

# Film clearance in Practice

## EYE Film Institute Netherlands

**Géraldine Vooren** (Legal Counsel - Images for the Future)



Amsterdam, 30th May 2011



# Film clearance introduction



# Film clearance introduction

## Background



# Film clearance introduction

## Background

- Images for the Future



# Film clearance introduction

## Background

- Images for the Future
- Ximon



# Film clearance introduction

## Clearance of an audiovisual archive



# Film clearance introduction

## Clearance of an audiovisual archive

- Data Management System



# Film clearance introduction

## Clearance of an audiovisual archive

- Data Management System
- Legal Assessment





# Film clearance introduction

## Clearance of an audiovisual archive

- Data Management System
- Legal Assessment
- Search for rightsholders



# Film clearance introduction

## Clearance of an audiovisual archive

- Data Management System
- Legal Assessment
- Search for rightsholders
- Getting Permission



# Film clearance introduction

## Clearance of an audiovisual archive

- Data Management System
- Legal Assessment
- Search for rightsholders
- Getting Permission
  - Commercial use



# Film clearance introduction

## Clearance of an audiovisual archive

- Data Management System
- Legal Assessment
- Search for rightsholders
- Getting Permission
  - Commercial use
  - Non-commercial use



# Film clearance background

Images for the future - Home - Microsoft Internet Explorer

Bestand Bewerken Beeld Favorieten Extra Help

Vorige Zoeken Favorieten

Adres <http://www.beeldenvoordetoekomst.nl/en/1/Home> Ga naar Koppelingen

## IMAGES FOR THE FUTURE

Project Collection Activities Research Events News Contact

Images of the Future is a project from the Dutch Film Museum, Institute for Sound and Vision, Centrale Bibliotheek Rotterdam, National Archives, Association of Public Libraries and KnowledgeLand.

### Images for the Future

In the project, Image for the Future, six organizations save an important part of the audiovisual heritage of the Netherlands through conservation and digitization. The digitized material will be made available to education and to the public as broadly as possible. By contracting expertise and knowledge and by sharing experience, the foundations assist in the renewal the heritage sector.

In the upcoming year the emphasis will lie on the development of services for education and the involvement of end users.

Click [here](#) for more information about this project.

### Launch Open Images!

On 24 September 2009 Sound and Vision launched Open Images, a new and open media platform that offers access to a selection of archive material to stimulate creative reuse. Footage from these audiovisual collections can be remixed into new works.

Users of Open Images then have the...

### News

**Launch Open Images!**  
Platform offers free use of archive material

**Location, location: Mapiit1418**  
gives access to First World War photo material from the National Archive

**Taking Pictures To The Public**  
Evaluation Report Nationaal Archief & Sparnestad Photo on Flickr The

**Nederlandse website**  
Bekijk site in 't Nederlands >

Gereed Start Novell-delivered Applicati... Images for the future... vrijdag 25 september 2009 14:40

[www.beeldenvoordetoekomst.nl](http://www.beeldenvoordetoekomst.nl)



# Film clearance background



## Images for the Future



## Film clearance background



### Images for the Future

- Dutch archives receive 120 million Euro



## Film clearance background



### Images for the Future

- Dutch archives receive 120 million Euro
- Goal: maximum availability of the audiovisual material to the general public





## Film clearance background



### Images for the Future

- Dutch archives receive 120 million Euro
- Goal: maximum availability of the audiovisual material to the general public
- Conservation, Digitization, Contextualization and Access of 22.510 hours of film, 2.9 million photographs



# Film clearance background



## Images for the Future

- Clearance Team



# Film clearance background



## Images for the Future

- Clearance Team
  - Legal Counsel



# Film clearance background



## Images for the Future

- Clearance Team
  - Legal Counsel
  - Historian



# Film clearance background

**Ximon** beta | **FILMS** | **TV-SERIES** | **COLLECTIES** | **MAKERS** | **ZOEKEN** | [Hallo bezoeker](#) | [Registreren](#) | [Inloggen](#)

Genres: **Drama** | [Spanning](#) | [Actie](#) | [Komedie](#) | [Documentaire](#) | [Kids](#) | [Alles](#)

Zoek op film, tv-serie, maker.

**Het Zusje Van Katia**  
Intiem portret van een 13-jarig meisje in Amsterdam-No...

**De Zwarte Tulp**  
Strijd om het kweken van een exquisiete bloem...

**Cloaca**  
Winnaar van de Publieksprijs van het Nederlands Film ...

**Nadine**  
Nadine, n vrouw gespeeld door drie actrices...

**DRAMA FILMS (NEDERLANDS)**

**Meest Bekeken** | Meest Recent | Nieuw bij Ximon

**Diep**

**Zwartboek**

**Nederland En Oranje**

**MUST-SEE VAN DE WEEK (GRATIS)**

**MAJOR FRANS**



# Film clearance background

**Ximon** beta | **FILMS** | **TV-SERIES** | **COLLECTIES** | **MAKERS** | **ZOEKEN** | [Hallo bezoeker](#) | [Registreren](#) | [Inloggen](#)

Genres: **Drama** | [Spanning](#) | [Actie](#) | [Komedie](#) | [Documentaire](#) | [Kids](#) | [Alles](#)

🔍

◀

 <p><b>Het Zusje Van Katia</b> Intiem portret van een 13-jarig meisje in Amsterdam-No...</p>	 <p><b>De Zwarte Tulp</b> Strijd om het kweken van een exquisite bloem...</p>	 <p><b>Cloaca</b> Winnaar van de Publieksprijs van het Nederlands Film ...</p>	 <p><b>Nadine</b> Nadine, n vrouw gespeeld door drie actrices...</p>
--	--	---	--

▶

**Ximon**



# Film clearance background



## Ximon

- Video On Demand Platform



# Film clearance background



## Ximon

- Video On Demand Platform
- Public-Private Partnership





# Film clearance background



## Ximon

- Video On Demand Platform
- Public-Private Partnership
  - Eye Film Institute Netherlands



# Film clearance background



## Ximon

- Video On Demand Platform
- Public-Private Partnership
  - Eye Film Institute Netherlands
  - Netherlands Institute for Sound & Vision



# Film clearance background



## Ximon

- Video On Demand Platform
- Public-Private Partnership
  - Eye Film Institute Netherlands
  - Netherlands Institute for Sound & Vision
  - Dutch Society of Feature Film Producers



# Film clearance background



## Ximon

- Video On Demand Platform
- Public-Private Partnership
  - Eye Film Institute Netherlands
  - Netherlands Institute for Sound & Vision
  - Dutch Society of Feature Film Producers
- Entire Dutch Film Collection



# Film clearance background



## Ximon

- Video On Demand Platform
- Public-Private Partnership
  - Eye Film Institute Netherlands
  - Netherlands Institute for Sound & Vision
  - Dutch Society of Feature Film Producers
- Entire Dutch Film Collection
- Rightsholders receive percentage of each view



# Film clearance background



## Ximon

- Video On Demand Platform
- Public-Private Partnership
  - Eye Film Institute Netherlands
  - Netherlands Institute for Sound & Vision
  - Dutch Society of Feature Film Producers
- Entire Dutch Film Collection
- Rightsholders receive percentage of each view
- Launched (beta) on April 7th 2011



# Film clearance three-step programm



# Film clearance three-step programm

## Preparational





# Film clearance three-step programm

## Preparational

- Development of Data Management System

### RIGHTS MANAGEMENT DATABASE

- Projects
- Films
- Film Makers
- Rights Holders
- Producers



## Film clearance three-step programm

Step 1: Are the Films protected by Copyright Law?



