

## RCH Drawings

Dear Professor Johnstone,

Thank you for your enquiry regarding Railway Clearing House drawings.

I have emphasised phrases relevant to **Intellectual Property**.

I formerly managed the UK Rail Vehicle Records database and the rail vehicle Parts Database.

## Topic

I have access to a set of roughly fifty digitised RCH drawings, which appear sufficient to manufacture or replicate 12 / 13 ton mineral wagons with either wooden or steel underframes. The scan resolution is low by today's standards, for example it is hard to tell whether nuts are square or hexagonal, but fortunately the written dimensions are legible.

On internal evidence, the drawings appear to be scanned from the pages of a 1923 post-bound book of double-foolscap ink tracings on draughting linen. Later drawings may be larger, and some of those may be from prints.

The drawings are unsigned and were made **during the course of employment**, a factor which affects the duration of Copyright.

## Intellectual Property Status

The functions of the Railway Clearing House were transferred to the British Transport Commission in 1954 and thence to the British Railways Board in 1963, then to British Railways Board (Residuary) on its creation in 2001, and finally to Rail Safety and Standards Board Ltd on the dissolution of BRBR in 2013.

Therefore any surviving **Copyright is with Rail Safety and Standards Board Ltd** and, crucially, this **Copyright was formerly with the British Railways Board**.

Since the drawings all date from 1923 to 1944, namely 74 to 93 years at the time of writing, I further believe that **Copyright has now expired**.

The management of this IPR is handled by Railway Documentation and Drawing Services Ltd, a wholly owned subsidiary of RSSB who, since rail privatisation, now deal with rail vehicle information and electronic Information Systems. RDDS in turn subcontract management of the drawing stores, including the sale of copies, to Serco Raildata at Derby.

I have discussed the Intellectual Property status of these drawings with an RSSB employee who is also one of the Directors of RDDS.

While he cannot offer a formal legal opinion, **all material Copyrighted to the British Railways Board, regardless of age, is treated as Public Domain**.

Therefore when RSSB / RDDS / SERCO provide copies of ex BRB IPR to the public, they merely take an **administration fee, not a profit**.

Therefore I believe that **publishing this information has no financial impact** even if other parties (such as SERCO, wagon repair works, heritage groups, museums, archives or individual enthusiasts) also hold separate Instances of this information (such as tracings, prints, photographs or scans).

Further, even if this material has already been re-published in any form, **those Copyright Holders only have IPR in their own publication**, not the RCH source material.

#### Source of these scans

I am unable to trace either the actual source of these particular scans, or (despite many enquiries) any other available Instances.

Since Tracings are *inherently* Copies themselves (as well as being designed expressly to produce yet further Copies), the tracings may not be unique, which *could* lead to varying **IP attitudes among multiple Custodians**.

Should any Custodian attempt to assert rights, one can state that these drawings are a **small proportion of the whole** RCH wagon output, a factor which affects the assessment of Fair Dealing under Copyright law.

The metadata contained in the individual files indicates **flatbed scanning during 2011**.

This implies to me that the scans were made by (or with the active participation of) their Custodian specifically for distribution (rather than, say, being photographed privately from a skip-find).

The digital files **do not have Technological Protection Measures**, which they could readily have done.

This strongly implies to me an intention to share on a non-commercial basis.

#### Access

Given your active interests in the history of both Information Systems and rail vehicles, I am providing you with a link to these specific drawing files, initially for Research within the meaning of the **Fair Dealing provisions of the old Copyright Act**.

At the very least, that enables you to replicate those parts and vehicles accurately.

Please confirm whether you can access this cloud folder, to which I have made you an editor, using your email address: (redacted)

I now leave to your own research, judgement and professional expertise whether it is also ethical for you to publish them, online or in print.

Given the obsolete and non-commercial nature of RCH vehicles, the considerable age of the drawings, and the great value of their information to owners of surviving vehicles and creators of replicas, together with the difficulty I have had in locating any other Instance of them despite my industry contacts, I believe **a fair-minded and honest person** would consider it to be of benefit to the public and cause harm to nobody.

However I also believe that the Moral Rights of the RCH to Attribution etc. should be respected, even though they can no longer be enforced.

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ex

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