

Copyright and Digitalisation
in
Cultural Organisations

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List of Abbreviations

AAM	American Association for Museums
AP	Associated Press
ARL	Association of Research Libraries
BPL	Boston Public Library, Boston, Massachusetts, USA
CC	Creative Commons
CDs	compact disc(s)
Countway	The Francis A. Countway Library of Medicine, Harvard Medical School, Boston, Massachusetts, USA
DEN	Digitaal Erfgoed Nederland (Digital Heritage Netherlands)
DMCA	The Digital Millennium Copyright Act
DRM	Digital Rights Management
EU	European Union
Groninger	Groninger Museum, Groningen, the Netherlands
ICOM	International Council of Museums
ICT	information and communication technology
IP	Intellectual property
KMM	Kröller-Müller Museum, Otterlo, the Netherlands
MC	micro cassette
MFA	Museum of Fine Arts, Boston, Massachusetts, USA
Mp3	MPEG-1 Audio Layer 3, a digital audio player

N/A	not available, not applicable
NMV	Nederlandse Museumvereniging (the Netherlands Museum Association)
NPO	non- profit organisation (not-for profit organisation)
Pda	personal digital assistant
pdf	portable document format
Peabody	Peabody Museum of Archaeology and Ethnology at Harvard University, Cambridge, Massachusetts, USA
SMA	Stedelijk Museum Amsterdam, Amsterdam, the Netherlands
TMS	The Museum System
TRIPS	Trade Related Aspects of Intellectual Property Rights
UKB	Universiteitsbibliotheken en Koninklijke Bibliotheek, consisting of university libraries and the National Library of the Netherlands
UNCTAD	United Nations Conference on Trade and Development
UNESCO	United Nations Educational, Scientific and Cultural Organisation
WIPO	World Intellectual Property Organisation, an agency of the United Nations
WTC	WIPO Copyright Treaty
WTO	World Trade Organisation

Abstract

Copyright and Digitalisation in Cultural Organisations - A Master's thesis presented to the Master of Art and Cultural Studies programme at Erasmus University Rotterdam

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Keywords: copyright, digitalisation, cultural organisations, rights and permissions, intellectual property, innovation,

This thesis considers the implications of copyright on the increasing digitalisation of collections in cultural organisations, especially museums and libraries. Digitalisation is being pursued to make material available in digital form as well as to create new revenue streams to support their activities.

The study defines and describes issues surrounding intellectual property and digitalisation and their application to museums, libraries, and other cultural heritage repositories. It reveals the relevance to both profit and non-profit cultural organisations; and how creativity, innovation, and entrepreneurship in cultural organizations are promoting digitisation and raising the importance of copyright and related issues within cultural organisations.

The thesis studies how five museums and two libraries in the Netherlands and the United States are handling digitalisation and copyright issues. It is based on interviews with those operating the digital processes at, and material provided by, the Stedelijk Museum Amsterdam, Groninger Museum, Kröller-Müller Museum, Boston Public Library, Museum of Fine Arts Boston, Peabody Museum of Archaeology and Ethnology, The Francis A. Countway Library of Medicine. The Boston-based cultural organisations selected in the United States were made on the basis that they exist in an art market with a reasonably similar to that of the Netherlands.

The study finds that the stated missions of the organisations affect the strategies of digitalisation and the uses of copyright. It found conflicts between the avowed missions of some organisations and their copyright policies. Organisations tend to give more importance to their missions and objectives than to copyright because of limited understanding and acceptance of copyright and a strong sense of the need to disseminate knowledge and cultural heritage.

Interviews in the organisations revealed wide differences in drivers of digitalisation, but a common realisation that creating digital collections and services creates new copyrights and market potentials. It also showed differences in the processes and applications used in digitalisation that appear to be related to the unique characteristics of individual cultural organisations.

The research revealed differences in the strategies and risks that organisations are willing to incur as they exploit copyright. Most interviewees see copyright as a restrictive rather than enabling factor, but revealed a general

willingness to make available objects, images, and works where the copyright holder is unknown or unreachable. None of the organizations have a dedicated copyright department; instead the functions are spread across departments.

In its entirety, this thesis has shown that digitalisation is creating new copyright challenges for other cultural organisations and that they are having some discomfort implementing strategies and procedures that will bring them the greatest benefit. However the interviews show that these organisations are taking steps in the right direction and that they can be expected to incrementally benefit from copyright in the coming years as they become more comfortable applying entrepreneurial strategies into their public oriented activities.

Foreword

This Master's year and thesis has made me push my boundaries and obtain a vast amount of knowledge both on an academic and individual level.

The early research stage is like opening Pandora's Box and continues to cause unique challenges throughout the entire process. A large part of research is discovering the relevancy of the knowledge you are accumulating. This was a daunting task at times. I read numerous (irrelevant) articles and research papers, which did not necessarily help me directly in my research. On the other hand, this information has led to new thought processes and perspectives as well as potential future research possibilities. A great deal of the thesis process is constructively dealing with problem-solving in addition to being creative in the way one approaches new ideas and topics as well as dealing with obstacles.

I have a feeling of great excitement of what is next to come and welcome it with open arms.

I would like to take the time to individually thank those who have contributed to this latest feat:

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Chapter 1: Introductory Chapter

Copyright is relevant to cultural institutions because they commonly do not own copyright in collection items. Cultural institutions must therefore consider copyright law when they are digitizing works or putting digital content on the Internet (Hirtle, Hudson, Kenyon, 2009).

This thesis deals with cultural organisations, museums and other heritage depositories, and the growing importance of intellectual property rights to these organisations' strategies of making materials available in digital form and in seeking new revenue streams to support their activities. In this introductory chapter, the basic concepts of intellectual property rights, copyright, digitization and digitalisation will be explained. These concepts will be defined and described in detail. The aims and objectives, methods and potential challenges of this research will also be considered.

1.1 Intellectual Property

Intellectual property (IP) rights protect any idea or creation which the creator or rights owner has exclusive rights to use or restrict use during a specific time frame laid out by law. An idea on its own cannot be protected by IP law. A worked out and implemented idea for a product or design must be translated into a physical materialized piece before it can be protected by law. According to the World Intellectual Property Organisation (WIPO), there are two types of intellectual property: industrial property and copyrights and related rights (WIPO, 2009). Intellectual property is defined by the WIPO as follows: 'Industrial property includes patents for inventions, trademarks, industrial designs and geographical indications. Copyright and related rights cover literary and artistic expressions (e.g. books, films, music, architecture, art), and the rights of performing artists in their performances, producers of phonograms in their recordings and broadcasters in their radio and television broadcasts' (WIPO, 2009: 3).

Patents and copyright law have similar economic characteristics, yet are differentiated by the type and the way the materials are protected by law. Patents protect ideas for things and processes, whereas copyright protects the completed (cultural) product. It has been said that 'intellectual property rights prolong innovators' monopolies' (ICRPP, 2001: 9). Copyright is generally granted to the creator based on effort rather than merit and can automatically be protected in certain jurisdictions. In order to obtain a patent, the creator, whether an individual or a firm, must prove that the idea, process or product has novelty and upon proof of novelty register it at a patent office for it to be protected by law.

Pursuing IP can stimulate both economic and cultural development. Industrial IP rights have more to do with the protection of an organisation's or an individual's rights or benefits of the rights. The protection of a trademark or patent or an innovative idea rewards the inventor's creativity usually for a set period of time, allowing him/her the full benefits or exclusive rights during this time period. It is argued that without IP or copyright law, individuals are less likely to be

innovative as their hard work would not be rewarded and simply not worth their effort. Through WIPO research it has been proven that economic development or growth is positively correlated with a strong IP system (WIPO, 2007). A strong system adds value to a country's economy.

1.2 Copyright

Copyright issues have long been avoided by cultural economists although they are deeply submersed in international economic trade policy (Towse, 2008). The influence of the Internet and digitalisation has clearly changed consumption and production demands (Towse, 2008). As a greater focus is placed on copyright, its influences and range of coverage is compared to that of subsidy policies. Both of these are 'responses to perceived market failures', yet respond to the failure in very different ways (Towse, 2008: 247).

Shapiro (2009) defines copyright as 'legally granted property rights in intellectual works embodied in a physical means of expression, such as print, musical score or electronic image' (Shapiro, 2009:50). Merriam-Webster goes a bit further in saying that copyright is 'the exclusive legal right to reproduce, publish, sell, or distribute the matter and form of something' (Merriam-Webster, 2010). Museums must apply copyright principles to a range of (digitalisation) activities including collection and catalogue documentation as well as the printing of materials for sales and marketing purposes. Copyrights can apply to individual works or to subject matter and ideas. Copyright protection is automatic and not necessarily required to be registered. The duration of copyright protection varies depending on national copyright regulations. Within the scope of this research topic, copyright is referred to as a part of museum business market infrastructure, i.e., the means rather than the source of value.

Copyright has three dimensions: scope, duration and implementation (Towse, 2008). As technology has improved, so has the scope and the extent of protection of copyright law. The creation of an international copyright system has so far been unable to be realised due to the differences between countries economic and legal structures. The specificities of copyright regulations are further laid out and implemented by the individual countries and/or trade agreements. Copyright is a temporary monopoly, where price differentiation strategies are applied (Hutter, 2003). Copyright laws were originally founded and shaped accordingly to cultural and artistic goods. Nowadays, there is a larger focus on information technologies (Hutter, 2003). If there is a natural monopoly, the cost advantage as the exclusive supplier is the ability to set prices as high as you want above marginal costs (Hutter, 2003). This leads to the exclusion of certain individuals.

Copyright limits the rights of individual artists. Landes and Posner (2003) point out that not only has the price of copyrighted products has increased, but the transaction costs regarding these products have increased as well. Copyright is applied on a national level. As copyright collecting organisations expand, they gain a larger ability to engage in international arrangements lowering these transaction costs due to globalization effects (Towse, 2008). Also, certain international treaties protect copyright worldwide. Common law entitles copyright holders to damages or potential losses incurred following an infringement on their protected work (Einhorn, 2003). In general, commercial copying is infringement, whereas personal

uses are considered to be fair (Einhorn, 2003). Traditional copyright law may be seen as not being able to cope with the digital revolution and specifics have yet to be laid down by regulators. However, the European Union, the United States, and other countries, as well as the WIPO, have created new laws to protect digital content and their rights holders. Some of these rights regarding personal use can be considered unfair. Antitrust authorities enforce copyright laws.

1.3 Digitization and Digitalisation

Digitization is defined as the process ‘to convert (data or an image) to digital form’ in the Merriam-Webster dictionary (2010). This conversion of data takes place by transferring physical objects, literary materials or analogue data to digital form. Digitalisation originally referred to the health field and the prescribing of digitalis, a foxglove flower, to treat heart conditions among patients. However, in this day and age, when applied in business, digitalisation has come to encompass and integrate the entire process or broader context of digitization and all digitalized works in our everyday life (businessdictionary.com, 2010). The term digitization is widely used in the United States, whereas the term digitalisation is more commonly used in Europe. In this research, the terms digitalisation and digitization will be interchangeably used because literature and research cases come from both sides of the Atlantic Ocean.

Digitalisation has affected the general regulation and protection of copyright (Towse, 2008). Due to these changes, a larger focus has been placed on digitalisation and the influence of copyright has been under pressure to be discussed. In general, museums must request permission to digitize copyrighted works. Creating a digital image of an object is considered to be a reproduction, even if a museum or library has the object in their collection yet is not the rights holder, and thereby considered to be an infringement if permission is not requested. Situations in which requests are needed are for example if museums want to sell books or posters featuring a work of art or a library wants to make copies of historical letters for preservation and make them available as pdfs. If the copyright has expired or the owner of the copyright cannot be located after a sufficient search, an infringement is ruled out and the museum is free to digitize the work. Also, museums may protect their copyrighted works by pursuing infringers. Copyrights apply to individual works or subject matter and ideas (Australian Copyright Council, 1998). Copyright protection is automatic and not necessarily required to be registered. The duration of copyright protection varies from 50 to 70 years after the death of the creator, depending on national copyright regulations. Not all countries apply a time span.

Museums must apply copyright principles to a range of (digitalisation) activities including collection and catalogue documentation as well as the printing of materials for sales and marketing purposes. Initially, digitalisation efforts were introduced very ad hoc within the museums. As the application of digitalisation and technology has improved, digitalisation has become a core operation of most museums. Perceived advantages of digitalisation of works include providing a wider accessibility to the collections and preservation of older documents and works of art. Digitization can be used to meet an organisation’s goals. A supposed disadvantage includes the risk of high costs of both equipment and trained staff necessary to carry out the digitalisation process.

As part of an increased strategic focus on audience/visitor development and participation, museums are turning to new mediums, including the Internet, to get in touch with and retain audiences. Cultural websites are known to be difficult to promote and have difficulties with attracting new audiences (Farchy, 2003). The Internet enables individuals to discover, sample, communicate and experience new information that they may not otherwise come in contact with. Most cultural organisations' heritage and image repositories have rather large collections and the vast majority of their collections are not on display. Digitization and access via Internet thus can make large amounts of new material available. This activity may stimulate creativity or increase the number of cultural tourists and visitors to museums.

The importance of catering to the public needs has also increased the need to digitalize. Museums have long kept large archives, and due to technological developments and improvements it was only a matter of time before these institutions decided to digitalize their collections, catalogues and archives and make them accessible to the greater public. As the push to digitalize is imminent for museums, many museums are struggling to cope with meeting copyright requirements. The fear of uncertainty and the possible infringement may also be keeping museums in the dark and unwilling to take action towards implementing digitalisation.

Due to the rise of digital technology, there are three main problems surrounding copyright protection (Einhorn, 2003). First, the distribution of unauthorized works, such as the sharing of files of data and imagery, which are protected under copyright, has increased. Second, the costs to take legal action against those infringing the copyright are high and thereby also restrictive. The benefits and risks must be weighed. Finally, more and more hardware and software facilitating copying are readily available, which offsets the efforts to uphold copyright.

Both copyright and digitalisation are current on-going occurrences affecting all types of organisations. Organisations are developing and approaching the matter in different ways. I will examine these approaches in cultural organisations, namely in museums and libraries. In this research, I am focusing on museums and their actions towards digitalizing works of art and making the images easily accessible and available online for the general public. A focus will be placed on the determinants of innovation, as well the economic factors of copyright. Museums function under peculiar conditions. Special attention needs to be paid to market conditions, demand and competition, unique characteristics of goods, revenues and the difference in organisational structures of profit vs. non-profit organisations.

Innovation can be seen as a factor determining speed and technological changes in museums. Determinants of innovation will be considered. Innovation and technological changes are influenced by a number of market conditions, which will further be discussed. Incentives to innovate may also be suboptimal, in which the advantages may not be realised due to financial, legal and general risks.

1.4 Aims and Objectives

I will address the following questions in my thesis.

Central research question

How does copyright affect cultural organisations in their digitalisation efforts and business strategies?

Subquestions

- What are the copyright principles and requirements applicable to museums and libraries put forth by World Intellectual Property Organisation (WIPO) treaties and national laws?
- What are the differences in approaches applied by museums and libraries regarding copyright and digitalisation? How was the process of catalogue digitalisation introduced in the organisations? What processes do individual museums implement? What tools are being used and why?
- How are creativity, innovation and entrepreneurship dealt with in cultural organisations?
- What are the drivers of copyright and digitalisation? How do these topics affect the organisation?
- How do cultural organisations apply and integrate copyright issues within the museums? How do they keep up-to-date on these matters?
- What are the economics of copyright and alternatives to copyright?

1.5 Methods

I have carried out a qualitative research study through applying an inductive approach by means of a multiple case study using observed data from interviews, documentary analysis and a literature review to come to findings. The purpose of researching specific cases determines the individual key social processes and identifies the main successful or failing factors of implementing digitalisation within museums. By applying a qualitative approach, a smaller-scale, micro-level analysis is employed. The cultural organisations are observed in their natural settings, where the actions and processes of the individual museums and libraries are observed and mapped by means of interviews and analysis of their mission statements, copyright policies and digitalisation efforts.

Through the interviews, observations of trends and themes were sought out. The museums and libraries selected for study share similar characteristics, yet come from diverse backgrounds of interest. These differences relate to the actual museum, the missions and individual organisational structure and management. Both differences and similarities are compared. These factors will lead to variations in the findings. These findings will be described in a more detailed way than in quantitative research, but a good explanation of how and why things happened is necessary to support the significance of the findings (Bryman, 2008).

A comparative design of open-ended research questions will be applied among the participating museums to gain a better understanding of the influence of copyright and digitalisation within the individual organisations. For example, the problems which arise in meeting copyright laws due to the implementation of digitalisation will be considered. I carried out a small qualitative case study by means of semi-structured, personal interviews with representatives of seven museums. Within the boundaries of the case studies, I will carry out an investigation

of the determinants of innovation, implementation of digitalisation, copyright laws, regional regulations and applications.

The questions above in the aims and objectives section are applied to modern and fine art(s) museums as well as established libraries through a bi-national multiple-case study in the Netherlands and in Boston, Massachusetts, USA, with open questions at an international level. Ideal examples of well-known exemplary museums and libraries are included in this research. These organisations are known for both their extensive collections and online database repositories. In a variety of ways, these organisations have applied successful implementation strategies of digitization within their catalogues and collections. The selection of the museums for the case studies depended on the active approach and experience the organisations take in applying digitalisation strategies within the museums. The point here is to show how digitalisation is implemented by museums and libraries in these special cases of success and how the individual museums refer to the digitalisation and copyright process within their (cultural) organisations. Through interviewing multiple players within the different organisations, descriptive data is compiled and a better understanding of the museums' activities is formulated.

The nature of art markets and characteristics the Netherlands as well as the Boston area will be analysed. The nature of the markets is important because of how they influence the strategies and activities of the museums and libraries. Boston is one of the largest metropolitan areas in the United States, whereas Amsterdam is the capital of the Netherlands. Given these cities' characteristics of being social, economical and cultural centres within their countries, they also serve the public as artistic cities or hubs. Certain cities or regions have long been known to attract artists and creative types. The non-monopolistic nature of these cities creates opportunities for a variety of cultural organisations. Influences of globalization have furthered this interest.

1.6 Potential Challenges

As the name suggests, the application of qualitative research design highlights the distinguishing similarities and differences of approaches. However, problems of changing policies and regional policy differences are present. By applying an international case study, regional and political policies cause comparison issues. Differences in the application of digitalisation and accordance to copyright laws could be due to regional, cultural and organisational differences. In this research, the focus is on copyright law that comes with digitalisation, which is applicable to museum activities as well as property rights held by museums. I do not wish to go into further detail regarding this complicated and sometimes misinterpreted legal subject but will focus on how it is put into practice in museums. I lay out the similarities and differences applied in the individual implementations of innovation by the museums. Also, with this research I do not wish to make generalizations, but rather present an example of a successful and unsuccessful digitalisation strategy with market determinants.

Most research currently available refers to the theoretical aspects of copyright and is written before 2003. Implementation studies and empirical evidence are rare, yet more current articles and research findings (written in 2008 and 2009) can be found in e-journals. These articles refer mainly to the notions of copyright,

digitalisation and the influence of the Internet on these factors. Also, the importance of more cultural economic research in these areas is stressed. My inquiries shed some light on the implementation strategies.

Additionally, the factor of validity of the case study findings is present. The meaning of the case studies here is to raise awareness to key factors and issues regarding copyright and digitalisation implementations of museums, as well as to point out differences and potential determinants and influences. However, it recognized that each organisation is unique and that other heritage repositories operate in their own particular environments. Nevertheless, a main focus of this research is to establish the unique characteristics of methods used by the case museums and the determinants and possible influences so that others can determine the extent to which they are applicable elsewhere.

In the next chapter, a literature review is carried out. The concept of museums and libraries and the financial nature of organisations are discussed. The differences of profit versus non-profit (or not-for-profit) organisations are explained. The individual organisational characteristics determine how an organisation responds to certain situations and which strategies it applies. Information on how cultural organisations can stimulate creativity, innovation and entrepreneurship is discussed, along with why intellectual property rights are significant.

Chapter 2: Creativity, Innovation, Entrepreneurship and Copyright in Cultural Organisations

Once the things have been done, it's been done.

So why all this nostalgia, I mean, for the sixties and seventies?

You know, looking backwards for inspiration?

Copying the past? How is that Rock 'n Roll?

Do something of your own. Start something new (...)

(John Lennon for Citroën, 2010).

Intellectual property rights, including copyrights, are a current issue in cultural organisations. Copyrights are an important topic due to the nature of the goods these organisations provide and potential financial incentives. The organisational structure influences what the organisation is allowed to display, distribute and digitalize. Copyrights can be held by individuals, heirs, copyright collecting societies, producers or even by the museums themselves. Although copyrights are granted for a fixed time period, these rights can be renewed or sold to third parties. All these issues have significance for museums and libraries.

Museums and libraries openly display works of art, artefacts, photographs, films, CDs, books, documents and letters, all of which can be protected under copyright law. These goods may however be in the public domain. Organisations need to be careful when distributing any type of materials and need to be able to carefully document their actions when determining whether or not an image, object or good is protected by copyright laws. Copyright may have lapsed on older materials, yet the rights may have been renewed as digitalisation may create new copyrights. Due diligence and fair use are two methods and/or arguments used in order to protect against being accused of copyright infringement.

Both museums and libraries acquire temporary loans or receive donations of art, books, collections and other materials. Regarding loans (and other pieces in its fixed collections), the organisation may not own all the rights to the works it has and will in that case have to deal with the copyright holders before pursuing any activities that may infringe the copyright. Some organisations are solving the issue of copyright restrictions during the acquisition stage of materials or collections when they are donated to the museum or library. In these cases, the rights are transferred to the organisation as part of the donation process.

It is said that changes come with new technologies. New technologies lead to new processes and strategies. New strategies can lead to new revenue streams. Organisations have to work for the attention of individuals by providing what they want. In order for organisations to meet (potential) customers' needs, target groups must be established. Users are willing to search for what they want and the Internet and other social communication mediums have made this possible (Musschoot &

Lombaerts, 2008). Cultural organisations need to provide access through multiple media channels to attract visitors. Museums and libraries need to adapt their strategies in order to pursue new potential revenue streams. By providing access through a number of channels, these organisations will enhance their chances of creating new market segments due to a more ‘personal’ approach. Also, as a larger focus on marketing is applied, this may lead to new opportunities as well.

Digitalisation has led to an increase in digital content. Due to the rise of digital content, there has been an increase in digital rights management, DRM, under which technology is implemented to protect the rights of authors, publishers and producers (Musschoot & Lombaerts, 2008). The Creative Commons (CC) is the most well-known example of DRM. The widespread implementation of digitalisation in organisations has led to the need for changes in copyright laws. Copyright has evolved with technology although protection and enforcement are sometimes imperfect.

Markets are changing due to locations, size, globalization, competition, communication and technological changes and have an impact on local market features (Picard, 2003). Changes in (cultural) trends and globalization are leading to the integration of previously separated markets. Globalization is influenced by technological changes and deregulation from governments. By applying digitalisation, revenues could be sought after through additional channels (Caves, 2000). There are two types of approaches one can apply to measure the economic behaviour and business activities of firms. One can apply demand approaches by looking at consumer behaviour or one can apply efficiency approaches by focusing on internal operations (Picard, 2003). Economists tend to focus (more) on efficiency approaches.

There appears to be a convergence of large firms and museums working together. Both can benefit from name-branding as well as the possible financial support that this partnership may entail. Additional funding is very important for cultural organisations as it can pursue new projects or a larger number of activities. In the case of libraries, it appears that they are moving away from these large firm partnerships in order to remain in control of the copyright of their images and materials. They are however working together with non-profit organisations for support in their digitalisation efforts. The pros and cons of entering into partnerships must be carefully weighed as it is important that both parties’ priorities and missions are upheld. A difference in social–demographic orientation as well as the goals it wishes to reach through the affiliation may affect the partnership.

2.1 Museums

Different types of museums have their own specializations. Museums can be dedicated to art, natural history, science, industry, etc. Each genre has subcategories, for example art-related museums include fine art, contemporary art, modern art, sculpture and media-related museums. The characteristics of museums include pursuing conservation, research and display efforts (Johnson, 2003). Museums vary in size, reputation and ownership. Museums can have a variety of funding structures and strategies. Most museums are non-profit entities. They can be government funded (directly or by means of grants), non-governmental or privately owned. Funding structures differ among countries. Most museums in Europe are

government funded, whereas museums in the United States have a more commercialized and business-like structure, in which a number of sponsors and partners are sought in addition to government support.

The public good nature aspects of museums affect pricing strategies. A larger focus is placed on meeting visitor demands, rather than maximizing profits. Demand tends to be seasonal. Visitors have a tendency to be more highly educated and members of higher income groups (Johnson, 2003). Museums are known to have high fixed supply costs and low marginal costs concerning reproduction. New technology and innovation affect cultural organisations' activities. As public funding is a diminishing trend, new funding structures have been sought out (Johnson, 2003).

2.2 Libraries

Libraries house collections of books and other materials in repositories that may be loaned out to the public. A large number of materials are not on display or loaned out due to space and preservation reasons. Because of this, they act as heritage depositories and thus carry out functions similar to museums. It is said that libraries support and are dedicated to improving literacy, preserving heritage and carrying out digitalisation (WIPO, October 2007). The Internet has become a complementary product within libraries which supports their daily activities by allowing information to be stored digitally and allowing individuals to search for virtual materials. The digitalisation of library collections and materials allows a greater number of individuals of the public to access these objects without necessarily having to come to the physical building of the library. WIPO suggests that libraries should encourage their users to respect copyright laws (WIPO, October 2007).

According to different sources, there are many different categories of libraries and their specializations. Libraries can be of a public, institutional or private financial structure and cater to a variety of different users. Two libraries are studied in this research. One is a university library specialized in a certain field, whereas the second is a public library. Public libraries are associated with and funded by cities, provinces or federal governments, where as university (or academic) libraries are associated with a specific university and may be specialized in providing materials on one subject matter, for example a medical library or an economic business library. Libraries do have a public good characteristic in common in which they share their materials with (registered) lenders / users.

Private goods are goods that can be consumed by one consumer and are then unavailable to others. Public goods on the other hand are goods that anyone can access and can be used by many people at once without causing depletion or destruction. Additionally, public goods are of non-rival consumption, as well as non-excludable (Hutter, 2003: 264). The nature of public goods causes problems concerning the application of copyright laws and property rights (Andersson and Andersson, 2006). The creator acquires the initial cost of production and due to the nature of public goods, everyone potentially has access and the creator will no longer receive payments. Copyrights or creation rights are in place to establish and secure ownership of creations as well as profit from royalties afterwards (Andersson and Andersson, 2006). The durability of copyrights varies, but is usually of a long enough period to stimulate creativity.

2.3 Profit vs. Non-profit Organisations

Museums and libraries can be either for-profit or non-profit organisations and the status influences their strategy and operations. The goal of an organisation can help define its' structure and the communication channels used. The economic motivation of a company can steer an organisation in the choices it makes, whether it be a for-profit or non-profit organisation. Members of the organisation need to share the same vision and/or strive for the same common goal. Problems may arise if individual and organisational goals do not align. The organisation will be more successful in reaching its goals when people are aligned with the tasks to be carried out. Organisations must adapt in order to survive and to work effectively. Adaption can occur through a change of organisational culture.

A non-profit organisation (NPO) can be seen as upholding an ideal with a limited focus on the market (Netzer, 2003). Implementing a quality focus, however, will force NPOs to look at the market in greater detail. Within NPOs, a focus is placed mainly on culture. In order to be successful, one must look at all potential influential externalities. Being an NPO does not mean that the firm is inefficient as such.

For-profit organisations are considered to be more efficient and customer oriented than NPOs, yet may lack quality (Caves, 2000). A profit-seeking organisation is market- and result-oriented, while a non-profit organisation focuses on social and cultural values (Netzer, 2003). Profit-seeking organisations may produce at a lesser quality and may charge higher prices for their products. Caves suggests that these inefficiencies could possibly be solved by donor supported NPOs (Caves, 2000). NPOs are more likely to produce at a lower price as well as produce a higher output than for-profit organisations (Netzer, 2003). For-profit organisations may also donate to non-profit organisations to enhance their own profits through an association and product placement (Caves, 2000).

Both for-profit and non-profit organisations need profit in order to develop new products, implement change and pursue investments (Picard, 2002). Characteristics of profit-seeking organisations usually include a payout of dividends to investors and a payment of debts when profit is occurred (Picard, 2002). The amount of fixed costs affects quality, but changes in technology also play a role (Caves, 2000). In the short run, these organisations focus on obtaining the largest number of sales or highest profit, for example by asking a premium due to innovation. A renowned museum can charge a higher price due to branding and consumers' willingness to pay for the increased quality of services provided, i.e., high art pieces compared to what might be found in a gallery. In the long run, for-profit organisations will pursue a strategy of providing the highest value or reliable quality in order to retain customers (Picard, 2002).

The main difference compared to a non-profit organisation is that profits are not shared, but reinvested in the organisation. This is due to the non-ownership aspect of non-profit organisations (Netzer, 2003). In the example of an art museum, these additional profits can be used to purchase new works of art, contribute to new exhibitions or facilities and pursue new activities. For-profit museums exist, but are relatively uncommon. In this case, there are differences between museum structures, strategies and values. Being a non-profit organisation does not automatically imply

inefficiency (Netzer, 2003). Contrary to Netzer, non-profit organisations with a strategy of continuous quality improvement will force the organisation to focus on market conditions in addition to culture.

Differences between non-profit organisational revenue structures exist. These differences in funding can be classified as governmental subsidies (or tax exemptions for donating parties) and private donors. These differences tend to be regional; direct government support is more common in Europe whereas the influence of donors is greater in the United States.

2.4 Creativity

Many museums are struggling to introduce effective digitalisation strategies into their core operations and it can be seen as a form of creativity in their activities and processes. Due to limited available resources, many smaller museums simply do not have the knowledge or the financial means to implement digitalisation effectively. Copyright returns however can be quite rewarding for the museums, both on a financial and marketing scale. It is therefore in the museums' own interests to pursue digitalisation while keeping in line with copyright regulations.

Creativity can lead to change. Change can be paired with creating something new or improving a product and the way we do something. Technological change is a determinant of innovation. Cowen (2008) speaks of technological developments and changes in market conditions. The speed at which these changes have come about is influenced by new technologies in response to a shift in consumer demand and distribution possibilities. Through new technologies and technological changes and improvements, digitalisation has enabled museums to implement the process into their core strategies, further enabling the preservation of artworks as well as allowing these pieces to be more widely 'distributed' to the general public. Museums have been able to pursue new campaigns aimed at attracting a variety of different audiences. Competition in the past decade has led the cultural industries to become both more competitive and monopolistic. In general, there has been an income distribution shift and therefore also a redistribution of power, from artists and creators to the copyright holders. The importance of copyright has carefully followed the implementation of new creative solutions for digitalisation.

'Creativity is defined as the process by which ideas are formed that contributes a potential new worth. Innovation is defined as the realisation of the idea formed through the creative process that adds value' (Gaspersz, 2009: 51) [Original text: Een mogelijke simpele defenitie van innovatie en creativiteit: creativiteit in organisaties is het process waardoor ideeën ontstaan met een beoogde nieuwe waarde. Innovatie is het realiseren van ideeën die waarde toevoegen]. Energy, inspiration, involvement, opportunities and expectations are all associated with innovation. A distinction should be made between product changes and products created for new markets. Innovation is described by Baumol (2006) as new products and/or procedures, which are achieved by actively pursuing the creative process and implementing these ideas. Becker considers innovation as 'adding something new to the field' (Castañer and Campos, 2002: 32). Castañer and Campos further this by saying that one can innovate through content and form. Baumol (2006) uses a David and Goliath metaphor to analyse creativity and innovation within organisations. Davids are described to be independent creators who are driven by the need to create

new products. Goliaths are large firms who tend to introduce routine innovation activities into their daily processes and focus more on ‘creating’ renewable products (Baumol, 2006). Goliaths are more capitalized and therefore have a greater ability to invest in goods demanding research and development. Investing in R&D can lead to improvements in innovations of already existing products. Smaller firms tend to be more innovative in their ideas, yet larger firms are more likely to be effective in further developing, marketing and introducing these products to the market. The interaction between David and Goliath firms achieves more innovation as diversity stimulates innovations. The Goliath firms, which are larger and ‘more set in their ways,’ need the David firms to implement more creative solutions. For example, many smaller software companies have created creative solutions for the general activities of museums regarding their repositories as well as storing their digitized images. Creating new products is not innovative as such, unless it contributes increased value.

Kirzner (1994) states that in order to be innovative, individuals and organisations need to pay attention to be alert to new opportunities, entrepreneurial activities and acts of creativity. Alertness to opportunities entwines the understanding and connecting of different factors as well as taking charge of the situation. One sees opportunities where others do not. Being alert does not necessarily encompass creativity. An alertness to opportunities needs to be maintained by organisations. The very nature of the digital age and the constant focus on improving technologies has been slowly accepted and integrated into museum activities. Museums understand the importance of reaching out to a variety of possible users. Availability and ease of discovery are focus points.

A new business model and the commercialization of non-profit organisations are making it easier for people to get the content. Museums are experimenting with and implementing new media throughout their organisations. They are testing the market to see what will work rather than carrying out market research. The museums are trying to be innovative in pursuing new niches of the market, yet there is a distortion to this innovating due to the size and quality of the content and materials the museums are presenting. Just as in other fields of media, the technologies presenting and supporting communication within organisations is changing and is ‘being replaced by digitalisation and the Internet, as a general purpose technology that has multiple uses for many forms of commercial and non-commercial communications’ (Picard, 2009: 1). The digitalisation of cultural organisations’ images and materials may be seen as the first step in changing technologies. Ten years on, museums are still figuring out what to do with this information and which methods of communication to use to increase visitors or user hits. The organisations have started to search for additional means of distribution through new consumption channels, including the use of Flickr (image repository)¹, Facebook and Twitter (information channels) and YouTube (films and advertisements for the organisations). These can be seen as complementary goods and as increasing interactivity on different levels. Each technology medium has its own target group as well as potential success. As of yet, there is no set use or specific perceived gain

¹ In addition to the community sites, some museums are making the collections more widely available by uploading some of the museum’s images onto Flickr. Flickr, however, works with a Creative Commons license, in which the copyright holder decides to what extent their images may be used and shares. Flickr maintains copyright over its website and all comments posted.

in using these community sites; yet many museums want to see where such sites will take them in an effort to contribute to actual visitors to the museum. The museums are evaluating which media are best received by users and want to see where the technology leads them.

Csikszentmihalyi implies that creativity is a result of ‘a culture that contains symbolic rules and people who bring novelty to the symbolic domain’ (Csikszentmihalyi, 1996: 6). Experts are needed to ‘recognize and validate’ these ideas. Creativity changes a symbolic domain by extending it. Through creativity, challenges will be overcome and discoveries will be made (Csikszentmihalyi, 1996). Being creative is hard work and generating moments of creativity is equally difficult. Creativity occurs when an individual is able to overcome a challenge or experiences the success of overcoming an unpleasant situation of feeling stuck, also known as *aporia*. Creativity cannot be planned or controlled. A nurturing environment can be supported by governments to stimulate creative activities and innovation. It is difficult, however, to nurture creativity. Murray (2003) argues that democracy is good for creativity through the freedom it allows. Schweizer (2004) states that too much control, regulations and an impersonal or uniform approach can have more of a crowding out effect. Nonetheless, creativity needs to be stimulated. Being exposed to a diversified and accepting environment will influence creativity (Murray, 2003). Pursuing novelty leads to creativity, which in turn can lead to innovation.

2.5 Innovation

The creative use of digital technology is a form of innovation that has internal and external consequences for museums. According to Gasperez, an organisation needs to pursue the following aspects in order to support innovation. An organisation should foster focus, create involvement, develop competences within the organisation, promote a good working climate and learn from reviewing the achieved realisation (Gaspersz, 2009)². Innovation can be a result of adaptation to new needs or simply problem-solving. Referring to Ansoff’s Product Matrix, one could state that innovation can be seen as market development or as diversification strategies. Market development implies that an existing product is applied and/or introduced to a new market. Diversification refers to the fact that both a new product and a new market are targeted. New techniques, new demand and catering to needs are reasons for pursuing new market strategies.

There are two different types of innovation: incremental innovation and radical innovation (Gaspersz, 2009). Incremental innovations are continuous improvements, including small ideas which lead to new products. These innovations are less risky than radical innovations, which are life-changing inventions. Pursuing incremental innovations by creating a supportive environment for new ideas and proactive interaction within the organisation can be an effective strategy for firms to explore (Gaspersz, 2009). Firms must determine what they want to reach with innovation. There are three pillars on which innovation is built: creativity, commitment and knowledge (Gaspersz, 2009). One support cannot function or remain stable without the other.