## Film clearance three-step programm

### Step 1: Are the Films protected by Copyright Law?

- Dutch Copyright Act: copyright duration 70 yeas after death of director, screenwriter, dialogue writer and music composer



## Film clearance three-step programm

### Step 1: Are the Films protected by Copyright Law?

- Dutch Copyright Act: copyright duration 70 yeas after death of director, screenwriter, dialogue writer and music composer
  - Director, screenwriter, dialogue writer and music composer died before 1941: public domain



# Film clearance three-step programm

## Step 1: Are the Films protected by Copyright Law?

- Dutch Copyright Act: copyright duration 70 years after death of director, screenwriter, dialogue writer and music composer
  - Director, screenwriter, dialogue writer and music composer died before 1941: public domain
  - Director, screenwriter, dialogue writer and music composer died after 1941: protected



# Film clearance three-step programm

## Step 1: Are the Films protected by Copyright Law?

- Dutch Copyright Act: copyright duration 70 yeas after death of director, screenwriter, dialogue writer and music composer
  - Director, screenwriter, dialogue writer and music composer died before 1941: public domain
  - Director, screenwriter, dialogue writer and music composer died after 1941: protected
  - No information on director, screenwriter, dialogue writer and music composer  
MAY BE PROTECTED = ORPHAN



# Film clearance three-step programm

## Step 2: Search for rightsholders



# Film clearance three-step programm

## Step 2: Search for rightsholders

- Diligent Search Guidelines for Orphan Works





# Film clearance three-step programm

## Step 2: Search for rightsholders

- Diligent Search Guidelines for Orphan Works
  - High Level Expert Group – European Commission



# Film clearance three-step programm

## Step 2: Search for rightsholders

- Diligent Search Guidelines for Orphan Works
  - High Level Expert Group – European Commission
  - Experts & Representatives of Collecting Societies



# Film clearance three-step programm

## Step 2: Search for rightsholders

- Diligent Search Guidelines for Orphan Works
  - High Level Expert Group – European Commission
  - Experts & Representatives of Collecting Societies
  - ACE signed approval



# Film clearance three-step programm

## Step 2: Search for rightsholders

- Diligent Search Guidelines for Orphan Works
  - High Level Expert Group – European Commission
  - Experts & Representatives of Collecting Societies
  - ACE signed approval
  - Legal status: 'Guidelines'



# Film clearance three-step programm

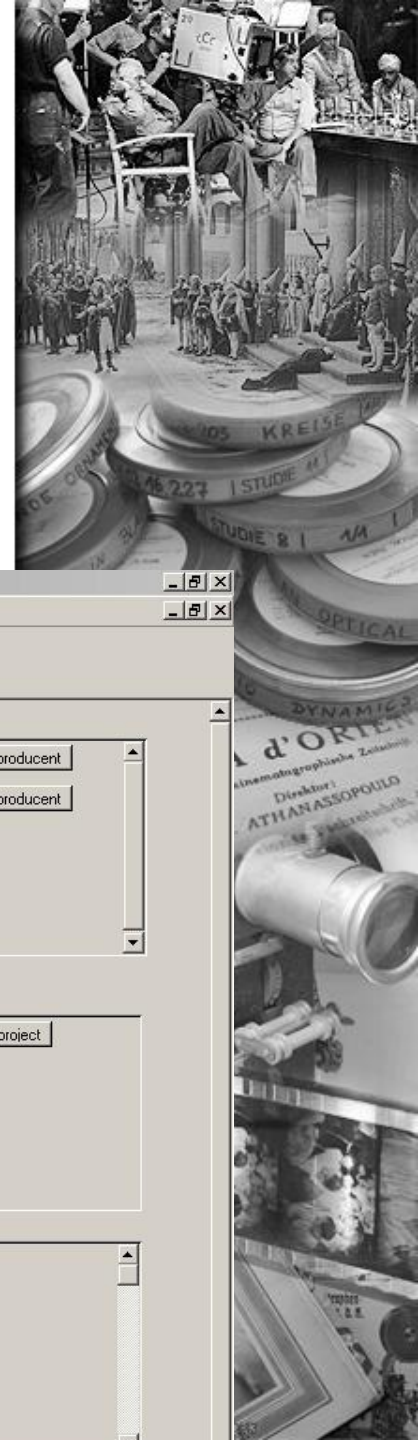
## Step 2: Search for rightsholders

- Diligent Search Guidelines for Orphan Works
  - High Level Expert Group – European Commission
  - Experts & Representatives of Collecting Societies
  - ACE signed approval
  - Legal status: 'Guidelines'
  - Requirements for a diligent (= adequately thorough) search for Rightsholders



# Film clearance three-step programm

## Due Diligence Guidelines



Rechtshbenden - [Films]

Bestand Bewerken Beeld Invoegen Opmaak Records Extra Venster Help

MS Sans Serif 8 B I U

FilmID: 640 Diva: 91580  
 Titel: Kruimeltje Land: Nederland Jaar: 1999  
 Status: Rechtshbenden  
 Contract: contractaeevens  
 Maatschappij: Shooting Star Filmcompany (Amsterdam)

Rechtshbenden (vastgesteld)  
 Shooting Star rechthebbend

Makers  
 Maria Peters makers  
 Chris van Abkoude

Notities

Zoektocht  
 Shooting Star, Dave

Producenten  
 Hans Pos producent  
 Dave Schram producent

Projecten  
 Wishlist Marc Jürgens project

Juridische argumentatie

**Zoeken en vervangen**

Zoeken Vervangen

Zoeken naar: Antonia Volgende zoeken  
 Annuleren

Zoeken in: Films  
 Waar: Gedeelte van veld Meer >>

# Film clearance three-step programm

## Due Diligence Guidelines

### Requirement:

*"A statement that rightholders could not be traced is considered good practice"*



# Film clearance three-step programm

## Due Diligence Guidelines

### Requirement:

*"A statement that rightholders could not be traced is considered good practice"*

### Ximon Terms of Use:

#### *ORPHAN WORKS*

*Although every effort has been made to search for the rightholders, in some cases we did not succeed. If you have reason to believe you hold any rights regarding those videos, please contact us with support of your claim.*





# Film clearance three-step programm

1: Zoeken in Catalogus

Zoekterm: Met de in Titels

Zoekopdracht: 1: Alsem in Regie

2: Vertonen Catalogus

**ID** 42417

**Catalogus**

Titel: Met het ss 'Patria' der Rotterdamsche Lloyd naar Nederlandsch Oost-Indië  
 Land: Nederland Jaar: 1924 - 1925  
 Maatschappij: Hispano Filmfabriek (Den Haag)  
 Regie: Henk Alsem  
 Categorie: Non-fictie

**Filmografie**

42417-1 : Met het ss 'Patria' der Rotterdamsche Lloyd naar Nederlandsch Oost-Indië

**Genealogie**

**Kopieën**

nr. B 12488-0	Met het SS "Patria" der Rotterdamsche Lloyd naar n	[info: Positief 3
nr. B 2040-0	Met het SS "Patria" der Rotterdamsche Lloyd naar n	[info: Positief 35
nr. B 2878-0	Met het SS "Patria" der Rotterdamsche Lloyd naar n	[info: Positief 35
nr. B 340-0	Met het SS "Patria" der Rotterdamsche Lloyd naar n	[info: Positief 35m
nr. B 4572-0	Met het SS "Patria" der Rotterdamsche Lloyd naar n	[info: Positief 35m
nr. C 1478-0	Met het SS "Patria" der Rotterdamsche Lloyd naar n	[info: Negatief 3
nr. D 7799-0	Met het SS "Patria" der Rotterdamsche Lloyd naar n	[info: Answerprin
nr. DIGI 247-1	Met het SS "Patria" der Rotterdamsche Lloyd naar n	[info: Positief

**Video**

nr. C284 Met het ss patria der rotterdamsche lloyd naar ned. [info: 1.00.00 - 1.12.40]

**Affiches**

Maatschappij  
 Hispano Filmfabriek (Den I  
 Multifilm (Haarlem)  
 Multifilm (Haarlem)  
 H. Alsem (persoon) (Den I  
 Hispano Filmfabriek (Den I  
 Hispano Filmfabriek (Den I  
 Toonder Studio's (Amsterd  
 H. Alsem (persoon) (Den I  
 Onbekend  
 H. Alsem (persoon) (Den I  
 Hispano Filmfabriek (Den I  
 VPRO-TV (Hilversum)  
 Hispano Filmfabriek (Den I  
 Hispano Filmfabriek (Den I  
 H. Alsem (persoon) (Den I  
 NFTA - Nederlandse Film  
 Polygoon Profilti Productie  
 Nederlandsch-Indische Fil  
 Toonder Studio's (Amsterd  
 Hispano Filmfabriek (Den I  
 Hispano Filmfabriek (Den I  
 Polygoon Profilti Productie  
 Toonder Studio's (Amsterd  
 Hispano Filmfabriek (Den I  
 Onbekend

