

# TAROT'S UNEASY COPYRIGHT

August 6, 2025

Intellectual Property Scholars Conference

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# Agenda: The Copyright Scholar's Journey

## Major Arcana

- A short history of tarot
- The Rider-Waite-Smith Deck
  - Origins
  - A copyright history

## Minor Arcana

- How one publisher maintains the illusion of copyright
- Effect of market capture on public domain?



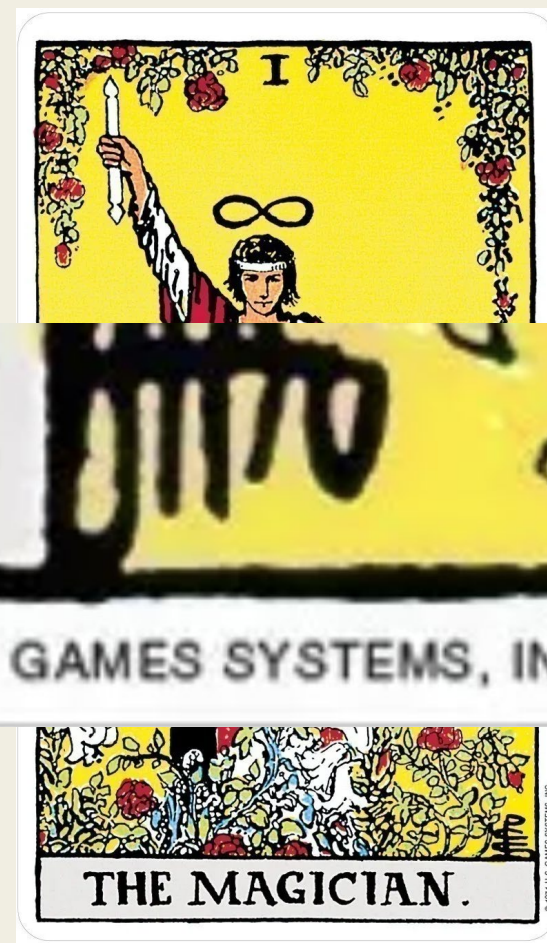


Pamela Colman Smith, Rider-  
Waite-Smith Deck (1909) [Public  
Domain]





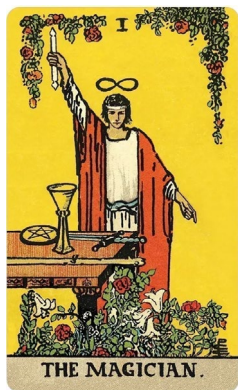
Pamela Colman Smith, Rider-Waite-Smith Deck (1909) [Public Domain]



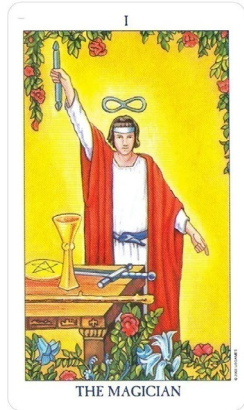
*Rider-Waite® Tarot Deck* U.S. Games Systems, Inc. (1971) ([link](#))



# USGS Decks



Smith-Waite Tarot  
Deck Borderless



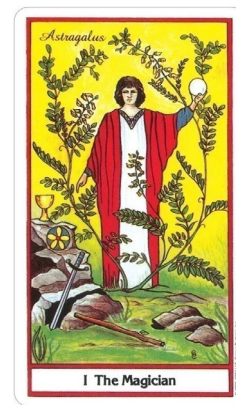
Radiant Rider-Waite®  
Tarot



Gummy Bear Tarot



Halloween Tarot



Herbal Tarot

# Indie Decks



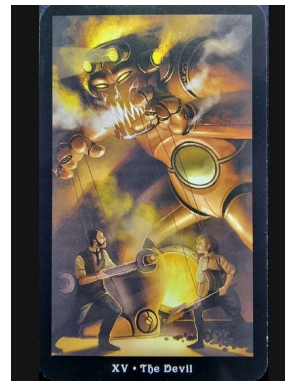
Modern Witch Tarot



Pasta Tarot



This Might Hurt Tarot



Steampunk Tarot\*  
\* different card but it  
rules



Cats Rule the World  
Tarot

[permissions and links  
available on request]