² These factors are taken from the figure ‘Strengthening the Power of Innovation (Versterken van innovatiekracht)’ by Jeff Gaspersz, 2009: 17.

There are two perspectives regarding determinants of innovation, an economic approach and a sociological approach. The economic approach is more involved in determining criteria affecting production, distribution and consumption. A sociological approach entails looking at factors affecting society. There are also three environmental factors at the macro, meso and micro levels (Castañer and Campos, 2002). The macro level refers to the demand and supply side and influences regional economics. The meso level takes the funding aspects into account, while the micro level pays attention to the 'organisational values', or internal variables. The sociological view implements a more meso-level approach, while the economic perspective leans more towards the macro level approach.

We can apply the economic approach and the sociological approach to the way museums operate. When examining the different museums and their organisational structures as well as their mission statements, one can see that the museums implement different approaches. It is important to note that the comparisons of the museums can and should never yield a single, one-size-fits-all answer. Organisations, like people, are unique in their individuality and one process or solution cannot be copied into another organisation. What works for one person may not work for another. Most of the time, museum directors are dealing with an ever-changing environment and this in turn demands a customized approach, which can hardly be explained or even completely understood. Public museums, or not-for-profit organisations, tend to be more inclined to apply a sociological approach. Their focus lays in education and access and availability to the public. Private institutions may also have a focus on education, although due to their organisational nature are more likely to be more competitive in their transactions.

Castañer and Campos consider the importance of human capital on artistic innovation. There are positive effects between human capital, economic development and economic growth. The more human capital there is, the more positive effects there are, and vice-versa. Creativity is complementary to human capital. Human capital positively effects innovation. The idea of standardisation and observed lack of innovation of cultural organisations can be a result of external funding and subsidies. Organisations may not want to take innovative steps in the fear of losing funding. However, the contrary may also be true; public funding can lead to risk-taking when governments are supportive of innovation (Castañer and Campos, 2002). Schumpeter mentions that temporary protection from competition can be used to stimulate others to innovate, which can be applied through granting intellectual property rights or using the infant industry argument for protection (Castañer and Campos, 2002). A nuance needs to be placed of the word temporary.

2.6 Determinants of Innovation

According to the Industry Canada Research Publications Program (2001), innovation is influenced by types of subsidization (direct vs. indirect), clustering (one-industry vs. cross-industry diversification), corporate governance (IP systems and incentives), excessive equality or excessive inequality, culture (hierarchal vs. democratic) and financial development.

Through direct subsidization, individuals and/or organisations are directly rewarded for their efforts by means of government grants and awards. Examples of this is government support through subsidization for the use of the Internet through

supporting broadband systems and the support for digitalisation of images and materials for wide exposure and educational purposes. Indirect subsidization is awarded through tax credits or tax reductions to organisations pursuing creative and innovative activities or to individuals supporting these activities. There are different views on which method of subsidization is more or less ideal. It is said that direct subsidization can hamper creativity because of the way artists respond to these financial benefits. Indirect subsidization can also be seen as restrictive.

Clustering of many industries is more likely to lead to innovation due to the exchange of information regarding knowledge and processes. Organisations can learn from each other even if they are active in different industries. 'One-industry clusters like Silicon Valley and Detroit are less stable than more diversified clusters, like Boston, New York, or London' (ICRPP, 2001: 9). Amsterdam can also be considered a more stable and diversified cluster.

An important factor is corporate governance of a good intellectual property system, which encourages organisations and individuals of organisations to make contributions to innovative creations. Excessive equality may lead to a discouraged workforce, lowered productivity and creativity may be stifled. If an organisation is ensured (government or private) funding no matter how it performs, it may not have the pressure or willpower to perform to the best of its ability. The incentive to work more for the same amount, limits productivity. On the other hand, excessive inequality is also not ideal. A good balance needs to be found. Culture affects the way people consider and promote entrepreneurship. Entrepreneurs are needed to support an innovative economy. Financial development must be encouraged. Change occurs with competition. Allowing competition and supporting innovation is a way to realise development.

Government policy, including tax policies and creativity stimulation and support, affects innovation. The extent to which these policies affect innovation is unclear. Inadequately designed government policies and unstable governments can affect innovation poorly. Whether hosting an active and positive environment for innovation is successful is less measurable (ICRPP, 2001). However, subsidies can be seen as impeding industry wide innovation.

2.7 Entrepreneurship

Intellectual property rights provide museums greater opportunities to pursue new organisational opportunities and seek new revenue. However, intellectual property rights apply to a number of materials within a cultural organisation and can restrict the uses of these materials. Therefore, museums and libraries need to be aware of the possibilities of restriction through copyrights and need to take the necessary steps to abide by these laws. When possible, these organisations can protect those objects and images to which they hold the copyrights. This protection provides them the ability to use the materials in ways that improve their activities.

Creating new products, such as special exhibitions, exhibition catalogues, books and gift shop memorabilia can be a way for cultural organisations to gain new revenue streams. Also, creating new experiences within or around the museum or library activities by means of improved interactive tours, increased relevant information delivery, games and presence on social networks can be a way to attract

new visitors or tempt visitors to return within a short period of time. Catering to members' needs is just as important as attracting new visitors. Finding new ways of letting the public gain access is important. Cultural organisations need to be more commercially oriented nowadays than in the past, as consumers' expectations and demands have increased. It is these new practices and their necessity that is making intellectual property rights more and more relevant.

Certain common skills are relevant in order to make museums successful. To remain successful, museums need to search for alternatives which can strengthen their organisation's standing. Pursuing entrepreneurial activities can be a way to ensure this. Alternatives can be found through technological changes, which can affect production and consumption patterns. Digitalisation is an example of technological change which can help an organisation in its delivery of products to users. Applying creative and innovative delivery of information through research and development is a way of catering to the new demands of the experience-seeking public. The organisational structure and level of attention to competition also plays a large role. Entrepreneurship means constantly reaching out for and trying new ideas, developing new concepts and daring to bring them to daylight. Entrepreneurs need to remain alert to new opportunities. Competitive organisations need to try to be entrepreneurial, yet they need to remember to keep an eye on 'the big picture'.

It is said that 'entrepreneurs drive economic development' (Andersson & Andersson, 2006: 15). Being entrepreneurial does not equal success as it entails a certain level of risk. The amount of risk an organisation is willing to take on is somewhat defined by the nature of the firm. Cultural organisations do not seem willing to take this first-mover risk. Pursuing entrepreneurial activities may be rewarding for the individual or firm creating the new product. On the other hand, if a firm is successful in their entrepreneurial activities, others will imitate these goods and products.

2.8 Economics of Copyright

Copyright protection has long been said to be an alternative to more direct government support to the arts and cultural industries. Support by either means is seen as a way to adjust and overcome market failures by implementing a correctional 'tool' affecting both the demand and supply of cultural goods. Government support can be established as direct expenditures, through subsidies, or as indirect expenditures, through tax exemptions (Frey, 2003). Subsidies are usually granted to cultural institutions, whereas tax exemptions are generally granted to individuals, artists or investors, or to firms supporting the arts. A trade-off between the costs of implementation and upholding of the copyright protection and the individual benefits received of the copyright holder must be weighed.

Copyright is paid for by the end user and increases prices demanded as the copyright fee is directly passed on to the actual consumers. This was already the case 170 years ago when Macaulay was quoted in 1841 stating that 'copyright is a tax on readers for the purposes of a bounty for writers' (History of Copyright, 2005). Subsidies, on the other hand, are funded by taxes and the costs are distributed among a larger number of individuals. Taxpayers do not have the choice as to whether or not they want to support the funding of the arts.

Governments need to construct a creative environment to stimulate innovation. This can be done by creating certain fundamental conditions and implementing a sufficient intellectual property rights protection system. Allowing copyrights protection, instead of only actively applying a subsidy policy, may stimulate creativity in a more substantial and efficient manner. Copyright and government support can be seen as complementary, and a balance needs to be sought out between the two. Implementing subsidy policies, however, should be avoided as a long-term solution. By applying copyright policy, this will allow the market to determine the importance of 'support' and allow the market to act more freely due to limited control. According to Landes and Posner (1989), a balance needs to be created between the application of protection of copyright and the obtaining of permission of copyouts in order to maximize creative outputs.

Copyright law is not internationally protected, but is confined to certain jurisdictions with their own regulations. The WIPO does however encourage nations to sign an agreement that their laws will abide by the WIPO approach. The implementation of an international copyright system has proven to be difficult as copyright can be seen as not forthright considering all the exceptions that are granted. Copyrights may however lead to an increase in prices, or transaction costs. The duration of images protected under copyright increases the access costs of these materials. Cultural organisations wanting to gain access to copyrighted materials and images may be limited in their choices or the availability of affordable works. Non-profit organisations holding copyrighted images may try to protect their images by enforcing a strict copyright policy and thereby generating some revenue. Availability of images and materials is seen as a supportive function of copyright.

When considering the economics of copyright, one can also evaluate whether imposed copyright laws stifle or stimulate creative processes through protection of the otherwise free market. It is said that copyright suppresses creativity due to over-protection of the market and the rise of access costs to enter the market. Copyright collecting societies seem to gain a bigger reward in protecting their copyrights and pursuing copyright infringers than individuals. As rights holders, they have more to earn due to the pursuance of the many different copyrights. Museums and libraries are in general public institutions with a number of different objects and materials, both in the public domain and under copyright. It is in the organisations' best interest to gather information on the copyright holders in order to be able to use and distribute materials in correct ways.

2.9 Fair Use

Fair use refers to the usage of materials without notifying or locating the copyright holder as long as the limited use does not affect the potential income of the creator to be derived from that product³. National copyright laws specify what uses are considered fair and provide other exceptions or limitations to copyright to serve social purposes. Landes implies that the rights of the copyright holder are limited by fair use under certain conditions, which allow 'unauthorized copying (... if) promoting economic efficiency' (Landes, 2003: 137). As long as the organisation can prove it used due diligence in trying (unsuccessfully) to locate the copyright holder, it may use the copyrighted images or materials. However, the organisation does not have the rights to use the materials for reproductive use to try to gain

³In the US, the fair use doctrine is also known as Section 107.

financial reward from it, but is rather implementing a productive use of the images by ‘distributing’ the image by posting it on their open repository or web-collection (Landes, 2003). The fair use statement has a similar stance as that of the public domain aptitude, in which no copyright restrictions can be applied. The productive use of materials does not harm the copyright holders’ rights and is therefore considered to be of fair use. The reproductive use is considered infringement. If the organisation is contacted at a later time, either by a traditional manner of correspondence or in the form of a cease-and-desist letter, it is in the organisation’s best interest to comply with the request. The museum may, however, decide to request permission at this time instead of taking down the image.

2.10 Cease-and-Desist and Due Diligence

Cease-and-desist is an American legal term. It refers to a letter that is sent to an infringer requesting the immediate action of the respondent to take down a copyrighted image, meet the copyright requirements and/or to act accordingly to the request(s) of the rights holder. This letter can be seen as the first step that rights holders take before pursuing legal action by means of a lawsuit, i.e., suing the organisation or individual. An equivalent term is injunction or a letter of demand, which prohibits the recipient from continuing to infringe certain rights of the sender. Similar types of actions exist in copyright laws in many nations. Cultural organisations can protect themselves by including a section in their rights and permissions policy and/or copyright statement describing how they approach copyrighted materials within their museum. Museums cannot however actively apply or post a takedown policy on their websites as this portrays an act of contempt, that they knowingly infringed and disregarded the rights of the holder. In the case of not being able to locate a rights holder due to complexities, an organisation may decide to include the materials and images in their digital repositories. Keeping well-recorded documentation of their actions taken in trying to establish contact with the rights holder can protect the organisation in the long run. In doing this, the organisation may claim that it applied due diligence and did not blatantly disrespect copyright law. Upon receiving a cease-and-desist letter, a museum can act accordingly by taking down the image, describing the nature of the situation to the rights holder and in the end may be able to secure the permission to display and distribute the image and materials.

2.11 Infringement

Due to the high cost of pursuing copyright infringers, including legal and administration costs, smaller cultural organisations are less likely to confront infringers. It is however in the interest of larger corporations, for example enterprises and copyright collecting agencies, to pursue infringers. Copyright collecting societies reduce the transaction costs between the artist and the user through their monopolist position in the market (Towse, 1997). A problem arises when considering the allocation of copyright costs in determining whether the cost should be passed on to the end user or whether the organisation should pay for the transaction costs. Governments need to ensure that the collection agencies do not abuse their monopolist market position, in which price setting high above the marginal cost is possible (Towse, 2001).

2.12 Chapter Conclusion

It may be difficult for some to view museums or libraries as creative or innovative enterprises. However, these cultural organisations need be creative in order to attract

and retain visitors. As needs change, so does the need of focus of firms. Due to new technologies in audio guides such as MP3s and smartphones, as well as in computers, PDAs and portable display screens, museums are able to involve individuals in museums in new ways and stimulate them to return. A continuous flow or regular change of exhibitions next to museums' permanent collections is a way to increase the overall number of visitors. Pursuing digitalisation is also a new trend or innovation, a new method of distribution for cultural organisations to meet demand and pursue preservation of artefacts, heritage and pieces of art.

The initial idea of implementing digitalisation into daily activities within cultural organisations can be considered creative as an idea in itself. The manner and level in which the creative ideas are translated into innovative processes to which digitalisation is applied and the strategic actions followed by the museums can vary greatly. On the other hand, the implementation of digitalisation into activities can also be considered more of a progressive trend rather than a creative act. This can be due to the transitional move, resulting technological changes, towards a common, widely applied method.

Having considered the theoretical side of museum and library management including creativity, innovation, intellectual property rights and entrepreneurship within organisations as well as the importance of the economics of copyright and the determinants of innovation, a closer look will be taken into museum and library practices by means of a study of cultural organisations and their individual applications of copyright policies and digitalisation strategies. A closer analysis will be made into the interviewed cultural organisations, their activities and strategies concerning digitalisation and copyright efforts. Commonalities, differences and trends will be seen throughout the analysis of the participating cultural organisations. These variations are present due to the individual art market characteristics, factors and influences which will also be discussed.

Chapter 3: Cultural Organisations in Practice

In this chapter, a deeper look will be taken into the individual museums and libraries used as cases in this thesis. A documentary analysis will be made by reviewing the organisation's mission statements, copyright statements and rights and permission policies. The digitalisation efforts are weighed and data analysis is carried out with the help of NVivo software. The steps taken in the various analyses are described below in further detail.

3.1 Method

A number of renowned cultural organisations in the Netherlands as well as in Boston, Massachusetts, USA were contacted via e-mail with a personalized 'letter'⁴ and asked if their organisation was interested in taking part in the research. These organisations were chosen on the basis of being recognizable in their field, hosting a noteworthy speciality collection, excelling in their operations and known for their digitalisation efforts. In some cases, these e-mails were sent directly to the responsible person, when the contact information was readily available on the museum's website. In other cases, the letter was sent to the museum's general contact information e-mail. Museums which were interested in participating normally responded during the next two weeks. Uninterested museums either sent an e-mail explaining their reasons for not participating (two organisations) or ignored the first e-mail completely (seven organisations). In some cases, an exchange of emails took place until the organisations decided not to take part in the research (two organisations). In the other cases, a second and third attempt was made by e-mail and telephone, which proved to be unsuccessful.

In total, five art museums and two libraries agreed to meet to have face-to-face interviews; three museums in the Netherlands and four cultural organisations, two museums and two libraries, in Boston, Massachusetts, USA. A list of open-ended questions was produced dealing with copyright and digitalisation efforts within these cultural organisations. As the interviews progressed, so did the focus of the questions asked in the interviews. Trends, commonalities and differences became apparent. The interviews were held on-site in a private setting at each of these organisations. Interviewees were encouraged to speak freely about their organisations and what they deemed important. Many interviewees were engaged by the topic and spoke freely. A few interviewees were more reserved and reluctant to give up information. Most times these interviews were one-on-one within the interviewee's office. One interview was held in the museum's information centre, while another interview was held in the office / photographing and scanning room for digitizing objects. On two occasions, the interview was held with two staff members of the organisations. In these interviews, the interviewees complemented one another by adding additional information and steering each other through their thought processes.

⁴ This letter can be found in Appendix A.

The interviews were either tape recorded with a Sony MC-60 recording device or typed on a laptop that was used during the interview to record the information. Three interviews were typed up during the interview, four interviews were recorded. From the interviews that were typed up, one was due to a broken cassette, while the other two interviewees did not want to be recorded. Confidentiality regarding certain statements, personal opinions or future strategic plans of the cultural organisations was an issue. The request of the interviewees to disregard and delete these passages was upheld. Following the interviews, the recorded information was transcribed, which was a long and tedious process, whereas the typed interviews were properly written up.

Due to the qualitative nature of the research methods applied, coding of the interviews preceded the transcriptions. This method of coding is inductive as nothing was pre-coded and codes were formed based on the knowledge of the accumulated data. Coding was first carried out manually with the interviews printed out on paper and colour coded. These codes were then entered into the electronic qualitative data analysis software programme NVivo 8, which supports the analysis of coding of qualitative data. In the scope of this research, time was spent on learning how to work with the software. Interpretation and a greater understanding of the data was made more clear when using the data analysis software. Further comparisons by means of documentary analysis were carried out, comparing the individual cultural organisations' mission statements, copyright statements and digitalisation strategies.

For the purpose of this research, the identities of those interviewed at the museums will remain anonymous. These interviewees will not be explicitly mentioned by name after a few requests on the individuals' behalf. Although the identities of the museums interviewees may become clear in the readings, I have tried to the best of my ability to respect the wishes of the participants and keep them unidentifiable. Below is an introduction to each of the participating museums. The museums have been mentioned by name as the comparisons made have used public information which is widely attainable.

3.2 A Brief Description of the Museums Interviewed⁵

Stedelijk Museum Amsterdam (SMA): A museum of modern and contemporary (visual) art and design located in Amsterdam, the Netherlands, with a collection of international pieces starting in the 20th century. The collection includes photography, film, typography, industrial design and furniture. The museum is a municipal museum, meaning that it is both city and state funded.

Groninger Museum: This museum is located in Groningen, in the north of the Netherlands, and houses an eclectic collection, including modern and contemporary art, a collection of Chinese and Japanese ceramics and a collection of art illustrating the history and transformation of the region. The architecture of the building is widely discussed. The museum is a public, not-for-profit organisation with building paid for by a state-owned firm.

⁵ This information is has been collected from the museum websites as well as from additional web information search engine sources, including Wikipedia.

Kröller-Müller Museum (KMM): A museum with 19th and 20th century visual art (modern and contemporary), a sculpture garden and the one of the largest collections of van Gogh paintings in the world. Other pieces in the collection include works by Mondrian and Picasso, as well as many of the well known impressionists and post-impressionists. The museum is located in a peaceful nature reserve in Otterlo, the Netherlands.

The Kröller-Müller family donated their personal art collection to the state, on the condition that the Netherlands government build a museum to house the collection. Annual state subsidies are granted to the museum as well as additional government support and donations contributed by many sponsors. The museum has its own private foundation and seems to be a quasi-public organisation.

Museum of Fine Arts, Boston (MFA): The MFA in Boston, Massachusetts, USA houses 'one of the largest and most comprehensive collections in America' (Wikipedia, 2010), including Egyptian art, Chinese Art, Japanese Art, musical instruments, paintings by John Singer Sargent, impressionists, contemporary art and photography. The museum is a non-profit organisation with its own private foundation.

Boston Public Library (BPL): The first and largest public library in the United States is located in Boston, Massachusetts and houses one of America's most extensive books collections, including a rare books collection with works by William Shakespeare, John Adams and Daniel Defoe, the author of *Robinson Crusoe*. The BPL is architecturally renowned and is decorated with murals by John Singer Sargent and Edwin Austin Abbey. The library is a municipal public organisation, not-for-profit and is government funded.

Peabody Museum of Archaeology and Ethnology: This is one of the oldest museums in its field in the world. The museum has a collection of anthropological, ethnographical and archaeological objects, including artefacts from Lewis and Clark's Expedition. It also has a collection of paintings, prints and drawings as well as a large photography archive collection. The Peabody Museum is located in Cambridge, Massachusetts and is a private museum supported by affiliation and association with Harvard University and has an educational purpose. It is a not-for-profit organisation.

The Francis A. Countway Library of Medicine: This is 'one of the largest medical libraries in the world' as well as 'one of the leading medical history collections in the world' (www.countway.harvard.edu, 2010), including a large number of rare books and journals, archives, art, photographs and prints. The Countway Library of Medicine is a private academic organisation and university library associated with Harvard Medical School. It is a not-for-profit organisation and is located in Boston, Massachusetts.

3.3 Comparison of Copyright Policies within the Museums

Museums implement individual copyright policies that differ and distinguish them from their competitors and other industry players. These policies reveal a part of the organisation's identity and strategies, in addition to their (individual) mission statement. Copyright policies can be obtained at the museums and are available on

their websites. In this section, the individual policies of the case museums will be presented. Similarities and differences will be discussed.

As more and more images and works are digitized, placing a copyright notice regarding these digitized images and/or information serves a functional purpose. It reduces the risk of misuse by informing the user of the restrictions placed on certain or all works available on the website. Most, if not all, of the cultural organisations interviewed hold collections comprised of materials in the public domain as well as copyrighted works. The status of the works classifies how an organisation must inform the viewers of the copyright (issues) attached.

3.3.1 Copyright Policies Conveyed on Museum Websites

According to Schlosser (2009), there are four categories of copyright policy. *The specific ownership status* explicitly applies the copyright symbol, along with stating the nature of the (non-) copyrighted images and providing information about the copyright holder. *The vague ownership status* mentions that copyright may apply. No information about the copyright holder is provided. *What you can and can't do* permits (by means of a license) and restricts certain uses (private, educational or commercial) of the images. *Protecting ourselves and you* includes a number of statements reflecting the importance of both the organisation as well as the user to act in accordance with copyright laws. Statements may include aspects of more than one category.

Table 1 summarizes the types of copyright statements and/or rights and permissions made by the individual organisations. The following aspects must be taken into consideration when reading the table. First, most organisations apply a mix of the statements throughout their copyright policy and rights and permissions statements. Second, the Groninger Museum briefly mentions the rights that press members have when using the museum's images. This statement is analysed here. However, this cannot be considered as a proper copyright or rights policy. Third, as previously mentioned, the Boston Public Library has not adopted a copyright policy as of yet and therefore is not represented in the table. Finally, the Museum of Fine Arts, Boston does not have an apparent 'copyright statement' or 'rights and permissions' heading on their website. Therefore, their 'image rights' and 'web use and gallery photography' statement has been used for the analysis.

Table 1. Types of Copyright Policy Statements used by the Organisations (Based on Schlosser, 2009)

	The specific ownership statement	The vague ownership statement	What you can and can't do	Protecting ourselves and you
SMA	X	X		X
Groninger Museum				X
KMM	X	X		
MFA	X		X	X
BPL	N/A	N/A	N/A	N/A
Peabody	X	X		X
Countway	X		X	

The museums apply copyright statements in which different sentences of the statement fall under the various categories of Schlosser's copyright statements. Most organisations have statements with wording that put them in more than one category. Within the organisations, the specific ownership statement is the most widely used and is applied by all but one museum. One of the main reasons for the use of this copyright statement is the perceived importance by the organisations to apply copyright to their websites and protect their content. The nature of the organisation and the strategies it pursuing may also determine the criteria and statements applied. The what you can and can't do statement is the least applied and this may be due to the vague nature of the statement. However, this statement upholds the museum's licensing fees and rights granted to individuals or commercial purposes. Licensing fees are not explicitly referred to by these organisations in their copyright statements or rights and permissions policies, but rather in their imaging rights or licensing policies portals on their websites.

Below, each organisation's copyright policy and/or rights and permissions disclaimer is presented. Each individual museum's copyright policy will be shortly analysed and discussed by applying Schlosser's categories of copyright policies followed by a short general conclusion. When explicit copyright policies could not be obtained from the websites of the museums, descriptions from the comparison of rights and regulations policies within the museums were used. This occurred in the case of the Groninger Museum and the Countway Library of Medicine. Boston Public Library does not have an official copyright policy or disclaimer yet, although this matter is currently being dealt with by the organisation. Quotes are used as such

and due to differences in language some statements will be referred to in American English whereas others will be in British English.

Stedelijk Museum Amsterdam: Disclaimer

Website:

The Stedelijk Museum makes every possible effort to assure the completeness and correctness of all information published here. Inaccuracies can however occur. Neither the Stedelijk Museum nor those who supplied the information involved are responsible for harm which may arise as a consequence of errors, problems caused by or inherent in the distribution of the information by Internet, or for technical failures (Stedelijk Museum Amsterdam).

Due to the museum's efforts to appropriately locate copyright holders and to designate copyright law, the vague ownership statement comes into play. The protecting ourselves and you policy may also be applied and refers to the inaccuracy comment. A mix of these policies reflects the museum's actions towards abiding by and upholding copyright laws as well as protecting the organisation's website.

Copyright:

The contents of this website are protected by the Dutch Copyright Act (Auteurswet). Unless permitted by Dutch law, it is not permitted to make public or reproduce (any part of) this website without the express written permission of the Stedelijk Museum (Stedelijk Museum Amsterdam).

Here, the specific ownership statement is in play. The references to the Dutch Copyright Act and the need to contact the organisation for permission strengthen this argument.

Groninger Museum: Conditions

Digital files may only be used for articles in newspapers and magazines, for television programmes, and on websites referring to the corresponding exhibition, acquisition, or events in the Groninger Museum. The owner of the work of art must always be mentioned. The photographer must always been mentioned (when known). Duplication and commercial use is not permitted. With exhibitions: the use of images is only allowed during the exhibition period (Groninger Museum, 2004).

A copyright disclaimer is not available on the museum's website. The closest alternative regarding digital images could be found under the Press heading. However, the other museums also have this heading on their website. Copyright issues seem not to be a main focus at this museum. These digital images conditions do however explicitly lay down what individuals may or may not do with the museum's images as well as mention time periods and referencing information. These factors lean towards the protecting ourselves and you policy.

Kröller-Müller Museum: Disclaimer

© (...) 2006. *All rights reserved.*

Copyright:

Stichting Kröller-Müller Museum holds the copyright to this site.

This statement is an example of the specific ownership statement. It clearly shows the copyright symbol at the beginning of the statement.

Images:

Some of the art works and photographs displayed on this website are copyrighted. Use of these images (other than viewing them on this website) requires permission from the photographer or his or her legal representative. Unlawful or commercial use of these images is a punishable offence. Regarding the use of these images by the press, see terms & conditions (Kröller-Müller Museum).

Some of these works are copyrighted and the user must obtain permission in order to use the images. It is not mentioned where the contact information can be obtained. These characteristics are fitting to those of the vague ownership statement.

Content:

The content of this website is subject to change. No rights may be derived from the content of this website (Kröller-Müller Museum).

The rights of the website remain with the organisation and this is an example of the specific ownership statement.

Museum of Fine Arts, Boston:

A heading entitled copyright policy or a rights and permissions policy does not exist at the MFA. A terms and conditions of image use policy does exist. This text will not be used to analyse the copyright policy applied as it is quite extensive and refers to individual uses obtained by licensing agreements. Therefore, the 'Image Rights'

as well as the ‘Web use and photography gallery’ statements were analysed. Once again, the organisation has applied a detailed and in-depth account of rules and regulations. Referring to different sentences in the following statements, the copyright statements policies are noted and analysed.

Image Rights:

Image rights are handled by Digital Image Resources (DIR). Our goal is to convey the MFA collections to the public through visual documentation, and the authorized use of text and images for the purposes of reproduction and distribution, while protecting the integrity of all MFA property (Museum of Fine Arts Boston, 2010).

This text is informative and can be classified as the protecting ourselves and you statement. Enough explanation is presented to the reader regarding the organisation’s activities and the protection of the organisation’s actions. The organisation informs the reader, although it may be a bit indirect, that the DIR handles copyright issues.

Web Use and Gallery Photography:

Text and images on the MFA's Web site, mfa.org—created as a public educational resource—are the property of the MFA and are protected by copyright. The reproduction, redistribution, publication, and/or exploitation of any materials and/or content (data, text, images, marks, or logos) for personal or commercial gain is not permitted. Provided the source is cited, personal and educational use (as defined by fair use in US copyright law) is permitted. Any reproduction of text or images from this site in a publication (with the exception of news reporting and commentary) is not permitted.

All parties using, printing, or downloading materials and/or content from the MFA Web pages in any manner represent and warrant (1) that they understand and will observe the limitations on the use of the materials and/or content; and (2) that they will not infringe or violate the rights of any other party (Museum of Fine Arts Boston, 2010).

This text refers mainly to the MFA as the rights holder to their own website. The specific ownership statement applies here. It is clearly laid out what the user may or may not do with the images and information made available on the website. The conditions laid forth can also be classified under the what you can and can’t do statement. This is a good example of a copyright statement.

Please note (taken from the Collections search results webpage):

If you have comments or questions regarding objects in the collection or about the results of your search, please write to webmaster@mfa.org. Note that some of the electronic records indicate that they have not been reviewed recently by curatorial staff and might need revision; also, please note that a small percentage of the MFA's collection is not presently searchable online.

We are pleased to share images of objects on this Web site with the public as an educational resource. While these images are not permitted to be used for reproduction, we encourage you to do so by visiting our image rights page to submit a request (Museum of Fine Arts Boston, 2010).

This statement has aspects from both the what you can and can't do statement, laying down the terms of use, and the protecting ourselves and you policy, referring to the general informative nature of this text.

Boston Public Library: The BPL does not have an official copyright policy or disclaimer yet. The subject of applying a copyright statement throughout the organisation has been researched and discussed throughout the various departments. No decision has been made yet.

Peabody Museum of Archaeology and Ethnology: Copyright

©2009, 2010 (...). All rights reserved.

Applying the copyright symbol means the organisation is applying the specific ownership status.

The contents of all materials contained on the PMAE website are owned by the organisation (unless otherwise indicated) and are protected by U.S. and international copyright laws. All rights are reserved by the Peabody Museum (President and Fellows of Harvard College), and visitors may not copy, reproduce, republish, disseminate, post, distribute, or transmit by any means the contents of the website, except with the prior express written permission of the PMAE. Copyright infringement is a violation of U.S. federal law, and violators are subject to criminal and civil penalties (Peabody Museum, 2009).

This paragraph reflects the specific ownership status, by stating which materials are protected by copyright laws, which laws are applied and explicitly stating what visitors are or are not allowed to do with the materials.

The information contained on the PMAE website is provided by the organization for general informational purposes only. None of the information on the Website is intended or should be construed to be legal advice or a legal opinion. While every effort has been made to ensure that the information contained on the Website is as accurate as possible, omissions and errors may occur. Also, because of the nature of Website development, maintenance, and updating, the information contained on the Website may not reflect the most current developments. PMAE and its contributing authors expressly disclaim all liability to any person with respect to the consequences of any act or omission committed based upon reliance, in whole or in part, on any of the contents of the website.

At certain places on the website, live links to other Internet addresses (“third-party sites”) can be accessed. Such third-party sites contain information created, published, maintained, or otherwise posted by institutions or organizations independent of PMAE. PMAE does not endorse, approve, certify, or control these third-party sites and therefore cannot guarantee the accuracy, completeness, efficacy, timeliness, or correct sequencing of information located at such addresses. The information on the PMAE website and third-party sites is provided “as is” and without warranties of any kind, either express or implied. To the fullest extent permissible and pursuant to applicable law, PMAE disclaims all warranties, express or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose. Use of any information obtained from such third-party sites is voluntary, and reliance upon it should only be undertaken after an independent review of its accuracy, completeness, efficacy, and timeliness. Reference therein to any specific commercial product, process, or service by trade name, trademark, service mark, manufacturer, or otherwise does not constitute or imply endorsement, recommendation, or favoring by PMAE.

The website, its contents and any links provided in the website are provided on an “as is” basis, and PMAE disclaims all warranties, express or implied, including without limitation the warranties of title, non-infringement, merchantability, and fitness for a particular

purpose. Your use of the website is at your own risk, and you assume full responsibility for all costs that arise out of its use. Neither PMAE nor any of its officers, directors, partners, employees, affiliates, subsidiaries, agents, representatives, or licensors shall be liable to you or any third party for any compensatory, direct, indirect, incidental, special, exemplary, punitive, or consequential damages, or attorneys' fees, arising out of your use of the website or inability to gain access to or use the website or out of any breach of any warranty, even if such parties have been advised of the possibility of such damages or such damages were foreseeable (Peabody Museum, 2009).

The rights the organisation holds and implements over their website refer to the protecting ourselves and you copyright policy. The museum tells users of their rights and the importance to live up to these rights. The museum also distances itself from any wrong doing by dealing with the accuracy of the information and materials online in a constructive manner. The vague ownership statement may also be applicable due to the reflections on museum's efforts live up to copyright laws.

Rights and Permissions Policies:

Reproduction of images and archival materials in the Peabody Museum's collections can be provided under license agreement. Requests must be made in writing and must include intended use. Conditions governing use are specified on a contractual agreement generated by the Museum that requires signatures of both the user and a representative of the Museum. Please note that the Museum cannot provide reproductions of materials for which it does not hold the copyright (Peabody Museum, 2009).

This policy is an example of the specific ownership statement. The museum claims copyright over its' images and materials and will license them after a contract has been drawn up. Of course, the museum distances itself from providing users with works to which the museum does not hold the copyright.

Countway Library of Medicine:

Copyright and Permission:

All materials on this site are copyrighted. Records are made freely available for education, personal study and reflection. No other rights are extended for copying and/or publishing.

Requests for permission to publish quotations in any form should be addressed to the Center's public services staff and should include identification of the specific passages to be quoted, anticipated use of the passages, and identification of the user. For more information, please refer to the Center's Permission to Publish policy (Countway Library).⁶

Two copyright policies are represented here; the specific ownership statement, in which the organisation claims the rights over its website, and the what you can and can't do policy, where the materials are available under certain conditions.

Permission to Publish:

All applications for permission to publish should be made in writing and addressed to Public Services Librarian Center for the History of Medicine, Francis A. Countway Library of Medicine, 10 Shattuck Street, Boston, MA 02115 (Countway Library).

Referring to the organisation's contact information in case of use of materials falls under the specific ownership statement.

For Manuscript and Archival Material:

Permission to publish should be sought only when your research project is at the point where you can identify precisely the material you wish to publish and when you have a firm commitment from a publisher. Once these circumstances are set, a letter requesting permission specifically describing the material that you are seeking to publish should be directed to the Public Services Librarian. You may either send a list or send copies of the pages on which the material is used along with the corresponding footnotes. You must give the complete citation to the manuscript, using the collection number (ex.: the Henry K. Beecher papers are H MS c64), box number and, whenever possible, folder number of the original item. The preferred form of citation is Henry K. Beecher Papers (H MS c64), Harvard Medical Library in the Francis A. Countway Library of Medicine, box #, folder #. Generally, no fee will be assessed for scholarly use of material from the collections (Countway Library).

For Visual Materials:

Any application to publish, republish, or broadcast an original visual image from the collection should include a copy of the image in

⁶ Copyright is only mentioned on the digital assets.

question. Once the material is identified as one over which the Countway Library of Medicine exercises rights, a Permission to Publish application form will be generated and sent to the requesting agency. The form should be completely filled out with all anticipated publication information and returned to the Public Services Librarian, along with any use fee assessed. Permission to reproduce images from the Countway collections will be granted for one-time use only. Consult a member of the staff for the current fee schedule (Countway Library).

The previous two headings encompass both the specific ownership statement, including steering contact information in order to request copyrighted materials from the organisation, as well as the what you can and can't do policy, in which the specific terms of use are laid down.

3.3.2 Copyright Policy Conclusions

It is in a museum's best interest to adopt either a copyright policy and/or rights and regulations policy. These policies state the museum's perspective on issues regarding copyright and sets down the procedures that the museum will take in order to protect its own copyrights. A rights policy should be short and coherent to the reader as well as feasible to realise. Readers need to be informed of their rights when dealing with the materials as well carefully guided in the steps they need to take in requesting rights through license agreements as well as be directed to the copyright holder, whether it be the organisation itself or an external party.

Some museums have short disclaimers, whereas others go deeper into copyright law. An extensive copyright disclaimer may act as a veneer and does not automatically imply that a museum is actively applying copyright law. A recognizable trend is that the museums place the copyright sign with all rights reserved. In general, the museums claim copyright to their websites, insinuating that individuals who wish to use images or information from the website must either quote accordingly or request the right of use for commercial purposes. Individuals who wish to acquire images must contact the museums to request an image if it is not currently available in the public domain. It is up to the individual to obtain permission to use the image which is protected by copyright for commercial purposes. In the case that the museum does not own the copyright, the museum may help the individual get in contact with the copyright holder by means of disclosing the holder's contact information. A museum is not required to help, yet usually is willing to do so. When an individual requests an image and pays for an image, he/she is paying for individual and/or limited use. For publication runs of more than a specific number of prints specified by the museum or for special uses, additional

permission must be acquired and payments will vary according to the planned application and distribution of the image.