Ioevoegen  
 Dupliceren  
 Wijzigen  
 Verwijderen

Ok  
 Sluiten

ID	Titel	Land	Jaar	Regie	Status
5295	Bali				
6774	Betta s				
154598	Bolidt A				
17141	Droome				
17977	Eenige				
18038	Eerste				
154618	Geheid				
25525	Gouder				
25526	Gouder				
25527	Gouder				
125922	Haagsc				
140052	Hamm e				
26978	Harden				
31525	Indone:				
31923	Intocht				
35475	Klaas				
38195	Leven i				
39583	Luchtvi				
146667	Man-M				
42376	Met de				
42417	Met het				
42486	Metro				
146859	Metro F				
48590	Onbekend negatief Alsem VI	Nederland	1920	Henk Alsem	2 kopieën aanwezig
48808	Ongemonteerd negatief Alsem IV	Nederland	1916	Henk Alsem	2 kopieën aanwezig

Ioevoegen  
 Dupliceren  
 Wijzigen  
 Verwijderen

Ok  
 Sluiten

14:04



# Film clearance three-step programm

G E O F


**Censorship:** In the Roman Catholic magazine *Thema* and *Bioscoop* (08/7/1930) this film is listed as 'Not good', i.e. unsuitable for Roman Catholic audiences, because of its story in which a young man seduces a girl who gives birth to an illegitimate child. In the magazine of the Dutch local censorship *Maandblad voor de Bioscoop-Censuur* (05/5/1930), the local censorship of Rotterdam declared this film (given length: 1800 m) unsuitable for screening to a young audience, because of immorality. The film was also banned for young audiences by the local censorship of Leeuwarden (*Maandblad voor de Bioscoop-Censuur* 12/10/1928, given length: 1818 m) because of its subject, and by the local censorship of Leyden (*maandblad voor de Bioscoop-Censuur* 12/12/1928, given length: 1818 m).

**REFERENCES**

**Contemporary references:**  
Programme: booklet Cinecra De Munt (10-17 July 1929)  
News item in: *De Film*, 2/7/1929  
Advertisements in: *De Telegraaf*, 12/7/1929;  
*De Bioscoop-Courant*, 02/10/1929 (with two illustrations)  
Reviews in: *De Edele Wereld* (1929), no.28 (with synopsis and six illustrations);  
*De Film*, 10/7/1929; *De Avondpost*, 12/10/1929; *Dagblad van Zuid-Holland en 's-Gravenhage*, 24/10/1929; *Algemeen Courant*, 24/10/1929; *Wie's Nederland*, 24/10/1929;  
*Groninger Dagblad*, 22/11/1929

**PRESERVATION**  
The film is missing.

19



189. CARMEN VAN HET NOORDEN, (front), Annie Bos, others unidentified

**TITLE**

*Original title:* **189. CARMEN VAN HET NOORDEN**

*English translation:* A Carmen of the North

**PRODUCTION**

*Production company:* Filmfabriek-Hollandia

**Producer:** Maurits H. Binger

**Production year:** 1929

**Director:** Maurits H. Binger & Hans Nesna

**Cast:** Annie Bos (*Carmen*), Adelqui Migliar (*Jozef*), Jan van Dommelen (*Dalboni*), Paula de Waart (*Jozef's mother*), Jeanne van der

Pers (*Mareike, Jozef's fiancée*), Ernst Winar, Fred Homann, Leni Marcus

**Cast/character remarks:** In American synopses Jozef is called Joseph and Mareike is called Mary.

**Screenplay:** Maurits H. Binger & Hans Nesna,

based on the novel *Carmen* (1845) by Prosper Mérimée

**Camera:** ?

**Editor:** ?

**Art direction:** Theo van der Lugt (Sets)

**Technical production remarks:** Location

so the smugglers can get over the border. Mareike comes to him, but he refuses to go home with her. Carmen's affection for Jozef is very fleeting and she soon gives him up for Dalboni, a popular opera singer she has met in a café. Carmen and Dalboni marry. Jozef, broken and disheartened, comes to the theatre where Dalboni is singing. He finds Carmen and pleads with her. When she laughs at him, he stabs her to death.

N.B. The NFM has a copy of the version that was released in the USA and that has a happy end: Jozef attempts to murder Carmen, but she is saved by her husband Dalboni and continues to live happily with him. Jozef goes to gaol for two years and becomes reconciled with Mareike. When he is released from prison she is waiting at the prison gates and they return to the village. Together they will face a happier future.

G E O F

**Censorship:** In the Roman Catholic magazine *Thema* and *Bioscoop* (08/7/1930) this film is listed as 'Not good', i.e. unsuitable for Roman Catholic audiences, because of its story in which a young man seduces a girl who gives birth to an illegitimate child. In the magazine of the Dutch local censorship *Maandblad voor de Bioscoop-Censuur* (05/5/1930), the local censorship of Rotterdam declared this film (given length: 1800 m) unsuitable for screening to a young audience, because of immorality. The film was also banned for young audiences by the local censorship of Leeuwarden (*Maandblad voor de Bioscoop-Censuur* 12/10/1928, given length: 1818 m) because of its subject, and by the local censorship of Leyden (*maandblad voor de Bioscoop-Censuur* 12/12/1928, given length: 1818 m).

**REFERENCES**

**Contemporary references:**  
Programme: booklet Cinecra De Munt (10-17 July 1929)  
News item in: *De Film*, 2/7/1929  
Advertisements in: *De Telegraaf*, 12/7/1929;  
*De Bioscoop-Courant*, 02/10/1929 (with two illustrations)  
Reviews in: *De Edele Wereld* (1929), no.28 (with synopsis and six illustrations);  
*De Film*, 10/7/1929; *De Avondpost*, 12/10/1929; *Dagblad van Zuid-Holland en 's-Gravenhage*, 24/10/1929; *Algemeen Courant*, 24/10/1929; *Wie's Nederland*, 24/10/1929;  
*Groninger Dagblad*, 22/11/1929

**PRESERVATION**  
The film is missing.

19



189. CARMEN VAN HET NOORDEN, Jan van Dommelen, Adelqui Migliar, Annie Bos, others unidentified

**TITLE**

*Original title:* **189. CARMEN VAN HET NOORDEN**

**Producer:** Maurits H. Binger

**Production year:** 1929

Pers (*Mareike, Jozef's fiancée*), Ernst Winar, Fred Homann, Leni Marcus

**Cast/character remarks:** In American synopses Jozef is called Joseph and Mareike is called Mary.

**Screenplay:** Maurits H. Binger & Hans Nesna,

based on the novel *Carmen* (1845) by Prosper Mérimée

**Camera:** ?

**Editor:** ?

**Art direction:** Theo van der Lugt (Sets)

**Technical production remarks:** Location



# Film clearance three-step programm

## Due Diligence Guidelines

### Requirement:

*“Check Collective Right Management Organisations for the relevant sector and their databases”*



# Film clearance three-step programm

## Due Diligence Guidelines

### Requirement:

*“Check Collective Right Management Organisations for the relevant sector and their databases”*

- Vevam / Sekam (Directors & Producers)



# Film clearance three-step programm

## Due Diligence Guidelines

### Requirement:

*“Check Collective Right Management Organisations for the relevant sector and their databases”*

- Vevam / Sekam (Directors & Producers)
- Buma / Stemra (Music)



# Film clearance three-step programm

## Due Diligence Guidelines

### Requirement:

*“Check Collective Right Management Organisations for the relevant sector and their databases”*

- Vevam / Sekam (Directors & Producers)
- Buma / Stemra (Music)
- Lira (Scenario writers)



# Film clearance three-step programm

## Due Diligence Guidelines

### Requirement:

*“Check Collective Right Management Organisations for the relevant sector and their databases”*

- Vevam / Sekam (Directors & Producers)
- Buma / Stemra (Music)
- Lira (Scenario writers)
- Norma (Neighbouring Rights)



