

Recent Changes in How Copyright Status is Used in Image Search Engines

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Introduction

In recent years, the way in which copyright status is represented in search engines has changed. Most notably, Google removed copyright status from its Image Search and replaced it with interface changes to include commercial licensing information in search results. At the same time, alternative search engines based on Creative Commons or other copyright terms have launched, and some existing alternatives have become more significant. This article steps through some recent changes and lists options in place on each as of Spring 2022 for limiting search results by reuse rights.

Google

Previously, starting in 2009, Google Advanced Image Search allowed limiting the images found by specific categories of Creative Commons license.¹ A person could facet the search to limit to images by the following categories: "Not filtered by license", "Labeled for reuse with modification", "Labeled for Reuse", "Labeled for noncommercial reuse with modification", and "Labeled for noncommercial reuse". Beginning in August 2020, Google removed the fine grained control to search by reuse rights allowed under Creative Commons licenses. In its place, Google put three options: "All" (ie. other), "Creative Commons licenses", "Commercial & other licenses".²

The commercial license category is powered by a markup designed by Center of the Picture Industry (CEPIC), the Digital Media Licensing Association (DMLA), and Google. The biggest change is intended to be that when someone runs any Google image search, the summaries of images in Google image search will indicate that the image is owned and who to contact to license it. This is following antitrust litigation in Europe regarding Google image search allowing someone to download high resolution images from within image search, never having to click into the page the image came from and never having an opportunity to be alerted of the image source and owner. A summary of the antitrust issues argued by CEPIC is available at <https://www.digitalmedialicensing.org/news/ceplic-submits-eu-antitrust-complaint-against-google-images>.³ Getty Images, a member of CEPIC, sued Google Image Search in the European Union for antitrust. Google and CEPIC working together to create the standard may be a way to prevent future concern over this or similar issues.

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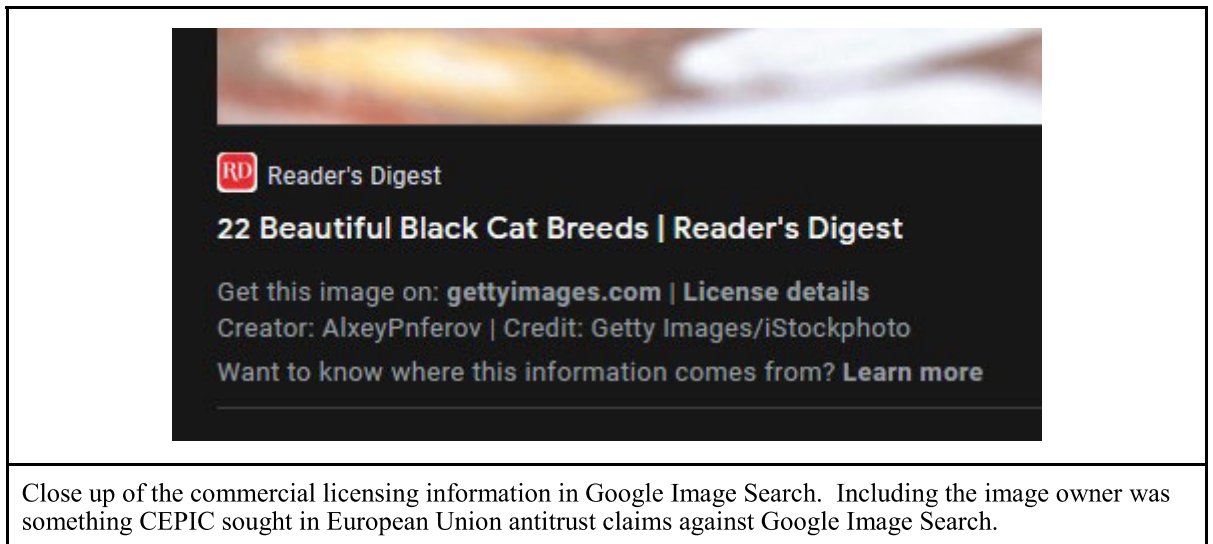
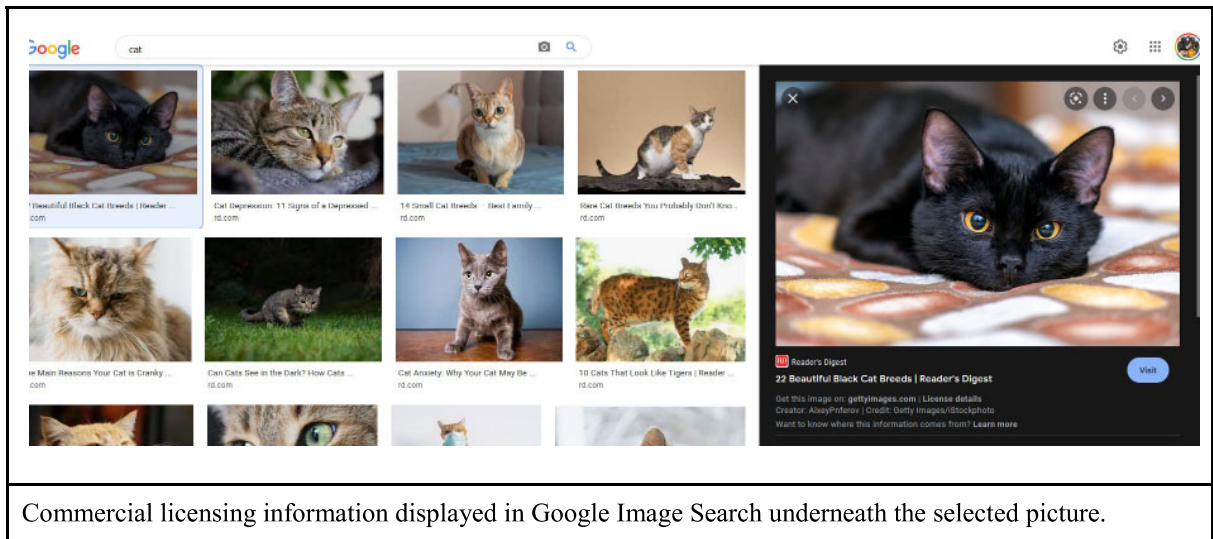