3.4 Comparison of Mission Statements of the Museums

A mission statement explains to readers in a short yet descriptive text what the company wishes to achieve by describing and defining the organisation's core activities and values (purpose), its responsibilities towards stakeholders and how it plans to reach the goals (aims). The mission should be clear and direct as to be easily understood by readers and should have a guiding effect.

Evaluating the mission statements of the various organisations presents a picture of what they stand for, why and what they plan to do, their goals and how they plan to achieve them. Below each of the mission statements of the individual museums are presented and evaluated. When dates were indicated on the websites, they are included. By reviewing the individual organisations, one can gain a larger understanding into an organisation's activities and state of reasoning. An approach of considering what, when, why and how will be used in accessing these statements.

Stedelijk Museum Amsterdam: Organisation

The Stedelijk Museum Amsterdam collects and presents modern and contemporary art and design, to inform and inspire wide and varied audiences, locally, nationally and internationally. It combines the roles of traditional Stedelijk Museum Amsterdam platform for the contemporary visual arts, acting in the cultural and social context of Amsterdam and on the basis of its own rich and unique collections, through a multi-faceted programming of shows and other activities (Stedelijk Museum Amsterdam).

In the mission statement, the museum's goal is mentioned, as well as the product and way to present the product. Visitors are briefly mentioned.

Groninger Museum: Mission Statement

The collections and presentations are the foundation of the Groninger Museum. The Groninger Museum is colourful and extrovert. The Groninger Museum aims at a wide audience. With the presentations, which are of national and international significance, the Groninger Museum hopes to amaze and astound visitors and prompt them towards an opinion (Groninger Museum, 2004).

The museum is briefly described, the collections are commended and a goal is mentioned. The statement however does not go into much detail of how the museum plans to reach its aims.

Kröller-Müller Museum: Mission

The Kröller-Müller Museum is a museum for the visual arts in the midst of peace, space and nature. The museum offers visitors the opportunity to come eye-to-eye with works of art and to concentrate on the non-material side of existence (Kröller-Müller Museum),

The mission mentions what the museum does and where. It discusses visitors. It does not mention the goals of the museum and how to reach them.

Museum of Fine Arts, Boston: Mission Statement

The Museum of Fine Arts houses and preserves preeminent collections and aspires to serve a wide variety of people through direct encounters with works of art.

The Museum aims for the highest standards of quality in all its endeavors. It serves as a resource for both those who are already familiar with art and those for whom art is a new experience. Through exhibitions, programs, research and publications, the Museum documents and interprets its own collections. It provides information and perspective on art through time and throughout the world.

The Museum holds its collections in trust for future generations. It assumes conservation as a primary responsibility which requires constant attention to providing a proper environment for works of art and artifacts. Committed to its vast holdings, the Museum nonetheless recognizes the need to identify and explore new and neglected areas of art. It seeks to acquire art of the past and present which is visually significant and educationally meaningful.

The Museum has obligations to the people of Boston and New England, across the nation and abroad. It celebrates diverse cultures and welcomes new and broader constituencies. The Museum is a place in which to see and to learn. It stimulates in its visitors a sense of pleasure, pride and discovery which provides aesthetic challenge and leads to a greater cultural awareness and discernment.

The Museum creates educational opportunities for visitors and accommodates a wide range of experiences and learning styles. The Museum educates artists of the future through its School. The creative efforts of the students and faculty provide the Museum and its public with insights into emerging art and art form.

The Museum's ultimate aim is to encourage inquiry and to heighten public understanding and appreciation of the visual world (Museum of Fine Arts Boston, 2010).

The museum presents a long and detailed mission statement, which happens to be the longest statement of the group. The statement mentions all of the aspects a mission statement should. The statement discusses goals and how to reach them. It discusses stakeholders, its product and the importance of conservation and education of its collection.

Boston Public Library: Mission

The Boston Public Library's mission is to preserve and provide access to historical record of our society, and to serve the cultural, educational, and informational needs of the City and the Commonwealth (Boston Public Library).

This is the shortest mission statement of the group. It mentions stakeholders. The organisation's aims are mentioned.

Peabody Museum of Archaeology and Ethnology: Mission

The Peabody Museum engages the Harvard community, descendant communities, and the broader public in examining the origins and history of cultural traditions around the globe, creating knowledge through the study and acquisition of world class archaeological and ethnographic collections. The Museum is dedicated to the documentation, preservation, and study of human origins, prehistory, historic cultures, and contemporary societies. We actively investigate the emergence and interconnectedness of human populations and cultural and ethnic traditions, including their biological and environmental contexts.

The Peabody Museum actively participates in national and international scholarly dialogues and promotes formal and informal

learning in a variety of modalities, from small classes to large conferences, exhibitions, films, student internships, and the celebration of cultural events in our World Cultures Forum. We consult, incorporate, and involve students, faculty, descendant communities, and diasporic community in research, teaching, and public programs.

We partner with other Harvard entities and scholars and institutions beyond our campus to illuminate cultural diversity and linkages from ancient times to the present, providing a place and context for intellectual exchanges among our multiethnic community. The Peabody thrives as a portal to the cultural diversity of the world and as a gateway for the public to engage with the University. We preserve the past, which has shaped who we are today, to ensure a better understanding of human origins and history for the contemporary world and for future generations (Peabody Museum, 2009).

This is the second longest mission statement. Stakeholders are mentioned, and it describes the product and how it will be delivered. The importance of education is stressed. The statement briefly mentions what it does through preserving and acquiring collections. It does not mention aims or goals or what the organisation will do with the preserving and acquiring of materials.

Countway Library of Medicine: Mission Statement

The mission of the Countway Library of Medicine is to foster the advancement of education, research, scholarship and professional practice in medicine, biological sciences, public health and dentistry by: assuring access and linkage to the world's literature in the biomedical and relevant social sciences, exploring and promoting effective utilization of information and knowledge, educating library users in the principles and techniques of information management, preserving an historical record through its scholarly, rare book and archival collection and creating a stimulating and synergistic setting for intellectual growth (Countway Library).

The organisation clearly defines its aims and goals and how they will reach them. The clear and concise statement defines the product and mentions stakeholders.

3.4.1 Mission Statement Conclusions

Key factors of a mission statement include the explanation to the reader about the organisation's purpose and aims. A mission statement should be continuously

referred to by the museums and libraries when carrying out new strategic planning and implementing new processes as it can be helpful.

In general, the mission statements presented above refer to attracting and informing wide audiences at the museums. Words such as *inform*, *concentrate*, *encourage inquiry and opinions* describe the educational mission of the museums. All statements include the aspect of discovery, as the discovery and exploration of new knowledge is a key factor in educating and informing the public as well as retaining them as potential future visitors.

The length of the mission statements vary greatly from a sentence to a half-page. Each organisation chooses its own mission and how much information should be included in the mission statement. The mission statement should be short and state facts clearly. The length will vary according to the complexity of the organisation. However, organisations need to remain brief in their explanations. A rule of thumb is that the statement should not be overwhelming and should present the basics and most important features. Individuals who are interested in finding more information will seek it out.

A regional difference in the comparison of the mission statements can be seen. The Dutch mission statements are shorter and less revealing than the American statements. This may have to do with a difference in market culture and funding structures of the organisations in which an importance is placed on attracting sponsors and partners. Mission statements also need to be kept up-to-date to reflect the organisation accordingly. If an organisation changes its strategies or goals, the mission should be revised as well. A good mission statement can be used to market an organisation. Organisations need to make sure to write clear goals and to use these goals as a guideline for day-to-day use.

When comparing the mission statements to the copyright statements, a contradictory situation occurs. Although the importance lays in attracting and educating visitors, copyright restricts the public widespread use of images as individuals must obtain a rights license.

3.5 Comparison of Mission Statements and Copyright Policies

A comparison between the organisations' mission statements and copyright policies can be seen in Table 2. The comparisons are based on document analysis, just as the individual evaluations of the mission statements and the copyright policies were. The importance of this comparison is to show possible commonalities or conflicting statements between the mission and goals brought up in the mission statement and the copyright policies applied at the museums and libraries. The comparisons are recorded through keywords to create an idea of the similarities or differences. It is

probable that a pattern or trend will become visible between the different organisations' choices and application of statements.

Table 2. Comparison of Mission Statements and Copyright Policies of the Organisations.

	Mission Statement	Copyright Policy	Explanation
SMA	Collect, present, inform and inspire	Need permission for non-personal uses	
Groninger	Collections, amaze and astound visitors to form opinions	No commercial uses, uses that are allowed are specified, reference to owner of work is a must	
KMM	Opportunity, discuss non-material side of existence	All uses by permission, commercial use punishable, some copyrighted works	
MFA	House and preserve, act as a resource, information, conservation, provide educational opportunities and experiences	Public educational resource, must obtain permission (unless for educational purpose and source is cited), rights needed for reproduction	The mission statement and copyright policy go hand-in-hand. There is a general importance placed on education and acting as an informational resource.
BPL	Preserve and provide access, serve cultural, educational and informational needs	N/A. Although a copyright policy is not in place, through the interview it was made clear that the BPL due to its public nature tries to make all materials available and free of copyright.	
Peabody	Documentation and preservation, engage intellectual exchange and better understanding	No copying without permission, informational purposes only, license agreements	Both policies support intellectual and informational exchange.
Countway	Preserve, foster education and research, assure access, explore and promote information and education	Materials freely available for education, personal study and reflection, permission requests	The mission statement and the copyright policy are supportive documents to one another.

Generally speaking most of the cultural organisations have a clause in their copyright policies obliging users to request the permission for use other than personal or educational purposes. Educational and informative purposes are valued by some of these organisations and they strive to support these initiatives by designing both their mission statement and their copyright policy to enable these criteria. Other organisations want to enable discussions among visitors. Copyright policies do not restrict these activities.

There is a conflict of interest between the mission statements and copyright policies of the museums. The organisations want to inform the public, yet they want to protect their copyrighted materials. Therefore, the clause is added allowing personal use with proper referencing, yet prohibiting reproduction or commercial use without a license agreement. A few museums have implemented a permissions policy, in which all users are asked to request permission as not to cause any misunderstandings in the terms of use. In the interest of protecting their own copyrighted works, a person responsible for images of the imaging department could be given the assigned task to deal with the digitalisation efforts as well as the copyright aspects to the business side of it. This can already be seen in two of the museums. Alternative revenues could be gained through a more professional approach when dealing with copyright within the organisation, something of which it seemed like most organisations were lacking intentionally or unintentionally. Unfortunately, the latter seemed to be the more general case.

3.5.1 Conclusion about the Policies

There are conflicting interests of copyright holders to works and there is legal uncertainty that the organisations must deal with when deciding to display and distribute an image. Table 3 did not clearly indicate these differences, but indicated more the commonalities between the statements and policies. A general importance is placed on the informational and educational aspects of delivery by the organisations. The mission statements, copyright statements and/ or rights and permissions of the museums and libraries involved maintain these efforts.

3.6 How many clicks does it take to get to the copyright policy or a rights and permissions statement?

This qualitative question was asked in order to show the degree of difficulty of locating a cultural organisation's copyright or rights and permissions policy. The shortest, most efficient path to locating the policy was recorded. The number of mouse clicks was counted once the English homepage of the organisation's website was accessed. The abbreviations of the organisations are defined in the abbreviations table.

Table 3. The Ease of Finding a Copyright Statement on the Organisations' Website.

	Number of Clicks to Find the Statement	Explanation
SMA	2	<p>Once clicking on 'Information', the user chooses the 'Disclaimer' and can easily read the information.</p> <p>Good location of the Disclaimer. Easy to find.</p>
Groninger	2	<p>The Groninger Museum does not have a copyright statement. However using the conditions terms for the Press, from the homepage, click on the heading 'More Groninger Museum', then click on 'Press'.</p> <p>Please note that the website is currently under construction. After searching in all the headings, one may be disappointed to discover that there is not a copyright statement.</p>
KMM	1	<p>Scroll down the homepage and a heading 'Disclaimer' is presented. Click on this heading to gain access to thy copyright statement.</p> <p>Easiest statement to find.</p>
MFA	2-3	<p>Find the heading on the right, 'About the Museum'. Click on 'MFA Images'. Click on 'Web Use and Gallery Photography'.</p> <p>The MFA does not have a specific heading named 'copyright policy', but copyrights are considered in this heading.</p> <p>One interesting thing to point out is that to get to the 'web use and gallery photography' heading, one can also just scroll under the headings and the text will appear.</p>
BPL	-	<p>The BPL has not adopted a copyright policy, and is currently considering what type of statement to implement.</p>
Peabody	2	<p>Click on heading 'About' and then on the heading 'About this Website' and the copyright statement is presented.</p> <p>Good position on the website. Easy to find.</p>

Countway	3	Click on heading 'Center for the History of Medicine', then 'Collections', then 'Digital Collections' and scroll to the bottom of the page.
		If the user is not comfortable with this website or does not have 5 minutes to click around, they will not find the information they are looking for.

Table 3 appears to indicate that it is quite easy to locate these statements, as it takes at most three mouse clicks from the homepage to find the policies. When first searching for these policies, however, it was time consuming and not that apparent where these statements were located. Therefore, an additional column with the explanation of how to find these policies has been added. A first-time user will most likely not be able to find these statements in one to three mouse clicks.

It is important for organisations to have a well thought out website design that is user friendly and widely understandable. Van Duyne, Landay and Hong (2002) argue for a customer-centred design that helps users obtain the information and materials they need. Users get accustomed to patterns of interactions on websites and that good sites need to follow and apply easily understandable interfaces (Van Duyne et al., 2002).

Importance is placed on the ease of use or usability of a functioning website in addition to terminology and phrasing used (Augustine and Greene, 2002). Terminology is important for the end user. Creating clear, useful and understandable headings will reduce confusion among users. The location of headings on a homepage is also important. Badre (2002) discusses the challenges users are faced with and user frustration that comes along with complex navigation. Confusion and incoherent designs will most likely lead a user to abandon his/her search more quickly. A good website design will be beneficial to all parties involved. It will add value by upholding or increasing customer satisfaction as well as improving internal efficiency. Organisations can create added value through new, improved or extended methods of information distribution and channels through their websites and on the Internet (Dewey, 1999).

Cox and Dale (2002) stress that website design search paths should apply the least number of clicks in order to keep users from becoming confused and wasting time. The number of clicks is important in direct searching of library information. A general rule of thumb in the industry is that all information on a website should take no more than three clicks to access.

Placing a disclaimer somewhere on the home page or under a heading ‘about the organisation’ is commendable. A general remark about the websites is that most organisations do not include the year that the website was last updated. This can be valuable information both to the organisation and to readers concerning how current general information and policies are.

3.7 Comparisons of Digitalisation Efforts within the Museums

In Table 4, a number of variables for each individual museum are presented and compared to those of the other museums. The choice of these variables came about through the interviews. The comparisons present an idea of the scale of these efforts taken by the museums given their resources. Museum and library affiliations are indicated in the first column and further discussed in Appendix D, under the heading supportive organisations.

Table 4. Comparisons of Digitalisation Efforts of the Organisations.

		Number of objects in collection	Number of digitised objects	Number of digitised objects available online	Started digitising in X year	Number of employees working on digitisation	Number of employees working on copyright	Number of visitors per year	Databases and communication portals used	Population of city where organisation is located
SMA	Digital Heritage Netherlands (DEN)	200,000*	110,000	110,000		1 full time		N/A**	Adlib	762,057
Groninger Museum	Digital Heritage Netherlands (DEN)	120,000***			6 years ago	2 full time, 1 half time		233,250 *****	Adlib, Twitter, Facebook, Hyves, Vimeo, YouTube	187,623
KMM	None	19,000		1,000		1 full time	0.2 hours per week	300,000	TMS, YouTube	2,380
MFA (AAM)	American Association of Museums (AAM)	450,000	346,000	160,000	Went digital in 2000	5 full time, 1 digital archivist	1 full time, interns	>1million	TMS + plug-ins	726,129
BPL (ARL)	Association of Research Libraries (ARL)	>20 million, of which are 8.9 million books, of which 1.7 million are rare books		67,700	+/- 2005 (?)	3 full time, 2 part time, 4 interns		674,000 *****	InternetArchive, OpenMIC, Flickr(CC), Twitter, Facebook	726,129
Peabody	American Association of Museums (AAM)	5 million objects, of which 500,000 photographs	600,000 objects	200,000	Went digital in 2000	24 now 2	law department helps when needed	150,000	TMS, ARTstor, Flickr(CC), Twitter, Facebook	726,129
Countway	N/A	100,000			10 – 12 years ago	+/- 3 fulltime, interns	Researchers confirm copyright	600,000	DSpace, DIA	726,129

Notes:

*Estimation based on information given: 'The collection comprises more than 130,000 books and exhibition catalogues, 210 ongoing periodical subscriptions, hundreds of documentary videos and a very extensive documentation system with newspaper cuttings, invitations and such.' (Interviewee at the SMA).

**The information is unavailable as the museum has been closed and under construction for the past six years and is scheduled to reopen at the end of 2011. However, in 2007, there were 225,956 visitors who attended a temporary exhibition (Stedelijk, 2010).

**Estimation based on information given: 'About 45,000 items without the archaeology artefacts. Including the artefacts, this number maybe doubled. We have 30,000 books and catalogues.' (Interviewee at Groninger).

****According to the museum website 3,732,000 visitors have visited the museum since the opening of its new building in 1994. Here, I divided that number by the number of full years (excluding 2010) it has been open to come to this amount. $3,732,000 \text{ visitors} / 16 \text{ years} = 233,250 \text{ visitors/year}$.

***** This amount refers to one branch only, i.e. the main building. Reported on September 24, 2008.

The figures for population sizes were taken from Wikipedia and are January 2010 figures.

The information presented in Table 4 compares the diverse efforts taken by the cultural organisations in their own digitalisation efforts. Facts and figures were acquired through the interviews held as well as through searches on the organisations' individual websites. The comparisons between the museums and libraries will be discussed in further detail below.

3.7.1 Introduction of Digitalisation into the Organisation

Most organisations went digital between the years 2000 and 2005, providing their images and materials on online mainly through their own website repositories. Before going digital, certain museums had amassed large databases of digitalized works, most of which were only for internal or scholarly research within the organisation's building. The choice to digitalize collections was stimulated by technology and a change in trends. These organisations are now applying additional points of delivery and alternatives to discovery by releasing some works on social sites and using external image depositories.

The differences in the ways the organisations approach digitalisation are affected by the size of collections, population and total number of users.

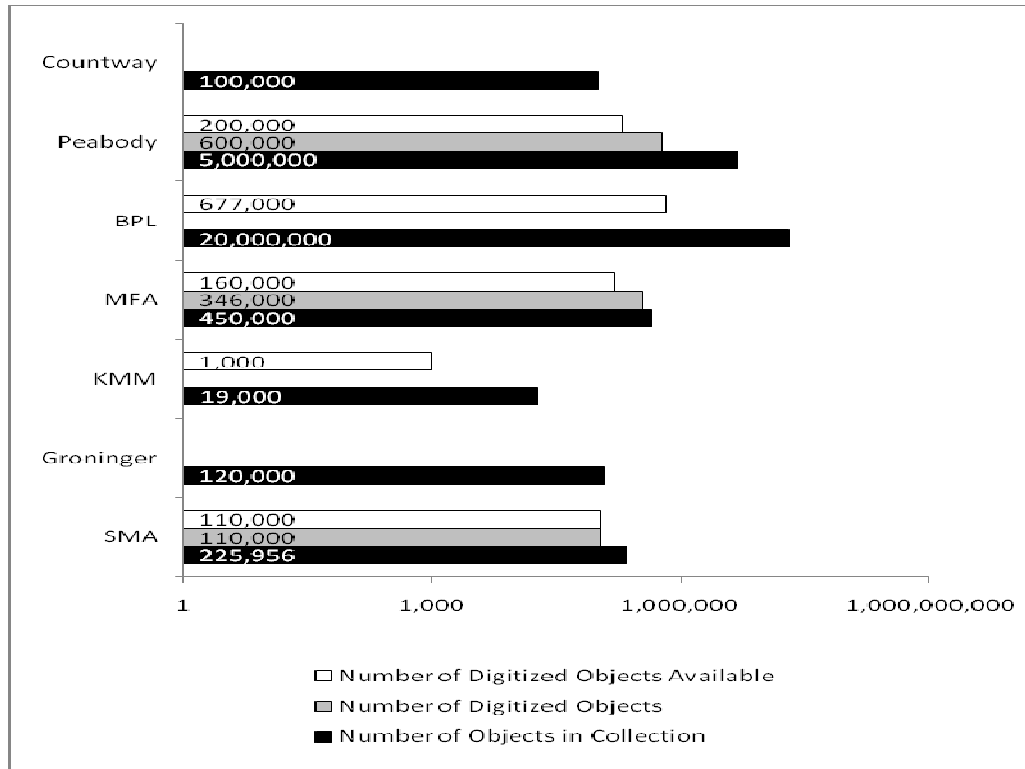


Figure 1. Comparisons of Objects vs. Digitized Objects Available in Museum Collections (Logarithmic Scale).

Given the outlier nature of the amounts for the number of objects in the collection for both the Boston Public Library (BPL), which has more than 20 million objects, and the Peabody Museum, which has more than 5 million objects, these two figures made the display in a single chart difficult and therefore the chart has been displayed in logarithmic form.

Figure 1 indicates that most museums have been selective in their digitalisation processes and have not digitized all objects in their collections. Reasons presented for this have varied from the interviewees. A general sense of limited funding, time consumption, employee hours available and prioritizing among pieces or smaller individual collected works within the collections is presented.

The Stedelijk Museum Amsterdam (SMA) has made about half of their digitized collection available for viewing online, while the Museum of Fine Arts, Boston (MFA) and the Peabody Museum have made one-third of their images available. These are the cultural organisations that have made it one of their goals to allow wide and straightforward access to their collections. The Kröller- Müller

Museum (KMM) has selected taken another approach and has had one thousand of their objects digitized and made available portraying the best and most renowned pieces of their collections. The museum consciously made this decision in order to entice the viewers to visit the museum. This value is the smallest amount illustrated on the chart above and refers to one-nineteenth of the museum’s collection. Information pertaining to the Groninger Museum and the Countway Library was incomplete and therefore only the amount of objects in their collections has been depicted.

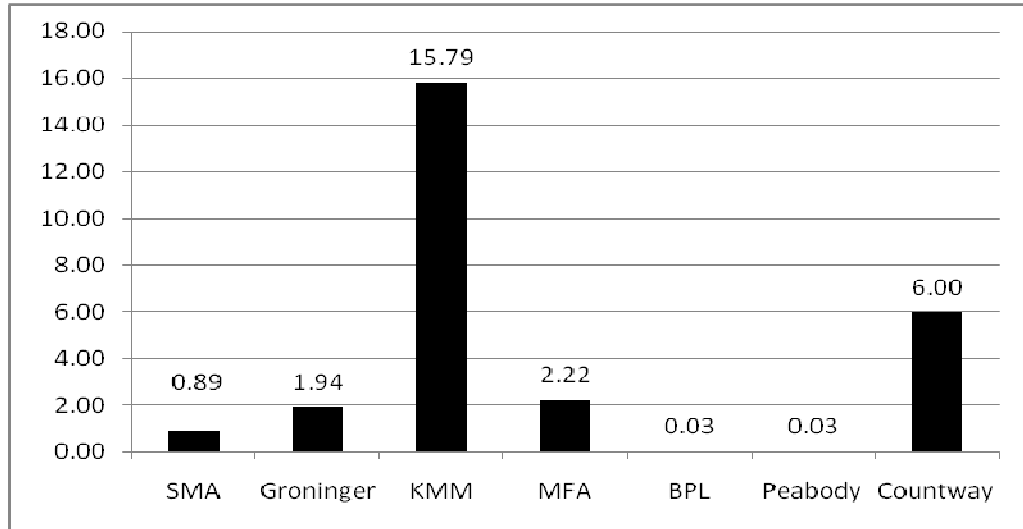


Figure 2. *Number of Visitors per Objects in Collection..*

Figure 2 presents the number of visitors per objects in the organisation’s complete collection. In the case of the KMM, the collection encompasses 19,000 objects while the museum welcomes over 300,000 visitors annually, which accounts for 16 visitors for each piece in their collection. This value is certainly an outlier compared to the other organisations. In the cases where the organisations receive less than 1 visitor per object it could be suggested that these organisations could try to place a bigger emphasis on marketing and attracting visitors.

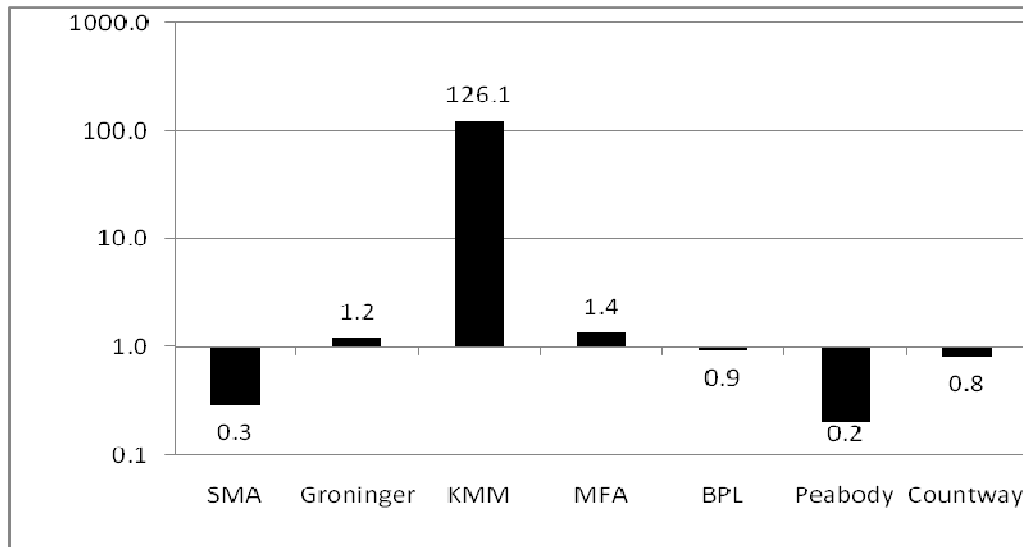


Figure 3. *Number of Visitors per Population of the City (Logarithmic Scale).*

Population is influential on how and where art is distributed and displayed within the country. Population also affects the number of visitors to or users of collections. The population amounts used refer to where the museum is located. For example, the organisations located in Boston proper all refer to the same amount of inhabitants. The Kröller-Müller Museum (KMM) attracts over 300,000 visitors a year. However, the town, Otterlo, where it is located is a special case. The town's population amounts to less than 2,500 inhabitants. This highly unlikely happening occurs due to the tourist promotion of the nature reserve, which is a popular holiday destination within the Netherlands, as well as extensive marketing across the Netherlands and internationally. The museum's world-renowned collection attracts international travellers.

The Museum of Fine Arts, Boston (MFA) also does a particularly good job in attracting visitors. The amount of visitors is almost double the number of inhabitants of Boston. This is also the case for the Groninger Museum. There seems to be a balance between the amounts of objects in their collections and the population, yet the importance of this remains unclear.

The Stedelijk Museum Amsterdam (SMA) has been closed for the past six years and actual figures are therefore not available. The museum does hold temporary exhibitions on a regular basis and the last figure made available was from 2007, when there were 225,956 visitors. This amount is depicted on the chart above.

Looking at Figure 3 as a whole, it is not possible to draw a general conclusion of what combination or balance of the number of objects to visitors or to population size proves to be the most 'successful'. The KMM can be considered to

be a success story regarding the size of the town’s population size, the small collection that the museum hosts and the number of visitors attracted. The MFA must also be mentioned when considering these factors.

Certain characteristics are more prominent to specific countries than others. The results are at times quite similar due to the nature of the figures used. This result is expected due to the comparisons of two well developed countries. A difference in regional population sizes, number of visitors to the museums and libraries and the number of objects in the organisations collections can clearly be seen however. It is difficult to draw general conclusions from these findings. Analyzing these countries separately may further explain economical, political and social determinants and make room for future research.

3.7.2 Number of Employees dealing with Digitalisation and Copyright

The figures pertaining to the number of employees dealing with digitalisation are more detailed than that of the numbers of employees dealing with copyright issues. Reasons behind this relate to the organisations’ departmental divisions and content distribution. Most of the cultural organisations have a department working solely on digitalisation efforts, whereas a properly connected copyright department or dedicated staff is not institutionalized. In some cases, there are legal offices and consultation, which are shared among various departments throughout the organisation.

Table 5. Full Time Digitalisation Employees at the Organisations.

	Number of Full Time Employees
SMA	1
Groninger	2
KMM	1
MFA	5
BPL	3
Peabody	2
Countway	3

The number of full time employees employed depends on the size of the collection, the size of the organisation, the stage of the digitalisation process and funding. The Museum of Fine Arts (MFA) employs the largest number of staff for digitalisation efforts. Their Digital Image Resources department deals with all issues surrounding digitalisation, reproductions and licensing agreements. This is the largest employer of the organisations interviewed, employing five full time staff members and as well as a digital archivist. At one point the Peabody had a staff of 24 employees working on digitalisation. Currently this number has been reduced to two full time employees

as most of the digitalisation of the collection has already been carried out. The average number of employees employed is 2 – 3.

3.8 Interviews

Interviews were held with employees of well-known cultural organisations that are said to be active in archiving and pursuing digitalisation of their collections. Interview questions regarded how the individual museums and libraries were applying and abiding by copyright laws as well as questions regarded their digitalisation processes. Each museum has its own defining characteristics which influenced the answers obtained, including the type of organisation, geographical location and local regulations. Also, the difference in the profit versus non-profit organisational structure of a museum or library plays a large role in determining the course an organisation takes in approaching copyright and digitalisation. Findings will be presented below and supported by quotes obtained from the interviews.

The push to digitalize is seen as a result of consumer demand and changes in technology. Many different drivers of digitalisation were presented, yet technology is considered to be the key driving factor. Many museums began digitalizing their collections in a haphazard, ad hoc manner and are now going through the databases of their catalogues, updating information, creating links, cross referencing and taking higher resolution pictures. They are now focusing on obtaining higher quality of the images they digitalize.

Many Dutch museums use the Adlib system to document their collections, which allows a link between the catalogues of the different museums using this technological system. The American museums mostly use TMS (the Museum System). Museums are writing their own plug-ins to these documentation systems to better fit their specific needs.

As new media have become more regulated by copyright law, organisations are struggling to find a common path. It seems that most museums are actively striving to meet basic copyright law by means of trying to obtain the rights from the rights holders in order to display certain works on their websites or publish the images in their catalogues or books. Certain museums are making a larger effort than others and some seem to be veering away from legal obligations. Pursuing copyright infringers of copyrights that the museum holds is not by definition a day-to-day task. This can be due to a limited number of employees or man hours available. Also, some museums deem it as unrewarding and simply not worth it. On the other hand, certain museums have found it to be fairly lucrative to pursue licensing agreements with both individuals and commercial projects regarding the copyright of images they hold.

Museums seem to be reluctant when it comes to copyright. Certain museums are actively abiding by copyright law, whereas others blatantly ignore the issue. The deciphering of copyright laws makes many individuals within the museums uneasy. Many view copyright as an inevitable, annoying task. Others view it from a more economic standpoint and actively pursue protection of their copyright holdings. Certain museums have one full time staff member or more pursuing copyright issues; it seems that more are employed to carry out digitalisation efforts. The number of visitors to a museum and size of the museum plays a role in how actively a museum applies and abides by copyright laws. Many Dutch museums refer to information posted by the copyright organisation Digitaal Erfgoed Nederland (DEN, Digital Heritage Netherlands) as a way to keep up-to-date on current issues. Many American museums keep up-to-date by consulting the American Association of Museums (AAM), attending industry seminars and through informal contact with other museums' management.

3.9 Coding with NVivo

Coding of the data from the interviews was first carried out manually. The interviews were printed out and reviewed by hand. Certain parts of the texts were colour marked or highlighted and other quotes were underlined or a comment was written next to the text in the margin. After the manual coding took place, this data was then entered into NVivo 8 and re-coded for an electronic analysis of the data. Inserting the codes allowed the interviews to be reviewed again while allotting the information into more specific headings, or nodes as they are called in the software programme. This dual-step process enabled a better understanding of the data as well as establishing relationships between the different aspects and organisations which may have been previously unnoticed.

Below is a list of the nodes applied along with a tree chart of the various predominant factors. Nodes are separated into two groups, free nodes and tree nodes. Free nodes are individual headings dealing with a specific topic at hand. Tree nodes are hierarchal branches of subtopics related to the main heading. A tree chart displaying tree nodes will be used for a more detailed explanation.

Table 6. Free Nodes.

Type	Name	Sources	References
Free Node	Collections and Repositories	4	6
Free Node	Departments	3	11
Free Node	Discovery	3	9
Free Node	Experience	3	5
Free Node	New Market Possibilities	5	12

Free nodes are groupings of similar statements referring to one common subject. When reading through the interviews' commonalities, differences and patterns come to light. For example, themes that became visible focused on collections and repositories, and experience and discovery, among others. Subcategories were not formed at this stage, but are present in the tree nodes below.

The 'sources' refer to the number of sources in which a portion of the interview was coded. For example when looking at the free node 'new market possibilities', it becomes clear that five different sources were consulted. The number ten refers to the number of 'references' made. This means that ten different statements were recorded concerning possibilities of marketing strategies the organisations may be implementing.

Table 7. Tree Nodes.

Type	Name	Sources	References
Tree Node 1	Technology	6	8
Tree Node 2	Social Networks	3	6
Tree Node 2	Images	2	3
Tree Node 1	Policies	3	3
Tree Node 2	Risk management	2	2
Tree Node 1	Partnerships	6	13
Tree Node 2	Examples	3	3
Tree Node 1	Goals	5	11
Tree Node 2	Mission	2	3
Tree Node 2	Future Plans	5	7
Tree Node 1	Funding	7	20
Tree Node 1	Digitalisation	7	37
Tree Node 1	Databases	4	8
Tree Node 1	Copyright	7	43
Tree Node 2	Strategies	6	24
<i>Tree Node 3</i>	<i>Rights and Permissions</i>	2	4
<i>Tree Node 3</i>	<i>Distribution</i>	4	8
Tree Node 2	Museums	5	12

Tree Node 2	Libraries	3	17
Tree Node 2	Flickr and Copyright	1	13
Tree Node 2	Fees	5	9
Tree Node 2	Examples of Copyright	7	39
<i>Tree Node 3</i>	<i>Licensing and Reproductions</i>	4	20
<i>Tree Node 3</i>	<i>Acquiring Rights</i>	4	12
Tree Node 2	Creative Commons	2	3
Tree Node 2	Cease-and-Desist	5	9

As with the listing of the free nodes, the ‘sources’ here also refer to the number of sources from which a statement was coded. For example, for the tree node ‘copyright / examples of copyright’ seven different sources have given examples of copyright. Thirty nine ‘references’ were made, indicating that thirty nine different quotes, or examples of copyright, were recorded in total across the seven references.

The type of node is described in the first column. In this list, all the listings are tree nodes. However, when mentioned in the first column as tree node 1 this identifies the heading as a main heading, or the top of the tree in hierarchal terms. The indented categorization in the tree node 2 classifies the sub-categorizations, or branches of the tree. These branches are then further divided into subdivisions, or leaves, referred to as tree nodes 3.

The two most detailed trees recorded are digitalisation and copyright. As the topic of this research, a closer look will be made into the different branches (subcategories) and the leaves (statements of coded information quotes) that build up the separate branches (see Figures 4 and 5). The quotes reflect either British English or American English depending on where the interview took place.

3.9.1 Digitalisation Tree and Statements

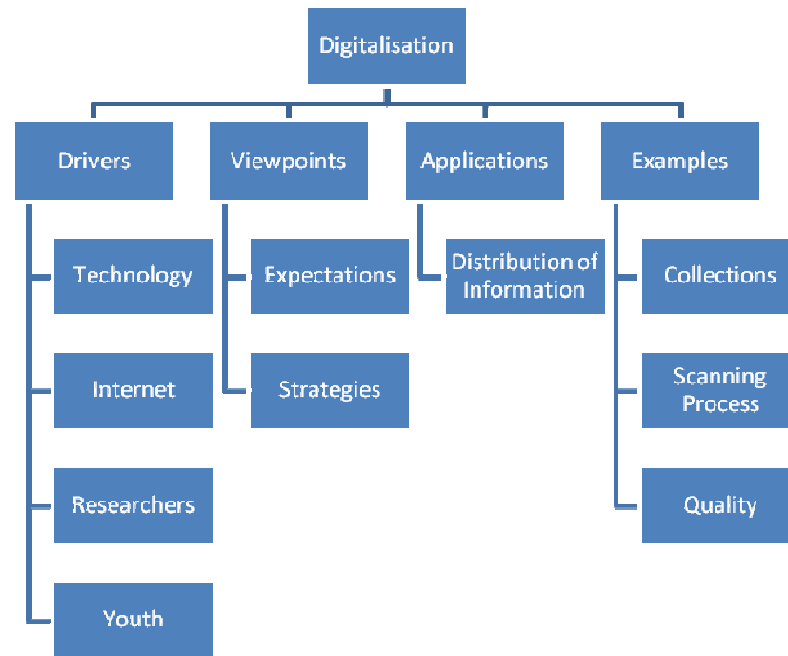


Figure 4. Tree Chart Referring to Digitalisation.