# Film clearance three-step programm

## Due Diligence Guidelines

### Requirement:

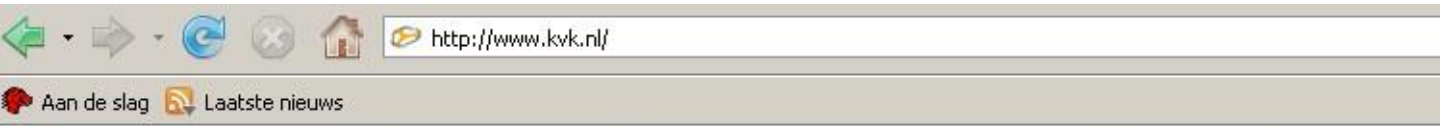
*“Check Collective Right Management Organisations for the relevant sector and their databases”*

- Vevam / Sekam (Directors & Producers)
- Buma / Stemra (Music)
- Lira (Scenario writers)
- Norma (Neighbouring Rights)
- NVS (Dutch Society for Feature Films)





# Film clearance three-step programm



**Thema's**

- Ondernemen in zwaar weer
- Maatschappelijk verantwoord ondernemen
- Veilig ondernemen
- Nieuwe inschrijvers
- Onderwijs en ondernemerschap
- Belastingen
- Personeel

**Handelsregister  
toegangscode  
aanvragen**

**Prinsjesdag 20**



OPENBARE VERSLAGEN EN OVERIGE PUBLIEKE INFORMATIE OVER FAILLISSEMENTEN, SURSEANCES VAN BETALING  
 ОБЪЯВЛЕНА ДЕЙСТВИЯ И ОДНОВИТЕ БИВШЕТЕ ИНФОРМАЦИЯ ОД ВЪЗЛУЖИТЕЛНИТЕ ДИРЕКТОРИ НА ЛИКВИДАЦИЯ

- Index**
- Home
  - Zoek faillissement
  - Indienen vordering
  - Contact met curator
  - Nog niet failliet-alert
  - Mijn alerts
  - Basis abonnement
  - Boedels te koop
  - Failliet per branche
  - Failliet in regio
  - Geografische info
  - Monitor services
  - Overzicht services

**Zoek faillissement, surseance of schuldsanering** · terug

Gevonden publicaties met verslagen:

[ 1 t/m 2 van de 2 ]

<b>First Floor Groep</b> (10 verslagen)		
• First Floor Features B.V.	Amsterdam	<a href="#">details</a>
• First Floor Films B.V.	Amsterdam	<a href="#">details</a>
<b>FIRST FLOOR TELEVISIE B.V.</b> (3 verslagen)		
	Amsterdam	<a href="#">details</a>

Details van privépersonen die geen onderneming hebben (gedreven) (aangegeven met rode links) worden pas getoond nadat u aanvullende informatie hebt gegeven.

Het aantal verslagen zoals weergegeven is het aantal op Curatoren.net beschikbare verslagen. Het kan zijn dat de betreffende curator (nog) niet alle gepubliceerde verslagen via het internet beschikbaar heeft gesteld. Voor vragen omtrent (ontbrekende) verslagen kunt u zich wenden tot de betreffende curator. Zie ook: [Disclaimer / gebruik](#).



# Film clearance three-step programm

## Due Diligence Guidelines

Requirement:

*“The relevant resources would usually be those of the country of the work’s origin”*



# Film clearance three-step programm

## Due Diligence Guidelines

Requirement:

*"The relevant resources would usually be those of the country of the work's origin"*

Genealogy, Family History



# Film clearance three-step programm

## Due Diligence Guidelines

Requirement:

*“The relevant resources would usually be those of the country of the work’s origin”*

Genealogy, Family History

- Central Office of Genealogy in the Netherlands



# Film clearance three-step programm

## Due Diligence Guidelines

Requirement:

*“The relevant resources would usually be those of the country of the work’s origin”*

Genealogy, Family History

- Central Office of Genealogy in the Netherlands
- National Archive of the Netherlands



# Film clearance three-step programm

## Due Diligence Guidelines

Requirement:

*“The relevant resources would usually be those of the country of the work’s origin”*

Genealogy, Family History

- Central Office of Genealogy in the Netherlands
- National Archive of the Netherlands
- Genlias (portal for some local register offices in the Netherlands)



# Film clearance three-step programm

## STEP 2: SEARCH FOR RIGHTSHOLDERS



## Film clearance three-step programm

### STEP 2: SEARCH FOR RIGHTSHOLDERS

- Diligent Search Guidelines for Orphan Work





## Film clearance three-step programm

### STEP 2: SEARCH FOR RIGHTSHOLDERS

- Diligent Search Guidelines for Orphan Work
  - Rightsholders tracable



# Film clearance three-step programm

## STEP 2: SEARCH FOR RIGHTSHOLDERS

- Diligent Search Guidelines for Orphan Work
  - Rightsholders tracable
  - Rightsholders (person) not tracable: ORPHAN



# Film clearance three-step programm

## STEP 2: SEARCH FOR RIGHTSHOLDERS

- Diligent Search Guidelines for Orphan Work
  - Rightsholders tracable
  - Rightsholders (person) not tracable: ORPHAN
  - Rightsholders (person) no heirs: ORPHAN



# Film clearance three-step programm

## STEP 2: SEARCH FOR RIGHTSHOLDERS

- Diligent Search Guidelines for Orphan Work
  - Rightsholders tracable
  - Rightsholders (person) not tracable: ORPHAN
  - Rightsholders (person) no heirs: ORPHAN
  - Rightsholders (company) ceased to exist: ORPHAN