# Major Arcana: Tarot and the Rider-Waite- Smith Deck



# Origins: The game of tarot

- Tarot (*tarrochi*) developed as a game in ~15th c. Europe
- Two sections
  - ~22 *trionfi* cards, usually with figural illustrations
    - Iconography not completely standardized, but conserved
  - Typical playing card deck (4 suits, Ace through 10 + face cards)
    - Usually no illustrations
    - Suits variously named

## The Pope (Card V)



# Origins: The game of tarot

- In 18th c., adapted to esoteric / divinatory purposes among French / Anglo writers
  - Not “the key, but a key” - Rachel Pollack, *SeventyEight Degrees of Wisdom*
- 20th c: Occult → psychotherapeutic turn
  - From a “door” to a “mirror”

“A prisoner devoid of books, had he only a Tarot of which he knew how to make use, could in a few years acquire a universal science, and converse with an unequalled doctrine and inexhaustible eloquence.”

- Éliphas Lévi

## The Pope (Card V)

Visconti-Sforza Tarot (15th c.)



Marseille Tarot (~18th c.)



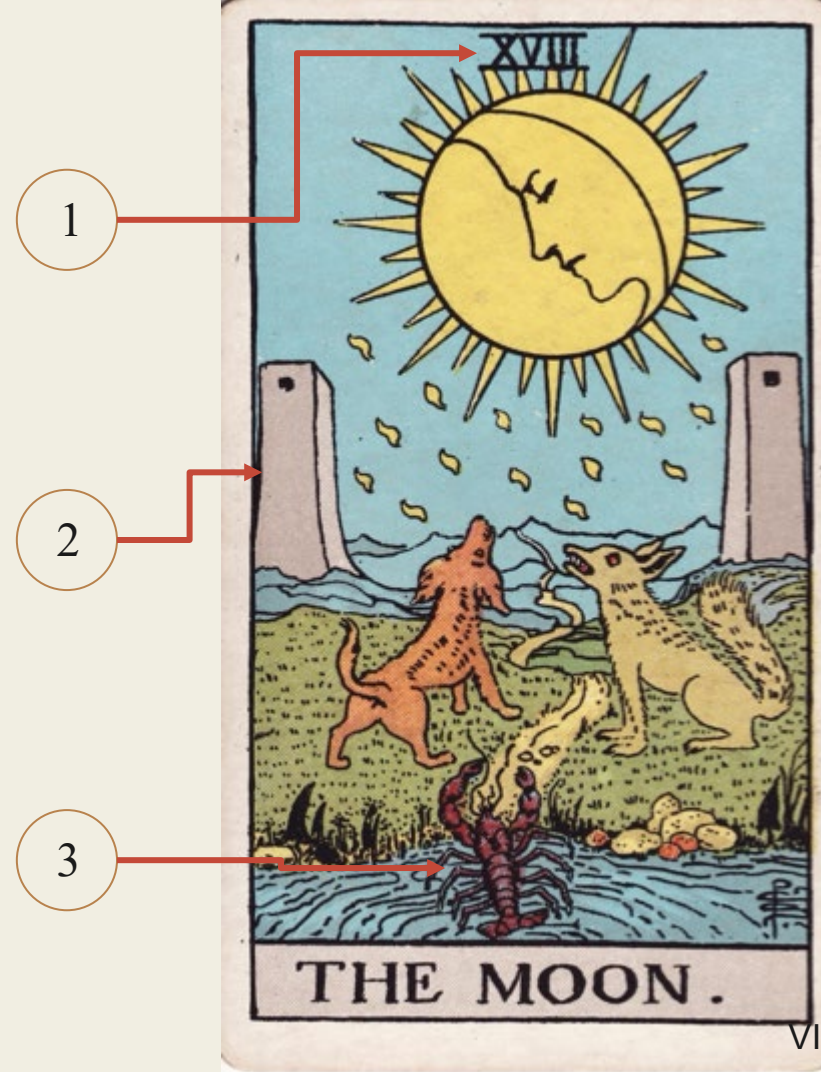




## Example: The Moon

1. **Major Arcana (XVIII)** : Follows The Star (hopeful renewal) and precedes The Sun (radiant clarity)
2. **The path ahead** : Two looming towers before a path
3. **Symbols of unconsciousness:** A wolf (wild) and a dog (tamed) howling as one; an abyssal crayfish crawling onto land

Possible meanings: hidden truths; a transition to clarity, intuition, disturbances