Through the coding of the interviews, it became apparent that digitalisation had four subcategories (drivers, viewpoints, applications and examples) which were built up of further subdivisions. These subdivisions refer to additional reasons or factors supporting the subcategories. A range of quotes about digitalisation are presented below.

Digitalisation:

‘It basically turns, among other things, it turns collections that would otherwise be hidden or less useable into circulating collections.’ (BPL)

‘The idea is basically to capture an image of everything and put it online.’ (MFA)

‘Ten years ago when we started digitizing, we were just happy to have the digital resource. It’s only once you have it, that you start scratching your head.’ (Peabody)

‘Digitalization is very important and could be considered the core business today. The whole idea of public domain comes into play.’ (SMA)

The importance and necessity of digitalisation is described. Digitalisation is embedded in daily activities within the organizations. The main concern or problem which arises is the application and what to do with all the digitised materials and information once the digitisation process has been carried out. The wide spread deliverance of these materials raises issues concerning presentation, mission, goals and copyright.

Reading from the chart above, it is seen that the drivers are technology, Internet, researchers and the youth. Each of these subdivisions’ statements can be

further analysed to understand the reasons for these choices. Examples of statements are presented below.

Technology:

'It's kind of just the way things are going. Demand. Public demand. I mean people want to see it and they want to see it now. And I think it is access. People expect to be able to go online and see images that they don't have. And it's technology...It's really technology that is driving it.' (MFA)

'Again, even before or without the database, it could take someone days of going through the catalog cards looking at them. So, technology definitely helps.' (Peabody)

Internet:

'The internet and digitization is the combination of libraries in a lot of ways. It is really fulfilling our destiny. It's funny because the opposite gets portrayed in popular media. People drone on that the internet is going to kill off libraries. But this is the perfect tool for us.' (BPL)

Researchers:

'Researchers. It's a combination of perceived research elements and what we perceive as being the margin research needs and how we can address that.' (Countway)

Youth:

'The new generation has developed an attachment to computers. The driver will be the youth.' (KMM)

Reviewing these answers, one can see that the answers of the representatives from the cultural organisations are influenced by their specific backgrounds and the focus they apply when looking at digitalisation. There is not one determining factor but rather a mixture of drivers, as seen below.

'The drivers of digitisation are multiple. It can be: 1. user-driven, 2. technique driven, 3. stakeholder-driven (i.e. municipality/state or other owners 'at a distance'), 4. 'institution' driven (i.e. by the keeper of the original objects). Usually it will be a combination of any of these factors' (SMA).

Analysing the second subcategory, viewpoints, two subdivisions are recorded, expectations and strategies. Expectations concern expected outcomes of goals by implementing a specific strategy. Under strategies, examples dealing with strategic changes of focus are considered, for example a change in management or scanning processes.

Viewpoints:

'Originals are better than a copy. People want to see the real thing. We are stimulating them to come to the Groninger Museum by not making everything available online.' (Groninger)

'Basically we want everyone who either can't come to the museum physically to be

exposed to the art that we have in our collection.’ (MFA)

‘Now that everything is up there, we’re just going so much quicker, with our research and publications. And that definitely could not have been done without the digitization projects.’ (Peabody)

‘The future will most likely place a larger focus on the commercial side of digitalization rather than just digitalizing for digitalization’s sake.’ (SMA)

The individual viewpoints of the organizations differ at times. In these examples, a few museums view digitalization as being an alternative mode of delivery and the opportunity to supply a greater public or audience. Other museums view digitalisation and the deliverance of materials and information through different technologies more as an aid rather than the guiding force and do not wish to make all information available online. By giving them a taste of what is displayed at the museum, it is thought that visitors will be enticed to visit the museum. However, if information is not wide spread, potential users may not know what is in the collections without conducting further research. An online presence, a good and rounded digitised collection as well as good information allows one-stop shopping for customers, who have limited time and focus.

The digitisation of materials is opening new markets and mediums for the organisations. Once the information is scanned and recorded it is up to the organisations to create and deposit them in their own repositories and determine what images will be made available. The cultural organisations are approaching access and availability in different ways. Some are allowing full access to all images, where others are more selective in what is accessible. In most cases, users do not know they are not able to view all the materials and most likely think that everything on the online repository is that is available.

Expectations:

I would like to see us become a lot less risk adverse. I think we’re in the perfect position to do that as a municipal public library.’ (BPL)

‘We had a change of directors. The previous director was all about digitizing. The current director loves having the digitizing. He loves having the resources that were already there. There are a few who think that digitizing just happens. No, it does take staff. Not necessarily a ton of staff, but it does take dedicated staff. You can’t just take little bites out of the process and make it part of the whole.’ (Peabody)

The viewpoints of expectations concerning digitalisation efforts reflect opportunistic views. Although not concrete in how the goals will be met, conflicts are brought to light. The expectations of digitising an organisation’s entire collection may entail misunderstandings. A general incomprehension of the actual digitalisation process and support needed is often recorded in the interviews. Involving other departments within the organisation in the process can limit the misunderstandings.

Strategies:

‘It’s accessibility and discoverability. And it is an indirect form of preservation. It will theoretically require less handling.’ (BPL)

'You just have to try to approach this with the collections in some strategic way so that what we're prioritizing will improve the systems that we have now.' (Countway)

'We are documenting guides to construction on certain works of art. A focus on improving technology ensuring security measures, restoration business and establishing paint strokes authenticity is continuous.' (KMM)

'So there is a shift back into public education, that is somewhat new for this institution. And the website and Facebook and Flickr are all kinds of extensions of this. Ok it's not just about research and teaching. It's about more community presence, etc.'... 'We just started using those about a year ago when we launched our new website. And it's mostly a marketing tool. We're trying to brew an increase of our web presence, and maybe translate it into more physical bodies and more memberships.' (Peabody)

Viewpoints on strategies depict a broad spectrum of examples and focus of the various organizations. Creating opportunities for individuals to discover the museums and libraries and their collections is a core activity. Being discoverable and presenting information to a more general public, not only the museum goers, can help organizations meet their missions and goals. Many, if not all, of the organizations want to inform and educate the public and view digitalization efforts as a supportive function in fulfilling their strategies.

Under the subcategory applications, information pertaining the distribution of information is brought up. Distribution is interpreted differently and includes examples regarding deliverance by alternative means. Applications refer to how digitalisation is applied within the organisations.

Applications:

'We are not commercializing our works of art. Rather showing the works to the public and giving them the opportunity to see all the works.' (Groninger)

'Yeah, that's our number one mandate. To get a photograph, a digital image, of everything in the collection and put it online for scholarly research.' (MFA)

'Exhibition curators will use the collected information to see what pieces are available and which items have been used in previous exhibitions and where. This information is useful for loans and documentation purposes.' (SMA)

Distribution:

'All we care about is getting the information out there.' (BPL)

'And then, we haven't done much of this, but we'd like to do more of this is digitizing for specific classrooms. That digitization project where we scanned 500 – 600 pages of an (...) collection for a history of science class. It had both a Harvard class component and then another section was being offered through the extension school. And a lot of those people are not anywhere near the library, they were actually able to see these primary source materials online. If we have that kind of relationship with the professor, and they have that need and we have enough time in

advance so we can facilitate that, that's a great ... for a lot of materials needing curatorial inputs.' (Countway)

'When we put the images up there, we have a lot of research requests. People come in and study our artifacts. And after we put our data online, our research visits went up 300%, with the same amount of staff.' (Peabody)

The final subcategory of digitalisation, examples, presents a variety of illustrations in the subdivisions relating to collections, scanning processes and the quality of digitised images and materials. Scanning processes consider the initial process of digitalisation implementation within the organisation as well as current and changing processes.

Examples:

'One of the things that I love about Flickr is that there is a lot of informal historians, where they might be flipping through a collection from the past from the early 1900's and they might say 'that's my grandmother' and can provide that information that otherwise would have been lost. Who in a hundred years, is anyone actually going to be able to identify who this person is. And that's now sharing information with the entire world.' (BPL)

'And I think things changed when things went online. You had to be more focused on copyrights because of the putting of things on a website rather than publishing it in our members' magazine or in a book. Once things you went online that was a bigger audience. The amount of images you suddenly have to clear was a lot bigger amount.' (MFA)

When digitalisation was first introduced, the main focus lay on the scanning and documentation of the objects. Nowadays, as the process has been mastered, digitalisation is creating opportunities and potential restrictions for organisations. For example, there is an opportunity to record and document heritage in a new and more interactive way. This documentation will preserve the information for coming generations. The importance of copyright also has increased is mostly viewed as restrictive or limiting to daily operations.

Collections:

'We've kind of been in a phase where we've, this is the second or third largest collection in the country and people don't realize it, it's not discoverable. I'm not even talking about digitizing the actual objects, but even catalog records. We never did our retro-cataloging, which is converting our cards to electronic format for our online catalog. I would be surprised if 20% of what we actually have in this building is in the catalog.' (BPL)

Maybe one day there will be a collection appropriate for us to scan. If we could scan our Charcot collection that would be great. A lot of our collections ... have patient information. They have medical records. They have university records. They have lots of things in them that we literally have to block out huge portions of collections. You have to go back quite a ways before you can actually start scanning something in full. (Countway)

‘So basically what we hope is that only unique images are going to the web, which just makes it more easy. But we do retain all of those in our database, so our number of digital files is going to be much bigger than what is actually showing up on our website.’ (MFA)

‘And the other aspect for collection management that it helps, is that it provides a legal record of what we have. In case of theft, in case of God forbid something happening to the building, we have a visual image of the items. Even a couple of times when there has been a problem in our exhibit hall and there has been someone crashing into the glass, we can right way get an image to the security people of what’s in there, and what’s been taken out, etc. It kind of helps from an object management point of view too. Those were the two big reasons.’ (Peabody)

Examples and applications of digitised collections are presented above. Digitising collections can assist organisations in a number of ways, through collection management, security management and preservation, etc.

Scanning Processes:

‘I think most of our decisions about what we digitize is primarily subject based. They are very heavily kind of workflow based. It sounds mundane, but if it’s a collection that has a lot of different types of objects in it, we’ll shy away from it because it’s harder to do’ ... ‘If you have to come up with a descriptive schema for every subunit of the collection, that’s just as onerous as having to use a bunch of different cameras.’ (BPL)

‘It’s not production level, but it’s a good enough high quality image that we can get that out there. We distinguish between high resolution files and low resolution. For the most part, if we are putting something in our digital files it is for access.’ (Countway)

‘Digitalization is an ongoing process. So far 75% of the museum’s art works have been digitalized, including the most important works. These pieces have better resolution pictures.’ (Groninger)

‘Our goal is to, again, photograph everything in the collection and we are retrospectively photographing older acquisitions, but as new acquisitions come in, they get in line.’ (MFA)

‘SMA applied a quick and dirty approach to digitalization (just scanning everything). Now the focus is on quality.’ (SMA)

Most organizations started basic digitisation projects with limited knowledge and limited resources. Scanning processes were primitive and carried out in a haphazard manner. As the understanding of the importance and opportunities of digitalisation improved, so did the support of digitisation efforts. Now a focus is placed on the quality of the images and a few museums are re-scanning objects to obtain ‘better’ images.

Quality:

'Digitalisation was started at random. As we use pictures in publishing books and catalogues, we are re-digitalising to improve the quality of the pictures used and the information available in the catalogue.' (Groninger)

'As technology evolves, our equipment evolves with technology, so therefore you get larger files with better resolutions and so on.' (MFA)

'Art museums when they are reproducing a Picasso, they don't want a bad reproduction of a Picasso. They want a reproduction for magazines, for books or for reproductions. So they are at a level that we are not. Our photographs are taken by archeologists with a camera. Their photographs are taken by a professional photographer. We don't really care about the color balance of the pot as one would care about the color balance of a Van Gogh.' (Peabody)

The quality and resolution of images are improving. The final use of the image and the technology supports an organization has access to affects the chosen quality of digitised images. Images distributed online need to be of a good quality, yet not of that calibre that others can reproduce the images.

3.9.2 Copyright Tree and Statements

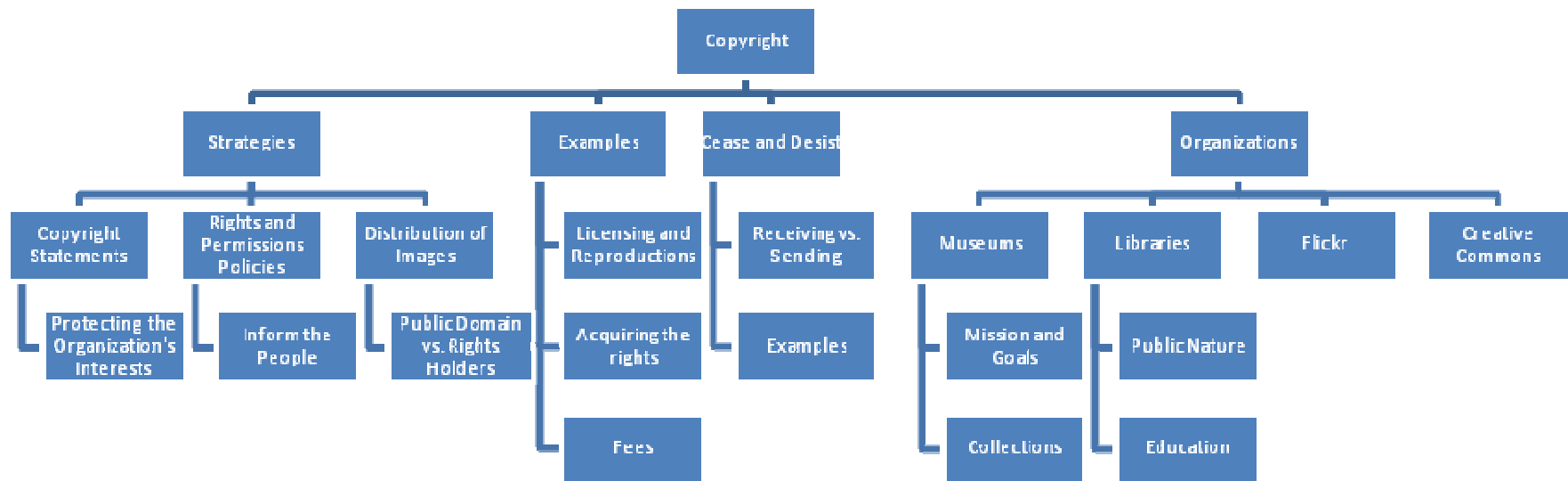


Figure 5. Tree Chart Referring to Copyright.

Quotes referring to the copyright heading construct widespread understanding (or potential misunderstandings) of the inefficiencies and conceptions of copyright that employees of the interviewed organisations hold.

'Copyright can be seen as a handbrake'... 'Copyright is not a money affair but quality affair.' (KMM)

'Copyright is a really gray area. It's really up to the copyright holder to what they want to allow and not allow.' (MFA)

'It is a necessary evil'... 'Copyright is an obstacle'... 'Copyright is not a goal or objective of the organisation, but rather a nasty chore and we would rather not have to do.' (SMA)

'Copyright is not restrictive'... 'Copyright is not a big issue for us.' (Groninger)

A general negative perspective of copyright is viewed above. Copyright is not always necessarily seen as a nuisance, yet it simply not paid attention to by certain organisations. Copyright needs to be carefully understood and implemented into the organisations' daily activities. Reasons for implementing a copyright or rights and permissions policy is that it can strategically guide an organisation the choices it makes in digitalisation efforts and the approaches it pursues. In addition, having a clear policy informs users and visitors of their rights, as well as clearly states the rights of the museum or library as a rights holder of images and materials or of the organisation's website. A well-documented policy can help avoid confusion.

Subcategories related to copyright include strategies, examples, cease and desist and organisations. Each subcategory is built up of multiple subdivisions and sub-subdivisions.

When discussing copyright strategies, the following subdivisions and sub-subdivision topics were considered: copyright statements and the importance of protecting the organisation's interests, rights and permissions policies and the importance to inform the public as well as the distribution of images and the difference between public domain and rights holders' rights.

Copyright Statements:

'So I'm hoping to have everybody in the division review these different policies and then come up with a coherent recommendation out of our division to bring to our Administrative Council and then have it turned into a policy. It's all over the place now.' ... 'So, yes I would like to see us adopt a policy very much like... My model is Library of Congress, but also Cornell recently announced that they would no longer going to try to assert and enforce downstream controls over public domain materials. That was kind of the shining example. To come from a very large academic library was big in my mind. I'd like to emulate that policy as much as possible. We're just starting the process right now.' (BPL)

'The General Counsel, the office of the General Counsel, does provide copyright information and support if you have questions.' (Countway)

'The dispersion of knowledge is part of our mission statement. So we don't get too crazy or too specific on 'Oops, this is ours. You're using it without copyright.' I mean we do make an attempt for it. But our mission is to share knowledge, so we are always judging copyright as far as getting it out against we want people to use our data, which is these images.' (Peabody)

Each organisation approaches copyright in a different way and this can be seen in the copyright statements they implement within their organisation.

Rights and Permissions Policies:

'It's a little misleading because the website was put together many, many years ago. If you dig deep enough, you might find some rights and reproduction statements and that's a little bit of the problem.' (BPL)

'I'd like to see us move more towards non-exclusive contracts and solely for public domain material not sell those rights away.' (BPL)

'If you are just (...) fragrantly using someone else's work in a way that can't be construed in such a way that it is transformational or creating a new product or intellectual work or something like that, I don't think that there are many people that subject to that.' (Countway)

Rights and permissions policies should guide users in their decisions and steps taken when reproducing images as well as protect the copyrighted images and the organization from misconduct. Therefore policies need to be clear and well written as not to cause any confusion or contribute to bad judgement.

Distribution of Images:

'I think that that's when you get into a situation where your institution is publishing a book or something on a poster or distributing it widely, the copyright burden obviously changes.' (Countway)

'Our whole mission is really to provide access to the collection.' (MFA)

'And because we're a private institution, we're not a federal or state institution, we're free to withhold information. We're not under any legal obligation to distribute our images.' ... 'So the intellectual property it gets incorporated, but it's limited.' ... 'Our Imaging Services Coordinator is setting policies about what kind of images go out or not because no one else is.' (Peabody)

The distribution of images occurs differently as the various organisations approach copyright in different ways. This can be due to the nature of an organisation's objects (those which are copyrighted or are in the public domain), the importance laid on copyright laws and the use of the image. All these factors help determine the method of distribution.

Examples of copyright given by the interviewees included subdivisions referring to licensing and reproduction, acquiring the rights and the consideration of applying fees or no fees on images. One example concerning copyright from each organisation is presented.

Examples of copyright:

'If it was our website they were putting it on, we could put up a statement very much like that the Library of Congress which is 'That these are probably under copyright. We are making these available under fair use protections and Section 108 protections depending on which way you want to go. If these are under copyright and you are the copyright holder, please let us know and we will take it down'. That's something that is being is being recommended more and more for libraries.' (BPL)

'So we provide those images and we've decided our approach is to utilize the Creative Commons license, so that basically if you're, if you decided to copy this file, you'd like to use this in some way, it would have to be for non commercial, personal purposes. If you do that, if you use it in a different way, it's a violation of the use of our repository.' (Countway)

'People come to us to obtain the copyright. A few don't. There have been pictures of collections found in books. When these are found, we wrote a letter. Most of the time, they (the offenders) pay. Usually, it is the small local publishers who are misusing the pictures. They don't care that there is a copyright on it. Maybe they are ignorant. They know they did something they weren't supposed to and pay up.' (Groninger)

'For museums, the costs of pursuing copyrights are higher, than that they would earn with it. It may take many hours or even months to find the copyright holder.' (KMM)

'And if in fact we haven't found the copyright holder and put something online, then our policy is if we are contacted we will take it right down. We really do, do our due diligence to identify copyright holders is and if we can't identify them, it's really our educational mission to put the image out there and we'll do that. Clearly, if someone says 'sorry well you can't do that', we will act accordingly.' (MFA)

'We are scratching our head in a couple of different ways. One is at intellectual property. Another one is a really fundamental question for us about 'do we want to restrict images or not?' Or do we just say 'hey our mission is to give this out. It's free. Do what you want with it?' And there is serious talk about doing that.' (Peabody)

'We don't fear copyright or copyright holders, but it is a complicating factor. There are few but tenacious copyright holders that are really barricading any 'fair use' of images, e.g. the estate of Mondrian and Cassandre. Perhaps the Creative Commons arrangements and the need to re-write copyright laws on a European scale can change that. It is also a cost factor, but once the creative commons contracts have been cleared these costs will largely be outside of the scope of the museums.' (SMA)

With these examples, a variety of issues are presented concerning the application of copyright, financial and legal issues as well as the use of copyrighted images and materials. Some of these examples were also met in other organisations. Individuals

and organisations (although they are relatively up-to-date on issues) need an education in copyright in order to understand and abide by copyright laws and copyrighted materials. A general apprehension towards copyright is documented.

Licensing and reproductions:

'If we scan a public domain book here in the library and we put it online, and this is always my favorite conversation to have, somebody calls up and they say 'can I have permission to download this book?' and just the other day somebody called 'we can't find this book anywhere. It's out of print. It's out of copyright. We'd like permission to print it and pass it around our office'. I'm like 'you don't need permission, it's in public domain. It's there. If you have the technical ability to do whatever you want, you can do whatever you want.' (BPL)

'If you choose to order a scan of a contemporary photograph that may still be covered by copyright by a photographic firm that's still be out there and part of what they were saying is probably not, but it's up to you. If you use it, it's at your own (risk).' (Countway)

'It's not too difficult to find the information. It's available. And for whatever purposes we're doing, it's available. We haven't come across a situations where we were like 'oh, what do we do? Or what's the proper thing to do from a copyright standpoint?' We reproduce images online and prints.'... 'Any object that is ok to go to the web, in which we have a fairly decent image of, it doesn't mean that because the image in on the web that we would allow someone to publish from it.' (MFA)

'We are also very lucky that Harvard has the pockets that we can draw on, so we, we do have General Counsel who are more than willing to look over our statements. And we are also very willing to share. We are not very proprietary in that sense.' (Peabody)

Most organisations seem eager to grant licensing and reproduction rights. Hosting imaging rights services can be beneficial, both financially and for fostering public knowledge. Museums and libraries license reproductions, yet protect themselves from copyright extensions. Individuals who purchase the reproduction rights for non-personal use are responsible for understanding the limitations of permissions.

Acquiring the rights:

'For example, these are a travel poster collection we have (showing on website). These were printed and under copyright in several different countries, so for us to try to get permission from every single holder would be difficult. This was one company that published posters of a lot of different places you could go to. Every single country had its own publisher. They might be orphaned by now. We just can't do the research.' (BPL)

'And there may be digital images coming in with the collections, that we will not be able to provide because the family members (don't want us to).' (Countway)

'We really do, do our due diligence to identify copyright holders is and if we can't identify them, it's really our educational mission to put the image out there and

we'll do that. Clearly, if someone says 'sorry well you can't do that', we will act accordingly.' (MFA)

'The one place where copyright infringement that we might be infringing on others might come from. We have about 300.000 - 400.000 photographs now that we are scanning. We are about half way done. We've scanned 200.000 of them. The photographs may have copyright issues because someone else took the photographs. Generally if they were a Peabody employee even a hundred years ago, it's the property of Harvard because they were an employee. So it's really only when it was photographed by another researcher and that researcher retires would donate their entire artifacts, notes and images to us, that's when we might have copyright issues. But part of that acquisition process, our registration department they signed over their copyright to us during and as part of the acquisition.' (Peabody)

Organisations should approach acquiring rights with due diligence. A detailed account of the steps taken can be important if the copyright holder cannot be found. For the most part, cultural organisations seem to be following this rule. International copyright regulations prove to be a bit more difficult.

Fees:

'So you get basically 'sure, send me 20 more bucks and you're all set'. It's not quite extortion, but if someone is calling you and offering you money, you don't say no. On the other hand, it's like when you paid the priest in medieval times to redeem your soul. It's not really a legal transaction. It's just they feel better. They are satisfying their legal department's requests to just have a piece of paper that says 'you have permission to do this.' (BPL)

'We make arrangements with the artists and then the work is in the hands of the museum. We want money for it. For high resolution, we ask 15€ for individuals. For commercial purposes, we ask a higher amount to coverage the costs of obtaining the initial copyright.' (Groninger)

'It's the cost of the file. And then we have criteria for if it's a scholarly publication, if it's less than a 2.000 print run, there is no reproduction fee. However, if it's a commercial reproduction then there will be a fee applicable to whatever the project prospects are.' ... 'Yes, I do think there is a bigger emphasis on it now then there was 10 years ago. Again, with our collection, 95% of our collection is in the public domain, so I think probably when you talk to other museums you will get a totally different answer from them.' (MFA)

Most organisations have a fixed reproduction fee schedule, with specific amounts for image reproduction and commercial printing purposes. Having an image reproduction services department or a service responsible dealing with these matters optimises rewards.

The subcategory cease and desist presents subdivisions of examples in addition to a topic on receiving vs. sending a cease and desist letter.

Receiving vs. sending a cease and desist letter:

'We can't put up a take-down policy because that is basically admitting that we

already violated the Flickr agreement. So we just kind of put it up there.' (BPL)

'If somebody complains about something, and asks us who took this photo, and complains to us we'll just pull it down. So a lot of that, we just put up a lot of history, related to medicine.' (Countway)

'We've never gotten a cease and desist letter. We've just always respected the wishes of the copyright holder. And if in fact we haven't found the copyright holder and put something online, then our policy is if we are contacted we will take it right down.' (MFA)

'For the most part we don't pursue violations of our copyright. It's just not worth it. We would send out a cease and desist order. We would probably have our lawyers send it out. It wouldn't be worth it to try to pursue monetary damages. We're more apt to use a cease and desist. That will always be a delicate balance. And probably doing something like that would have to be taken up with the Curatorial Committee and get Director approval. As it may be in opposition to our mission of education and use of images.' (Peabody)

If a cultural organisation receives a cease and desist letter, they react accordingly as not to continue abusing the holder's rights. In most cases, the image(s) with the rights they are (non intentionally) violating are taken down immediately.

Cultural organisations are more reluctant to send out cease and desist letters. In most cases, they do not 'protect' their rights.

Examples:

'They got wind that we were doing this and they actually sent us a cease and desist. And I wrote back 'we would still like to do this, what do we need us to do?' They were fine, the just want to make sure that people know that they own the copyright. They said 'Please put a rights notification on here'. And we did. We showed it to them. They're happy with it. We could have put all rights reserved, but in Flickr if you flag it all rights reserved, this is as big as you can make it (the size of a thumbnail picture). What's the point? You can't read it.' (BPL)

'People come to us to obtain the copyright. A few don't. There have been pictures of collections found in books. When these are found, we wrote a letter. Most of the time, they (the offenders) pay. Usually, it is the small local publishers who are misusing the pictures. They don't care that there is a copyright on it. Maybe they are ignorant. They know they did something they weren't supposed to and pay up.' (Groninger)

'For instance, we found out very early on what Corbis was doing. The IBM people put a lot of photographs up, but they had a lot of our images. Someone must have had our photographs, copied the slides somehow and somehow put them in their slide library and sold their library to Corbis and we know that these images are the ones our photographer took. So you know we said, this was when Corbis first started so this was eight years ago before we had the policy we have we have now, we just sent a letter and said "we own the copyright to this, please take it off" and they took it off. We didn't pursue "where did you get this?" We think it was the Harvard Slide

Library actually. They probably got copies of our slides somehow and they got sold to Corbis.’ (Peabody)

When rights have been violated, the offender usually reacts accordingly. As copyright law and reproduction rights are considered to be relatively vague, people seem to do what they want until they are told otherwise.

The final subcategory of copyrights refers to organisations and how they respond to copyright issues. Subdivisions specialising in museums, libraries, Flickr and Creative Commons were formed. Regarding sub-subdivisions, museums consider their mission statements and goals and their collections. Libraries focus on their public nature and educational role. Information on Flickr and the Creative Commons present examples referring to these organisations.

Museums:

‘Due to the fact that many of the museum’s objects are in fact in the public domain, copyright is not considered to be a full time job or priority.’ (KMM)

‘We are currently focusing on the new website creation considering the copyright obstacle. Museums have a public good nature.’ (SMA)

‘Being a museum of modern art, the artworks are covered by copyright rules. Anything with images on the website is subjected to copyright laws and therefore must be met.’ (SMA)

Museums are aware of copyright. Some are referring, implementing and investing more time in meeting regulations than others. The nature of the collections of the museums also affects the importance placed on copyright.

Libraries:

‘As a library, as a collecting institution, we generally don’t own the rights to anything we have here, so we can neither deny nor grant permission to use it. That’s up to you. We’re going to do the best we can to let you know who we think that the copyright holder might be or if it’s in the public domain. We can’t say it’s okay to do it and we can’t say it’s not okay to do it. We’re just giving you a reproduction and it’s up to you. They are kind of removing themselves.’ (BPL)

‘The internet and digitization is the combination of libraries in a lot of ways. It is really fulfilling our destiny. It’s funny because the opposite gets portrayed in popular media. People drone on that the internet is going to kill off libraries. But this is the perfect tool for us. We just have to make sure, there’s a lot on Google, but where do you think that came from? It came from libraries and once information is online and in a networking environment, you’re still going to need librarians or at least librarian principals and skills.’ (BPL)

‘There is a debate on whether a library should be open to the public or for scholarly use only. The library had a very good reputation as being public, became “a loser of its own success” and then changed to a more scholarly approach. When the new museum opens, the museum wants to try to embrace both.’ (SMA)

'When dealing with museum collections there is always an importance of the collections as well as a quality issue, which is of course difficult to define and measure. Also, there is a difference between museum collections vs. library collections.' ... 'It is easier for libraries (than museums) to cooperate as standardization of their pieces have been happening for a longer time. They are less bound by copyright.' (SMA)

Libraries seem to be affected differently by copyright law and regulations than museums are. This is due to a longer history of copyright affecting printed materials as well as more materials being in the public domain. Libraries also distance themselves from further use of reproduced materials and images. Digitalisation is furthering libraries' missions.

Flickr:

'We don't have a lot of stuff on our own website and in our own domain. We can't be as unrestrictive as we want to. We're using Flickr. Yes we're putting a lot of stuff on Flickr. Part of the user agreement with Yahoo is that it either has to be in the public domain or you have to have had permission to put it on Flickr, which is different than if it was our own website because libraries are afforded more exemptions from normal copyright restrictions under Section 108, but that's only if it's your own domain. You can't give it to another.' (BPL)

'We still want our stuff to be pushed out to Flickr because that is in terms of discoverability the stuff should be out there.' ... 'Anything that we put up on Flickr, we have really tried to establish the copyright and the find the copyright holder.' (BPL)

Creative Commons:

'So we provide those images and we've decided our approach is to utilize the Creative Commons license, so that basically if you're, if you decided to copy this file, you'd like to use this in some way, it would have to be for non commercial, personal purposes. If you do that, if you use it in a different way, it's a violation of the use of our repository.' (Countway)

There is a conflict which arises between copyright issues regarding Flickr and the Creative Commons license that is applied to the materials available on these websites. Some organisations are claiming to be the rights holders, when in fact they do not have the rights, in order to display these objects. They try to protect themselves by adding disclaimers. The availability of the images and materials of these objects are beneficial to customers. However, consumers are restricted in what they may do with these objects due to the disclaimer and copyright law. This is not necessarily an obstacle as long as museums take the right steps when posting materials and informing the public of their rights.

Cooperation partnerships were formed between libraries and external firms during the past decade, for example with Google and other repository database collectors in a push to digitalize the collections. The external parties were willing to pay for the digitalisation of the images and materials and allow the museums to display these digital objects if they would become the rights holders to these objects.

The cultural organisations ‘gave away’ their copyright in exchange for these practices.

In the past, organisations have allowed this, but are now starting to turn away from this. They have weighed the outcomes and have chosen to do it themselves or work with non-profit organisations and not give away the rights to the corporate firms. The cultural organisations have a preservation status and want to ensure that the materials and objects are available, protected and preserved for the public in the long run. The corporate firms can assure the organisations that they will be accessible for the medium run. Ensuring the non-financial aspects side of digitization is not part of their standard repertoire.

3.10 Chapter Conclusion

A detailed analysis of the organisations involved was carried out by looking into museum and library characteristics, mission statements and copyright policies. Technology plays a large role in determining organisational strategies. Cataloguing has long been institutionalised in these organisations. Digitalisation has enabled a wider opportunity accessibility, availability and discovery of these databases. Copyright issues are not a main priority, yet are generally abided by. It is important and essential for organisations to apply a copyright policy within their organisation. A larger focus is need on applying copyright licensing and pursuing marketing opportunities. This will make organisations more competitive and potentially more financially sound. In this chapter we have been looking at museums and libraries; in the next chapter we will examine the milieu in which they operate.

Chapter 4: Conclusion

Creativity and innovation in cultural organisations is essential. Pursuing new strategies and implementing new technologies in daily activities within the organization to cater to a wider public, both digital and physical visitors, can help an organization in attracting and retaining visitors. Cultural organizations should be redefining themselves and become more competitive over time. As the importance of economics and technology become more involved in the activities of cultural organizations, copyright becomes more relevant. Market opportunities of new points of distribution, include catering to niches through ‘new’ exhibitions, printing of books and licensing of images, should be added to the cultural organizations daily activities. The latter point is especially of interest. Most museums and libraries have a very basic approach to imaging and licensing. There are undiscovered opportunities in this regard.

Museums and libraries need to dare more to implement new activities and strategies and be less risk adverse. A well-defined mission statement and copyright policy is important for the direction of an organization. These statements need to be well written, understandable and relevant. Regional differences in laws and governmental support affect the way the policies are written and where the emphasis lies. Adding value, or perceived value, to an organization’s activity can be (financially) rewarding on the long run. By nature, cultural organizations are continuously faced with a limited cash flow and should be doing everything in their efforts to secure revenue generating activities and practices. Licensing and marketing objects to which they hold the copyright will more likely than not generate additional revenue. Of course the obtaining new revenue cannot be in contradiction with an organisation’s mission.

Cultural organizations need to remain creative and innovative in their daily activities and strategic processes in order to remain vibrant. There are many ways for a museum or library to be creative in their exhibitions and deliverance of experience and knowledge to the public. An interactive tour or a new display could be considered creative.

Markets are ever changing and in order to remain a market player, organizations need to pursue new activities in order to obtain funds to support the future activities and goals of the firm. An industry-wide ‘commercialization’ of the local art markets and institutions appears to be taking place. These institutions rely on the fact that they are non-profit organisations and do not necessarily see the importance in pursuing financial gains. They state that playing an informational and educational role is crucial to their missions. In order to secure the achievement of their organisation’s goals of preservation, conservation and serving the public, these organizations need to search for alternatives regarding delivery of images as well as pursuing activities with potential economic gains.

Copyright is seen as a tedious chore and restrictive by representatives of the cultural organizations interviewed. However, museums and libraries need to revise their approach to copyright in order to use it to their advantage as a supportive

function in pursuing new revenue streams. Abiding by copyright regulations is not the same as licensing and pursuing infringers. The work and costs involved in pursuing infringers is in most cases not worth it for cultural organisations and vice versa. The application of a cease-and-desist letter or injunction more often than not halts individuals from continuing their illegal practices. As cultural organizations are usually of non-profit status and are knowledgeable when it comes to copyright, rights holders would rather send a cease-and-desist letter than pursue infringement on commercial grounds as they would not be able to gain a substantial return from these organizations. However, hosting a good licensing department and protocol within a cultural organisation can generate new revenue. A few of the organisations have extensive specialty collections and objects and could claim to be the rights holder or even renew the rights. Pursuing these practises could contribute substantially to the organisation and support new services or uphold current activities.

Digitalisation efforts are well implemented in daily routines. Although most cultural organisations began digitising materials at random, most institutions introduced strategic plans shortly thereafter. A general lack of financial support impedes the digitalisation process. There is no one common way of carrying out the digitalisation process, although most organizations started digitising in an unstructured and goal-oriented way. The focus of digitalisation efforts lies varies as the relevancy, specialisation and subject matter varies between the different organisations. The quality and delivery of digitised images seems to be the main focus of digitisation efforts nowadays. Concerning the delivery of images and materials, cultural organisations need to pay attention to potential copyrights and locate rights holders before posting objects because digitising an object is considered to be a reproduction. Due diligence and fair use can be applied here.