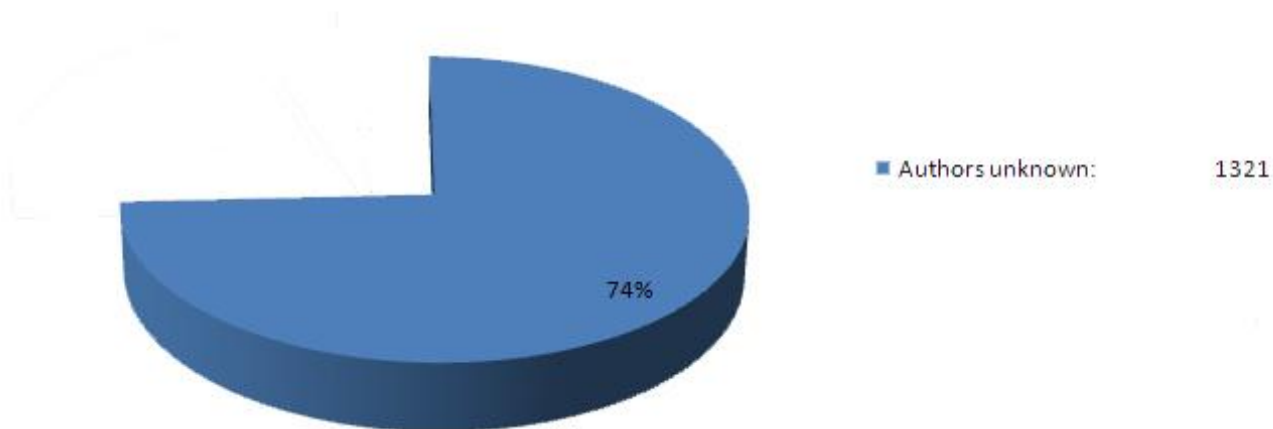
# Film clearance three-step programm

## Orphan Works: the numbers



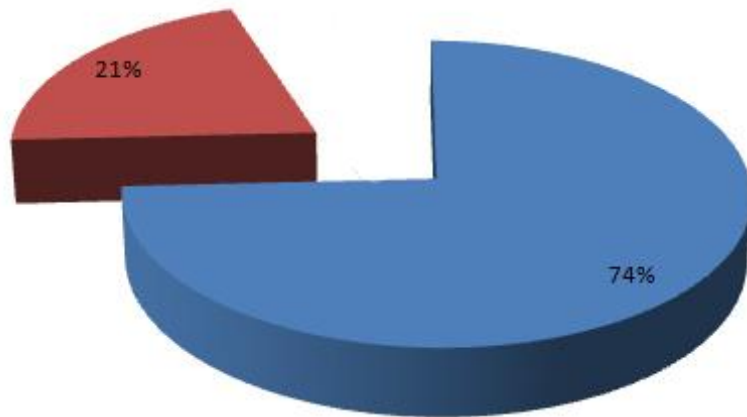
## Film clearance three-step programm

### Orphan Works: the numbers



# Film clearance three-step programm

## Orphan Works: the numbers

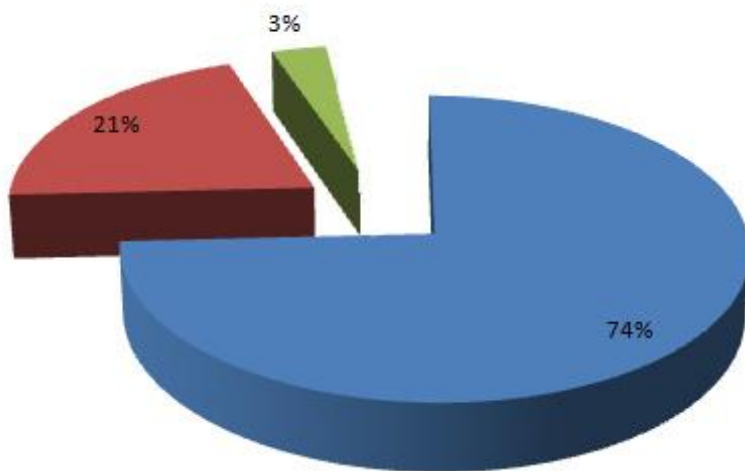


■ Authors unknown:	1321
■ No descendants:	365



## Film clearance three-step programm

### Orphan Works: the numbers



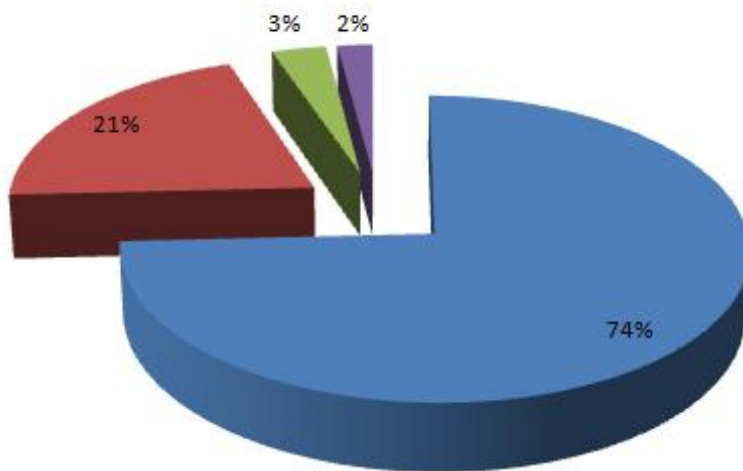
■ Authors unknown:	1321
■ No descendants:	365
■ Company ceased to exist:	57





# Film clearance three-step programm

## Orphan Works: the numbers

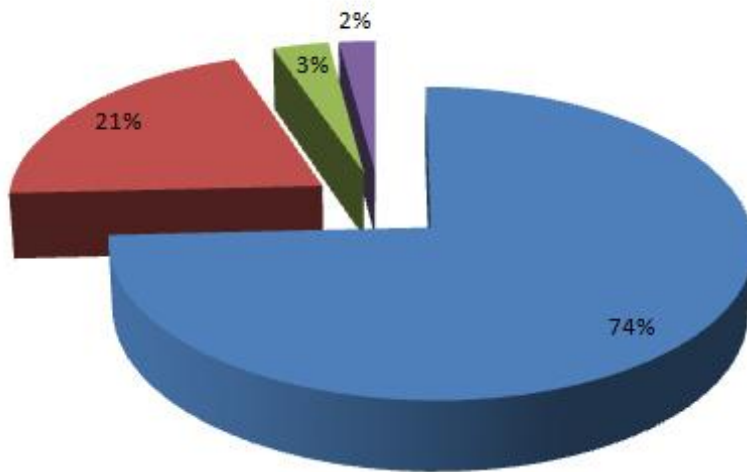


■ Authors unknown:	1321
■ No descendants:	365
■ Company ceased to exist:	57
■ Authors not tracable:	37
<b>Sum</b>	<b>1780</b>



# Film clearance three-step programm

## Orphan Works: the numbers

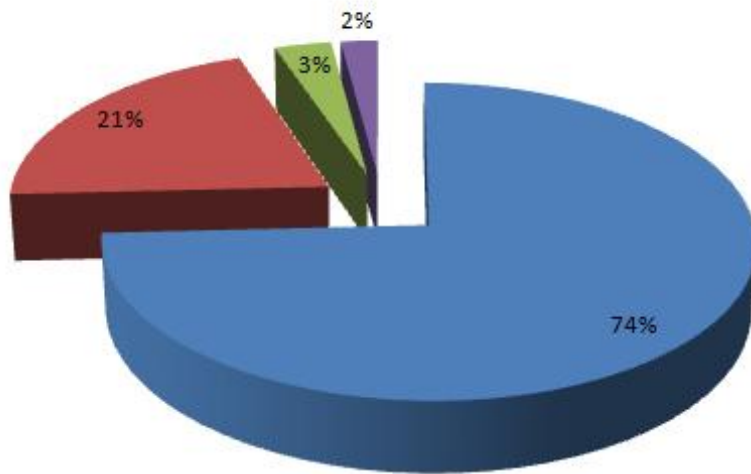


■ Authors unknown:	1321
■ No descendants:	365
■ Company ceased to exist:	57
■ Authors not tracable:	37
<b>Sum</b>	<b>1780</b>



# Film clearance three-step programm

## Orphan Works: the numbers

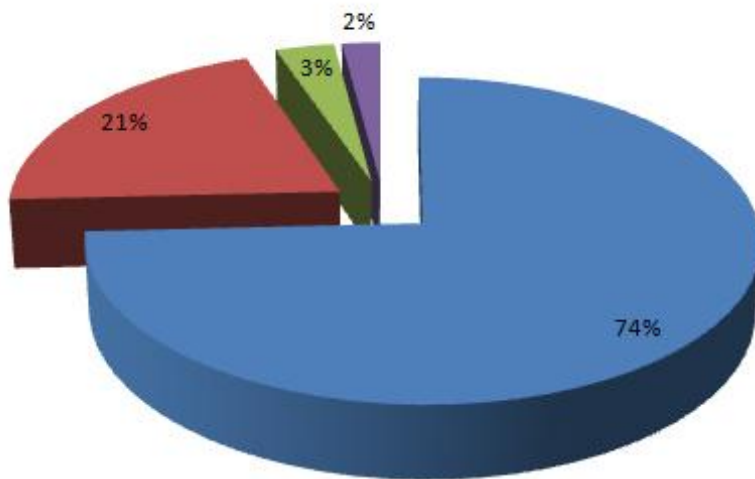


■ Authors unknown:	1321
■ No descendants:	365
■ Company ceased to exist:	57
■ Authors not tracable:	37
<b>Sum</b>	<b>1780</b>



# Film clearance three-step programm

## Orphan Works: the numbers

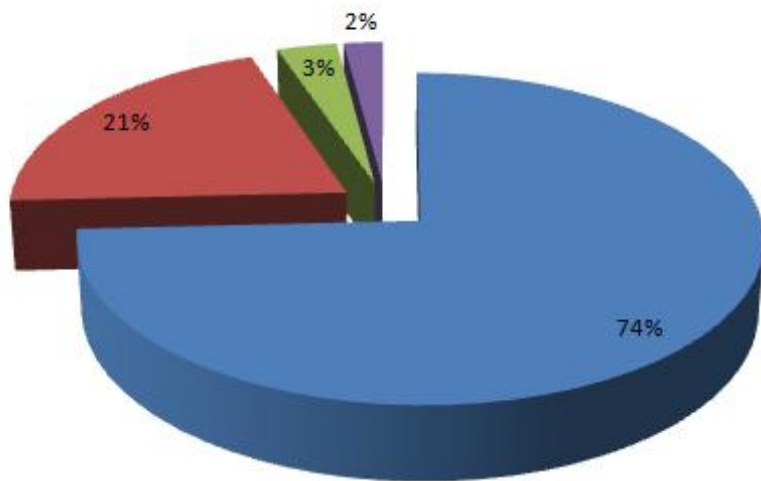


■ Authors unknown:	1321
■ No descendants:	365
■ Company ceased to exist:	57
■ Authors not tracable:	37
<b>Sum</b>	<b>1780</b>