¹ Creative Commons, *Google Image Search Implements CC License Filtering*, Creative Commons Blog (July 9, 2009), <https://creativecommons.org/2009/07/09/google-image-search-implements-cc-license-filtering/>.

² Barry Schwartz, *Google Officially Launches 'Licensable' Image Label and Filter in Image search*, Search Engine Land, (Aug. 31, 2020), <https://searchengineland.com/google-officially-launches-licensable-image-label-and-filter-in-image-search-339998>.

³ Digital Media Licensing Association, *CEPIC Submits EU Antitrust Complaint Against Google Images*, DMLA News (Nov. 14, 2013), <https://www.digitalmedialicensing.org/news/ceplic-submits-eu-antitrust-complaint-against-google-images>.

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The change to Google Image Search was in order to better represent source information for licensed images used online. However, as a result of the change, fine grained search by what kind of reuse is allowed by a Creative Commons license is for now removed from the search, presumably to give a cleaner user interface with fewer options to read and understand. Legal concerns motivated representation of commercial licensing information within Google's Image Search interface, but removal of fine grained Creative Commons information was not required or touched on by the Getty Images and CEPIC history. Nevertheless, the two changes—to add the CEPIC/Google commercial licensing terms and to pare back use of Creative Commons—happened at the same time.

To make things more complicated, Getty Images, the CEPIC member who pursued antitrust claims in Europe, allows free of charge reuse of its images for noncommercial purposes.⁴

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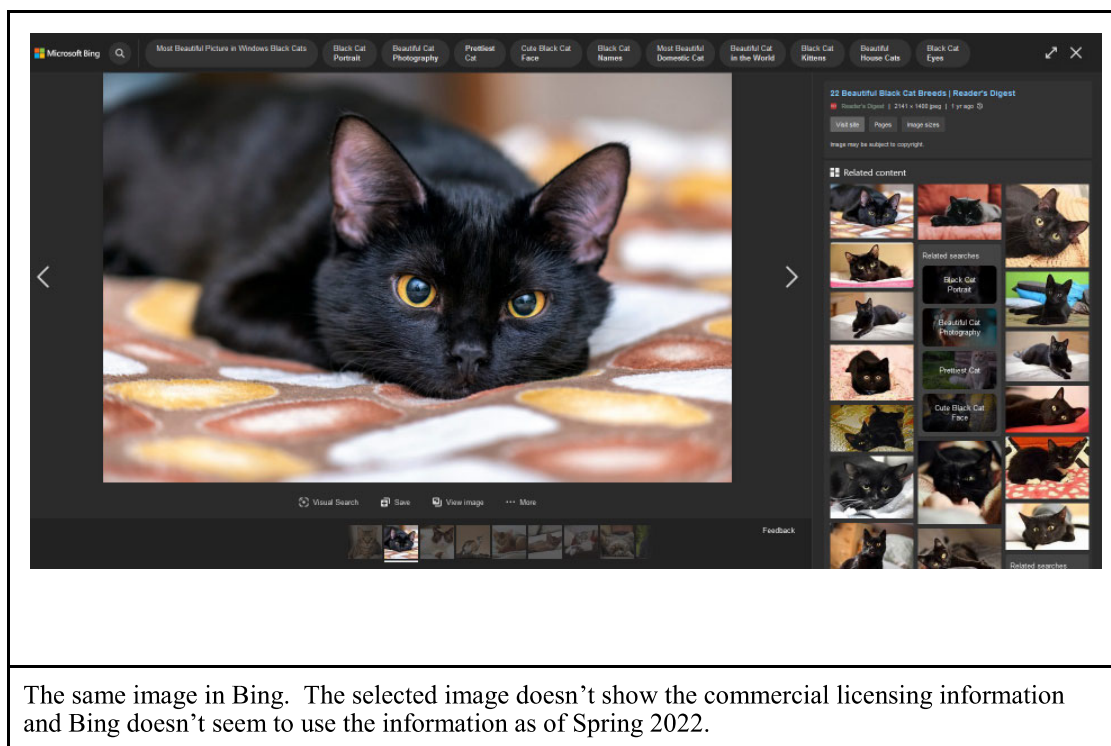
⁴ Getty Images, *Embed Images for Your Non-Commercial Website or Blog in Three Easy Steps*, <https://www.gettyimages.com/resources/embed> (last visited May 24, 2022); Getty Images, Getty Images Content License Agreement, <https://www.gettyimages.com/eula> (last updated May 24, 2022).

