452-1519) Mona Lisa €11

1503-1516

Mona Lisa: A Reproduction Timeline ca. 1503–2017



33



Based on extensive web research. this timeline depicts the online availability of digital surrogates of the Mona Lisa and her reproductions.

The timeline divides the source Mona Lisa from her surrogates: above the timeline is a representation of the painting, which cannot be accessed without visiting the Louvre in Paris and paying an €11 admissions fee. Below the timeline are her surrogates, starting with the earliest known copy, believed to have been painted alongside da Vinci by an unknown artist in his workshop.

Notably, each host institution or licensing organization maintains different information about each material surrogate and most claim copyright in the digital surrogate they make available online.

1

Museo Nacional del Prado Workshop of da Vinci, after Leonardo da Vinci, Earliest known copy 1503-1519

1503-1519. Anonymous, public domain

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2

Private collection Unknown, after Leonardo da Vinci, Isleworth Mona Lisa

16th century

oil on canvas unknown date, before WWI. Unknown, public domain

jpg date unknown, Unknown, copyright unclear monalisa.org

jpg 2012, Shakko, copyright unclear | Wikimedia Commons



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16th century

oil on canvas unclear 16th century, 16th century, Flemish School. Anonymous Artist, public public domain domain

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Mona Lisa

16th century

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Château du Clos Lucé after Leonardo Ambroise da Vinci, State

5

Dubois, after Leonardo da Vinci 16th century

oil paint and canvas XVIth century-2009, Ambroise Dubois, public domain

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Unknown, after Leonardo da Vinci, Walters Mona Lisa ca. 1635-1660

The Walters

Art Museum

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ters Art Museum Website

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Location Unclear Charles Errard (1606-1689), after Leonardo da Vinci

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1651



oil on canvas ca. 1635–1660, Copy after Leonardo da Vinci, public domain | The Walters Art



Private Collection

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Unknown, after Leonardo da Vinci, Reynolds Mona Lisa 17th century

unclear probably early 17th century,

French School. public domain

jpg 2006, Unknown, copyright unclear | Saatchi Gallery Website / Courtauld Photographic Survey



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Walker Art Gallery Unknown, after Leonardo da Vinci 17th century	Location Unclear Unknown, after Leonardo da Vinci, Vernon Mona Lisa 16th-17th century			Portland Art Museum Unknown, after Leonardo da Vinci, Portland Mona Lisa 16th-18th century	Alte Pinakothek Unknown, after Leonardo da Vinci 17th-18th century	
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copyright

1800 **13**

Multiple

J.B. Rapael Urbain Massard (1775-1843), after Leonardo da Vinci **ca.**

1803-1809

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engraving ca. 1803-1809, Massard, public domain | The British Museum

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engraving late 18th to early 19th century, Massard, public domain | Victoria and Albert Museum

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14

Constant Louis Antoine Lorichon (1800-1855), after Leonardo da Vinci ca. 1804-1816

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16 The British Museum Louis Victor

15

The British

(1798-1861),

after Leonardo

1815-1861

lithograph

ca. 1815-1861,

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Louis Victor Jean Baptiste Aubry-Lecomte (1787-1858), after Leonardo da Vinci 1824

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Multiple Gustave Le Gray (1820– 1884), after Aimé Millet (1819–1891), Millet's Drawing of the Mona Lisa

17

1849-1850



1855, Gustave Le Gray, public domain | Bibliothèque nationale de France

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Aimé Millet,

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Gustave Le Gray,

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jpg 1999, © Musée Gustave Moreau, © Direction des Musées de France, © René-Gabriel Ojeda | Joconde

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Multiple Luigi Calamatta (1801-1869), 1857 engraving of 1825-1826 drawing, after Leonardo da Vinci

1857

engraving 1857, Luigi

Calamatta.

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Library of Congress Detroit Publishing Company, Leonardo da Vinci's Mona Lisa

ca. 1900-1915



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Multiple **Timothy Cole** (1852-1931), after

34

Leonardo da Vinci 1914



wood

of Art

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engraving on Japanese paper 1892, Timothy Cole, Leonardo da Vinci (after), del Sarto, public domain | Smith College Museum

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