# Film clearance three-step programm

## Orphan Works: the numbers

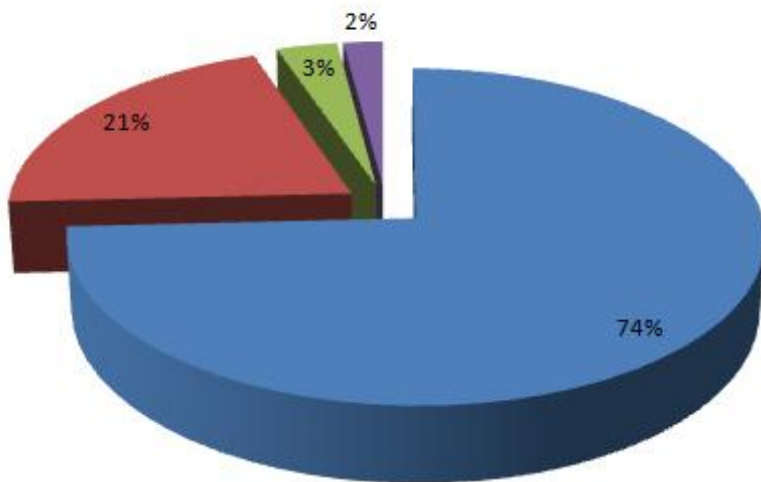


■ Authors unknown:	1321
■ No descendants:	365
■ Company ceased to exist:	57
■ Authors not tracable:	37
<b>Sum</b>	<b>1780</b>



# Film clearance three-step programm

## Orphan Works: the numbers

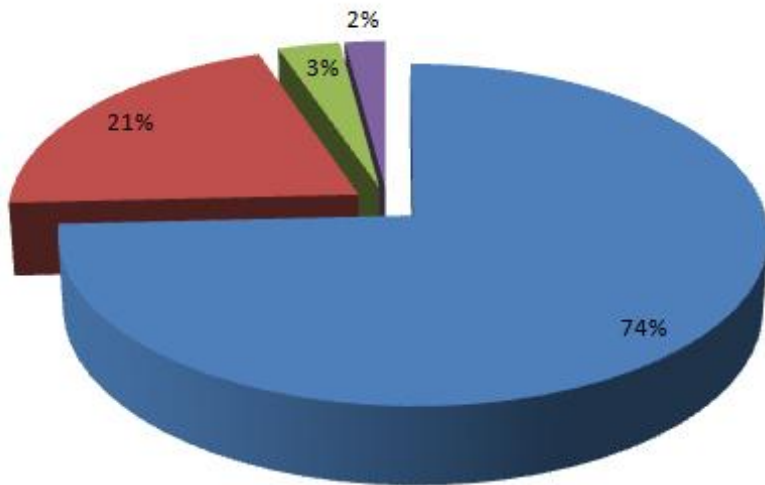


■ Authors unknown:	1321
■ No descendants:	365
■ Company ceased to exist:	57
■ Authors not tracable:	37
<b>Sum</b>	<b>1780</b>



# Film clearance three-step programm

## Orphan Works: the numbers

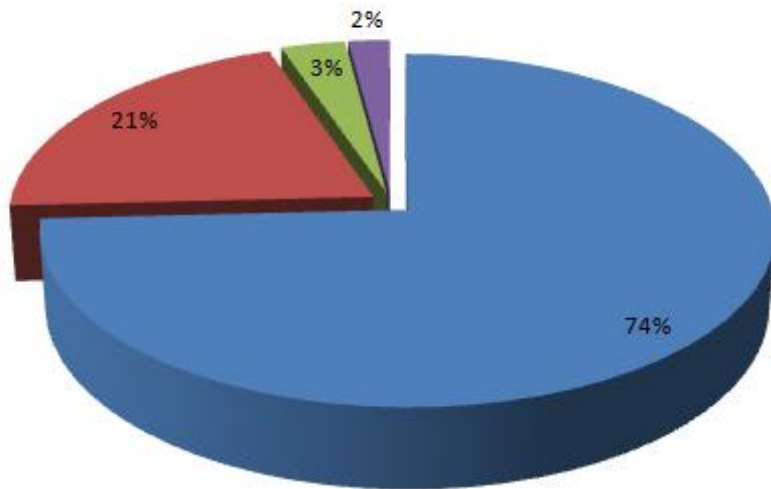


■ Authors unknown:	132.
■ No descendants:	365
■ Company ceased to exist:	57
■ Authors not tracable:	37
<b>Sum</b>	<b>1780</b>



# Film clearance three-step programm

## Orphan Works: the numbers



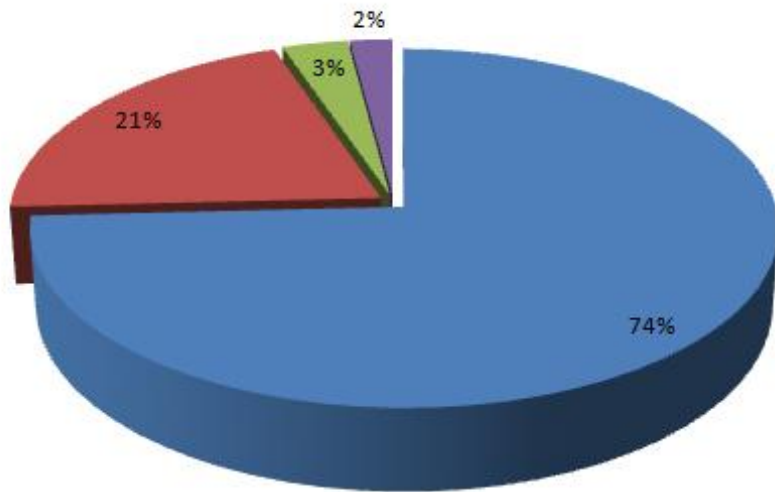
■ Authors unknown:	1321
■ No descendants:	365
■ Company ceased to exist:	57
■ Authors not tracable:	37
<b>Sum</b>	<b>1780</b>





# Film clearance three-step programm

## Orphan Works: the numbers

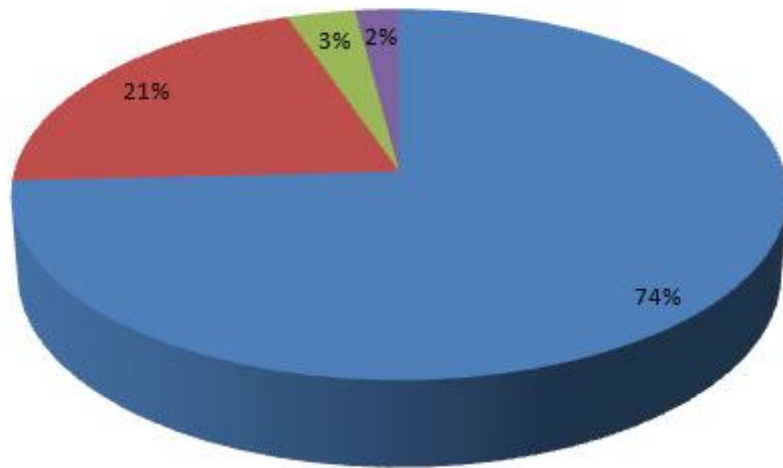


■ Authors unknown:	1321
■ No descendants:	365
■ Company ceased to exist:	57
■ Authors not tracable:	37
<b>Sum</b>	<b>1780</b>



# Film clearance three-step programm

## Orphan Works: the numbers



■ Authors unknown:	1321
■ No descendants:	365
■ Company ceased to exist:	57
■ Authors not tracable:	37
<b>Sum</b>	<b>1780</b>