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Bing

Since 2013, Bing image search has allowed limiting search results by what kind of reuse is allowed under Creative Commons licensing.⁵ Bing image search still allows limiting search results by what kind of reuse is allowed by which Creative Commons license. Since 2013, the licensing part of the search interface has changed to add an option for "All Creative Commons" licenses, but other options have not changed, and Bing image search still allows limiting search results by exactly what reuse rights are allowed. Options currently allowed in Bing for limiting image search results by license are: "All," "All Creative Commons," "Public Domain," "Free to share and use," "Free to share and use commercially,"⁶ "Free to modify, share, and use," and "Free to modify, share, and use commercially." Bing's explanation of license information in search indicates the search engine is using only Creative Commons' public domain mark to determine what is and isn't public domain.⁷

The Google/CEPIC standardized markup for commercial licensing is relatively new. That standardized markup didn't exist 5 years ago. Now that the information is available in a way that computers can read and display, it may be the case that Bing will start to use it, especially if it is widely adopted. As of today, Bing image search does not use commercial licensing information in its search interface.



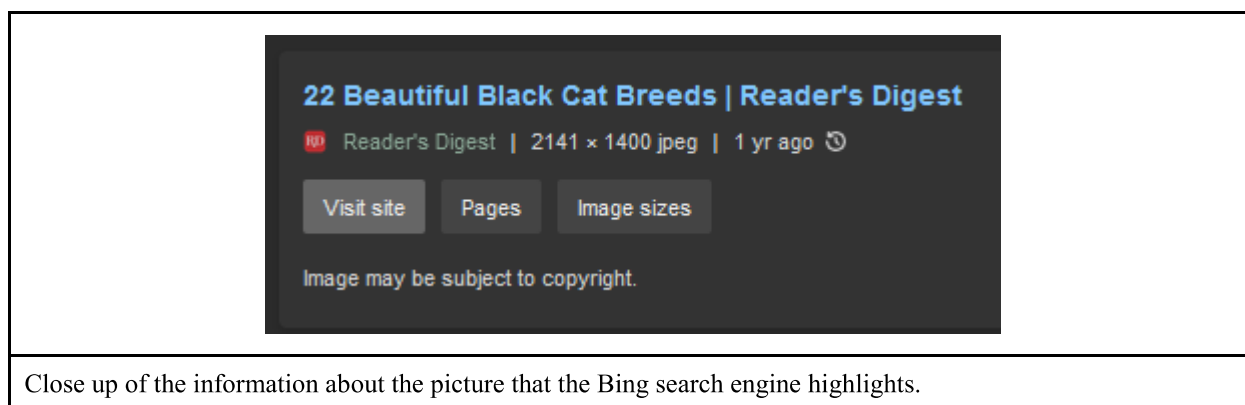
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⁵ Bing, *Searching Images by Usage Rights*, Microsoft Bing Blogs (July 1, 2013), <https://blogs.bing.com/search/2013/07/01/searching-images-by-usage-rights/>.

⁶ Bing, <https://www.bing.com> (last visited May 24, 2022).

⁷ Bing, *Filter Images by License Type*, <https://support.microsoft.com/en-us/topic/filter-images-by-license-type-ae5ceb7-adc4-4562-9e91-cad92fa07b93> (last visited May 24, 2022).

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Close up of the information about the picture that the Bing search engine highlights.

Specialty Search Engines Oriented Around Reuse

Specialty search engines oriented around reusable content, especially images, have become more important now that Google pared back the ability to limit results by reuse rights from its search interface.

