

The *i*2010 digital libraries initiative - Orphan works

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The *i2010* digital libraries initiative

- Scope: cultural content, scientific information
- Aim: make Europe's cultural and scientific heritage accessible to all
- Deals with all types of material: books, newspapers, films, archival records
- At present only a small percentage digitised and available online
- digitisation, online accessibility and digital preservation



Digitisation

- Why digitise?
 - Wider access and use
 - Preservation
- Cultural and economic aspects
- Fragmented efforts throughout Europe
- Challenges
 - Economic, organisational, technical, legal

Online accessibility

Intellectual property rights

- Public domain material
- Towards a 20th century black hole?

Integrated access

- Common access point: the European digital library portal
- Quality content description (metadata)



Digital preservation

- What is the problem?
 - Digitising without a preservation strategy may become a wasted investment
 - Relevance beyond digital libraries
 - No strategies in place (web harvesting)



Europeana

- Common multilingual access point to Europe's digital cultural heritage
- Direct search in different types of collections, show synergies
- Critical mass of content, user-friendly interface, multilingual

www.europeana.eu



Main challenges

- Large scale digitisation in MS
- Bring copyrighted content into EUROPEANA
 - Link to private initiatives (e.g. *Libreka*)
 - **Orphan works**
 - Solutions for out-of-print works
- Choice of common standards that work across sectors



Work ongoing at different levels

- Commission Recommendation of August 2006 (national implementation under way – MSEG report)
- Work with stakeholders:
 - High level group on digital libraries/Copyright Subgroup
 - Sector-specific Working Groups on diligent search guidelines for orphan works – Memorandum of Understanding
- Technical: co-funding through FP7 and *eContentplus*



The orphan works problem

- Digitisation triggers reproduction
- Impossibility to trace rightholders
- Institutions reticent to risk infringement
- Cross-sector issue



Scope of orphan works problem (ACE survey, 2005)

- About 50.000 of surveyed works orphan
- Mostly non-fiction and pre 1945/50 works
- Aim of requests: broadcasting, cultural purposes, inclusion in new films
- 50% requests denied, in spite of disclaimer



Different approaches

- Extended collective licenses (e.g. Scandinavian countries)
- Copyright exception (e.g. UK proposal)
- Limited liability (e.g. US bills)
- Centrally-granted licenses (e.g. Canada)
- Judicially granted clearance (e.g. France)
- other

Commission Recommendation

- Recommendation of 24 August 2006:
 - « *improve conditions for digitisation of, and online access to, cultural material by creating **mechanisms to facilitate the use of orphan works**, following consultations with interested parties* »



What is an orphan work?

- A work is orphan with respect to rightholders whose permission is required to use it and who can either not be **identified** or **located** after a diligent search.
- The search must be both **in good faith** and **reasonable**



Which works are concerned

- Works in copyright
- Four main sectors:
 - Text
 - Audiovisual
 - Music/Sound
 - Visual/Photography



Stakeholders' MoU on orphan works

- Voluntary measure
- No interference with copyright status
- Not solving all orphan works issues
- Not meant to address the conditions of licensing or rights clearance mechanisms
- Practical tool, designed to assist in identifying and locating rightholders

endorsed by 24 stakeholders 4 June 2008



Diligent search - procedure

- Search is done **prior to the use** of the work
- Search is done title by title or **work by work**
- Search to **start usually by the country of origin**/publication/production of the work
- Search to be **documented** (date, resources & search terms employed, copies of public announcements where relevant)
- **Orphan work notice** (e.g. « *work still in ©, rightholder could not be traced, named library*»)



Diligent search: cross-sector works

- Multi-sector works including **embedded works** or based on **underlying works** should be searched first on the basis of the guidelines in the sector of the main material and, where the rightholders of these works cannot be traced, also the guidelines for the sector of the embedded or underlying works

Diligent search - common resources

- European digital library for already digitised works
- Credits and other reference information on work or packaging
- Work-related files held by institution
- Collective rights management organisations
- Works or rightholders databases (eg www.watch-file.com)
- Online copyright registration lists (eg US)
- Legal deposit/national library or archive
- Company house records
- Companies administering standard identifiers (ISBN, ISSN, **ISAN**, ISMN, ISWC ISRC) and their databases
- Etc.



Diligent search – AV sector resources

- National Film Archives
- National Libraries
- State bodies (co)funding AV sector
- Registre Publique de la Cinématographie et de l'AV (www.cnc.fr)
- US Copyright Office
- Filmographies
- Rights management Organisations
- Other sectors' resources for underlying content



Diligent search - Scalable guidelines

- More flexible approach to diligent search might be needed for e.g.:
 - Non-professional material
 - Grey or unpublished literature, not represented by collective management organisations



Avoiding future orphans

- Use of electronic identifiers, including name of author
- Automatic metadata on works and rightholders upon creation
- Enhancing the value of standard identifiers by recording the devolution of rights (rightholders chain)
- Recording authors' death dates in national bibliographies
- Etc.

Conclusion

- Digital libraries initiative deals with all types of material
- Work on basic conditions for digitisation, online accessibility and digital preservation
- Digitisation, online accessibility and digital preservation of European cultural heritage not to be hindered by orphan status
- Diligent search guidelines are a building block
- MoU endorsed from June 4th 2008
- Implementation ongoing at national level



To know more:

www.europeana.eu

[http://ec.europa.eu/information_society/
activities/digital_libraries/index_en.htm](http://ec.europa.eu/information_society/activities/digital_libraries/index_en.htm)



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