This study has shown that while cultural organisations are pursuing digitalisation and exploitation and extension of copyright, they are doing so at different rates and pursuing different strategies and applications.

As shown in the literature in Chapter 2, cultural institutions serve different functions and objectives. The characteristics of museums include pursuing conservation, research and display efforts (Johnson, 2003). Libraries support and are dedicated to improving literacy, preserving heritage and carrying out digitalisation (WIPO, October 2007). This study has also shown that copyright issues differ for museums and libraries. New technologies are creating new possibilities for dissemination of a variety of materials. The public domain nature of many older works in libraries and their collections makes for a different environment for libraries than museums. Copyright regulations for printed materials have existed much longer and in a simpler technological environment. Copyright issues have been considered part of library daily activities for decades.

The nature of the collections held by museums affects the use and application of copyright within the museum's activities. The nature of the materials and information that they possess and make available vary. For most museums, the educational and distributional aspects of its mission are primary. Copyright usually comes second to this. Profit generation is also affected by the public good nature of museums and perceived low returns on reproductions.

Existing literature notes that both for profit and not-for-profit firms must be effectively managed. However, the nature of the organisation does affect the strategies an organisation takes. A non-profit organisation (NPO) can be seen as upholding an ideal with a limited focus on the market (Netzer, 2003). For-profit organisations are considered to be more efficient and customer oriented than NPOs, yet may lack quality (Caves, 2000). A non-profit organisation will be less inclined to advocate copyright and pursue infringers as the costs of taking legal action are high and returns would be limited. Copyright law pertaining to museums and libraries are quite different from that of other organisations in the cultural industry. The mission and goals of these organisations are focused more on heritage, education and preservation than economic gains.

Theory asserts the importance of creativity for contemporary organisations. Kirzner (1994) states that in order to be innovative, individuals and organisations need to pay attention to be alert to new opportunities, entrepreneurial activities and acts of creativity. This study shows that museums and libraries are applying creativity within their organisations by means of introducing and supplying many different distribution channels and thereby reaching a variety of different target groups. Distribution channels include different marketing tools including websites, repositories and social media, such as Flickr and Facebook. The Peabody Museum, for example, is experimenting with range of social media and distribution channels to determine how these can provide new ways of contacting and interacting with patrons. These additional channels may also enable new revenue streams.

Partnerships are also a means of creativity. Besides providing financial support, partnerships can also make other contributions by enhancing exhibitions, visitor attendance and museum activities. These partnerships can be creative in the way an exhibition is curated or through the sponsorship of certain special events, for example. The Museum of Fine Arts, Boston has partners and sponsors for various events.

Technology has contributed to enabling creative practices. Digitalisation, a creative good itself, has allowed cultural organisations to further use the available materials and information in creative ways potentially creating and adding value to activities. Interviews in the organisations revealed wide differences in drivers of digitalisation, but a common realisation that creating digital collections and services creates new copyrights and market potentials. It also showed differences in the processes and applications used in digitalisation that appear to be related to the unique characteristics of individual cultural organisations.

The research revealed differences in the strategies and risks that organisations are willing to incur as they exploit copyright. Most interviewees see copyright as a restrictive rather than enabling factor, but revealed a general willingness to make available objects, images, and works where the copyright holder is unknown or unreachable. None of the organizations have a dedicated copyright department; instead the functions are spread across departments.

Entrepreneurship involves a particular application of creativity and innovation. 'Entrepreneurs drive economic development' (Andersson & Andersson,

2006: 15). An important part of entrepreneurship involves attitudes and ways of thinking. The entrepreneurial mindset varies widely among the organisations studied. Some organisations, such as Boston Public Library, are innovative in the activities they carry out, yet are not pursuing entrepreneurial strategies for optimize monetary returns. As cultural organisations are known for having limited funds and continually striving for more support, entrepreneurial activities could contribute greatly to their missions and is a reason that the Kröller-Müller Museum is embracing entrepreneurship.

Copyright costs are passed on to end users and considered a more fair approach to stimulating creative processes. According to Landes and Posner (1989), a balance needs to be created between the application of protection of copyright and the obtaining of permission of copyright in order to maximize creative outputs. In the case of cultural organisations, the interviewed organisations indicated that they did not consider copyrights as a stimulus to more creation, but rather an impediment to more dissemination. In the case of publicly supported cultural organisations; costs are passed on to the public pursue or to the public paying admissions or purchasing items at museum shops.

Landes implies that the rights of the copyright holder are limited by fair use under certain conditions, which allow ‘unauthorized copying (... if) promoting economic efficiency’ (Landes, 2003: 137) and social benefits. All of the interviewed organisations lean towards fair use, mainly due to their perceived importance of their educational role. Issues dealing with public domain materials also are approached in a similar manner. The Stedelijk Museum Amsterdam provided good examples of fair use.

In its entirety, this thesis has shown that digitalisation is creating new copyright challenges for other cultural organisations and that they are having some discomfort implementing strategies and procedures that will bring them the greatest benefit. However the interviews show that these organisations are taking steps in the right direction and that they can be expected to incrementally benefit from copyright in the coming years as they become more comfortable applying entrepreneurial strategies into their public oriented activities.

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Appendices

Appendix A. Cover / Introduction Letter

Kuurnsesteenweg 1, 8500 Kortrijk, Belgium

March 2010

Dear Museum Colleague (OR Mr. X / Ms. Y),

I am writing you because I am interested in how your organisation, **name of organisation**, is digitizing its collections and the strategies and objectives it is using in doing so.

I am currently carrying out research for a Master's degree in Cultural Economics and Cultural Entrepreneurship at the Erasmus University Rotterdam in the Netherlands. My thesis topic is entitled 'The application of digitalisation in cultural organisations and the effects of copyright'. I am interested in finding out more about the determinants and influences of such innovation, as well as more about the process of applying copyright and digitalisation within cultural organisations.

I am examining a range of different cultural institutions, such as museums, libraries, theaters, and educational programs, and your organisation would be an exemplary source for a case study. I strongly feel that the research will be beneficial to your organisation in terms of pinpointing where different institutions stand regarding this subject and what future directions will be pursued.

Are you the person responsible for pursuing digitalisation and/or the copyright strategies in your organisation, or may I please be put in contact with the responsible individual(s)? I will be **(in Boston mid April – mid May OR available between mid March – mid April)** , and if possible, I would like to arrange a short meeting (30-60 minutes) to gain greater knowledge about how your institution goes about implementing digitalisation and concurrent innovations.

Thank you in advance for your response. I look forward to hearing from you.

Best regards,

Anna Elisabeth Picard

Email: anna_picard@yahoo.com

Phone: 011 32 484 75 95 90

Address: Kuurnsesteenweg 1, 8500 Kortrijk, Belgium

Appendix B. Interview questions

Is pursuing copyright important to museums? Is pursuing copyright important to YOUR museum? (What are your reasons for implementing copyright efforts within your organisation? Or what are the reasons for not pursuing copyright strategies?)

Is pursuing digitalisation important to museums? Is pursuing digitalisation important to YOUR museum? (What are your reasons for implementing digitalisation efforts within your organisation? Or what are the reasons for not pursuing digitalisation strategies?)

Copyright

How does copyright influence digitalisation? What is the impact of copyright on innovation and technological change i.e. the adoption of digitalisation?

To what extent is your museum in accordance with copyright laws? How do you keep up-to-date on these issues? How does your museum abide to copyright laws?

Do you think IP rights can be enforced online? And is it worth it to you organisation?

Digitalisation

What strategies are you using to implement digitalisation? How is your organisation digitalizing its collections? What tools are being using and why?

What do you want to reach with digitalisation? What are your aims or objectives? (here I am interested in changes, process and progress).

What do you think are the drivers or determinants of digitalisation? (technology, funding structure, market conditions, speed of innovation, acceptance of changes)

Additional information

How many employees are working on digitalisation? How many man-hours are allotted to digitalisation and copyright issues?

What is the scale of your museum's digitalisation projects? Physical size of the collections, number of items in the collections, number of items digitalized so far?

Are already employed employees trained to carry out the digitalisation process? Are new employees brought in? Or is the (initial) process outsourced?

Has there been a strategy change of focus from preservation towards use or pursuing copyright issues?

Has the number of visitors online increased on the museum's website due to digitalisation efforts? If so, by how much? Is digitalisation a way to attract visitors?

Is digitalisation carried out by the individual museums? Or rather on a regional or national scale, e.g. through cooperation efforts or a consortium?

Could digitalisation be seen as a merit good, as museums are seen as providing merit goods as educators. Or more as a means rather than the ends?

Does the funding structure play a role on affecting digitalisation strategies? Has the museum obtained grants? If so, for how much and what percentage of the digitalisation budget does it account for?

Appendix C. Interviews

The interviews will be presented in the following way. A short description of with whom the interview took place at the individual organisation and the surroundings will be recalled along with subjective opinions. Then, the transcripts of the interview will be presented.

The interviews are presented in the following order and on the following pages.

Museum	Page
Stedelijk Museum Amsterdam (SMA)	
Groninger Museum	
Kröller-Müller Museum (KMM)	
Museum of Fine Arts, Boston (MFA)	
Boston Public Library (BPL)	
Peabody Museum of Archaeology and Ethnology	
Countway Library of Medicine	

**Interview with the Stedelijk Museum Amsterdam (SMA)
(Head of Library and Collection Registration)**

The person interviewed was very knowledgeable, willing to talk about the subject and knew a lot about the subject. A lot of useful information was gained as well as further reading recommendations. The interview took place in the interviewee's office where a computer was available, which was shared with someone else who was not present during the interview. Afterwards, I was shown the information centre as well as the reproduction rooms, a curator digitizing some books and the storage facilities of the museum. I had a good feeling about the interview.

Picard: Is pursuing copyright important to museums?

A: It is a necessary evil. We are currently focusing on the new website creation considering the copyright obstacle. Museums have a public good nature. One employee responsible for delivery of reproductions demanded on request sends a Microsoft Word document with the relevant information and picture. Artists with Pictoright account for only 10% of the works at the Stedelijk Museum Amsterdam and 4% of artists were included of what the SMA wanted to gain the rights to. We must weigh the importance of the artists and works of art to see if it is worth buying these rights. In this case, the museum was disappointed that such a low number was included. →What about the other 90%?

Picard: Is pursuing copyright important to YOUR museum?

A: Being a museum of modern art, the artworks are covered by copyright rules. Anything with images on the website is subjected to copyright laws and therefore must be met. However, our intranet coverage may not be up to copyright standards. A widespread coverage and pursuing of copyrights during the past 10 years has taken place. Copyright is not a goal or objective of the organisation, but rather a nasty chore and we would rather not have to do.

Picard: Is pursuing digitalisation important to museums? Is pursuing digitalisation important to YOUR museum?

A: Digitalisation is very important and could be considered the core business today. The whole idea of public domain comes into play. You are showing more than you could in a building. The works of art are more available then normally. Since 2007, whole collection has been digitized and can be accessed by individuals locally and abroad (See word document → look at Dutch version online.) We are currently

working on the online collection. Copyright is an obstacle. 85.000 items have been digitalized. The typography collection consists of 25.000 items and is now being redone due to low quality. The SMA applied a quick and dirty approach to digitalisation (just scanning everything). Now the focus is on quality. Key pieces are being focused on for the website upholding a certain level of quality on the web. Research and documentation is also at a high level. Expectations of/from digitalisation: conservative vs. progressive viewpoint (refers to old director, who got fired and the new director who have very different views on digitalisation). Idea to include general disclaimer (include most relevant information, but not all). Scholarly level about information, divulge in the right way.

Example: The reading lounge vs. the research room in the new museum and the reference to the level of expertise. A curator should not be posted in the reading lounge, will get other basic questions referring to museum's activities (where is the bathroom and café?) rather than more involved scholarly questions. Providing both types of information for the general public and upholding a scholarly level is feasible. There is a debate on whether a library should be open to the public or for scholarly use only. The library had a very good reputation as being public, became 'a loser of its own success' and then changed to a more scholarly approach. When the new museum opens, the museum wants to try to embrace both.

Picard: How does copyright influence digitalisation? What is the impact of copyright on innovation and technological change i.e. the adoption of digitalisation?

A: Copyright is in many ways a hindrance to digitization projects, and while important to protect the individual artistic rights it is often abused by those merely seeking commercial gain (estates etc.)

Picard: How does copyright influence your museum? What are the positive effects or restrictive elements?

A: Copyright is a hindrance to making the collection widely accessible, yet the existence of it also can focus us on the question of the level of importance of works (i.e. a selection of best, lesser, and worst works in the collection) that would not have been as urgent as before. It also forces us to think anew about the integrity of the artistic work (the policy of the Stedelijk so far has always been to keep the work of art intact in reproduction and not to allow publication of cutouts, manipulations etc.). We don't fear copyright or copyright holders, but it is a complicating factor. There are few but tenacious copyright holders that are really barricading any 'fair use' of images, e.g. the estate of Mondrian and Cassandre. Perhaps the creative commons arrangements and the need to re-write copyright laws on a European scale

can change that. It is also a cost factor, but once the creative commons contracts have been cleared these costs will largely be outside of the scope of the museums

Picard: What are the drivers of innovation and copyright?

A: Everything ranging from the noble to the ignoble: From Human Curiousness and creativity to the meanest avarice.

Picard: Are there incentives to innovate?

A: The incentive to digitalize and speak to a greater public is opulent. The internet is there, use it.

Digitalisation is a core part of business today. The future will most likely place a larger focus on the commercial side of digitalisation rather than just digitalizing for digitalisation's sake. What should we or can we do with all this information? The actions taken will be influenced by copyright of course.

Picard: To what extent is your museum in accordance with copyright laws? How do you keep up-to-date on these issues? How does your museum abide to copyright laws?

A: We have one legal employee working on contracts for insurance and loans; not a copyright specialist, but involved in it. We refer to the Digitaal Erfgoed Nederland (DEN) business model as the latest way of following developments. Amateurish. Working on the web, information on web law. According to copyright laws. Not coping out. Other museums choose not to follow the copyright laws or don't show images, just provide information to stay out of trouble.

Example: Focus on images.

In a printed guide, the museum wanted to include a Cassandre art deco poster from the 1920's. This image was skipped due to fee demanded from heirs and not included in the guide.

The book 'Amsterdam Creative Capital' by Landers 2009 is a good book to read on copyright in the Netherlands. SMA follows this guide.

The museum wanted to use a image of a Piet Mondrian painting for a cover of a book. However, the heirs wanted a large amount of money for the use of the Piet Mondrian image. To solve this, a reproduction likeness image was created and the situation of why it was not an original image was described to readers.

Picard: What strategies are you using to implement digitalisation? How is your organisation digitalizing its collections? What tools are being using and why?

A: Standardisation of collection information leads to simplicity. Our style of the application of digitalisation within the organisation is non-monolithic, which has grown out of pragmatic practices. A balance needs to be found in which a more proactive approach, I hate this word, is applied both on a more theoretic and conscious level, of thinking before doing.

Exhibition curators will use the collected information to see what pieces are available and which items have been used in previous exhibitions and where. This information is useful for loans and documentation purposes.

Outgoing loans and ingoing loans have different administrative programmes following up on them. Outgoing loans are handled by the recording and documentation departments whereas incoming loans are dealt with by the exhibitions department.

Digitization = archival process with archival models and is now linked to an overall system. This success of this system is digital duurzaam and system availability.

Picard: What are your aims or objectives? What do you want to reach with digitalisation? Future plans? (interested in changes, process and progress).

A: To have more contact between the back office vs. front office, concerning the automation and work flow processes.

The back office consists of three departments: Research & Documentation, the Library and the Museum.

Awareness of the people involved is needed in determining what needs to be documented or not. Also, reporting to digitalisation specialists/ responsible within the museum when multiple entries for one piece of work or artist are recorded is a must. This can help to improve the quality of the catalogue. Also, working together goes against the isolation of people. It engages people to talk and know what is going on in other departments.

Progress has been made. Photographers and technology and digital images. Digital images are protected. They need to work together with the other departments and there needs to be 'an alertness' to multiple entries in the documentation. The different departments need to know what each other is doing and not to do the same thing multiple times. The most relevant information needs to be presented in the documentation file.

Ideally the idea is to have flexible employees who are specialists in certain fields and can jump in where needed.

The front office consists of the education department focusing on the learning zone, the reading lounge room (easy to use, digital information available), the research library and reading room (more detailed information used for research purposes).

For the moment, all emails are sent to the information address and is distributed manually to the specific person.

Picard: What are the drivers of digitalisation?

A: When I talk of objects I mean that in the broadest sense; that can also mean texts, images etc.

The drivers of digitization are multiple:

It can be:

1. user-driven
2. technique driven
3. stakeholder-driven (i.e. municipality/state or other owners 'at a distance')
4. 'institution' driven (i.e. by the keeper of the original objects)

Usually it will be a combination of any of these factors

The motivation is one or more of the following:

1. The need/wish to conserve objects
2. The need to have objects/texts/images available to more simultaneous users
3. The need to be able to search larger collections
4. The need to manage collections better (e.g. digitization usually is combined with a better use of metadata than before)
5. The need to combine objects with objects from other collections world-wide
6. The need to experiment with new techniques
7. The need/wish to earn money (or at least to get an honest remuneration for work done or money spent by artists and museums)

Picard: How many employees are working on digitalisation? How many man-hours are allotted to digitalisation and copyright issues?

A: Already carried out, no full time employees. It is hard to say.

Currently, a curator is digitizing new typography additions to the collection. The museum obtains 900 new pieces a year. These pieces are added to the collection. Additionally, most of the same pieces are catalogued into the library for reference.

3 kilometers of books are in the library. Special for the museum's library collection is that books are stored by size not alphabetically or by genre. The reason for this that they can continually add to the collection without having to re-place the books. X museum spends 6 months every 5 years to sort out their storage. However, by cataloguing by size, the library must remain closed to visitors and books must be requested. Otherwise, books would be misplaced, never to be found again.

Conservation of pieces of art, anything from sculptures, paintings, to models and visual aid devices. Special temperature cupboards. Depot at colder temperature for plastics and papers.

Picard: Are already employed employees trained to carry out the digitalisation process? Are new employees brought in? Or is the (initial) process outsourced?

A: Very basic digitalisation. Scanning or typing everything over. In the beginning it was primitive, now a larger focus is placed on quality.

Picard: What is the scale of the museum's projects? Physical size of the collections, number of items in the collections, number of items digitalized.

A: Link between data collections in the museum and library. Different views on how to use the system. Regulators want all information, awareness of only after complete digitization. Adlib is a Dutch firm, reasonably priced and reliable. Cultural organisations are not required to use this programme, although most do.

All works are digitalized. The refining process is now on hand. All new acquisitions will be catalogued as they are brought in.

The library is now one of the larger art libraries in The Netherlands. The collection comprises more than 130,000 books and exhibition catalogues, 210 ongoing periodical subscriptions, hundreds of documentary videos and a very extensive documentation system with newspaper cuttings, invitations and such. The emphasis is on contemporary art, but there is much to be found in the field of 'classic moderns' as well.

The holdings are catalogued by means of various card systems, and acquisitions from 1992 onwards are found in a computerised catalogue. The process of entering

all the old card indices has recently begun. No materials are loaned out, but copying facilities are available. Using: Adlib Internet Server

Linking of back office and front office.

Picard: How are the current affairs of the museum affecting copyright and digitalisation? Are you getting the support you need?⁷

A: We have the time for perform quality checks.

Picard: Is the digitalisation carried out by the individual museums? Or rather on a national or regional scale, e.g. through cooperation efforts or a consortium?

A: Subsidizations are granted for implementing different strategies, not for similarities. Government support related to copyright accordance and digitization is therefore limited.

Recommendation: join forces. But this is a problem due to time constraints. It just takes too much time to get things sorted out among many different parties, different standards and ideology. For example: Geheugen van Nederland, Den Haag wanted to help 8 key players by giving a large fund, but wanted the museums to sort out the 'problem'.

Picard: It seems that museums are not willing to work together or that there is some kind of secrecy in how they operate. What do you think?

A: It is easier for libraries to cooperate as standardisation of their pieces have been happening for a longer time. They are less bound by copyright.

For example: all the libraries in Amsterdam are connected through the Adam Net. Also the www.fotograafbibliotheekonline.nl links all the photography libraries in the Netherlands.

The Art Library World connects libraries in three different genres. 1) museum libraries, 2) central research centres and 3) universities using Pickarta, however there is more information available outside Pickarta then within the database.

'We as museums have a lot to offer. Financing is the heart of the problem.' Some museums receive state financing, others municipal financing. The financing structure may restrict working together.

⁷ The museum has been closed for the past 6 years while waiting for the new museum to be built. It is currently scheduled to be re-opened in the latter half of 2011 when the building is completed.

Instituut collectie Nederland: Museum collections. When dealing with museum collections there is always an importance of the collections as well as a quality issue, which is of course difficult to define and measure. Also, there is a difference between museum collections vs. library collections.

Additional info obtained:

Try to talk to Erik van Bockstael at Boijmans van Beuningen and Vincent de Keiser at Den Haagse Museum (librarian, now something else).

The uses of technology enable us to look into new delivery systems. Hyves and Twitter could be used. But what is the added value to the museum? This information is NOT self-published, yet more public hear say. It may be positive to have a connection with this type of technology, maybe by means of an external link. There are mixed feelings regarding this type of technology within the directors and curators.

Interview with the Groninger Museum (Co-ordinator Information)

The person interviewed was willing to answer the questions, yet did not elaborate on the questions or topics at hand. The interview was carried out in the information centre of the museum, which was an open space separated from the museum administration office by means of a large bookcase. The conversation could be overheard by other members of the organisation and visitors could enter freely in the room. The interviewee left twice to refer to colleagues before answering the questions. I felt a bit unnerved after the meeting.

Picard: Is pursuing copyright important to museums? Is pursuing copyright important to YOUR museum?

B: Yes, I think so. We make arrangements with the artists and then the work is in the hands of the museum. We want money for it. For high resolution, we ask 15 e for individuals. For commercial purposes, we ask a higher amount to coverage the costs of obtaining the initial copyright.

Main reasons: Protect use of the image and money. Want to know who is using our works of art and why.

We as a museum can't control everything. The photographer is responsible for the archive.

Picard: Is pursuing digitalisation important to museums? Is pursuing digitalisation important to YOUR museum?

B: Yes, because we are subsidized by the government. Taxes are paid (by citizens), people have the right to know what they have paid for. Everything is digitalized. Digitalisation is an ongoing process. So far 75% of the museum's art works have been digitalized, including the most important works. These pieces have better resolution pictures.

Picard: Are already employed employees trained to carry out the digitalisation process? Are new employees brought in? Or is the (initial) process outsourced?

B: We first started digitalizing six years ago. I was in charge and doing the work. Scanning articles related and linked or referenced to in the catalogue, Adlib. In the beginning, I talked to outsiders for support. The price of outside help cost too much. Digitalisation was started at random. As we use pictures in publishing books and

catalogues, we are re-digitalizing to improve the quality of the pictures used and the information available in the catalogue.

Picard: How does copyright influence digitalisation? What is the impact of copyright on innovation and technological change i.e. the adoption of digitalisation?

B: Copyright is not restrictive.

Picard: To what extent is your museum in accordance with copyright laws? How do you keep up-to-date on these issues? How does your museum abide to copyright laws?

B: Copyright is not a big issue for us. When we hold larger exhibitions with paintings from other museums, the curator is responsible.

We do have the copyright of our own collection.

Picard: What strategies are you using to implement digitalisation? How is your organisation digitalizing its collections? What tools are being using and why?

B: First all the information is digitalized. This is now completed. Later, pictures are added. Bad images are replaced for identification purposes. What we consider are most important pieces are photographed in high resolution. The mother picture can be decrease to lower quality. We have a special computer with different resolutions.

We use the Adlib Internet Server. Most Dutch museums use it, as information can be shared and it is of good quality. Also, it is easy to use. Adlib been used by the museum for 15 years.

Picard: What are your aims or objectives? What do you want to reach with digitalisation? Future plans? (interested in changes, process and progress).

B: Colleagues can have access to the catalogue. We are digitalizing collections for the public. Our new information centre will be completely digitalized. Digitalisation of all artists books, films and videos will be available in a Juke box. There will be a 3D-model with films within the centre. A special application to browse through the collection with a multi-touch screen will be made available. The new information centre will be ready in December 2010.

Picard: What are the drivers of digitalisation?

B: Technology is improving and is booming. A lot of magazines are digitalized. The arts is a bit slower than other sciences. We have a special website platform for iPhones.

We have been sniffing around in Twitter and Hyves. The museum is not sure what they want to reach by using these technologies, but are going to use it.

The museum website is five years old, but no new technology applications have been added yet.

We are currently developing a gadget called 'the ID collector', where a story is shown when you photograph a painting. We are still testing out different things.

Picard: How many employees are working on digitalisation? How many man-hours are allotted to digitalisation and copyright issues?

B: One photographer and one webmaster. An application manager is working for Adlib 50% and 50% ICT. We have flexible employees. The library helps in filling in the information. The education development develops PDA tours.

Picard: What is the scale of the museum's digitalisation projects? Physical size of the collections, number of items in the collections, number of items digitalized.

B: (Pause). About 45.000 items without the archeology artifacts. Including the artifacts, this number maybe doubled. We have 30.000 books and catalogues, which are open to the public upon request.

Picard: How are the current affairs of the museum affecting copyright and digitalisation? Are you getting the support you need? ⁸

B: We have more time. Guards and personnel can help with cataloguing.

Picard: Is the digitalisation carried out by the individual museums? Or rather on a national or regional scale, e.g. through cooperation efforts or a consortium?

B: We talk with colleagues, however the actual process is carried out only in the museum itself. Wait this is not correct, the collection on Asian ceramics is supported by coordinated efforts with the Rijksmuseum, the Haagse Museum and two others. Groninger is responsible for the digitalisation and the Haagse museum puts the information online.

⁸ The museum will be shut down for six months as of April 2010 to carry out necessary renovations. The re-opening is scheduled for December 2010.

We are a member of DEN.⁹ I read the information and we contact them when there is a problem.

We are a member of a copyright organisation as well, but I forgot the name.

Picard: Has there been a strategy change of focus from preservation towards use or pursuing copyright issues?

B: We are not commercializing our works of art. Rather showing the works to the public and giving them the opportunity to see all the works.

Picard: Is digitalisation a way to attract visitors?

B: Yes it is. Originals are better than a copy. People want to see the real thing. We are stimulating them to come to the Groninger Museum not making everything available online. The information centre is not online. We want them to come here. They need to come to the museum.

The architecture of museum is special. We host controversial exhibitions. And we are known for these two things. The museum is very colourful, with colourful walls and floors. We do not only have white walls as other museums.

The exhibition determines the visitors. The visitors include Germans, Belgians and Dutch from all over Holland.

Picard: Can IP rights be enforced online? And is it worth it to you organisation?

B: People come to us to obtain the copyright. A few don't. There have been pictures of collections found in books. When these are found, we wrote a letter. Most of the time, they (the offenders) pay. Usually, it is the small local publishers who are misusing the pictures. They don't care that there is a copyright on it. Maybe they are ignorant. They know they did something they weren't supposed to and pay up.

⁹ Digitalisation organisation within the Netherlands.

**Interview with the Kröller-Müller Museum (KMM)
(Deputy Director)**

Before the meeting, and spent some time in the information centre of the museum. This is a state of the art centre with a number of interactive programmes. The interviewee was knowledgeable and eager to promote the organisation. We talked about a number of topics. The interview took place in the private office of the interviewee in a lounge setting. After the meeting, I received a museum guide book.

C: First a little about the museum. In 1938, DSB bank went bankrupt one day until another. The art was donated to the state to pay taxes, on the condition that a museum would be built to house the collection. Helene Kröller-Müller can be compared to Bill Gates' wife in these days.

The KMM does a lot to maintain their name. They know they are a small museum, but they are world known due to their one of a kind art pieces.

Picard: Is pursuing copyright important to museums? Is pursuing copyright important to YOUR museum?

C: The importance depends on the collection of the museum. Nobody is getting rich on their collections. Vs. Free exposures. Give everything for free. Commercial vs. individuals. Need to obtain license from Dutch State to use copyright for own rights. Everything after Piet Mondrian's time is copyrighted.

For museums, the costs of pursuing copyrights are higher, than that they would earn with it. It may take many hours or even months to find the copyright holder.

The KMM earns 12 million euro per year, of which 40.000 - 50.000 is euro earned from copyright. This is a marginal amount. Some people do give their copyright to the museum. The KMM is protected. Copyright is not a money affair but quality affair. We meet severe problems with Pictoright when having a modern artist exhibition. Beeldrecht is Pictoright today. It is difficult to obtain the copyright for Mondrian's. An American company has to exploit him for these two years, before the copyright of 75 years expires and his works become public property.

Picard: Is pursuing digitalisation important to museums? Is pursuing digitalisation important to YOUR museum?

C: Yes. We are responsible for security and you need to know what you need to protect. All objects are in the database with pictures. We are proud to say that we

have obtained 100% digitalisation on all our objects. We have pictures for 95% of the works. All works can be shown instantly with all information. Known art is less stolen. Private collections are more attacked. Within two years, the digitalisation catalogue rose from 50-60% to almost complete. There is a commercial aspect. Scholars are more difficult to convince. For example, if we want to hold an exhibition with 'cats', the database will complete the search within 20 seconds compared to a potential months' research by a scholar in the past. But by searching for 'kat', katedral and katewijk women are also unintentionally represented in the search. Scholars function for finding the cats is no longer necessary, but describing is more important.

Digitalisation is good for restorers. There is an instant readiness, high quality and limited time. The most sensitive scanning device is located in Hamburg. A scan takes 48 hours in a shock proof room. Two guards travelled along with a Van Gogh. The computer generated picture showed a painting underneath of a woman. We started x-raying paintings, now drawings. Now technology even allows us to analyse the brush strokes of Van Gogh, and use 'dna' matching to determine whether it is a real work.

Picard: How does copyright influence digitalisation? What is the impact of copyright on innovation and technological change i.e. the adoption of digitalisation?

C: Copyright can be seen as a handbrake. Even if the living artists want to give the rights, Pictoright won't allow it because they are protecting their interests. Music downloading from internet leads to creativity for a bit. Artist should be able to earn a living. Copyright is a part of this.

Picard: To what extent is your museum in accordance with copyright laws? How do you keep up-to-date on these issues? How does your museum abide to copyright laws?

At Pictoright, the worldwide copyright is available. Pictoright looks at a draft copy to determine the cost needed to be paid. We know certain artists are very difficult and expensive. We do not include them in printed catalogues.

Filmers can film within the KMM for 500 e a day. They must contact Pictoright on their own to pay the copyright.

Family copyright can be more difficult. When the heirs own the copyright, it is sometimes difficult to get in contact with them and to explain the importance of their cooperation.

Picard: What strategies are you using to implement digitalisation? How is your organisation digitalizing its collections? What tools are being using and why?

C: We are using TMS system (The Museum System), which is from Canada, if I remember correctly. It is faster than Adlib and may have a more library focus than art. The Rijksmuseum uses the TMS as well.

There is one person working full time to insert the data. The database is saved on a regular basis in 3 different buildings.

Picard: What are your aims or objectives? What do you want to reach with digitalisation? Future plans?

C: We want to keep up to date and show all pieces in the database. We are developing for the catalogue for our own use. We are working with living artists to establish how can we look from different angles? How can we rebuild art pieces? We are documenting guides to construction on certain works of art. A focus on improving technology ensuring security measures, restoration business and establishing paint strokes authenticity is continuous.

We want to create a sense of adding experiences within the museum to get people to the museum.

Picard: What are the drivers of digitalisation?

C: The new generation has developed an attachment to computers. The driver will be the youth. The KMM has its own YouTube channel.

We need to think of new way to attract vistors. I like to think of travelling by mind instead of body.

If originals are still so interesting in the future, we will have to play with the lighting in the museum. Playing with resolution, protection of the original is not optimal, which is not possible at this time. The lighting system of the museum has been digitalized and is controlled by computer. It is environmentally friendly due to the automation of the lights. They turn off when no one is in the gallery.

In Japan, there is a sense of why protect the art against theft? There are no criminals. But in China, there are so many guards and there is a lot of distance between the art and people. It comes down to cultural differences. 3D art pieces touched by the Dutch. But they would never think of touching the paintings no.

Picard: How many employees are working on digitalisation? How many man-hours are allotted to digitalisation and copyright issues?

For copyright, about 0.2 hours per week is spent on copyright issues. The head of the museum shop is in charge of product development. Due to the fact that many of the museum's objects are in fact in the public domain, copyright is not considered to be a full time job or priority.

For digitalisation, there is one person working full time to insert the data into TMS.

Picard: Are already employed employees trained to carry out the digitalisation process? Are new employees brought in? Or is the (initial) process outsourced?

C: One big frustration: the previous director gave the important project to a curator. A discussion on how many variables should be included in the database was extensively reviewed. The museum lost 250.000e throughout the 4 years 'project implementation'. The previous director wanted all available information to be included, instead of only focusing on the ten most important variables.

Therefore, when reintroducing the digitalisation project, the project started at a negative level. We had zero mobility. Introducing new technology to older curators was not ideal. The average age of museum employees are of a 'higher age'. They are not up-to-date. Ten years makes a big difference. The introduction to new things leads to hesitation. The 'old professionals' of curators know these new techniques are taking away their jobs.

Picard: What is the scale of the museum's digitalisation projects? Physical size of the collections, number of items in the collections, number of items digitalized.

C: The KMM has a relatively small collection of 19.000 objects in the museum. A thousand of these items are available for viewing on the KMM's website. These images are of the highest quality. The museum has chosen to focus on these specific images and do not wish to deliver everything. They want to stimulate potential visitors to come to the museum. Experience is most important aspect and there is an importance placed on upholding quality.

The KMM does however have a large Van Gogh collection. The collection at the Van Gogh Museum in Amsterdam is considered to be a small collection compared to the variety of works that the KMM owns.

Picard: Is the digitalisation carried out by the individual museums? Or rather on a national or regional scale, e.g. through cooperation efforts or a consortium?

C: It depends on the nature of the museum. The KMM is more independent than the others. Personally, I want to be in charge. When working with other museums and organisations, preparation will take months due to too much discussion. I am impatient. The KMM has raised 20 million euro in the past 10 years. We found the money and all of our projects have completed in time and within the budgets. We are however working together with Van Gogh Museum regarding our Van Gogh collection.

We are organizing exhibitions all over the world. For example, most recently in Taipei from December 2009 – March 2010, with an upcoming exhibition this fall 2010 in Tokyo. With these international exhibitions we earn 1 – 2 million euro net profit. We decide to do something, and we do it.

Asking for fees for exhibitions abroad is new. The KMM has been free from the state since 1994. C is a cultural entrepreneur, guides others in cooperation when going abroad and in what prices to ask. Some things you do not want to share.

We have held exhibitions held in South Africa, Genoa, IT. Melbourne, Wellington, North America, Seattle.

We have contacts in Dubai and Abu Dhabi. They do not have a suitable building. They are offering us hotels with exhibition spaces and will build what is needed for the artworks. The profile of KMM will not allow them to show in hotel lobby.

Cultural Lobbyism: Guggenheim and Louvre. Programme set for next 15 years and will be accountable for 1 billion euro.

Cooperation when auctions bidding. It is discussed beforehand who wants the pieces.

The KMM has its own gsm mast, yet cannot send an automatic message and give information to those to enter the mast's coverage area. The KMM wishes to give visitors information when they enter into their mast range. Pop ups are allowed in other countries. However, in the Netherlands certain privacy issues arise regarding this practice. Due to the gsm mast there is a white spot in an otherwise black spot area. The museum needs this mast for their own business purposes and can earn revenue by renting the mast out to a telephone company. The KPN telecommunications provider pays 10.000e per year to the museum to use this mast.

Picard: Has the number of visitors online increased on the museum's website due to digitalisation efforts? Is digitalisation a way to attract visitors?

We have over 300.000 visitors to the museum per year. We just are starting with a newsletter in order to build up customer relation management. We want to start emailing a thousand people digitally. This year the annual report will only be made available on Internet. However, an invitation on paper introducing the newsletter and to look on internet will be sent out. Over time the museum wants to add movies within the newsletters.

A threat is the average age of visitors is 50. And mostly education of school children. How to gain the young the audiences? Experiments to attract, handheld computer with points of interest within the museum. Connection to internet to do you trip again. Small staff, 4 times as many people as Van Gogh Musuem. 67 full time equivalents. Making people more aware of what they are seeing and how they are moving throughout the building and time needed for exhibitions. Exhibitions in Asia or North America, planes, shock resistant, weather control, travel info. Shock registration, lights. Eyes and ears and noses all over the world. Very new system from controlling the pieces loaned abroad.