# Film clearance three-step programm

## Orphan Works



## Film clearance three-step programm

### Orphan Works

- Authors unknown



# Film clearance three-step programm

## Orphan Works

- Authors unknown
  - Documentaries



# Film clearance three-step programm

## Orphan Works

- Authors unknown
  - Documentaries
  - Amateur film



# Film clearance three-step programm

## Orphan Works

- Authors unknown
  - Documentaries
  - Amateur film
  - News reels



# Film clearance three-step programm

## Orphan Works

- Authors unknown
  - Documentaries
  - Amateur film
  - News reels
  - Dutch Royalty (marriage/parades etc)





## Film clearance three-step programm

### Orphan Works

- Authors unknown



## Film clearance three-step programm



Tijd voor ontspanning dank zij de acht-urendag (1930)



## Film clearance three-step programm

### Orphan Works

- Authors unknown



## Film clearance three-step programm

### Orphan Works

- Authors unknown
- No heirs



## Film clearance three-step programm



Hoogstraat (1929)



## Film clearance three-step programm

### Orphan Works

- Authors unknown
- No heirs



## Film clearance three-step programm

### Orphan Works

- Authors unknown
- No heirs
- Production Company ceased to exist



## Film clearance three-step programm



De wraak van het visschersmeisje (1914)





## Film clearance three-step programm

### Orphan Works

- Authors unknown
- No heirs
- Production Company ceased to exist



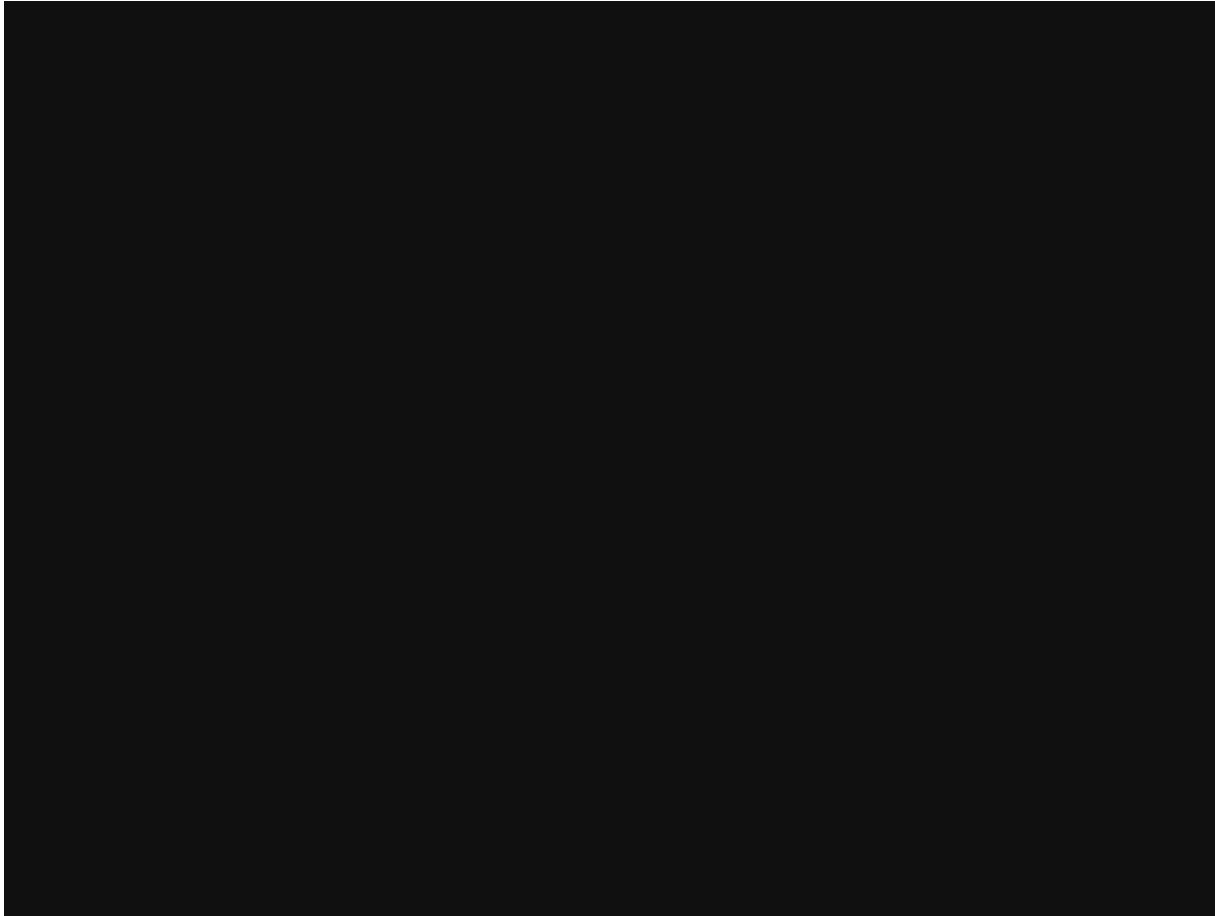
## Film clearance three-step programm

### Orphan Works

- Authors unknown
- No heirs
- Production Company ceased to exist
- Not traceable



## Film clearance three-step programm



Walcheren (1934)



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

- Commercial use



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

- Commercial use Ximon

The screenshot shows the Ximon website interface. At the top left is the Ximon logo with 'beta' in smaller text. To its right are navigation tabs: FILMS, TV-SERIES, COLLECTIES, MAKERS, and ZOEKEN. Further right are links for 'Hallo bezoeker', 'Registreren', and 'Inloggen'. Below the navigation is a teal bar with 'Genres:' followed by buttons for Drama, Spanning, Actie, Komedie, Documentaire, Kids, and Alles. A search bar on the right contains the text 'Zoek op film, tv-serie, maker.' and a magnifying glass icon. Below the teal bar are four film recommendation cards, each with a thumbnail image and a title with a brief description:

- Het Zusje Van Katia**: Intiem portret van een 13-jarig meisje in Amsterdam-No...
- De Zwarte Tulp**: Strijd om het kweken van een exquise bloem...
- Cloaca**: Winnaar van de Publieksprijs van het Nederlands Film ...
- Nadine**: Nadine, n vrouw gespeeld door drie actrices...



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

- Commercial use Ximon

The screenshot shows the Ximon website interface. At the top, the Ximon logo is followed by navigation tabs: FILMS, TV-SERIES, COLLECTIES, MAKERS, and ZOEKEN. To the right, there are links for 'Hallo bezoeker', 'Registreren', and 'Inloggen'. Below the navigation is a teal bar with genre filters: Drama, Spanning, Actie, Komedie, Documentaire, Kids, and Alles. A search bar contains the text 'Zoek op film, tv-serie, maker.' and a magnifying glass icon. Below the search bar, four movie thumbnails are displayed with their titles and brief descriptions:

- Het Zusje Van Katta**: Intiem portret van een 13-jarig meisje in Amsterdam-No...
- De Zwarte Tulp**: Strijd om het kweken van een exquise bloem...
- Cloaca**: Winnaar van de Publieksprijs van het Nederlands Film ...
- Nadine**: Nadine, n vrouw gespeeld door drie actrices...

- Non-commercial use



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

- **Commercial use** Ximon

The screenshot shows the Ximon website interface. At the top, there is a navigation bar with the Ximon logo and menu items: FILMS, TV-SERIES, COLLECTIES, MAKERS, and ZOEKEN. To the right of the navigation bar, there are links for 'Hallo bezoeker', 'Registreren', and 'Inloggen'. Below the navigation bar, there is a search bar with the text 'Zoek op film, tv-serie, maker.' and a search icon. The main content area displays four film thumbnails with their titles and brief descriptions:

- Het Zusje Van Katta**: Intiem portret van een 13-jarig meisje in Amsterdam-No...
- De Zwarte Tulp**: Strijd om het kweken van een exquise bloem...
- Cloaca**: Winnaar van de Publieksprijs van het Nederlands Film ...
- Nadine**: Nadine, n vrouw gespeeld door drie actrices...