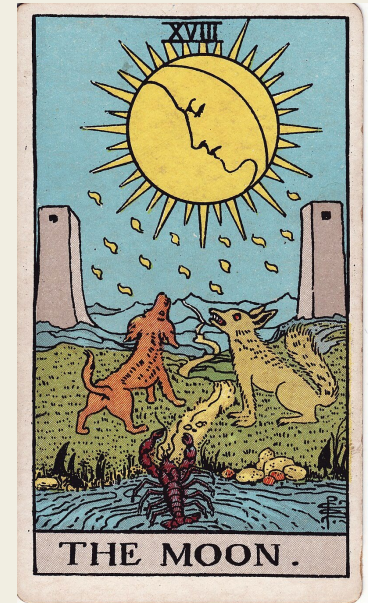
# The RiderWaite-Smith Deck

- First completely illustrated Major and Minor Arcana
- Artistic sources:
  - Symbolic direction
  - Previous deck iconography (Major Arcana)
  - Contemporary styles (Arts & Crafts, Art Nouveau, Symbolism)
- A “big job for very little cash”
- Smith remained uncredited until 1990s

Marseilles Tarot  
(~1890): La Lune



RWS (1909):  
The Moon



# Publication History: UK

- Rider published versions of the RWS Deck between 1909 and 1940 with slight variations due to mechanical printing
- Copyright history unclear
  - Early documents destroyed in Blitz
  - No evidence of rights transfer from Colman
  - Waite asserted “no interest” in sale
- Waite died in 1942, publisher assumed Waite’s daughter retained full interest

Rider Deck (1910s)



Rider Deck (1930s)



Saksia Jansen, *The Rider Waite Tarot early editions* The World of Playing Cards (Sept. 8, 2023) ([link](#))





# Publication History: US

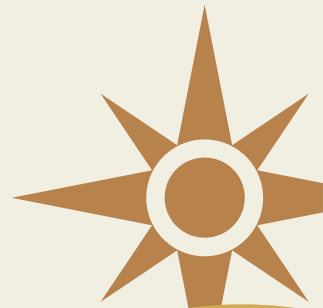
- In public domain under 1909 Act
- Several “unauthorized” decks between 1910 - 1960s with different cardstocks, colorations etc.
- Introduction of a “little white book” providing brief explanations of each card







# Minor Arcana: U.S. Games and the Illusion of Copyright



# Enter U.S. Games Systems, Inc.

As you know the Waite deck is presently manufactured in the United States by University Press and the Albano Waite deck is manufactured by Albano Productions. It is our understanding that this deck belongs to the Public Domain and any other company may, if it so wishes, also publish the Waite deck.

However, our idea is that perhaps U. S. Games Systems, Inc. should consider producing the Waite deck as the "original Waite deck in the only authorized version" and in this manner we would bear an imprint from your company or the proper source in England to differentiate our deck as the original from the University Press and Albano Production decks.

We feel that since the deck belongs to the Public Domain, any licensing arrangement for the authorized version should carry a nominal amount of royalty. Since we sell individual Tarot decks in the many hundreds of thousands, the quantity involved could be very large.



# Maintaining the ‘Illusion’ of Copyright

## Strategic registrations

Copyright registration claims only minor variations but enables © notice on every card

## Exclusive licenses

Agree not to “materially undermine” commercial interests by disputing ©, strategic ambiguity

## Blurring © and TM

The Rider-Waite is all the Rider-Waite Tarot decks.

You can't produce your own Monopoly game and call it Monopoly. There is one Monopoly. There is one Rider-Waite Tarot deck.

## Evergreening

Routinely republishing RWS with minor and significant variations

## Litigation avoidance

C&Ds without testing “complexity” of copyright claims in court

## Permissions

Fees for certain uses (e.g. commercial reuse), attribution for others (e.g. tarot reading)