Picard: Are you a member of the DEN? Do you use the DEN organisation (Digitale Erfgoed Nederland) as a point of reference:? The latest way of following developments?

C: We are aware that it exists. We do many things independently than the rest of the Netherlands and the world.

Additional information obtained:

The Ministry of Education, Culture and Science (OCW) was asked to make a database of stolen objects from churches, museums, and private collections in the Netherlands to use worldwide for dealers to check the authenticity of the works of art. The Netherlands does not want to pay for it, which will cost 200.000 – 300.000 euro per year to support the project. If one piece a year is recovered, it is worth more than the costs. Insurance companies are willing to pay, but don't want to take the responsibility in creating this database. Unfortunately, there is no government support for the recovering stolen goods initiative.

We just held our first interactive exhibition online. The government asked us to cater to certain niches. We held a competition where individuals could vote for their favourite 50 prints from 100 images to choose from. The top-50 were then displayed in the museum.

One-third of the museum's facilities or domain is storage.

We stole everything from all over the world during the Golden century.

Interview with the Museum of Fine Arts, Boston (MFA)

(D1: Head of Digital Image Resources and D2: Manager of Image Licensing Ventures)

I was met at the services entrance and got to see a lot of the background offices, transportation of valuable objects and the service lifts. The meeting took place in a private drawing (meeting) room of the museum with two people. The room was grand with old antique furniture and overlooked the courtyard. The interviewees were specialized in their own fields and were complementary to each other, answering when the question referred to their own expertise or supporting that of what the other said. The meeting was friendly, yet professional.

Picard: Is pursuing copyright important to museums? Is pursuing copyright important to YOUR museum?

D1: Absolutely. Basically you said by pursuing copyright you mean pursuing, going and finding the copyright holder, obtaining the appropriate permission to reproduce the images, and how the museum decides to reproduce them.

Picard: Are you actively pursuing the copyrights that you hold?

D1: The only copyrights that we hold are basically the copyrights we hold to the photography of the objects in the collection. There may be some objects I don't know offhand that copyright ownership was transferred to the museum.

D2: I don't think that is very frequent.

D1: Ok.

Picard: It's more looking into who owns the copyright and getting the rights to use it.

D1: Right. We basically back in 2002 began a copyright initiative, a special project where we would try to identify, we are an encyclopedic museum. Our collection is very vast, so off the top of my head I want to say there are under 20,000 objects that are not in the public domain. So we are systematically researching and trying to identify the rights holders and contact those rights holders to pertain permission to reproduce those images. We have a whole system behind that and to record that information in our centralized database.

Picard: Which database are you using?

D1: TMS. It's not just the basic TMS, we've developed special kind of plug-ins and programmes around it to help different departments with their different needs.

Picard: And how many employees do you have who are actively working on copyright and finding copyright holders?

D1: We basically have one full time person and interns who do a lot of research.

D2: That's just on the copyright portion.

Picard: Is pursuing digitalisation important to museums? Is pursuing digitalisation important to YOUR museum?

D1: Do you mean continuing to digitize the collection?

Picard: Yes.

D1: Yeah, that's our number one mandate. To get a photograph, a digital image, of everything in the collection and put it online for scholarly research.

Picard: It's not for the open public?

D1: The website is there for everybody and anyone to see. I imagine scholars use it differently than casual users and other people who come to look who are interested in seeing what's online for an upcoming exhibition. The idea is basically to capture an image of everything and put it online.

Picard: And how long have you been working on this process?

D1: Oh gosh, it's been, I'd say... What did John say, when they started just documenting the collection?

D2: Eight years, I would say, since we went digital.

D1: But prior to going digital, before that.

D2: We've been photographing the collection since the museum opened.

D1: I'd say it's been a good ten years the focus has been to have images available online.

Picard: And was the process initially outsourced or did you just start taking pictures?

D1: It's never been outsourced.

D2: We have outsourced some retrospective scanning, transparencies and slides, but we don't do that anymore.

Picard: How does copyright influence digitalisation? What is the impact of copyright on innovation and technological change i.e. the adoption of digitalisation?

D1: It really doesn't. Our goal is to, again, photograph everything in the collection and we are retrospectively photographing older acquisitions, but as new acquisitions come in, they get in line. There's really no...

Picard: You don't feel that the copyright law effects your digitalisation?

D1: No, it doesn't affect us at all. Our process is affected by the needs if there is a special exhibition, if PR or marketing, if there are objects of significance that we promoting. Copyright has no bearing on it. Our whole mission is really to provide access to the collection.

Picard: To what extent is your museum in accordance with copyright laws? How do you keep up-to-date on these issues? How does your museum abide to copyright laws?

D1: You know, basically, we attend museum seminars. We are pretty much in tune with and see all the information that comes out from the attorneys on orphan works and copyright. So I'd like to think that we are pretty much up-to-date with what's going on in the copyright world.

It's not too difficult to find the information. It's available. And for whatever purposes we're doing, it's available. We haven't come across a situations where we were like 'oh, what do we do? Or what's the proper thing to do from a copyright standpoint?' We reproduce images online and prints.

Picard: Do you think IP rights or copyrights can be enforced online? And is it worth it to you organisation?

D1: Copyright is a really gray area. It's really up to the copyright holder to what they want to allow and not allow. If we try to obtain permission for something to put

it online and the copyright holder tells us they 'I don't like that. I don't want my object online', then we won't and we will respect that and their wishes.

D2: There is a general disclaimer on our website saying that the images are only for study purposes and individual print purposes only. If we have permission to put it online, it goes online. We assume people will respect that.

Picard: What strategies are you using to implement digitalisation? How is your organisation digitalizing its collections? What tools are being using and why? We already talked a little about this process above.

What do you want to reach with digitalisation? What are your aims or objectives?

D1: Basically we want everyone who either can't come to the museum physically to be exposed to the art that we have in our collection.

D2: I think we also want researchers to be able to do their own research online and find out what we do have in the collection. It kind of takes the burden off of us to do that work. So the more we can get out there, the more that researchers can clearly research the collection without actually having to come here or to digital images or prints.

D1: Also the positive action, the exchange of information. Once it's out there, we also look for feedback, if there is additional information on something that we don't necessarily have, people can give us that, we can verify that.

D2: It's just wider access to the collection.

Picard: What do you think are the drivers of digitalisation? What pushes people to digitalize?

D2: It's kind of just the way things are going. Demand. Public demand. I mean people want to see it and they want to see it now. And I think it is access. People expect to be able to go online and see images that they don't have. And it's technology.

D1: It's really technology that is driving it.

Picard: What kind of technological items, audioguides or interactive tours, are you using to guide people around the museum?

D1: They're changing that now. We used to have the audio guide which was just a kind of a little handheld thing, but I think they are moving towards a more hands-

free type thing. I believe there has been some discussion on using an iPad or iPhone or something. I'm not really sure what the plan is for November (with the opening of the new wing), but I know there is something.

Picard: How many employees are working on digitalisation? How many man-hours are allotted to digitalisation and copyright issues?

D1: We've got five staff photographers. And then we have a digital archivist as well.

D2: Who does scanning and retrospective scanning.

Picard: And as the technology improves are they taking better quality pictures than they did before?

D2: Yes

Picard: And are they going back and doing the whole collection?

D2: No. Unfortunately we don't have the man power to do that.

D1: As technology evolves, our equipment evolves with technology, so therefore you get larger files with better resolutions and so on.

Picard: What is the scale of your museum's digitalisation projects? Physical size of the collections, number of items in the collections, number of items digitalized so far? I was looking online and there were many different figures were presented, so I'm not sure what to go on.

D1: There is probably over a 160.000 images online. But we have more than that in our archives. We have more than 450.000 records, where 346.000 are available in the search. Those are object records not necessarily with images. There are a lot of object records that don't have images. And there's also many object records that have multiple images, multiple views.

Picard: Are these records linked or cross referenced to other records, for example different files with exhibition information?

D1: I'm not sure how they stock really.

D2: They don't really cross reference the different records.

D1: But how many digital images do we have?

D2: Probably somewhere around 250,000. But there are a lot of duplicates. If we've been counting the collection since 1910, it might have been photographed five times over the last 100 years.

Picard: But that would be in one file then?

D1: Each file has its own unique number.

Picard: So one item could be recorded multiple times.

D2: Yes. But we try to prevent duplicates on the website. So if we shot it in black and white in 1920 and again in a black and white negative in 1930, those are all recorded in our database and they are all filed, but only the most recent one we shot in 2003 in digital form would be included and maybe any details that we have over the years would be available on the web. So basically what we hope is that only unique images are going to the web, which just makes it more easy. But we do retain all of those in our database, so our number of digital files is going to be much bigger than what is actually showing up on our website.

Picard: So you are not just choosing unique pieces to put online?

D1: Everything that is available is made available.

D2: Any object that is ok to go to the web, in which we have a fairly decent image of, it doesn't mean that because the image is on the web that we would allow someone to publish from it. We put a vast number of side scans on our website that we don't publish. It's still all about access. If it's good enough to be on the web, it doesn't need to be good enough for publication.

Picard: And if people want to publish it, they contact you?

D2: Yes, they contact the DIR (Digital Image Resources Department).

Picard: Can you explain the copyright licensing fees for the reproduction files? And how did you determine the prices?

D2: \$100 is if you get it on a cd, which pretty much no one does anymore. And that was kind of our point. We don't want to send cd's. Most people order the \$50 digital file and our prices are based on industry standards.

D1: That's for a photograph of something. If we don't have photography of something and have to do new photography, there is an additional charge.

Picard: I assume there is a difference in pricing for individual use vs. commercial purposes.

D1: It's the cost of the file. And then we have criteria for if it's a scholarly publication, if it's less than a 2,000 print run, there is no reproduction fee. However, if it's a commercial reproduction then there will be a fee applicable to whatever the project prospects are.

D2: So the \$50 is a flat fee.

Picard: Do you have an idea what are the budgets allocated to digitalisation are? Or what percentage is this of the total budget?

D1: Within our department we have specific budgets, but I couldn't give you a percentage of the budget directed towards digitalisation or copyright efforts.

Picard: Do you have an idea of what the revenues are that you obtain by selling these licenses per year?

D1: (a bit hesitant) It's definitely profitable for us. We are a revenue generating department. The way we are staffed and the way we promote our imagery, we generate revenue for the museum.

Picard: Has there been a strategy change of focus from preservation towards use or pursuing copyright issues?

D1: Yes, I do think there is a bigger emphasis on it now than there was 10 years ago. Again, with our collection, 95% of our collection is in the public domain, so I think probably when you talk to other museums you will get a totally different answer from them.

D2: And I think things changed when things went online. You had to be more focused on copyrights because of the putting of things on a website rather than publishing it in our members' magazine or in a book. Once things you went online that was a bigger audience. The amount of images you suddenly have to clear was a lot bigger amount.

Picard: How do regulators in the US respond to copyright infringement? Have you had any problems with this?

D2: We haven't.

D1: The people who pursue infringement are the artists' representatives and artists' estates. It is in their interest to protect the integrity of the artist and artwork. They don't want anything to hinder their ability to derive revenue from their work. It all comes down to money. At the end of the day, they don't want you to impede them from some revenue.

We don't actively police. We just don't have the staff to do that. We've never gotten a cease-and-desist letter.¹⁰ We've just always respected the wishes of the copyright holder. And if in fact we haven't found the copyright holder and put something online, then our policy is if we are contacted we will take it right down. We really do, do our due diligence to identify copyright holders is and if we can't identify them, it's really our educational mission to put the image out there and we'll do that. Clearly, if someone says 'sorry well you can't do that', we will act accordingly.

It would be different if our website was strictly thumbnails. I think we could make a fair-use argument for that. And have no problem releasing whatever images. Our images aren't just not thumbnails. You can blow them up to 800 x 800. They are large images so therefore in order to do kind of realm that you need to gain permission.

Picard: Do you think that the number of visitors online has increased on the museum's website due to digitalisation efforts? Is digitalisation a way to attract visitors?

D1: Oh absolutely. I don't know by how much, but I do know that there was a huge jump after we released that year, I think in 2000. We saw all our records increase and they have been climbing ever since. It's part the amount of images you have online. We've been increasing the information about programming. The website has gotten better from a stability standpoint over the years. So it is something that we will continue to pursue.

D2: I think people come to it because of the content. It's all contents driven.

Picard: Do you partake in any cooperation efforts with other museum while pursuing digitalisation or copyright initiatives?

D1: No, we don't really partner with anybody. We'll attend industry conferences and symposiums. There is a sharing of information as far as you know what other museums are doing. It's more informal contact.

Picard: You are a member of the Fenway Alliance. Can you tell me more about that organisation?

(Both laugh.)

D1: I guess we are.

D2: The Fenway Alliance is a group of institutions that border the Emerald Necklace¹¹ And it's mostly the universities and I think maybe the (Isabella Stuart) Gardner Museum, and I know MassArt is (The Massachusetts College of Art and Design). We don't really do anything with them. At least our department hasn't done anything with them. I don't know if our education department is doing anything. I know that a lot of the universities, or at least the last I heard, a lot of the universities are partnering for some kind of image thing, but that's been a while since I've heard anything. I actually haven't heard anything about the Fenway Alliance in years.

D1: We do partner, or I know that we have partnered with the MIT for some open coursework on some Japanese images. I know they had access to the art images for their open coursework. I know that we have been part of an initiative 'A thousand laptops', or 'laptops for the children', where we provided images for the laptops.

I don't want you to get the sense that we don't partner with other institutions. We certainly do. But there's no official digitization project.

D2: I do think the museum is actively involved with the Fenway Alliance. Yes. At this point our department hasn't done much lately with them. But I know in other areas that they are. Some of the universities might be doing, with their old slide collections, some sort of partnership. We opted not to. Everything is on our website, too.

Picard: Could digitalisation be seen as a merit good, as museums are seen as providing merit goods as educators?

D1: No, our whole mission is really to provide access to the collection.

Picard: Do you use Creative Commons?

¹¹ Parks and waterway area in Boston.

D1: No we do not.

*I believe that the MFA does not use Creative Commons due to the nature of their DIR department. The MFA actively pursues and ensures their copyrighted works as it is seen as a revenue generating aspect of their organisation. Also, the nature of the museum as a privately owned organisation supports this.

Interview with the Boston Public Library (BPL)

(E1: Digital Imaging Production Manager, and E2: Digital Projects Metadata Librarian)

The interview was carried out in the scanning room of the organisation, which also happened to be one of the interviewee's offices with a small desk in the corner of a big room. Two people were present during the interview and we sat in a small circle near the desk. A computer was available throughout the interview and many examples were shown. Both interviewees were knowledgeable about the topics discussed, spontaneous in their answers and examples given and were willing to share additional information. It felt like a nice down to Earth conversation rather than an interview.

E1: I got here back in 2005. Previous to this any digital efforts that we were going through were based on patron requests. Very ad hoc. Somebody calls up, they want five photographs, a newspaper article, a poster because they are doing a book on some sort of subject matter. Or they call because they want you to scan the left hand corner of a newspaper page where the micro film isn't too good. All those ad hoc requests turned into a kind of digital initiative and a decision was made to 'let's actually do this the right way' instead of doing this one of a kind thing and actually build a digital library.

So back in 2005, there was money given to put together this digital imaging lab. Basically there are two digital cameras. There's a scanning station. Everything but books gets digitized here. We try to do stuff at the collection level whenever possible because it just makes it a lot more efficient to point out one group of things that are homogeneous and say 'let's just scan all of this' instead of every few months we do a few. That way we can just set up the camera one way and just move it through.

The other side of the hallway what we walked through is the internet archive. About a year and a half after this lab was put in place, the Internet Archive showed up and they are a non-profit company run out of California by Brewster Kahle. The 'Wayback Mission' it started off as a way to archive websites, so if you want to see what Google looked like in 1990, you can go to that and look for it. This was in response to what Google was doing with books, the Internet archive proposed a way to digitize books as well.

But make sure, and this is probably what you are interested in, for the most part we are only doing public domain materials, which means as they get digitized over there, they get put up. So for ten cents a page they charge us, we get a digital image, we get all the derivatives they make. So they make pdfs, they make daisy (xml) files,

ePub files. there is an open source like pdf maker called Déjà-vu and all that gets mounted, gets stored on Internet archive servers that we have access to and then we also have access to all the Wall files¹², all the component pieces that put together all the delivery derivatives and they are free to all. Anybody can go there, download them, do whatever.

If we scan a public domain book here in the library and we put it online, and this is always my favorite conversation to have, somebody calls up and they say ‘can I have permission to download this book?’ and just the other day somebody called ‘we can’t find this book anywhere. It’s out of print. It’s out of copyright. We’d like permission to print it and pass it around our office’. I’m like ‘you don’t need permission, it’s in public domain. It’s there. If you have the technical ability to do whatever you want, you can do whatever you want’.

That’s a big reason why we went with the Internet Archive as opposed to Google. Because Google is not claiming copyright over public domain books, but they say that you can download their pdf, sometimes you can, sometimes you can’t. And furthermore, if you want to do research across large bodies of text, you have to seek permission from them to get access to everything, which we were very uncomfortable with. And we love what Google does for the most part and we’re very happy about the way that they are trying to organize the world’s information, but that’s now and we have to as a library, we have to think of stewardship for several years into the future if not decades or hundreds of years. And to put that amount of power into a corporate body, no matter how much we like them, we thought that wouldn’t be responsible.

Internet Archive is a non-profit, we are paying for the digitization ourselves, but we retain stewardship basically, so there’s no permission seeking. We are not claiming copyright to the digital image and we are not trying to license the digital images. They’re there and for the most part people are astounded when we tell them ‘You don’t need permission. This belongs to you. It’s in the public domain. We’re putting it here for you’.

Picard:

E1: It’s a little misleading because the website was put together many, many years ago. If you dig deep enough, you might find some rights and reproduction statements and that’s a little bit of the problem. It’s a big problem that we have now with all the different departments are like the pre-Italian state principalities. Everybody does things differently. Several of our curators come from the art

¹² Daisy files, ePub files and Wall files are all open sourced .xml likefiles free of charge. It is another way of storing files, think of .pdf, .xml, etc.

museum world and they are used to the idea of licensing images. You've got a Monet, you make a copy of it, you're going to license that image. You're not claiming copyright. Most of them know that and they are putting copyright-like restrictions on the images.

This is the one disclaimer I should make before we get into this a little more. We do not have an official policy here yet. (Phone rings). Getting back to our rights and reproductions policy here, we do not have an official one. Like I said you can dig into our website and you might find some, but they come out of the departments and a couple years ago, or maybe about a year and a half ago, we secured some pro-bono legal expertise. This is another problem with the public library. The situation that we're in, being a public library, 100% government funded, we don't have a legal IP team. I think that a lot of museums tend to have IP departments because they've got a business model built up around it already and they have a lot of business activity.

We've been doing this very informally. The curators have been kind of forced to be the ones do the invoicing, to draw up the contracts and I wouldn't go as far to say that they are making it up. They are pretty smart about it. There is no coordinated effort or policy. They are opening up Word, typing up something that looks like an invoice and they are sending it off to somebody. We can't even take credit cards. We have to wait for a check to show up. If it's a foreign researcher, it has to be a check drawn on an American based account. It's ridiculous.

I'm going to tell you my personal belief on this is and what I'm trying to get pushed through as policy, which is very similar in terms of how the Library of Congress works. The statement that they have up on their website is, at least out of the photographs and prints division, which I think is great. As a library, as a collecting institution, we generally don't own the rights to anything we have here, so we can neither deny nor grant permission to use it. That's up to you. We're going to do the best we can to let you know who we think that the copyright holder might be or if it's in the public domain. We can't say it's okay to do it and we can't say it's not okay to do it. We're just giving you a reproduction and it's up to you. They are kind of removing themselves.

Which is great because of situations that we've been in the past, we still get phone calls from textbook publishers, there's a lot of textbook publishers around here. Several years ago they would have called the library and spoken to some curator that may or may not work here anymore. They have a contract that says they have permission to use a particular image that was digitized for a period of two years or a print run of so many and now they want to republish it and they want permission again. And no one here keeps that paperwork.

E2: I think that there are records. But that they are few and far between.

E1: So you get basically ‘sure, send me 20 more bucks and you’re all set’. It’s not quite extortion, but if someone is calling you and offering you money, you don’t say no. On the other hand, it’s like when you paid the priest in medieval times to redeem your soul. It’s not really a legal transaction. It’s just they feel better. They are satisfying their legal departments requests to just have a piece of paper that says ‘you have permission to do this’.

The problem is that a lot of these images we have kind of licensed, we don’t have the license to. If they were in the public domain, that’s okay. But a lot of these images that we are licensing, we have in the past mistakenly thought that we owned the copyright to the reproduction. *Bridgeman vs. Corel*¹³ tells us otherwise and I think that it something that the art museum world has had a hard time swallowing. Despite that fact that there is case law out there, it wasn’t the Supreme Court, it was a circuit court that decided this and it was a British library that lost the case. And those are the excuses you hear ‘Oh, it was a circuit court. It was a foreign library. It doesn’t really apply here’ because museums really want to hold on and they really want to control what they consider their intellectual property which is reproductions of their artwork.

Picard: Do you have future plans to try to consolidate?

E1: Yes, that’s part of my job within our division. I run digital services. This is the Digital Services department. Me, E2 is our metadata librarian, we have another metadata librarian who works with E2. Those are the full time positions in Digital Services. We have a couple part-timers that help with production. We’re part of a larger division which is resource services / IT and that includes technical services all the cataloguing. It’s not the department that has the stuff, it’s the department the does stuff with the stuff.

It’s kind of a new department. We have a president that started here about a year and a half ago. So there’s a bit of reorganisation recently. So, yes that it one of my major goals for this year. I put together, and I could print it out if you want, a list of rights and reproductions statements from similar institutions; I went to New York Public. I went to the U.S. Congress. I think I dug something up from the American Antiquarian Society. So I’m trying to get all ends of the spectrum. The Antiquarian Society is very, very restrictive about their stuff. They’re deeply involved with all

¹³*Bridgeman Art Library, Ltd. vs. Corel Corporation*, cited as 36 F. Supp. 2d 191, 1999 U.S. Bridgeman Ltd. claimed it owned the copyright to public domain materials and images and sued Corel Corp. claiming that Corel had not gained the license needed and was therefore infringing copyright laws. The judge ruled in favour of the defendant, Corel Corporation, as the images were in public domain and could not be protected under copyright law.

different vendors and (customers) and ProQuest. They're at one end of the spectrum. I'm trying to loosen us up to the point where number one I'd like to see us get away from allowing vendors like ProQuest to come in, microfilm and/or digitize large collections because us as a poor library, can't afford to do it.

And the tradeoff is that 'oh, we'll give you a royalty, but now we own the rights to reproduction'. So again, it's not legally copyright but once you sign that contract that trumps federal copyright law because it's a state contract law¹⁴. And then you wind up several years later, all of a sudden 'look we have a digital library, we can actually digitize this stuff ourselves. And we're not allowed to' which kind of stinks. That's one big reason I'd like to see us move more towards non-exclusive contracts and solely for public domain material not sell those rights away.

So I'm hoping to have everybody in the division review these different policies and then come up with a coherent recommendation out of our division to bring to our Administrative Council and then have it turned into a policy. It's all over the place now.

I actually got slapped down recently because our Fine Arts department had a patron request of two photographs that were taken in the 1880's, I think. They were photographs of sculptures of two marble nudes, I don't know what it was for, but they wanted to reproduce it. They charged them for the production fee, we charge them \$20 to actually digitize the image, \$5 to burn it to a disk and then \$2 to transfer it via FDP or mail it out. And then they sent this email 'oh and we'd also like to secure permission for a print run of 10,000 and we'd like permission to bring them into Photoshop and put them together'. And I wrote back immediately 'these are in the public domain. You don't need permission'. Our arts-curator wrote me back saying 'let us handle this please. We actually do charge a fee for different print runs and they do need to seek permission'. I'm at the point now I don't want to deal with it one-on-one with the curators anymore. It needs to be a policy. Because it just turns into a bunch of little arguments here and there.

So, yes I would like to see us adopt a policy very much like... My model is Library of Congress, but also Cornell recently announced that they would no longer going to try to assert and enforce downstream controls over public domain materials. That was kind of the shining example. To come from a very large academic library was big in my mind. I'd like to emulate that policy as much as possible. We're just starting the process right now.

We actually did start the process a while ago. But it's never the most important thing, which is the problem. Now we've got these huge budget cuts. We're laying

¹⁴Contract law goes beyond copyright law because it is more detailed and specifies specific use.

people off. We're closing branches. Nobody cares about the digitalisation or copyright at this point. Nobody's complaining about it. Nobody's going to lose jobs over it. So we'll just deal with it later.

E2: But it is an important thing. Right now we don't really have authority to host our own digital materials. But once that repository goes live, it would be wonderful if we would have all of the copyright statements fit into the repository and have it not be this question of reproduction rights and be able to actually include other information. (missing part here)

E1: E2 made a really good point and I should have mentioned that. We don't have a lot of stuff on our own website and in our own domain. We can't be as unrestrictive as we want to. We're using Flickr. Yes were putting a lot of stuff on Flickr. Part of the user agreement with Yahoo is that it either has to be in the public domain or you have to have had permission to put it on Flickr, which is different than if it was our own website because libraries are afforded more exemptions from normal copyright restrictions under Section 108, but that's only if it's your own domain. You can't give it to another. Especially Yahoo. And say well, we're going to claim Section 108 protections here. You're putting it on Yahoo's servers. So we have to be careful about what we put on Flickr. And there's actually a lot of stuff on Flickr that is not in the public domain, that we do not have permission for, but it's more of a calculated risk kind of thing. So there is definitely some risk assessment in it. That said, we shouldn't even be doing that on Flickr because it is that third party.

Picard: So if someone contacted you, you would take it down?

E1: We can't put up a take-down policy because that is basically admitting that we already violated the Flickr agreement. So we just kind of put it up there. For example, these are a travel poster collection we have (showing on website). These were printed and under copyright in several different countries, so for us to try to get permission from every single holder would be difficult. This was one company that published posters of a lot of different places you could go to. Every single country had its own publisher. They might be orphaned by now. We just can't do the research.

If it was our website they were putting it on, we could put up a statement very much like that the Library of Congress which is 'That these are probably under copyright. We are making these available under fair use protections and Section 108'¹⁵

¹⁵ 'Section 108 of the Copyright Act permits libraries and archives to make certain uses of copyrighted materials in order to serve the public and ensure the availability of works over time. Among other things, Section 108 provides limited exceptions for libraries and archives to make copies in specified instances for preservation, replacement and patron access. Section 108 was

protections depending on which way you want to go. If these are under copyright and you are the copyright holder, please let us know and we will take it down'. That's something that is being recommended more and more for libraries. If they want to put up things that they just can't afford to do the research on, figuring out if it is in the public domain. The way somebody put it recently to me is that it is building good facts. Yes, you are probably kind of violating copyright. But if you can document and demonstrate that you have an understanding of the law and you have a respect for it, if you ever are sued, you have a much better case.

Picard: Why did you decide to use Flickr?

E1: It was because we don't have the staff to do it ourselves. We have one person doing our website for the entire library. We have only one full time webmaster.

E2:

E1: Yeah, Scott. We work together. There is a conflict of interest between who he reports to. They put him in a different division, but he is basically with our department.

We have an IT department that was designed to configure for a 1970's office environment. It's not ready to handle these huge amounts of content and complex databases and preservation qualities of the repositories that need to be built to facilitate access on our website. That being said, we do want to build this internally and have it on our website. We still want our stuff to be pushed out to Flickr because that is in terms of discoverability the stuff should be out there. But it shouldn't be in one place that exists. It should be broadcast from our central domain. We figure discovery will happen out where our users are, which are Google, Flickr, Yahoo and Amazon. And they will find their way back to us for true (?) rights policies.

E2: Anything that we put up on Flickr, we have really tried to establish the copyright and the find the copyright holder.

Picard: Can I ask a few other questions that I have? Do you think that pursuing digitalisation is important to libraries?

E1: Absolutely. It basically turns, among other things, it turns collections that would otherwise be hidden or less useable into circulating collections. Our research library here doesn't circulate. You have to come into the library, during hours of use. You

enacted as part of the Copyright Act of 1976, then amended in 1998 by the Digital Millennium Copyright Act and the Copyright Term Extension Act, and in 2005 by the Preservation of Orphan Works Act.' Reference: <http://www.section108.gov/about.html>.

have to fill out a triplicated card slip. It's a very slow, cumbersome process. Once it's digitized and it's online, I think that the () are obvious. The discoverability is increased exponentially. You could argue that for some of the more special collections, like the maps we have here, these are really hard to use physically, but once you can deliver them online, you are theoretically at least allowing users to view the digital copy. They don't have to view the physical copy anymore. They can if they want to. It's accessibility and discoverability. And it is an indirect form of preservation. It will theoretically require less handling.

On the other hand, it's also a big advertisement for what you have here. A lot of stuff that people didn't realise exists, now all of a sudden they know that it exists and they're going to come here to see the real thing. We're a public library, so if somebody comes in and wants to take a book out of John Adams library and look at it, we say yes unconditionally unless your hands are really dirty. That is a good problem to have, I think. If we are being overused, than that's great. It's better than the other way around.

It's a big turning point for this library. We've kind of been in a phase where we've, this is the second or third largest collection in the country and people don't realise it, it's not discoverable. I'm not even talking about digitizing the actual objects, but even catalog records. We never did our retro-cataloging, which is converting our cards to electronic format for our online catalog. I would be surprised if 20% of what we actually have in this building is in the catalog. If you can't find it online it doesn't exist. We all worked the info desk, I haven't done it in a while. One day some guy came in and wanted to find a book that was published in the 1950's and I said 'well, you're going to have to use a fiche catalog for that' and he just turned around and walked out. Not a lot of people are going to stand before a fiche catalog.

Picard: Are you planning on updating these things and putting them online?

E1: It's all about money. Yes, we'd like to. It's tough. We're a city agency. We're in competition with the fire department, the police department. It doesn't play well in the press to say the city is spending 2 million dollars on what. Why are we doing this while our cops are getting laid off?¹⁶ It's a hard sell in a city environment.

E2:

() Democratization of information because right now if you want to do something with the collections you have to be able to travel to Boston. So you have to be able to afford to travel to Boston. If you are a school kid somewhere in Africa, you can't

¹⁶ According to The Boston Globe on April 20, 2010, Bostonian fire fighters are to receive a 19% increase in wages over four years retroactively as from July 1, 2006. This is 5% more than the wages that police officers receive.

afford to come in and do research. But by putting the information online, anybody anywhere in the world can access it . A lot of the barriers can be broken. ()

E1: The internet and digitization is the combination of libraries in a lot of ways. It is really fulfilling our destiny. It's funny because the opposite gets portrayed in popular media. People drone on that the internet is going to kill off libraries. But this is the perfect tool for us. We just have to make sure, there's a lot on Google, but where do you think that came from? It came from libraries and once information is online and in a networking environment, you're still going to need librarians or at least librarian principals and skills. You might not need the same positions, but there are information science principals that are going to help organize it and make it discoverable. And that's where library sciences come into.

I think we're incredible compatible with digital resources and a network environment and the computational (volume). There's methods and modes of research that were either impossible or took a long time to do before digitization. The fact that we can digitize, there's a researcher from Harvard who we're working with, who is requesting all of our city directories become digitize. Because what he's doing is he is writing an optical character recognition programme on it. He's making some stereotype generalizations about certain surnames. For example, Washington is generally an African American name, while Chen is a Chinese American name. He is geo-coding each entry. This is all done programmatically. You can geo-code stuff because the city directories have addresses. You could parch (?) those out, come up with latitude, longitude, plotting them on a map to graphically show demographic shifts in the city of Boston all computationally.

This research was technically possible before. It would have required millions of dollars of grant money to have research assistants sit around and physically plot all of this up. And now it can be done through software, which is kind of neat. You can do concordances of entire collections and figure out what words were just most often across an entire collection. You know we have abolitionist manuscript materials, which technically have to be transcribed in order to do this, but the first step is getting them digitized and online. And now if we want these manuscript letters transcribed, we can outsource this work. There are people out there, we actually started putting our () manuscripts on Flickr, which really isn't the best place for it, because Flickr is really meant for photographs, but unsolicitedly all of a sudden people started transcribing these things for us without us asking. And this isn't like up to a high editorial standard necessarily, but there are people out there that will do this. They are bored. They were tired. They were interested. This is one thing you can get done for free. Whereas before it's again a huge grant replaced by volunteers. That's another big reason getting yourself out there because now you

have the ability to recapture any research that happens around that stuff. So it's not just putting a digital object online and letting it go.

All the research that happened around the analog collection, sure it gets published or maybe it doesn't get published. You've got David McCullough coming in here that publishes about John Adams, that's easy. But all this other research that's going on that we don't know about it's kind of like... Imagine letting your kids out into the world and never figuring out what happens to them. We now have the ability to, and this may reflect my personal beliefs about this, these digital objects that we are creating and sending out there, we can now track it and figure out what happens to them and what kinds of cross references are being made. One of the things that we like doing whenever we are putting the collection on Flickr is that we will just do a Google search for someone that might be interested in that collection. We see these showing up on blogs that we never would have thought that they were relevant. For example, there is one of the travel posters that happened to have a picture of the British railway network and it showed up on a blog that had to do with networks in general. Nothing to do with travel. Nothing to do with Britain. It's our most popular hit right now. And for a use that we never would have thought.

E2: It's also teaching us for future references. How to approach things ()

E1: One of our most popular books that gets downloaded from our digital archives site are a few books on British heraldry and coats of arms. And I asked our curator 'why the heck? First of all why did you even pull this I would have never thought to have done this? And why the heck is it so popular?' It turns out that the book actually became a ready reference for them recently because more and more people are getting tattoos, so they are looking for ... That's what she suspects. We don't have any proof.

E2: One of the things that I love about Flickr is that there is a lot of informal historians, where they might be flipping through a collection from the past from the early 1900's and they might say 'that's my grandmother' and can provide that information that otherwise would have been lost. Who in a hundred years, is anyone actually going to be able to identify who this person is. And that's now sharing information with the entire world. ()

E1: This is again not just the democratization of knowledge but democratizing our own internal processes. I think it represents in a way us, we as library professionals are traditionally thought of as we're the smart people and that we know everything about our collections. But it's really the opposite; we don't know anything about our collection. Especially in a place like this where the collections are so big, we don't know anything about our collections a lot of the time. We just collected it for some

reason. The experts are out there and our job is to get the stuff to them, so we understand better what the relevance is not just on any particular object, but of the different connections. And we do have curators that are subject specialists, so they're not ignorant obviously, but it's just one perspective, and now we have the ability to harvest infinite numbers of perspectives on it.

Picard: I have a question about the Facebook page and the Twitter account. Are you trying to distance yourself from that? I understand that you want to get the information out and you want to be close to the people and accessible. But to what extent? Many organisations see this as an informal way of contacting the people and unsure about how to approach it. Many people are scared about what users will post on these sites.

E1: We do have a policy and there are a lot of different ways to approach it. Scott would be the better person to talk to this about. From what I understand, there are policies out there. You can have a totally un-moderated, restrictive account. You kind of know that people are going to talk and especially now that we are going through layoffs and some branches closings. We do have some basic rules, like no profanity. I don't think we're necessarily going to enforce it.

E2: There was a nice article talking about as an employee whether or not you should use your own personal Facebook page to talk about the library, keeping that distance and as an institution how you should be encouraged to provide your employees with guidelines. Whether personal/professional use should or should not be combined. Shortly after this came out, our communications department () took over and from what I understand as June Pirelli (?), who is the head of our communications department, is actually the one that posts most of our Facebook postings and the Twitter account, so that is all coming out of an official channel.

E1: Yeah, it comes through the communications department. Scott or a web person helped set it up, but it's all officially coming out of the communication department. It's definitely monitored. It's not just out there.

Libraries are being forced to redefine themselves and one of the expressions that keep coming up over and over again is that it can be a gathering space, not a citadel of 'we are the profession'. We actually see this as an extension of our mission and I would argue that it is more professional to, at least in terms of our mission, to do something like that, to be able to conduct outreach and respond to () form.

Picard: I have to ask you a few copyright questions. I know that you are not really pursuing them per say. How do you think copyright influences the digitalisation process?

E1: Well, I don't think we consider it primarily if it is something that we will deal with eventually. I think most of our decisions about what we digitize is primarily subject based. They are very heavily kind of workflow based. It sounds mundane, but if it's a collection that has a lot of different types of objects in it, we'll shy away from it because it's harder to do... As we talked about before, we want to do five different things on this camera; we try to step out in terms of just having to format the size of the object and the metadata, the description of it. If you have to come up with a descriptive schema for every subunit of the collection, that's just as onerous as having to use a bunch of different cameras.