- **Non-commercial use** Film in Nederland



The screenshot shows the Film in Nederland website interface. At the top, there is a navigation bar with the text 'film in nederland | onderdeel van EYE' and links for 'log in' and 'registreren'. Below the navigation bar, there is a search bar with the text 'Zoeken' and a search icon. The main content area displays the text 'nederlandse filmcultuur historische tijdslijn filmdatabase wie is...' and 'nieuws aanbevolen filmbehoud scene machine'.





# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

- Ximon



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

- Ximon
  - Voluntary ECL Model



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

- Ximon
  - Voluntary ECL Model
  - Producers: individual license agreements



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

- Ximon
  - Voluntary ECL Model
  - Producers: individual license agreements
  - All other rightsholders: collective agreement with CMO's



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

- Ximon
  - Voluntary ECL Model
  - Producers: individual license agreements
  - All other rightsholders: collective agreement with CMO's
  - Search for all rightsholders by EYE; contact information is provided to CMO's



## Film clearance three-step programm

### STEP 3: GETTING PERMISSION

- Contract Ximon / CMO's



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

- Contract Ximon / CMO's
  - Permission for those represented by CMO



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

- Contract Ximon / CMO's
  - Permission for those represented by CMO
  - Indemnification for those not represented by CMO (also applicable to orphan works)





# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

- Contract Ximon / CMO's
  - Permission for those represented by CMO
  - Indemnification for those not represented by CMO (also applicable to orphan works)
  - Opt-out possibility for non-represented rightsholders



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

- Contract Ximon / CMO's
  - Permission for those represented by CMO
  - Indemnification for those not represented by CMO (also applicable to orphan works)
  - Opt-out possibility for non-represented rightsholders
  - Duration: three years plus automatic renewal



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

### Repartition



## Film clearance three-step programm

### STEP 3: GETTING PERMISSION

#### Repartition

- 10 % of each paid view to collecting societies



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

### Repartition

- 10 % of each paid view to collecting societies
- Contract with producer (contains indemnification) remaining 90 %



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

### Repartition

- 10 % of each paid view to collecting societies
- Contract with producer (contains indemnification) remaining 90 %
  - 65 % to licensor



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

### Repartition

- 10 % of each paid view to collecting societies
- Contract with producer (contains indemnification) remaining 90 %
  - 65 % to licensor
  - 35 % running costs platform Ximon



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

### Repartition

- 10 % of each paid view to collecting societies
- Contract with producer (contains indemnification) remaining 90 %
  - 65 % to licensor
  - 35 % running costs platform Ximon
- Contract with heirs (contains no indemnification) remaining 90 %





# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

### Repartition

- 10 % of each paid view to collecting societies
- Contract with producer (contains indemnification) remaining 90 %
  - 65 % to licensor
  - 35 % running costs platform Ximon
- Contract with heirs (contains no indemnification) remaining 90 %
  - 50 % licensor



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

### Repartition

- 10 % of each paid view to collecting societies
- Contract with producer (contains indemnification) remaining 90 %
  - 65 % to licensor
  - 35 % running costs platform Ximon
- Contract with heirs (contains no indemnification) remaining 90 %
  - 50 % licensor
  - 15 % reservation for third party claims



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

### Repartition

- 10 % of each paid view to collecting societies
- Contract with producer (contains indemnification) remaining 90 %
  - 65 % to licensor
  - 35 % running costs platform Ximon
- Contract with heirs (contains no indemnification) remaining 90 %
  - 50 % licensor
  - 15 % reservation for third party claims
  - 35 % running costs platform



# Film clearance three-step programm

## Non commercial use: Film in Nederland



film in the nl

film in nederland | onderdeel van EYE

log in | registreren

nederlandse filmcultuur historische tijdslijn  
filmdatabase wie is...

nieuws  
aanbevolen  
filmbehoud  
scene machine

Zoeken



Wie zijn... de gebroeders Mullens

Twee listige filmvertoners

Hoe Willy Mullens en zijn broer Albert 100 jaar geleden een nieuw filmgenre introduceerden, pionierden in filmmarketing en in het hele land

1 van 9 Vorige | Volgende

### aanbevolen



**De 'bioscope-quaestie' en de schoolbioscoop**  
Op 8 januari 1912 publiceerde het dagblad Nieuws van de Dag een ingezonden brief over de geschiktheid – of beter gezegd: ongeschiktheid – van de bioscoop voor kinderen.



**De meest geliefde typiste van het land**  
In juni 1935 werd Dolly Mollinger gepresenteerd als 'Nederlands nieuwste filmontdekking'. Aan de vooravond van de première van haar eerste film



**De mésaventure van een Fransch heertje zonder pantalon aan het strand te Zandvoort**, Willy Mullens, Bernard (Albert) Mullens, 1905  
Korte speelfilm over een badgast zonder pantalon.



# Film clearance three-step programm

## Non commercial use: Film in Nederland



film in nederland | onderdeel van EYE

log in | registreren

film in  
the nl

nederlandse filmcultuur historische tijdslijn  
filmdatabase wie is...

nieuws  
aanbevolen  
filmbehoud  
scene machine

Zoeken



# Film clearance three-step programm

## Non commercial use: Film in Nederland



film in  
the nl

film in nederland | onderdeel van EYE

log in | registreren

nederlandse filmcultuur historische tijdslijn  
filmdatabase wie is...

nieuws  
aanbevolen  
filmbehoud  
scene machine

Zoeken



- Overview of Dutch film history



# Film clearance three-step programm

## Non commercial use: Film in Nederland



film in  
the nl

film in nederland | onderdeel van EYE

log in | registreren

nederlandse filmcultuur historische tijdslijn  
filmdatabase wie is...

nieuws  
aanbevolen  
filmbehoud  
scene machine

Zoeken



- Overview of Dutch film history
- Clearing



# Film clearance three-step programm

## Non commercial use: Film in Nederland



film in  
the nl

film in nederland | onderdeel van EYE

log in | registreren

nederlandse filmcultuur historische tijdslijn  
filmdatabase wie is...

nieuws  
aanbevolen  
filmbehoud  
scene machine

Zoeken



- Overview of Dutch film history
- Clearing
  - Clips of films cleared for XIMON (quotation rights)





# Film clearance three-step programm

## Non commercial use: Film in Nederland



film in  
the nl

film in nederland | onderdeel van EYE

log in | registreren

nederlandse filmcultuur historische tijdslijn  
filmdatabase wie is...

nieuws  
aanbevolen  
filmbehoud  
scene machine

Zoeken



- Overview of Dutch film history
- Clearing
  - Clips of films cleared for XIMON (quotation rights)
  - Orphan works: legal notice in Terms of Use



# Film clearance three-step programm

## Non commercial use: Film in Nederland



film in  
the nl

film in nederland | onderdeel van EYE

log in | registreren

nederlandse filmcultuur historische tijdslijn  
filmdatabase wie is...

nieuws  
aanbevolen  
filmbehoud  
scene machine

Zoeken



- Overview of Dutch film history
- Clearing
  - Clips of films cleared for XIMON (quotation rights)
  - Orphan works: legal notice in Terms of Use
  - Public domain works



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION



## Film clearance three-step programm

### STEP 3: GETTING PERMISSION

- The Battle for Signatures



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

- The Battle for Signatures
  - Verbal consent swift



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

- The Battle for Signatures
  - Verbal consent swift
  - Written consent slow process



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

- The Battle for Signatures
  - Verbal consent swift
  - Written consent slow process
  - Producers need to investigate rights situation of their titles



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

- The Battle for Signatures
  - Verbal consent swift
  - Written consent slow process
  - Producers need to investigate rights situation of their titles
    - ✓ Rights with distributors





# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

- The Battle for Signatures
  - Verbal consent swift
  - Written consent slow process
  - Producers need to investigate rights situation of their titles
    - ✓ Rights with distributors
    - ✓ Co-productions by broadcast companies



# Film clearance three-step programm

## STEP 3: GETTING PERMISSION

- The Battle for Signatures
  - Verbal consent swift
  - Written consent slow process
  - Producers need to investigate rights situation of their titles
    - ✓ Rights with distributors
    - ✓ Co-productions by broadcast companies
    - ✓ Contains clip of other films (license expired)



THANK YOU

[geraldinevooren@eyefilm.nl](mailto:geraldinevooren@eyefilm.nl)