**Date of Creation** 1971

**Date of Publication** 1971-12-22

**Copyright Claimant** U. S. Games Systems, Inc.

**Authorship on Application** artwork & text on cards & box: U. S. Games Systems, Inc., employer for hire.

**Basis of Claim** New Matter: "lithographic reproduction of designs & text on tarot cards, artwork & text on box."

**Previous Registration** Appl. identifies tarot card designs as preexisting material.





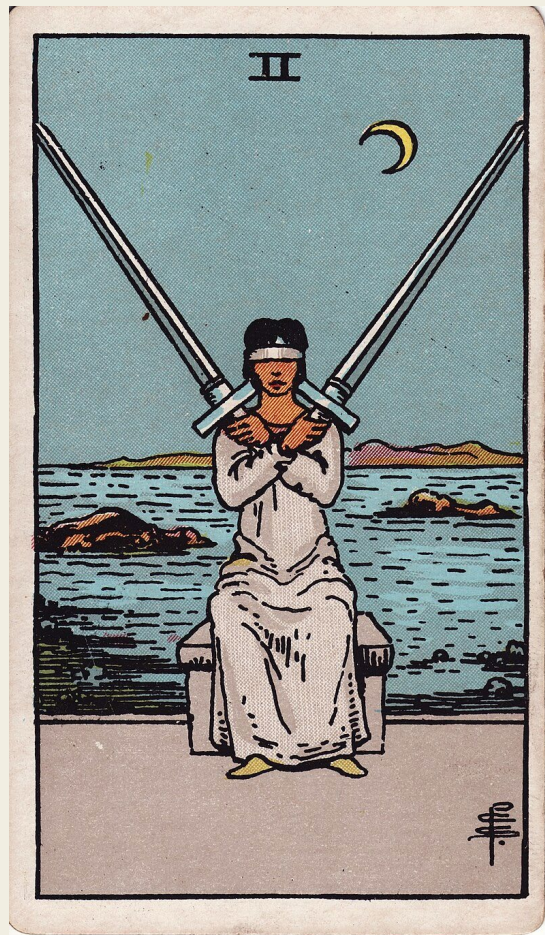
# Effect of strategy?

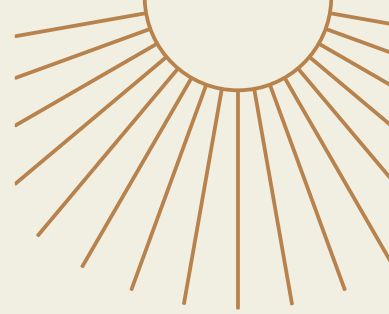
- US Games remains the dominant tarot publisher in North America
- Hundreds of indie *artists*, but few tarot publishers
- Huge, unbridled arena for RWS *derivatives*, but not *identical* RWS Decks



# Open questions

- Theoretical: How to understand market dominance based on unprotectable asset?
  - Is this an “IP without IP” story (using shadows and lacunae to intimate IP protection where none exists)—or simply an IP story?
- Empirical/ sociological: Do tarot practitioners view US Games restricting their output?
- Doctrinal: Why protect DWs based largely (entirely) on public domain works with a patina of added expression?

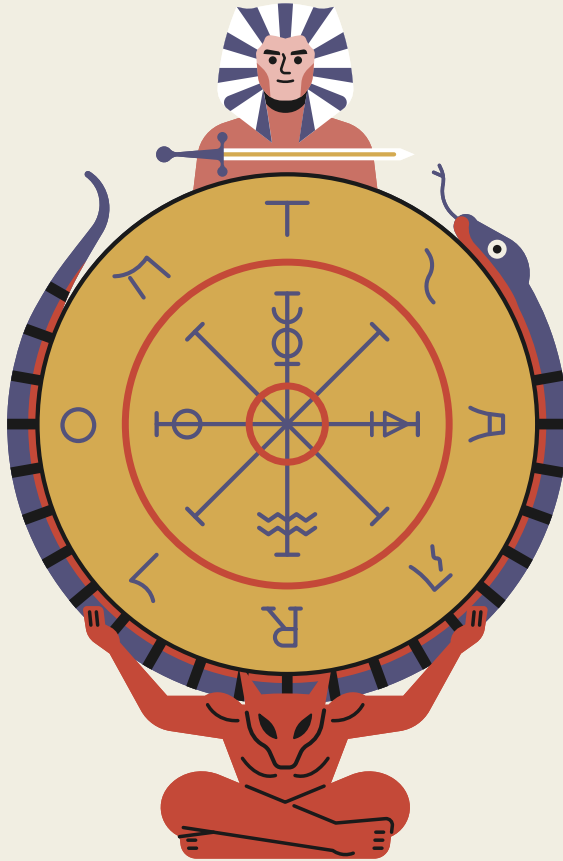




# THANKS

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