So, copyright does factor into it, but our attitude is 'we'll figure out a way to deal with it somehow'. We are very confident that we will get our act together in terms of policy and I would personal like to see us push the envelope of what can be allowed under Section 108. Copyright law was not written with digitization in mind. I think there is a lot of room for interpretation. I would like to see us become a lot less risk adverse. I think we're in the perfect position to do that as a municipal public library. I don't understand sovereign immunity totally. But I know there is recently a case *Universe vs. Georgia State University* where they flat out violated copyright, and now there's sovereign immunity that they claimed. It was a little abregious. I think they were banking on it. And I think that's when courts start looking a little less favorably. If you know you're violating copyright and just do it anyway because you will gain from it, that's not the direction I would want to go.

We want to make smart decisions. But we do want to push this. To just sit here and say 'It's under copyright and we're not going to scan it. We're not going to digitize it.' I don't think that is sufferable for us.

E2: That being said, the whole we, which we (). We have been very careful with the albums that we have digitized. Some of that is ...

Picard: It's also is the nature of the organisation. You're not trying to make a profit on it.

E2: No. It's outreach to people that aren't able to make it. ()

E1: That's a good point and I'm glad you brought that up (referring to Picard's comment). And that's another place that where there is a fundamental, philosophical split between some people here and us. I think a lot of people here really see our special collections and unique materials as an opportunity to make money somehow. () People will pay gobs of money to ... and the reality is that art museums have entire departments built around this. They are doing heavy merchandising. We will

never do that. If you think you're going to make money off of this, you need to have a gift shop, a good website. You're not going to make money licensing an image to people who make textbooks. In general, libraries also aren't good at these types of business models. I think that there is an illusion that you are making money. There is a difference between revenue and profit. So the curators think we are making money because they are seeing these checks show up for \$20 here and there. Reality is that it probably took them an hour to figure out the contract, to send the emails back and forth, and you (as an organisation) just wasted your money. They're getting paid more than \$20 an hour. You've actually just lost money on this. But they wave the check at you and say 'look we made money today'. And you really didn't actually.

I would argue 'don't even think of this as a revenue generating scheme. At best, we might want to make our money back somehow', which is why I recommend that we charge for the actual physical item or the digital item and not get into the whole usage contracts. In my mind, we should say it's \$10 for the scan. If it's scanned already, we're going to charge you this. If I have to scan it myself, we're going to charge you this much. It's up to you to do whatever you want. If it shows up on a billboard, good for you as long as you cleared the rights. For us to start monitoring... Why would we put together a contract of something that we cannot enforce? We tell a publisher you can use this for a print run of 30.000 maybe 40.000 and then it shows up on a billboard. Are we really going to go after these people? It's not worth it. So why bother to begin with?

E2: And I always find what I think is very interesting, that people photocopy things and it's basically under fair use and if they decide they want do something with it, it's their responsibility to figure out the copyright. So in a lot of ways our point of view is very much () than what we already do for photocopying. We'll provide you with the reproduction. It' really up to you as the person who wants to do something commercially with this to secure the rights and it's not necessarily something that we want to be involved with.

E1: The OCLC recently had a working seminar called 'Undue diligence: Seeking Low-risk Strategies for Making Collections and Unpublished Materials More Accessible'. There's a lot of good literature that comes out of that. I will send you the link.

Picard: How many employees are working on digitalisation?

E1: Well, officially there are 3 full time employees in our department. Two part time employees. A very creative mix in terms of interns involved here so that could be anywhere between 2 -7. I think this semester, we have 4 interns.

In a weird way it is difficult to cord it off, digitization as a department because it affects and depends on so many other things. You need to have the stuff catalogued and this is a very unfortunate misperception when we first got here. I think that it was thought that if we built a lab, you just scan stuff and it shows up on the computer. The reality is that we are the conversion unit. We can help, but we need something to convert. If you don't have a cataloged, it's not like scanning it was going to catalog it. You still need a record for it. Even an analog record we can convert. Our special collections here at this library, unfortunately this is again a result of budget restrictions and decisions, and the fact that we kind of have a dual purpose here to the city, we are a municipal library that has a very strong branch system. That is very community centre. They don't give two hoots about this high-resolution and high end research collections. We have what should be a world renowned research collection and I would argue that that has over blast (?) at least ten to twenty years has kind of gotten short shrift (?) here. Our technical services department is almost 100% focused on getting the circulating materials barcoded, stickered and sent to the branches. They have no time to do original cataloging of all this stuff we have. We have a (American) football sized print department vault. And I don't think anything in it is cataloged. There are labels on the boxes.

E2: And there are some cataloged. One of the problems with a department like the print department is there are catalog cards, but there is not necessarily anything to match them up with the actual items. They describe the item, but they didn't say where they are located. They didn't include any sort of comments or a barcode or anything to match them up. And so in a lot of ways you almost have to start from scratch. For example, we digitized a very large collection of Louis Prang lithographs. And they have cards for all of them with all of the information. But they are not matched up and we haven't matched them up. So they are useless, unless we can go through them one by one and figure it out.

Picard: Do you have an idea of how many objects you have here? I was looking online and there are many different numbers.

E1: It depends what you're looking at, which collections. I don't know what our standard line is these days. I want to say 6 million books, 15 million objects off the top of my head.¹⁷ But it is a very, very rough estimate that fluctuates depending on what we bought this year and what we got rid of.

E2: But one of the things that we are trying to do it terms of describing and in terms of digitizing, is that we are actively asking technical services to create collectional

¹⁷ The document 'BPL: An Overview in 2010', published April 5, 2010, states that there are 20.814.900 objects. (http://www.bpl.org/general/about/bpl_an_overview_2010.pdf).

records for collections we digitize, so it would be good to know that if somebody goes into a catalog that they will find a record for that collection.

E1: We don't need a separate mark record for each one of every 36.000 photographs. We can just do a collection recording for that.

E2: And so we are at least trying to work with that.

E1: That goes back to what we talked about earlier. So we are working with a lot of other departments. So in a weird way the digital department is, I'd like to think of it as evasive. It needs to touch everything here. I mean collection development, technical services, web services, everything; everybody needs to chip in somehow, so in a lot of ways it should be an institutionalized department, but it needs to be coordinated.

E2: An exceptionally large part of my job is trying to get information out of the curators, getting the curators to work together with technical services on things like creating () records. Tom also works to coordinate those () digitized.

E1: That is actually the biggest part of our job. Marshalling the troops and tricking them into helping us because they thought we would do everything. They thought they would drop stuff of and it would show up online. And we're like 'No, no, no. That's not what we do at all'.

Picard: Are you working together with an external parties or organisations in order to find out and exchange information about how to for example digitize or new techniques for production?

E1: We're on a lot of lists, so we are always kind of monitoring. I think more and more open sourced software packages and applications are being developed. For example, right now we are working with a product out of Rutgers, which is called OpenMIC, which is an external validator that is built on open source software. It's not a direct formal agreement. I think it's great that you actually don't have to do that. Because institutions are developing these tools and just putting them out there. The problem is though that they've typically developed it for their particular own uses and even though there are standards out there everybody uses standards differently. Or they are just using parts of the standards, so everything has to be tweaked a little bit. The first step is to download the software and install it and we just recently went through an evaluation project that E2 put together, so we are now at the point that we would like to get in touch with Rutgers directly and say these are our issues with this, do you have solutions? Or is this something that we have to develop ourselves?

E2: There is something that is important to know in terms of our metadata standards. I didn't just create them. They are based on national standards. When I was putting them together initially I spent quite a lot of time looking at how other people are using these standards. I looked at the (Digital Library Federation) Aquifer guidelines for creating shareable (mock?) records. What we are doing here, we are trying to do the best we can to have them based on national standards, so we can then contribute our records to the larger community.

E1: I think that is just the nature of digitization it's no longer us... in the old days, you'd call up a library that has a similar collection and ask 'how the heck are you doing this stuff?' Now it's all online. There are more and more conferences. There are more and more (lisers, listeners?). Everybody knows that there are de facto standards out there. There are actual published accepted standards. So that is easy to find without actually having to formally contact somebody.

In terms of partnerships, there's grants out there in terms of getting money or support. We might have a collection that another institution wants to see digitized, so they'll apply for a grant to have people process our collection. We're involved in a grant with WGBH for digitizing some local news footage for the whole copyright clearance thing. So they are working with the Burkman center here to come up with those series of guidelines and steps as to what directions to go in. That gets really complex because a lot of this footage may have included other footage that was licensed and sublicensed. You have to track all that stuff down.

E2: And there are, I don't know this directly in response to your question, but I think that we are in the process of using OpenMIC to get our Herald Traveller furthermore digitized. It's like 1.2 million photos and quite a lot of the images are AP photos. So we contacted AP and said 'hey, we have a lot of your photos and this is what we would like to do'.

E1: It was very informal. This was probably over two years ago at this point. We just kind of informally asked them 'Would you mind if we digitized these and put them online?' He said 'We would be thrilled if you did it because you guys are going to do a better job than we are. Just as long as you are not licensing it'. Because it works for them. If you use the librarians they're going to come up with a better way to catalog, digitize and present these which will in turn make it more searchable for us. And then we can sublicense it. It is two missions that fit together well. All we care about is getting the information out there.

I have no problem putting on a presentation saying ‘These are under the copyright of the AP or UPI¹⁸. If you would like to license these, go to them’. Our job is to serve the public. Our job is accessibility, research-ability and discoverability. And this is again where that split happens here. There are people who say ‘Oh, but we should be making money off of this’. We’re a library not an art museum. It’s not what we are here for. The collections were donated to us. Why is this so different for digitization of special collections? You wouldn’t think about putting a gate up for people checking out books. You wouldn’t think about charging for a library card. Why is this any different? But for some reason they think it is. I don’t know if it because they think it is more unique material.

I keep this little thing up here (points to an article clipping on a blackboard, push pin board). In Ernst Gallo’s obituary it talks about how he borrowed \$59,000 and a wine recipe from a local library and founded one of the world’s largest wineries. Did that library think that they were entitled to a portion of his fortune?¹⁹ Why is this any different? I know it’s cheesy (referring to the obit).

Picard: We’ve covered one way or another everything I wanted to ask you. Do you have anything additional to add? Or maybe you want to show me the Internet Lab?

E1: Before I bring you over there, I can at least show you what it looks like. This is why we think it is cool. If you go to our website, what’s the best way to do this, you can... Our users don’t necessarily have to know that something has been digitized. I think right now in the early phases of production, it is easy to think that users are going to come to your site and say ‘I want to find something that’s in digital format’. But I don’t think that is the case. We want the discoverability to be transparent. We just want to be like ‘Oh you can get the book or you can get it digital’. More likely, someone is going to go to our catalog and look for something specific, I always use this example, the Code Henry. This is a book that sits in our rare books department, the Code Henry. It is like the Napoleonic code of Haiti. There are only two or three of them in the world. This is getting back to an earlier point, we didn’t even know how important this thing was until a researcher from Haiti came by a few years ago and he said ‘This doesn’t exist anywhere. Our own country doesn’t even have this’. This is an 800 page book that details what civilized life in a recently developed African American democratic republic in the Caribbean. This is a very important founding document for this country that they don’t even have. He flies back to Haiti request the rare books department to copy it because he can’t find it anywhere else. That’s ridiculous. It’s an 800 page fragile book. We said ‘we can’t photocopy it, but we can do something better’. Within 48 hours it is digitized and online.

¹⁸ AP = Associated Press; UPI = United Press International.

¹⁹ The recipe was in the public domain and not protected as intellectual property and therefore copyright cannot be claimed.

So you can look for this in our catalog. You go to it, realise we have it, which is cool. And there is a little link here, you can go from the point of discovery to the point of delivery. You can read this online. So this is the online application. It is pretty easy to flip through it. You can zoom in on it. It's better than the original because it's full text searchable. I'm just putting in a word that I see here. (E1 types in a word into the programme to search for). It will highlight everywhere and give you every page. So that's kind of cool. The Internet archive is embedded. The Internet archive search interface isn't so great so you don't have to rely on that because we are automatically embedding these in our own catalogs. If you don't want to read it online, you can download the pdf. If you download this, you can put it on your Sony e-reader if you want to. Or and this is the beauty and this kind of speaks to, what we talked about earlier (..) A lot of times we get users to go these pages and they say 'Oh, I really want a high-resolution copy of page 50 and it's not very () of how you can do that. You can download and open up the pdf. You've got the compressed file. You have to pick it apart and store it. But if you follow this http link, this is the big ugly directory listing of the production files. So you can download the zipped up or they're put into powerballs (?) It's every single page. It's uncropped. If you are a MIT-hack or if you are Google you have access to all of this. You can do whatever you want to with it. You can come up with a better search interface. You can invent the next best e-reader and you can you all the source xmls for it. All the wall ocrs (optimal character recognitions) are there.

E2: This goes back to our eventual goals to our part on our repository on the website. We would often like to, I think the plan, at least I hope it still is, that we want to publish the information about our api. So if you as a scholar wanted to come in and build a website that pulls materials from our repository, you could.

E1: That's another good point. There are institutions that will claim copyright to their website as a whole. This is going to be a harder fight, but I would prefer to not do that even. I would prefer to, which is addressing publishing the api, not only can you download stuff on at a time, you could turn it into your own website. So we think this will enable scholars and local historians, I would love to be able to see every local historical society here, get resources off of our own website and republish it however they want. Or manipulate the data however they want. I don't know why anybody would want to cordon that off.

E2: The wonderful thing about allowing them to actually draw it directly from our api (application programming interface), is that whole theory behind it. You know you only have to update it in one place and so when we get more information about this object we update it in our repository and then it automatically gets updated on their website so they have the current information on it. They are the subject

specialists, not us. They would potentially have the ability to build this beautiful, curated website interactive for our user and it is just the objects that they would be pulling from ours. It really does open up a new way of allowing users to interact with the information beyond just tagging and commenting, which I think is one of the things that we've seen most commonly. I don't know in a 1 point 2 point 0 environment but in expanding beyond that and actually allowing people to be pulling stuff directly from our collections.

E1: One thing I want to point out about our Flickr site. I don't know if you've seen it or not, but Flickr doesn't allow you to... you have to choose a creative commons license, which is a little funny because Creative Commons license, and this is where Flickr doesn't work very well for us, it is meant for people who actually own the intellectual property to it. They force you to choose one. We've been trying to get into the Commons, I don't know what's been going on. I don't know if they just don't like us, so it's a little weird.

So this is something we've put up recently. We have a collection of fruit crate labels. They are really pretty. They are probably under copyright still. It depends. You would have to do research on every single one, to see if it was registered or in the public domain in the country of origin. This one is from California actually. The travel posters are a little more hinky because you are dealing with foreign copyright.

E2: For example if this library or the US government published a poster, none of those travel posters are under copyright. Those are all in public domain.

E1: There is the World War II poster that has a Norman Rockwell on the front. That is different and copyrighted.

E2: There are exceptions to a lot of things. And I don't know how other foreign governments are dealing with copyright.

E1: Nobody's complained yet.

E2: And we're not the only ones putting up those kinds of materials. Even on Flickr.

E1: And that's what you are going to read. That's why I sent you that 'Undue diligence', which is run out of OCLC RLG Research²⁰. And two women who are the main proponents of this strategy are Mary (Lee Profit, can't find her information) and Ricky Erway and Jackie Dooley also. They're great. They worry about this a lot. And they say things like 'Yes, it's illegal, but you'll never find anybody that's been

²⁰ OCLC, the Online Computer Library Center is a non-profit worldwide library cooperative. (<http://www.oclc.org>)

sued about this. And that's not legal advice and by the letter of the law we can't tell you to do this'.

I was just at a session at New England Archivists where the speaker was talking and hee was a lawyer who was just graduating from law school and he's saying 'when you go to your general council, you can't just go to them and ask can I do this. They are going to say no. Their job is to protect themselves from getting sued. You need to kind of re-engineer the conversation to we're going to do this. How's the best way to do this? What's the smartest way to do it?' And they might look at you like you've got seven heads. They might say I'm not going to participate in this conversation. But you kind of have to take the attitude that they are there to serve your mission, not the other way around. They might disagree, but I think that's a better way to phrase the question.

So this for example we really have no way to put this up here with this license, but I kind of looked at it and tried to figure out what's going to get us in the least amount of trouble if something happens. It says 'You can share. You can remix it. You need to attribute it.' I think it's supposed to be non-commercial.

E2: One of the restrictions of Flickr, as I'm sure you are probably aware of, is that they put particular restrictions in place when you mark copyright. So it disables some of the features, so people cannot see the bigger version. They can't download a copy. But what that means is that some of our materials like if you open our Dickinson file...

E1: Yeah, this is a weird case. This is an Emily Dickinson manuscript that you would think would be in the public domain, but actually for reasons I don't completely understand, Harvard actually owns the copyright to this. It has to do when they were actually published and then there were some rights transfers. They got wind that we were doing this and they actually sent us a cease and desist. And I wrote back 'we would still like to do this, what do we need us to do?' They were fine, they just want to make sure that people know that they own the copyright. They said 'Please put a rights notification on here'. And we did. We showed it to them. They're happy with it. We could have put all rights reserved, but in Flickr if you flag it all rights reserved, this is as big as you can make it (the size of a thumbnail picture). What's the point? You can't read it.

E2: One of the things we were talking about the transcription of some of the anti slavery materials we put up, potentially someone could decide they want to transcribe them.

E1: A funny thing actually is that Flickr claims rights over any information, so there's another problem with Flickr. All of this information we put in, they can claim proprietary rights to.

E2: And all of the comments that users put in.

E1: The comments, they're actually claiming exclusive rights to. This is stuff we contributed initially, so obviously they can't claim exclusive rights to this. But anybody who comments, they're claiming exclusive rights to. The user agreement is a little in limbo. The transcriptions, we can't technically use them without Flickr's permission.

E2: This is why it is important to us eventually when we get our own repository developed; we're learning things about how people are interacting with this information. And that says to me that we need to make sure that we provide users with the right transcribing material if they want. We developed a tool that allows two people to transcribe the same thing and compare the differences. Maybe we just need to put something on it saying 'We would love to have your transcriptions. Type them into the comments.' Just some way of getting that information since we now have learned that there are some people willing to do that for free and for fun apparently.

**Interview with the Peabody Museum of Archaeology and Ethnology
(Senior Collections Manager and Digital Assets Coordinator)**

The interview was held in the personal office of the interviewee, which I assume to be one of the only private offices in the department after walking through employee cubicles. The interviewee was friendly, interested in the subject and formulated his answers in a constructive way. A computer was used to show the repository computer systems the museum applies.

Picard: Is pursuing copyright important to museums? Is pursuing copyright important to YOUR museum?

F: Believe it or not, I really don't. The big difference about the Peabody Museum at Harvard University is since we are an educational museum and an university museum, the dispersion of knowledge is part of our mission statement. So we don't get too crazy or too specific on 'Oops, this is ours. You're using it without copyright.' I mean we do make an attempt for it. But our mission is to share knowledge, so we are always judging copyright as far as getting it out against we want people to use our data, which is these images.

Now as far as us taking copyright from other people, we usually don't have that problem either. Art museums, for instance, have modern artists that show their work and they reproduce their work. Where an archeology museum, our objects are 5.000 years old. No one can hold the object in that sense for us to worry about the copyright. Also, we are an older museum. We are 150 years old. Our earliest images are scanned from (..) and glass plate negatives, etc. So, everything is public. A lot of our stuff is public domain actually. What we try to restrict is actually, we do use restrictions. We can say 'You want to use our image. Great. It's on the web. You can just copy paste and use it in a power point, no problem. But if you want to publish it, that is where we get into use restrictions and some of our copyrights. And mainly because we sell our images to publishers. That's one of the few revenue sources that we have here. So it's more about restricting the use of images rather than worrying about copyright.

The one place where copyright infringement that we might be infringing on others might come from. We have about 300.000 - 400.000 photographs now that we are scanning. We are about half way done. We've scanned 200.000 of them. The photographs may have copyright issues because someone else took the photographs. Generally if they were a Peabody employee even a hundred years ago, it's the property of Harvard because they were an employee. So it's really only when it was photographed by another researcher and that researcher retires would donate their

entire artifacts, notes and images to us, that's when we might have copyright issues. But part of that acquisition process, our registration department they signed over their copyright to us during and as part of the acquisition.

So, yes it's important, but it's not as important as in probably most other cultural institutions because of a couple of our missions.

Picard: I was really surprised by your website. You had a really well written rights and permissions policy and the copyright policy is extensive. I haven't seen this at any other museum. But I'm now wondering if that is because you have Harvard Law School here.

F: It's definitely because of the Harvard Law School here. If you would have looked at our website three years ago, you would have seen a totally different monster. The website itself just got revamped last year actually and part of our revamping was trying to make our website more user friendly for our images and services department. A year from now we will probably have a PayPal type of thing. You would just click on the image and it will generate the request and send it to the OMS department. We're not quite that fancy yet. But that will be in a year or two. But when we revamped the website and when the office of imaging services got involved in the design, that's when we decided 'Ok, let's run our copyright statement by the Harvard Law School.' And the Harvard General Council has a special copyright department and they gave us tons of advice for it. The statement from two years ago wasn't anywhere near what we have now. Those statements were done ten to twelve years ago. They talked about how many dots per inch you could print, not how many pixels. It really was not the right approach. But it is extensive because of the Harvard lawyers.

Picard: Do you think that the improvement in technology has helped in pursuing copyright or putting more things online or digitizing it and delivering it to the people?

F: Yes, it definitely has in a couple of ways. Another little side story: We created our website in 2001, our collections went online. We currently have about 600,000 cataloged numbers and objects and 300,000 of those have photographs of them that are scanned and online. Sometimes they are scans of historical photographs. Other times they are photos that we have taken of the objects. And when we put up the website in 2001, it was simply because we had reached 100,000 images and no one else on campus back in 2001 had 100,000 images. And even no other museum in the country. They weren't anywhere near us. So we put up our website partially for bragging rights. We wanted to show off 'Hey, we've spent three years digitizing. Here are the results. Give us more money so we can digitize the next 500,000

images.’ And the website that you see, not the museum website which has been revamped, but the collection online really hasn’t been changed that much since 2001. Again, a year from now it may be a completely different product, but right now we are still with the 2001 product.

When we put the images up there, we have a lot of research requests. People come in and study our artifacts. And after we put our data online, our research visits went up 300%, with the same amount of staff. So, now on any given day we have 2 ½ researchers here. The main reason I think is that they can kind of triage what they need to see. Instead of coming to the Peabody for a week to study 5.000 pots. They can now say ‘I want to study pots with rabbits.’ We have a 100. They’d have to come for a day. Now they will look at the 100 rabbits and say ‘These ten pots are the ones I really need to study.’ We pull the 10 pots out for them. And they are in and out within a couple of hours. So it has really helped our researchers, digitizing the objects. And likewise it has really helped publishers and people using our photographs because it used to be that they would have to come here and spend literally weeks going through boxes of photographs and catalog cards describing the negatives. And then we’d have to send it to the dark room to check the imaging. Now that everything is up there, we’re just going so much quicker, with our research and publications. And that definitely could not have been done without the digitization projects.

Picard: Do you think there are any other drivers of innovation besides technology?

F: Well our database as a whole has helped. Even without just the computer, without the scanning. And we have a very thorough database with 600.000 records. If we were to search and discover that we have 12.000 photographs inside of Chichen, Mexico which shows Temple One excavation Unit three. Again, even before or without the database, it could take someone days of going through the catalog cards looking at them. So, technology definitely helps.

We do 3D scanning of objects. Really high end 3D scanning of artifacts. That’s not quite answering your question. But that’s still dealing with computer technology.

We haven’t totally made use of PayPal and Mastercard. We don’t do a lot of electronic marketing or electronic business. We are still basically a brick and mortar company. People email our department. They then manually process the order. We send it along to someone who can charge a credit card and manually type in the numbers. We definitely don’t do e-commerce yet. And that’s where we would like to go. But right now there’s no real big push. One person can handle everything. And she has the availability to run other aspects of the imaging projects here at the museum. We don’t really need to automate that too much more.

Picard: How many people do you have working on digitalisation or copyright?

F: We have one main person in charge of processing orders that go leave the museum or that even go to faculty curators or internal publications. We have one and she handles both the database side of it as well as the financial side of it. And she even organizes if we bring in a professional photographer to shoot the objects. She works with that.

As far as how many are working with her, the head registrar is really into intellectual property and she has been leading intellectual property here for the last twenty years. She sits on registrar committees for the AAM, the American Association of Museums, about intellectual property. So she is the founding board before we use before we go to the lawyers. So our image specialist has someone with twenty years of experience to bounce off ideas.

For scanning the items, we have a crew of basically four people in collections, who are cataloging the whole collection. And part of the cataloging of all 600.000 objects and taking a photo of it. They generate probably about 150.000 images. We have also had a series of four or so fairly large grants, \$250.000 grants, three or four of them, to digitize our historical photographs. And we are probably around 150.000 – 200.000 of those are scanned. And we are just chopping away on that. I would say that about 50% of our 3D objects are photographed. And close to 50% of our historical photographs have also been digitized.

We don't really have a department who's job it is to digitize. Digitizing is just one aspect of general work here. An object does not go back onto a shelf if it has been pulled off or loaned for exhibits before it goes back on the shelf, the staff makes sure that there is a digital image of it and that their job gets done. It's just part of our normal cataloging work now.

Picard: Can I ask you about your database. What are you using?

F: We are currently for the next three days using a database called EmbARK. It's a relational museum database created by Gallery Systems. EmbARK was designed for an art gallery of about 1.000 objects. We are a cultural history museum of 1.2 million objects. So EmbARK doesn't really meet our needs. We are actually in the midst of converting over to a new museum database called TMS, The Museum System, also by Gallery Systems. TMS is a better database. But TMS is also a database for art galleries and art museums. And again we are a cultural history museum, so it's not necessarily the best fit for us. The better fit for us would be KE EMu out of Australia. They are better for cultural history and natural sciences.

Picard: And what purposes? Why do you think it is better?

F: To give an example of a piece of art might have the art in a frame. One object, one component. We have natural history specimens. The human skeleton has 322 bones in it. Each one of those bones could be in a different location, could have a different history. And with an art object you usually know the artist's name is Picasso and have in depth knowledge about the artist. Here we have an object that might be Iroquois. It might be Hopi. It might be Navajo. There are different levels of attribution. TMS, as other art museum databases, tend to have more one-to-one relationships with their data. We have one-to-many relationships with our data. And KE Emu tends to handle those relationships better.

Picard: What was the reason for choosing TMS? And are you writing programmes or plug-ins for TMS?

F: There are two reasons we are using TMS. The main reason that we are with TMS is that the Harvard Art Museum a few years ago went from EmbARK to TMS, so we are following. And there's now talk about once we are in that environment, we can share database administrators and share programmers, etc. If we went with KE Emu, we would be on our own. And then there was also at the time a problem with getting the data out of EmbARK and TMS guaranteed that they would work with us to do whatever they could to help us get the data out of EmbARK and we didn't have the same assurance from KE Emu.

As far as what we are going to do going forward, the president of TMS, the president of Gallery Systems, wants to expand into the natural history and cultural history museums, so he is working quite a lot with us to see what works and what doesn't. And how can we re-program a new database it for a new release so it can do the things you want it to handle? It's less about plug-ins and more about going directly to the source. They actually want us to come up with suggestions on how to change so as to make it better for future users.

Picard: You were talking about working together with the other museums, including the Harvard Art Museum. Do you also share information or resources for digitization?

F: We share at the level of, when we started, we tend to do very basic digitizing. We use twelve megapixels SLR cameras²¹. We use a thousand to two thousand dollar camera. We don't have the fancy \$80,000 or \$50,000 standing mats. We tend to

²¹ Single Lens Reflex cameras are semi automatic and capture exactly what the photographer sees from behind the lens.

have a general high resolution scanner but we don't have a large format \$200,000 scanners. Most of our photographs are for research purposes. We want the researcher to take a look at the pot to decide that they need to come to Cambridge to look at the pot. Art museums when they are reproducing a Picasso, they don't want a bad reproduction of a Picasso. They want a reproduction for magazines, for books or for reproductions. So they are at a level that we are not. Our photographs are taken by archeologists with a camera. Their photographs are taken by a professional photographer. We don't really care about the colour balance of the pot as one would care about the colour balance of a Van Gogh.

As far as sharing digital information or sharing process information with the other museums we do, but it's mostly just for fact finding. When we need to advance our skills and raise it up until the next bar, we went and talked to their people about how they were taking these marvelous megapixel images, in a total colour correction balanced environment with the walls painted gray and everything like that. When they switched over from doing this high end photography to we have 200,000 coins we need to get photographed very quickly they came over here and looked at our process of mass producing images. Likewise, when we switch over to TMS, they produced a programme that automatically processes the derivatives that we want and adds them into to TMS. So we've gone over and talked to their programmers and asked them 'how did you do that?', because it's going to be a completely different process.

So we share information, but it's mostly at a fact finding level and I'm pretty sure that they probably used half the things I told them and ignored the other half. And I've used half the things they told me and ignored the other half as well. So it is really just a general info kind of sharing. There's no real talk about combining the departments as everyone is specialized in their own field.

That being said when we have a really high end map or (...)document; we take it to the Harvard Library and they scan it on their \$80,000 scanner. If we have a few objects that really need a high end or even beyond what we can do beyond the contracted photographer, we might bring it to the art Peabody Museum of Archaeology and Ethnology or them to take a really nice photograph of some of our objects. So there is sharing, but nothing at the level of processing or procedures. It's more ad hoc.

Picard: I have the same question regarding copyright. (Do you also share information or resources regarding copyright?)

F: That is a good question. The answer is no. We work with the Harvard lawyers instead. And the main reason for that is the Harvard is known for having every tub

on it's bottom. Every single department has it's own kingdom. In the past, there hasn't been a lot of cross-kingdom talking. And what makes it especially hard for the Peabody to work with the Art Museum, we report to the dean, the Art Museum and the Library reports to (...Provos?) so in order for us to have a joint, we have to go all the way up to the President's office before we come back down the chain. So it's really hard for us to do a lot of informal work because the links aren't there. And there is talk about us going, and you probably shouldn't put this in your report (... some excluded information...) Most of the museums report to the Provost (?). We're a bit of a fluke because we are very closely tied into the Anthropology department.

Picard: You also said you are a member of the AAM. Do they help you in any way or can you go to them for help?

F: The AAM has a lot of help available through their Registrar Division. And since our registrar sits on their board, she's not the chairwoman of their commission, but she sits on a lot of their meetings and does a lot of committee work. I think that we know what the AAM knows because our registrar is well informed due to helping the AAM subcommittee along with their opinions.

So, yes I think the AAM is a great resource. We kind of get it automatically and try to implement everything informally because our registrar works there.

Picard: I was wondering do you think copyright influences digitalisation? Or is it the other way around? Does it restrict or enable it?

F: For us I don't think it really matters that much. Our website allows for different security levels of access to our images. So the general public sees 90% of the images. They don't even know they are missing the other 10%. And then we have culturally sensitive images that only various tribal members and tribes can see. And then we have images that only researchers would be allowed to see either because of cultural sensitivity issues or that we aren't positive about the copyright, but you can look but you can't have as it may help your research. And then the website has a part that only Peabody people can see online. And it's keyed into by passwords. And the general public doesn't know about the passwords and they don't know about those images.

So we tend to scan our images, even if we are not we have copyright, I'm not sure of the percentage, but we just put a web restriction on it, so most people won't see that. And we would know through the database that we're not allowed to publish the images until we figure out we have copyright.

Are you going to ask about what happens if people violate our copyright? I'll wait if you are.

Picard: No, please go ahead. It's better if it comes more spontaneous.

For the most part we don't pursue violations of our copyright. It's just not worth it. We would send out a cease and desist order. We would probably have our lawyers send it out. It wouldn't be worth it to try to pursue monetary damages. We're more apt to use a cease and desist. That will always be a delicate balance. And probably doing something like that would have to be taken up with the Curatorial Committee and get Director approval. As it may be in opposition to our mission of education and use of images. For instance, we found out very early on what Corbis was doing. The IBM people put a lot of photographs up, but they had a lot of our images. Someone must have had our photographs, copied the slides somehow and somehow put them in their slide library and sold their library to Corbis and we know that these images are the ones our photographer took. So you know we said, this was when Corbis first started so this was eight years ago before we had the policy we have we have now, we just sent a letter and said 'we own the copyright to this, please take it off' and they took it off. We didn't pursue 'where did you get this?' We think it was the Harvard Slide Library actually. They probably got copies of our slides somehow and they got sold to Corbis.

We're also using ARTstor. ARTstor is only about five years old. It's similar to Corbis. It's an institution based out of New York. One of the board and possibly even one of the owners of the company is the ex- president of Harvard. And they are trying to gather images, hundreds of thousands of images, that universities and research institutions would use. And like in an electronic library they then sell access to according to the institutional level the data. They have hundreds of millions of images and all the metadata about those images. And we are using them, mainly because of the Harvard connection, and that is another mechanism for us to get the images out to the university public. And they maintain copyright of our images. And they use restrictions very much more than we do. It's their profession to do that. Whereas we are anthropologists.

Picard: I saw that you are using Flickr, Facebook and Twitter accounts. What is the reasoning behind this?

F: We just started using those about a year ago when we launched our new website. And it's mostly a marketing tool. We're trying to brew an increase of our web presence, and maybe translate it into more physical bodies and more memberships. Membership is one of the other ways we get revenue. We have our own endowment and we are part of Harvard, so the revenue streams are not as important to us.

Admissions numbers do generate some revenue, but that doesn't run the museum. Neither the memberships, the photographs or the front desk are main revenue streams. But they are there, so we try increasing it. As far as the effectiveness of those electronic venues, I'm not sure if they're that effective.

Peabody in the past, three years now, we shifted our mission statement and most of the staff that had been here for ten or more years are still kind of reeling from the mission statement. As mentioned before we are a part of the university, so we are really focused on education. We do our own internships. We bring thousands of objects and artifacts to classes every year. We support theses and dissertations, etc. We are also a research institution. We have our own research curators. We have our own expeditions. And we bring as I mentioned, 2 ½ researches per day come from somewhere in the world to Harvard to study our collection. And then there was the public education, that was a distant third. Every five years we lose another exhibit hall and it becomes a classroom or storage room or offices. And up until two years ago we did not even have an education department. The Natural History Museum that we are attached to ran the education department and they would bring student groups occasionally into the Peabody. It's only two years ago since we've had our education department. Now we have hundreds of children a day. Well thousands a week in here going through our education department. So there is a shift back into public education, that is somewhat new for this institution. And the website and Facebook and Flickr are all kinds of extensions of this. Ok it's not just about research and teaching. It's about more community presence, etc. So we haven't... quite frankly, it was an afterthought run by people that are probably 20 years too old to be doing it right and there's a culture of how much is enough. How much are people going to care? How much can you sit down and tell before people are going to start blocking you? Ours was an add-on, rather than 'ok, let's go find someone who was appropriate to do these kinds of blogging.'

Picard: It's a new type of marketing and you're still testing the water as most new things are.

F: Which is why I've blocked most of these sites.

Picard: You were talking earlier about an IT specialist that you work together with. I was wondering if you think that IP rights can be enforced online? I know that you don't pursue copyright infringers as such.

F: Yeah, kind of our safety net is that currently we only put fairly low res(olution) images available online. They're good to increase up to in the 1.000 – 2.000 pixel range when we move to our new database. These are the same types of images that we started putting up in 1999, they're 640 x 480. They're GA level graphics. Low

res(olution) by today's standards. But good enough for a power point. T They are good enough for a community newsletter, if they want to take a picture of a pot and put it in their local newsletter. So whatever they do with those images, it's not really a big deal. It's only with the high res(olution) that we are more worried. And since those aren't available online, and even now without PayPal or anything like that, they have to go through our user interface. We vet just because someone wants the image. We vet on the contact through the image. This is a sensitive item. Even remains. This was an ancestor head (showing an image in the repository), sacred objects, cultural acrimony. We would probably not give these out, unless it was for a very specific research purpose. And we also vet artists taking are images and morphing them and sometime make cultural or political statements that we don't necessarily want to be seen as endorsing by giving them our images.

And because we're a private institution, we're not a federal or state institution, we're free to withhold information. We're not under any legal obligation to distribute our images . So we tend to vet protection issues at that level and we do a couple or several times a year. Sometimes it has gone all the way up to the directors department. But often our Imaging Services person along with the Director of Collections decide 'no, this is something we don't want to touch'. So the intellectual property it gets incorporated, but it's limited.

Picard: I was wondering what do you want to reach with digitizing you collections? What are your aims or objectives?