Digital Public Library of America (DPLA)

The DPLA is a search engine searching digital and digitized cultural heritage objects. Because these items tend to be old enough to be public domain or to have authors who are deceased and cannot issue a Creative Commons license, the DPLA worked with Europeana to release the RightsStatements.org standard for representing copyright status with a statement rather than a license. This allows digital libraries and museums to express what they think copyright status is without the license/contract/liability of a licensing scheme.

For several years, the DPLA has said that RightsStatements.org values would be required for items represented in the DPLA. That led to widespread adoption efforts. With a critical mass of items in the DPLA having a RightsStatements.org value, the statements could be incorporated into the search interface. In April 2021, the DPLA introduced a copyright status facet into its search interface, which is based on RightsStatements.org. Because the RightsStatements.org standard incorporates Creative Commons licenses, both RightsStatements.org and Creative Commons are incorporated into the search. The DPLA gives the following options to limit search results by reuse rights:

"Unspecified Rights Status," "Unlimited Re-Use," "Permission or Fair Use," "Re-use, No Modification," and "Re-use With Conditions."¹¹

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⁸ Europeana, *Rights Statements From RightsStatements.org*, <https://pro.europeana.eu/page/rightsstatements-org> (last visited May 24, 2022).

⁹ Dominic Byrd-McDevitt (@Dominic_BM), Twitter (Apr. 7, 2021, 12:52PM), https://mobile.twitter.com/dominic_bm/status/1379839591172218885.

¹⁰ RightsStatements.org, *Rights Statements*, <https://rightsstatements.org/page/1.0/?language=en> (last visited May 24, 2022); Digital Public Library of America, *Copyright Status Filter*, <https://dp.la/about/rights-categories> (last visited May 24, 2022).

¹¹ Digital Public Library of America, <https://dp.la/> (last visited May 24, 2022).

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CC Search

The Creative Commons launched CC Search in 2019. As might be imagined, the search allows limiting results by specific Creative Commons licenses or by categories of licenses. The CC Search allows limiting search results by either "Use commercially" or "Modify or Adapt," or both those at the same time, and also allows limiting by any specific Creative Commons license or combination of licenses. All items in the CC Search have Creative Commons licenses.

Wikimedia Commons

Wikimedia Commons has been around a long time. It launched on Sept. 7, 2004. Wikimedia Commons has over 80 million uploaded items which are either public domain or have an open license, usually Creative Commons. Individuals as well as large organizations load content to Wikimedia Commons. The search allows limiting search results by what kind of reuse is allowed by the following categories: "All licenses," "Use with attribution and same license," "Use with attribution," "No restrictions," and "Other." It is not only using Creative Commons licenses but also has specific categories of images that it collects, such as United States federal government created works and materials taken from sources like Flickr's "The Commons," which is a collection of public domain images.

Implications

The interesting juxtaposition in recent search engine changes around copyright status of items is that RightsStatements.org has allowed representation of copyright status almost universally, for example, for items where the author is dead and can't issue a Creative Commons license. And the CEPIC/Google standard recently allows representation of licensing terms for commercial licenses, such as what organization to contact to license something. Meanwhile, Google is a dominant search engine with 61% of search engine searches run in the United States being run on Google as of January 2022. Google also recently stepped back from allowing use of open licensing in search and toward paid licensing. Google could have expanded both by adding commercial licensing to the interface, keeping Creative Commons, and adding RightsStatements.org to the information it indexes about allowed reuse and use. This may signal that Google will transition to selling licenses, similar to how Google gets payments for incoming clicks to shopping sites.

¹² Creative Commons, CC Search Celebrates Its First Birthday!, Creative Commons Blog (May 29, 2020), <https://creativecommons.org/2020/05/29/cc-search-celebrates-its-first-birthday/>.

¹³ Creative Commons and Wordpress, CC Search, <https://wordpress.org/openverse/search/image/> (last visited May 24, 2022).

¹⁴ Press Release, Wikimedia Commons, One Millionth File Uploaded to Wikimedia Commons, the Free Media Repository (Nov. 30, 2006), https://commons.wikimedia.org/wiki/Commons:Press_releases/1M.

¹⁵ Wikimedia Commons, Image Sources, https://commons.wikimedia.org/wiki/Category:Image_sources (last visited May 24, 2022).

¹⁶ Wikimedia Commons, Search Media, <https://commons.wikimedia.org/w/index.php?search=&title=Special:MediaSearch&go=Go&type=image> (last visited May 24, 2022).

¹⁷ Wikimedia Commons, Image Sources, https://commons.wikimedia.org/wiki/Category:Image_sources (last visited May 24, 2022).

Statista, *Share of Search Queries Handled by Leading Search Engine Providers in the United States as of January 2022*, <https://www.statista.com/statistics/267161/market-share-of-search-engines-in-the-united-states/> (last visited May 24, 2022).