F: Ironically, for a lot of reasons I think we have already reached the objectives. Our objectives when we first started digitizing the artifacts and the images it was to provide greater access to researchers. And by researchers extend it to students, Harvard students and other students. And that really took off. Now it's just a matter of getting more images online. We are about 50% there. As far as the archeological ethno-graphic objects, the 3D objects in our collection. We differentiate 3D between any 2D objects in our photo archive. In our 3D collections is basically anything that is worth photographing is photographed. What we haven't photographed up until now is every single stone, flake, every single broken ceramic shard, every single bone ,that's probably 20 million perhaps, but any African mask, North American headdress, spear or arrow, anything that's a full pot or statue, anything that's worth it, we've photographed.

With our photographic archives we've ranked them, these as the most important. As I've said we've had three or four grants, so we are kind of working our way through those. So we have digitized 150.000 – 200.000 of our most important images. So it's just a matter of doing the tier 2, 3 and 4 level objects.

And as I mentioned that our first goal was to provide research or access to it. But the second goal, and I'm the collection manager, so this goal matters a lot for me, it does help in collection management. We now have a photograph of the object, so when you need to find this pot on a shelf of 500 pots, you have an image of the item and with any luck you have a smartphone and you have it right there, so you can look around for it. If not, you have a hard copy.

And the other aspect for collection management that it helps, is that it provides a legal record of what we have. In case of theft, in case of God forbid something happening to the building, we have a visual image of the items. Even a couple of times when there has been a problem in our exhibit hall and there has been someone crashing into the glass, we can right way get an image to the security people of what's in there, and what's been taken out, etc. It kind of helps from an object management point of view too. Those were the two big reasons.

We would probably in the future like to see maybe getting more into e-commerce. We know that soon as we are done photographing the last object, we are going to have to start back over with the first object that we photographed back in 1997 with a 2 megapixel camera. So we also know that my staff, our museum technician staff, archeologists and anthropologists are not professional photographers. We know that we are going to have a category of certain objects of which people are going to want nicer photographs for. And right now we are doing that as an ad hoc. And when we do a publication, when we do an exhibit, we have three levels of photographs up. I'm an amateur photographer, so I take nicer photographs, if I'm not busy, then we tend to hire a kind of photographer to come in and take more book level photographs for bigger projects. And then for really big projects we will hire a professional photography company that sends in multiple people and works with us for a month or two. So we kind of have three levels of nicer images. But I can see that the more and more museums are getting images out there, they take nicer images than we do, there is going to be fewer curatorial pressures of 'my images or objects don't look as nice as they should, let's go back and reshoot these in better lighting etc.' It already happens.

Picard: This might be a little sensitive. You don't have to answer if you don't want to. Do you know the total amount or percentage of budgets that are allocated to digitalisation? Or are the amounts enough or not enough?

F: It's definitely been sporadic here. When we first started photographing and digitizing the 3D objects, we had a staff of 24 museum technicians doing it. Three years, 24 people, close to 600,000 objects. We're now down to 2. And one of the reasons is that we've got most of it done and then we have all of the smaller stuff that's not as important. As you know from 24 to 2, is a big change, especially

because they report directly to me. It changed quite acutely. The photographs for the digitizing the historical photographs has always been grant driven and has never been done by normal staff. But our photo archivist is very good at getting grants and every two years any A-level grant comes in. So we have been marching our way through that. It's really over the last ten years, that we've probably digitized 150.000 - 200.000 photographs.

But also in that same time period of what we are seeing with our new acquisitions, our new acquisitions aren't artifacts that much anymore because of the new laws you can't bring artifacts out of their own country, so we've had a decrease in artifacts. So what's happening is that the generation of anthropologists who are retiring, that first generation that brought their Kodak cameras into the field with them, they are donating their photo libraries to us along with all their field notes. So it's a high treasure trove of information. But in the same period that we digitized 150.000 – 200.000 photographs, we've acquired an additional 150.000 – 200.000 photographs.

So even though we are making progress, we have just as many photographs that we need to scan. And that trend of people giving us their photographs and paper records will continue. If we don't dedicate more money to keeping up with those new acquisitions, it's going to pile up. That is going to be a problem. So we do need to sit down and even if it's just two work study students who are being trained how to do this correctly, but the problem is we need a manager of that. And it's fairly easy. With one manager and two work study students we could keep up with the 150.000 objects over a decade. That's not the problem. But there is that commitment and we don't have it yet.

We had a change of directors. The previous director was all about digitizing. The current director loves having the digitizing. He loves having the resources that were already there. There are a few who think that digitizing just happens. No, it does take staff. Not necessarily a ton of staff, but it does take dedicated staff. You can't just take little bites out of the process and make it part of the whole. That's why for the 3D we just incorporated it into our standard day to day work. We don't have any projects right now that are systematically being photographed. As new objects come in we photograph them, put them on a shelf and make sure there is a photograph. I'd like to see a little bit more.

Picard: This is a very common occurrence, just to give you some peace of mind. Do you think that has been more of a strategy change or focus from preserving efforts and digitizing to more of a copyright focus?

F: Oh yeah, I think you are right on. Ten years ago when we started digitizing, we were just happy to have the digital resource. It's only once you have it, that you start scratching your head. And for us it's not that we have a few hundred or a few thousand of images, but we have hundreds of thousands of images and we are approaching half a million. But we don't have a true department that's managing that. We have a very automated system that is ten years old and isn't up to the present technologies and suddenly we had this huge intellectual resource of all these digital images. And it's kind of in a vacuum. And it is only slowly now that people, we are scratching our head in a couple of different ways. One is at intellectual property. Another one is a really fundamental question for us about 'do we want to restrict images or not?' Or do we just say 'hey our mission is to give this out. It's free. Do what you want with it?' And there is serious talk about doing that.

And then you get a different aspect of it from the technical side 'Ok, we're still using tifs. Should we be using JP2000 that can stream?' And we don't have anyone who is in charge of those decisions at either on a technical level or an intellectual level. I'm the Collections Manager. I'm in charge of the Digital Assets by default because no one else is. Our Imaging Services Coordinator is setting policies about what kind of images go out or not because no one else is. And at the very least with a collection of three hundred thousands, there should be a director level who is in charge of this. And it's not, so it's in a vacuum right now and it has been in a vacuum for six years going on seven. So there is no real effort right now to address this. I think, and this is fine to put out, it's going to take a crisis in order for this position to be partnered or at least say 'we have a serious issue here.' When someone uses our images in an embarrassing way, that we is totally against what we are for. Or we have a security breach where someone busts into our server and has taken eight terabits worth of images. I think it will take that level for a wake-up call in order for it to be heard.

Picard: We've more or less covered all the questions that I have here. I don't know if there is anything else you would like to mention or add here?

F: I'm please I could actually answer questions about copyright and intellectual property. I think we are unique being a university museum and I'm not sure if you are talking to other universities or educational institutions, but because of our mission to facilitate the distribution of knowledge, it is a more interesting conundrum for us, than I think for the MFA who have a much more controlled view of their images and image handling. So I don't think we're unique to university museum institutions for that, but I think the university museums are very unique. Especially a private university. Public ones, like, have assumed, let's take the State University of New York where their like 'Oh, we have to get this out. We're a state institution and freedom of information is key.' Part of their process is, 'we don't

take images in the first place because don't want to have to distribute it.' So we are kind of lucky in that sense.

Picard: There is a more controlled environment here. And you get to decide what gets done or doesn't.

F: We do a fairly decent job here, given that it's no one's job to do it. But we also, and this is the last bit, we are also very lucky that Harvard has the pockets that we can draw on, so we, we do have general counsel who are more than willing to look over our statements. And we are also very willing to share. We are not very proprietary in that sense. When other institutions call up and say 'Hey, can we see your copyright policy?' We are not going to stand in their way. It's not an issue for us.

Interview with the Countway Library of Medicine (Collections Services Archivist)

The interview was held in the office of the interviewee, which was very quiet being situated in the basement of the library. A computer was available and used to look into the website in more detail. The interviewee was knowledgeable and opinionated. This was a nice interview.

G: (...) which is part of the digital project, specifically to books not to archival or manuscripts collections. This is a sort of consortium effort on the part of major book medical libraries to get the materials up on the archives. I guess those are getting copied as a way of delivery. This is a pretty amazing project. I think 10.000 books.

Picard: From your library?

G: from our library. Our library 10.000 books and we are doing it in two years. I'm not sure what your focus is on.

Picard: I have some questions regarding digitization as well as copyright. Your opinions or however you think about it. I was wondering how your organization is set up. Are you government funded?

G: Harvard Medical School is part of Harvard University. You have Harvard College, which is the oldest part of it, and then you have the university and underneath the University you have the Medical School, the Business School, and the Law School. We are funded through the university, but funding at Harvard is kind of strange, like they have this sort of 'every tube on its own bottom', so the funding has to come from that individual unit. There's top level infrastructure and then we have our own budget. We have a person who does the library's budget and they report to the school. So we have some grant funding for special projects. We have some private funding, for example we have a Council of library information research grant to process some collection. That's private money. But there's no government money per se. In the actual labs there are, but not here.

Picard: And what is your idea with digitization? Is the idea to get everything out there? To educate the people? Or are you actively pursuing copyright and trying to earn some revenue on it?

G: We don't earn a lot of revenue. There are different types of digitization efforts that go on. We are kind of on demand talking about the revenue. We do have people who approach us for publishing books or historic photographs. You might want a cover of a book, or a page from a manuscript, those kinds of things. So if we scan

that, sometimes we have copyright (problems?), sometimes we don't. For the most part, we just leave that to the researcher to determine that. We don't really weigh in on the copyright side of it. Obviously a 15th century (...) is in the public domain. If you choose to order a scan of a contemporary photograph that may still be covered by copyright by a photographic firm that's still be out there and part of what they were saying is probably not, but it's up to you. If you use it, it's at your own (risk). So we scan things for the researchers. We do some scanning pro-reference. And sometimes we get inquiries from the Public Services people to scan some things and send them back because of the resolution. So that's that side.

Then we have major book-based initiative, a very new initiative. We've never digitized this many books. We don't generally digitize full volumes. We don't do that here. The only thing that we did was the (Philip) coding of notebooks. The (...) on notebooks. It wouldn't make much sense to me.

It's extremely important in terms of seeing that the process and later processes. That's something that we did. That was a very specialized small, discrete piece. For the most part what we do is digitalization on a strictly curatorial basis and so this involves the exhibits that we are doing on our website. We want to provide some pieces of some old histories to the public and so we are digitizing. We have a scanner here and we'll do some of that, but understanding that we are not doing what Tom (referring to Thomas Blake at the Boston Public Library) is doing. We don't color bound, color correct. We don't have the appropriate (stuff). It's not production level, but it's a good enough high quality image that we can get that out there. We distinguish between high resolution files and low resolution. For the most part, if we are putting something in our digital files it is for access.

This is our website. I don't know if you've taken a look at it.

Picard: Yes, I looked around a little bit.

G: You can get a sense of what we're (doing). We've also done some Harvard University stuff. We've contributed to Contagion project at the university level. You can find links to that here. (showing the link on the website). We have a digital repository. I'm trying to find some information on that (searching the website). Collections. And then we provide scans. We provide it contextually as you will find it in the physical collection. You can go to the folder and you'll find the photograph here. And these are reference quality images. So by reference they are compact format. Generally speaking, they are 300 pci (?), 150 depending. We have a set of scanning specifications. They are not the high quality tifs that you would publish from. So we don't have watermarking. Depending on who creates the data image in the file that links it to us. For the most part, that kind of curatorial is what we are (...)

and we provide, We don't provide high quality images to the public obviously. So you can't use this as a two digital depository because it doesn't have those kinds of security features for long time preservation, password protection. So that's why we just do the reference. Either pieces of the library which actually deposit pieces and publications, and things like that. So we provide those images and we've decided our approach is to utilize the Creative Commons license, so that basically if you're, if you decided to copy this file, you'd like to use this in some way, it would have to be for non commercial, personal purposes. If you do that, if you use it in a different way, it's a violation of the use of our repository. I think that that's when you get into a situation where your institution is publishing a book or something on a poster or distributing it widely, the copyright burden obviously changes. For us, we (...) low quality for the purpose of research. If somebody complains about something, and asks us who took this photo, and complains to us we'll just pull it down. So a lot of that, we just put up a lot of history, related to medicine.

Picard: Who is your target group? Is it more towards researchers or just the general public?

G: I would like to think that there are a lot of generally interested people. For the most part we are satisfying the research audience and our contingency. People who view the collections, people who helped build them, and to drive the committee of Harvard Medical School itself. If we are putting an oral history up that we've done, it may be for an event, because the AWM (Archives for Women in Medicine) committee is having this and this particular person is being applauded or celebrated at this event, so we're going to put this person's work up. We don't have enough resources so that we can do a lot of it, so we have to be very focused and make sure that we do what we can. And that's not to sound opportunistic; I don't mean it that way. You just have to try to approach this with the collections in some strategic way so that what we're prioritizing will improve the systems that we have now.

Picard: And how many people are you working within the department on digitization initiatives?

G: We've got Kathryn (Hammond Baker), the deputy director, and Scott (Poldosky), who is the director, and they facilitate the projects. We have other (...) librarians who is actually working on. My role as a collections services archivist, I work on the descriptive end. I help define and develop standards for presenting metadata collections and the finding aids of bibliographic records. We have a scanning log, what kind of information do we collect if we scan something? What kind of metadata are we going to put up on DSpace and how can we make the component complete? I don't do much scanning. I work with people on thinking about how they scan, applications for scanning and information to look for, but I

don't do a lot of that. And we there's no one dedicated person to do that. Public Services will do that. At the Warren Anatomical Museum, Dominic (Hall), the curator, will scan things himself for his researchers or for publications. They'll occasionally have the museum interns, we have one right now, and do a lot of scanning of original medical illustrations and things like that. And so I've sat down and worked with them. Scanner prep work and then she does it.

Harvard has an imaging services department and that's centralized and any part of Harvard, any department, any school, whatever, can utilize that. It's for fee. They build individual departments for this. They will do things like scan glass plates, books, basically anything that you would want to scan. Their prices are competitive with that of other vendors, if not occasionally higher because of the infrastructure.

We may for a beautiful, a wonderful collection that we have glass plate negatives that were taken in the hospital mostly under direction of Charcot, we have these medical photographs and you can use these, depending on your interests in photographs. And we gave them a small sample to scan, so we could show people in the hope of getting or generating interest in funding. There are 15.000 -17.000 of these. So there's no way we'll get through them and afford to. It's \$20 a plate. If you do the math, it's like it's never going to happen. It's different because for us there's the tension between access and cost. There's also the fact that not everything that we have managed to go through in our archival collections is worth digitizing.

We are doing experimental scanning. Just some boxes and just scanning everything. (...) and sometimes (...) pages. Sometimes interesting letters, and if you have the resources to do that (...), you get that digitizing done. And in a perfect world we would be able to, but for us we definitely have to think about collecting for appropriate groups of materials. Maybe one day there will be a collection appropriate for us to scan. If we could scan our Charcot collection that would be great.

A lot of our collections are, and just tell me to shut up if I'm rambling, have patient information. They have medical records. They have university records. They have lots of things in them that we literally have to block out huge portions of collections. You have to go back quite a ways before you can actually start scanning something in full. It's hard because a lot of stuff is just dead to the world unless it's on the web. It just doesn't exist. We provide photographic records of everything. We provide, whenever we finish a collection, we have an electronic finding aid. (...) that we put up in our files. Occasionally, it will have embedded digital images. It may have a link out to other resources. It's not like the GoogleBook icon and you're going to get the whole thing. We're not set up to do that.

I know that there are a lot of (...) in a whole collection. Even if you have a machine that scanning, if the paper is in good enough condition, and if it's uniform size and can be sheet fed, you still have to review those restrictions especially if (...).

Picard: You were saying that there is a centralized office where you can send things to get digitized. Is there also a place on campus, or within Harvard, you can contact for more information on copyright? Or an initiative of sharing information between different departments?

G: You know that is pretty interesting. We have (showing something on the website) collections that we are formatting for other Harvard libraries (...). Here is the related information. Here it shows the information with costs. For example if we give them a 1000, we would get a discount. (...) It depends on what kind of formatting we can do ourselves. There are other firms in the area that can do the work. We are not restricted to use them (referring to Harvard), but very often they would have a digital repository for the university as a whole if you want to scan things and deposit them there. All of our large files, I shouldn't say all, 98% of our files are on our local servers, which are backed up three times a day, (...) and appropriately migrated and a small percentage are in the digital repository service. It's a fee service. If you deposit images, you pay for storage. They maintain, migrate, they refresh; they do all the things they are supposed to do to maintain the integrity of the files. They support some file types, not all file types. For example, oral history that's not a (...) file that they would accept. It's more image files, documents, stuff like that. But there is that infrastructure (...) was sort of our answer. We can't support large image files.

So, there are two interesting things. The General Council, the office of the General Council, does provide copyright information and support if you have questions. A lot of it is geared towards student use of work and a lot of it is geared towards faculty use. So what we can do when we make an reader or can we even make a reader or how many images can we can use, stuff like that.

(Typing something) Occasionally, they will do a workshop, update the .. copyright or property rights. (Typing something).

Picard: And do you think that copyright affects digitization?

G: I don't know if it effects digitization so much as it affects delivery. We may scan something as a larger body of work, we might be important to have a copy of this. But we may not be able to deliver it to the public first hand. It's the same way as with our collections. We invest in .. resources and processes of collections of which 30% may not be available until 2062 because there's certain restrictions on it.

Particularly when it comes to foreign digital records, which I know is a completely different issue, but they are records and there are governments restrictions and concerns. (...) We will have email services for a long time, but we won't be able to. And there may be digital images coming in with the collections, that we will not be able to provide because the family members (don't want us to). I don't think we ever set up a digitization project where we knew we couldn't deliver it right away. We may occasionally scan something for internal research..

Picard: According to you, what do you think are the drivers of digitization? Or the determinants of it?

G: Researchers. It's a combination of perceived research elements and what we perceive as being the margin research needs and how we can address that. That comes through trends that we notice that in public services which collections people are using, how often they are using them, what the collections benefit from being widely available, so there's that. Our director also happens to be a medical doctor, and a history science scholar who has published quite a bit, he has at the background has a ear for whatever that saying is, he got the center trends out there in terms of what people might be looking for. We have within our own institution the need to make our own faculty papers and things available. So we may as (...) to the digitization (...) coming up (...).

And then we haven't done much of this, but we'd like to do more of this is digitizing for specific classrooms. That digitization project where we scanned 500 – 600 pages of an (...) collection for a history of science class. It had both a Harvard class component and then another section was being offered through the extension school. And a lot of those people are not anywhere near the library, they were actually able to see these primary source materials online. If we have that kind of relationship with the professor, and they have that need and we have enough time in advance so we can facilitate that, that's a great (...) for a lot of materials needing curatorial inputs.

Picard: Has the number of visitors increased as your collections went online?

G: I have absolutely no idea. We have asked about that. Our website is embedded within the Countway website, that's one issue. Another thing is that our counting aids and other resources that are sent out from the website, so it's very hard for us to tell. If we want to see how many people have looked at our finding aids, we have to go to the Office for Information Systems (...). If we want a sampling number, we have to go (...). If we want site visitations and click throughs, there are statistics. We can get the statistics. We just got our website redesigned online (...) The old one was from 1985. On the one hand, increased traffic (...) and so we will scan things to

put up on the website, and stuff like that. But we don't really have a sense of how many people are on it every day. And that is something that we have talked about, about trying to get that information. But I have no reference of that. I don't know if (...)

Picard: Do you have an idea of how many objects you have digitized? or how many objects you have in the collection?

G: When you say objects, do you mean the discrete individual files that we keep in our collections?

Picard: Yeah.

G: Collections that are digitized in their entirety. A large portion core of our photographic collection, Harvard Medical School buildings, interiors, students, those kinds of things, they find sample images embedded in the finding aids. There is that special funded project to do that to catalog the photos. There are a large number of photographs. We recently changed. We created the scan log so we can track how many individual files have been created. But that's scanning in house. So when we get files, such as the Charcot files that have been digitized and on the server, we have to know that we did that in a certain year and go one and count them. There are thousands of digital files. Some of which are terrible and they are not worth keeping, but we also don't have the good enough intellectual controls over some of the larger high quality pieces simply because we have the box and folder number, and if that wasn't recorded at the time of the scan, like an order to contextualize it. And then there were the things that were done later.

Picard: Do you know when you started digitizing?

G: 10 – 12 years ago. We started doing online exhibits long before. That also had a component in html and in original text and obviously the standards have changed and it's no longer just throw it up on the web. It's to create a set of deliverables of (...) files that we can put up.

Picard: What cataloging database software are you using?

G: That's a very interesting topic question. We have some digital images that we are delivering through DSpace, which is an open source content management. We have some images in a catalog called DIA, which is Digital Information Access. It's the unique catalog for Harvard official materials. And by that they mean, traditionally, a skewed (?) concepts of art and I don't necessarily mean European, but it's sculpture, it's paintings, there are photographs in there. There aren't a whole lot of objects in

there. What we have in there are like the greatest hits, the paintings that you see on the walls that are extremely famous, the works of (...) engineer, and the 'First Operation under Ether' (painting by Robert C. Hinckley). There are a lot of medical satires. There is a large exhibit done on that. Anything that was contributing to Contagion (Historical views of Diseases and Epidemics), which is one of those open collections projects. I don't know, you might want to browse through collections. Those are things from the top down, something you might want to do. The history of diseases in America, that we have (...) materials. People from all different repositories at Harvard contribute, to create this one group exhibit. So it's the Harvard Library Exhibit. There's a set number of them. It's not a program that continuing. But the name mentioned up there is Harvard Library. We have that stuff at DIA. We don't have things like medical instruments. Or with the Charcot photographs, there is some debate on whether or not those are appropriate for the DIA catalog. Right now we are talking to the DIA people about it. I have a problem distinguishing between slides of cells or conscious (decreed?) photographs, document after document of illness, things like that. I don't feel comfortable making the distinction between the high art and this (low art). I think it is perfectly appropriate to present material.. instead of having a bunch of catalogs to send people off on, centralized it. Yeah its .. do I want to look at cool instruments or there are things that people feel very uncomfortable with, like tissue samples, skulls. They are not going to research for that. It has a very predetermined scope, which I find kind of frustrating.

Picard: Ethics come into play and emotions as well.

G: And one of those photographs and in the catalog a lot of photographs that we have out of another library and they are all there and they are candid's some of the professional shots show a variety of things. I don't think I can make the distinction between that professional's work because they're not an artist. It's different how you think of art. (...) I would like to see that a lot of the digital images that they could be delivered through that. They don't necessarily have to be stored in a paid Harvard depository. They could be stored somewhere else and we just provide the reference images on our server. So the images are scattered. There are images on our website, images on DSpace, images in DIA, images on (...) to provide access. There are a lot of different places to go for. Images sources are embedded in our finding aids.

Picard: So I'm guessing future plans are to maybe consolidate them. Ideally.

G: It would be. We are investing time in using that space, and the metadata is totally portable, so it could double in court or transform that. In a way, the Harvard information delivery is often about its research design, pulling finding aids and eventually pull images from DIA and we'll pull from the electronics. You're

providing one-stop shopping because people don't want to be kicked out of the system that they are working in. Right now we're kicking people everywhere and I don't see us being able to consolidate everything, but we are actually proposing putting images on OMECA(?) to create online exhibits because the content management of the website, some of it is limited. And to do truly interactive exhibits and link it to different pieces of collections and follow a train of thought like the Internet. It didn't really work. There are options in making records available and we want that to and that is something people would be happy with that because at least it could browse collections in a way that you can't right now. It sometimes it feels like it is in, that is something I am an advocate for using OMECA (?), it is one more system that we are putting things into.

I'm looking for prints or photographs (searching on website). Here's our one representative sample. This links you to DSpace. It will link you to OASIS (?), our finding aids. This is the only place in the world that gives you a different (...) and everyone knows it. (...) digitizing will come across it, (...) embedded in here, which is great because you know where it is in the collection and you see it. There's not a whole lot that is happening.

Most of our collections don't have very strong digital components either or visual components in a way that's attractive. There are absolutely beautiful lab notations and they look like conceptual pieces of art. There are absolutely beautiful, but that's not what people want. They might not embed it or provide access to the scan. It's not necessarily the kind of thing that ends up embedded. One sheet provides you with no real information outside of having conceptual art.

Picard: I have to ask you two questions about copyright. Do you think pursuing copyright or abiding by copyright it important to say your organization?

G: I do, yeah. I happen to be married to a photographer and who has done (...) and as fine arts out there. I would never think of taking something and putting it on a book because I want him to get credit for it. How much to charge for it? That's a completely different thing. I think that if institutions are paying for materials and the cost (...) for temperature controls for creating restricted access to it that if you are a holding repository, you should get credit. Copyright, I don't know what the stats are, but the majority of things that are scanned don't need to be copyrighted. The risk is so low that it's really not. For contemporary things I think that the expense (...) that there are people that are generating this content.

I'm probably more sensitive to copyright than other people just because I've done copyright research for publications and copyright research for photos and it is very hard to find people, I believe in documenting. I think that is the burden of what

research is, not on providing people access as long as they don't advertly deliver things that they really shouldn't be delivering, if that makes any sense.

Picard: Yeah that makes sense. I think a lot of people are just ignorant to the copyright laws. Researchers and people are just uneducated when it comes to copyright.

G: We will do our best to inform people about copyright. There's great information on the web. There's good concessment guidelines. I think that if they are going to be published, most likely they are going to have to do some work for the publisher. I had something else I was going to say.

There's no international agreement until 1923. That's our golden rule. I recently found out that Harvard implicates and abides by the rules of 1908 because of the European copyright. Maybe I have copyright here or maybe I have copyright there, but it's delivering to a different audience. It's a completely different situation. There is no international copyright. They are working on it though. And that's the other thing I didn't realize that, I don't know if you've seen the Berkman Center website (typing), they have all these different projects. Creative Commons, which you are familiar with. They have a lot of resources because of the media and law.

Picard: I'll take another look at that. Thank you.

G: Something that is going on here that is particularly critical to a medical library is that the government is funding lots and lots of research and then the publications coming out are being restricted by copyright, even though it is government funded. And so we spend millions and millions of dollars for subscriptions and it's reached a point where everybody's backs are broken financially by the censure. Where it involves the library and the university, and open access for research has been sponsored by the public. So that's a whole other thing. There is some information here on that. Online, I think you'll find it on the website, that not on our website, but on the Harvard Medical School website, our director recently did a talk related to open access; that we pay this much money and we're not getting anything back.

Picard: Do you think that IP, intellectual property, rights can be enforced online? It not necessarily what you do, but do you think they can be enforced online?

I'll phrase it differently. I know that a lot of organizations are not applying copyright and they are not going after offenders. Why do you think they are not doing this? Do you think it is important to go after violators?

G: I think that the only people that are really going after the people are for financial gains. I mean, I'm sure occasionally there's a piracy issue, but I think a lot of it has to do with 'this is a commercial entity dealing generating this and are rights say we should be making money off of it. We shouldn't be freely releasing our product and so I think it depends on the use. I don't think we should go after (...) presentations and things off of YouTube (...). If you are just (...) flagrantly using someone else's work in a way that can't be construed in such a way that it is transformational or creating a new product or intellectual work or something like that, I don't think that there are many people that subject to that.

It's a hard question to answer. 'How would I feel if 2.500 photos that we had just had to get a grant for and spent \$25.000 on scanning and someone took a copy of our digital images and created their own online repository?' You'd be kind of angry about that. And it may or may not be in the public domain, but you did all that work. It's hard to say. Would anyone be angry if someone took a bunch (...) from a website to use them to illustrate the (...). No, I don't think so. If you are creating a new product out of intellectual work that you put into it, that's different. Some people just (...) And I think that that's hard to remember. It's judgment.

And for the most part I would agree with that. But I don't know if the work and paid for my own profit based on that first book and he might not care, but if I can earn something, I'd care. As an entity that has had to close a bunch of libraries and they are paying to do all this work, so there are extremes. There are pieces that they could very well try to have the copyright on it and try to market it. If they could afford it, so we wouldn't have to close libraries. I don't think we have great images to make t-shirts, note cards, you know things like that.

Picard: They are also government funded. The things that are in the public domain. You receive grants from the government. But you are part of a private institution. Is that correct?

G: We're not a profit institution. It's a private not-for-profit. It is a part of the university, tuition is charged and things like that, but is technically a non-profit corporated kind of thing. But it may come up as more of a profit organization.

Picard: We've addressed most of the questions in one way or another. I don't know if you have anything else to add.

G: I'm happy to show you any of the tools or the data. I don't know if you are interested. The focus is more on the intellectual approach, more than on how we do it and deal with this. We would like to get more materials. The materials are just an amazing collection. It's very time consuming, very costly, you have to think about

the long time storage, maintenance (...). And then you have all the electronic prints that are coming in that you have to, that compete with the attention for creating surrogates, so it is very difficult. We often talk many times about finding a small, discrete collection that we could scan everything for to see how user respond to that, but we haven't found something that met the criteria due to restrictions and something that active researchers will use. Maybe some of the public health collections. So that's it.

Picard: Thank you. (turns off recorder. G starts to add some more information. Picard turns recorder back on).

G: Peter Hirtle is at Cornell and he has the copyright charts. It governs, it's made out of the different treaties published and published works. A lot of the time (...) copyright to publish things or laws governing that, I think. There's lots of weird things. We have an introduction to copyright online tutorial and things like that. At least in the archive worlds, there are a lot of books and we just published a book that is available for free.

Picard: Do you use it as a reference?

G: Yeah. (typing). Here's the chart. (...). The idea for archives to benefit is that, you know, an unpublished letter dated 1907. What do they do with it? Can they put it online? (...) According to the copyright. The architectural (heading) it's interesting. You can go take a shot of anybody's house. The façade is not the issue necessarily. Except for things like Disney. They don't want you to publish pictures of their buildings. So the actual castle is copyrighted because that conveys the idea of Disneyland. There's wacky, weird stuff. But the chart is very helpful

Picard: and very well detailed from what I see.

G: (continued) with published archives and special cases. The copyright information center and they do a lot of great stuff. This is that tutorial and training, online tutorials and copyright workshops. Frontier foundation, that is interesting.

Picard: Thank you. I'll take a look at that as well. There is one thing also with different countries. It's just word of mouth you learn about these things from other people. I didn't know about this information from before, so.

G: There is a published book at the library from 1923 or not, but then the special images or illustrations from books, that's where things start to get difficult. And I have always tried to provide copyright for research books. I don't want our institution to spend that much money. You know I did everything I could to find the

person, document it, databased it, did the check and then if you have something to show people that you tried, it's due diligence.

Additional information obtained:

Art collection 100.000 items, paintings and including the prints and photographs collection. 30.000 prints and photographs.

Appendix D. Timeline of Copyright and Related Rights

Notions of copyright or patent rights were mentioned before 1709. Nevertheless, the Copyright Act of 1709 is considered to be the first copyright law. One of the first examples of (the limitations of) international copyright law regarded publishing English literature books in America in nineteenth century. Nationals were protected under copyright law in order to stimulate the American market, whereas foreign-born authors were not. Publishers printed mostly British books during this time period due to economic gains and sold the copies well below the price of books written by American authors. The American authors insisted that their British counterparts receive equal treatment as they came to understand their disadvantages caused by copyright.

Current treaties entering into force support the harmonization of laws and rules regarding copyright and intellectual property protection. All member states of the Berne Convention must uphold the minimum standards laid forth within the treaty. A timeline is presented below.

Timeline²²

1709: Copyright law was first introduced in England as the Copyright Act of 1709, or the Statute of Anne, and can be seen as an incentive to create creative works.

19th century: introduction of the term intellectual property encompassing patents and copyright laws.

1886: Berne Convention for the Protection of Literary and Artistic Works, includes minimum standards for member states to meet.

1887: Berne Convention copyright agreement was ratified, including Great Britain, France, Spain and Germany, excluding the United States.

1891: Copyright Act in the United States, protecting the rights of foreign works typeset in the U.S. only.

1909: U.S. Copyright Act revised to include all works including music.

1952: Universal Copyright Convention of 1952

1967: Convention Establishing the World Intellectual Property Organisation (WIPO)

²² This information was collected from documents and websites from the United Nations and WIPO, as well as wikipedia.

1976: US Copyright Act 1976, Section 107 and Section 108, included the ‘fair use’ doctrine.

1989: Treaty on the International Registration of Audiovisual Works (Film Register Treaty)

1990: Visual Artists Rights Act, VARA (USA)

1993: The Copyright Duration Directive (EU)

1995: the World Trade Organisation (WTO) TRIPS (Trade Related Aspects of Intellectual Property Rights) agreement came into force after the 1994 convention.

1995: The World Book and Copyright Day was implemented by UNESCO and first celebrated. This day is celebrated annually on April 23 and ‘promotes reading, publishing and the protection of intellectual property through copyright’ (UNESCO, 2010).

1996: Agreement between WTO and WIPO to uphold IP rights.

1996: WIPO Copyright Treaty (WTC)

1998: The Digital Millennium Copyright Act, DMCA (USA), integrated the WTC.

2000: PLT (patents law treaty) was adopted by the WIPO.

2001: Negotiations started for the SPLT (Substantive patents law treaty)

2001: The Copyright Directive, EUCD (European Union), similar to the DMCA.

2004: Directive on the Enforcement of Intellectual Property Rights (EU)

2005: PLT entered into force.

2006: Negotiations for the SPLT were put on hold.

March 2006: Singapore Treaty on the Law of Trademarks.

June 2008: WIPO issues the *Report on the International Patent System* regarding current patent issues

July 2009: WIPO Conference on Intellectual Property and Public Policy Issues in Geneva, Switzerland.

Supportive organisations

There are a few organisations which provide and support museums in their activities with industry information concerning copyright and digitalisation. A few of the most readily known and accepted organisations are presented below. During the interviews, both the governmental and the non-profit organisations were mentioned and briefly discussed. The international organisations, on the other hand, were not mentioned much. The presumption is made that the governmental and non-profit organisations refer to the international organisations and select what information to pass on to their members. The AAM lists ICOM-US as a museum resource, yet a separate membership must be obtained for access.

International Organisations

The *World Intellectual Property Organisation (WIPO)* [<http://www.wipo.int>] is one of the United Nations' specialized agencies and is focused on protecting intellectual property (IP) rights worldwide. The organisation's goal is to create an internationally valid and acceptable IP system. This system is intended to stimulate economic development through a focus on creativity and innovation. The regulation of IP can help ensure the protection of benefits of organisations' and developing countries' intellectual capital.

The *International Council of Museums (ICOM)* [<http://icom.museum>] is a non-governmental organisation, located in Paris, France, which works closely together with UNESCO, the United Nations Educational, Scientific and Cultural Organisation. The ICOM Code of Ethics for Museums sets minimum standards and practices for museums to abide by and refer to. The organisation encourages the spreading of knowledge throughout the field to enable museums to become well-developed in their endeavours. ICOM is active worldwide with local national committees, which take the region's best interests and needs into consideration. These local committees work in affiliation with the American Association of Museums (AAM) based in Washington D.C. and the Nederlandse Museumvereniging (NMV, the Netherlands Museum Association) in Amsterdam.

Governmental Organisations

Digital Heritage Netherlands (DEN, Digitaal Erfgoed Nederland) [<http://www.den.nl/english>] is supported by the Dutch Ministry of Education, Cultural Affairs and Sciences. DEN helps cultural organisations in their digital strategies and technological efforts. The implementation of standard information and communication technology (ICT) practices into the organisations is a key issue. By implementing these procedures, DEN actively supports the digitization process of cultural heritage within cultural organisations. An importance

is placed on open solutions, in which dialogue among members is encouraged. The organisation actively carries out research for a European Union Special Interest Group on digital heritage statistics.

The Nederlandse Museumvereniging (NMV, the Netherlands Museum Association) [<http://www.museumvereniging.nl>] acts as a representative of the museum sector, pursues cultural heritage issues and supports the Dutch museums in their activities. The association helps the exchange of knowledge and skills among members as well as improving the marketing and communication efforts of the museums.

Non-Profit Organisations

The *American Association of Museums (AAM)* [<http://www.aam-us.org>] supplies museums with resources and information, including providing information regarding industry standards which concern museum administration and museum professionalism, as well as a number of different learning opportunities for museums as organisations and the members of museums. These opportunities include projects, meetings, committee activities and self-study possibilities. Additionally, an important aspect of the AAM is their well-known and industry-wide accepted accreditation programme which focuses on total quality management of the museums.

The *Association of Research Libraries (ARL)* [<http://www.arl.org>] is active in North America, dealing with the interests of libraries and guiding members in the policy decisions they make. The spreading of information and expertise is endorsed. The ARL has a ‘working relationship’ with the American Association of Museums.

An equivalent to the ARL in the Netherlands could be the consortium *Universiteitsbibliotheken en Koninklijke Bibliotheek (UKB)* [<http://www.ukb.nl/english/index.html>], consisting of university libraries and the National Library of the Netherlands. The UKB helps members in a number of areas, including managing and stimulating innovation in the members’ digital libraries as well as helping with licensing agreements and policies.

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