

Museums Collaborate in New Marketing Ventures for Digital Images

by David L. Green, Executive Director, National Initiative for a Networked Cultural Heritage

Libraries and Digital Licensing

Librarians at ARL member institutions are all too familiar with the phenomenon of publishers licensing, rather than selling, their digital products. Given the current uncertainty about trustworthy protection systems, licensing has been developing as at least a temporary method of defining and controlling the use of digital material. ARL has been a leader in organizing libraries' responses to licensor demands, collaboratively developing both a set of [Principles for Licensing Electronic Resources](#), as well as a practical guide, [Licensing Electronic Resources: Strategic & Practical Considerations for Signing Electronic Information Delivery Agreements](#). Other notable guides and community forums include Yale's invaluable [LibLicense](#) website and listserv that includes an explanatory analysis of licensing agreements. [1]

Enter Museums

Another licensing model is about to be launched from the museum world. Mirroring the informal collaboration seen in LibLicense, as well as formal agreements entered into by library consortia, museums are forming collectives or consortia as vendors to the education market of high-quality digital images from their collections.

The model for this concept was at the heart of the pioneering Museum Educational Site Licensing (MESL) project, now coming to completion. Launched in 1995 by the Getty Information Institute and MUSE Educational Media, this two-year collaboration brought together seven museums and seven universities [2] to evolve and test a model of licensing visual material across closed campus networks.

Site licensing itself is not so new. It is in fact the kind of license most university libraries are familiar with for digital text material. Perhaps the three components that are most fresh and exciting about the MESL model are:

- the notion of a collective--building a major single-point-of-access, multi-institutional digital library of high-quality images with full documentation, cataloging, and contextualizing materials;
- the potential for full engagement as equal partners of two sectors of the nonprofit educational community with the shared values of providing wide access to cultural material while maintaining responsibility for the protection of collections; and
- the potential for discovery of new uses for visual material, which should affect the kind of agreements written and systems developed between owners and users of images.

The MESL vision is clearly not that of a commercial enterprise; its ambition is not financial profit, but rather the fruition of one of the great promises of digital networking of cultural heritage materials: dramatically increased, widespread access to the collections of museums--much of which is not even on public analog display in the museums themselves--together with multimedia contextualization and documentation material to make the images far more usable and useful in research and writing, teaching, and discussion than they have been to date. The very availability of such richly documented images

would open up potential uses of museums' imagery far beyond that of art historians, further accelerating the use of images as rich evidence and example in a broader range of academic disciplines--by researchers, teachers, and students. [\[3\]](#)

The benefits for a museum in engaging in such a digital collective and contributing to a "central" library include eliminating the costs of processing individual requests for individual images, as well as clearing and negotiating rights with artists and rights holders (both would be done by the collective), standardizing digitizing and documentation practices, and having access to other members' holdings, among others. [\[4\]](#)

For educational institutions, the benefits include, for a relatively low, annual cost-recovery-based fee, the kind of single-point access to a multi-institutional library, as described above, with none of the nightmares associated with gaining permissions. Such a collective should also offer the potential for continuous information exchange between the museums' "product" and universities' needs, as faculty and students explore, discover, and develop a range of new uses for digital images. Educational institutions would benefit from such an active exchange by getting products tailored to actual, evolving practice and needs. Museums also would benefit by having a mechanism by which scholars and teachers could add intellectual value to objects in museum collections.

MESL expanded its scope rapidly. With an obvious concern and focus on developing the terms and conditions that should be part of a model educational site license, the project was exemplary in the way it grappled with the full range of practical and social mechanisms for delivering quality digital images (as well as with the heuristic possibilities). The project employed wide-ranging teams from each participating institution, including those from art history, instructional technology, museum collections documentation, imaging, and academic computing. Despite unexpected technical difficulties, the project worked well: the museums created a digital library of some 9,000 images that was locally mounted by each university and used in a variety of ways by faculty and students.

[MESL's final report](#) will be released this September. It will comprise both a formal report and a [series of papers](#) by the participants on how the project has affected individual institutions. The formal report will not only draw its conclusions about the ever important terms and conditions of a license contract, but will also cover the technical issues (implementation of data standards, implementation models), the impact of MESL on teaching, learning, and museum organizational culture, and the economic questions that were raised.

AMICO & MLC

Earlier this year, as MESL was approaching its conclusion, it developed a working matrix of the issues of concern to both parties that needed to be included and considered in the creation of any particular license. The issues ranged from content selection through the scope of the license, permitted users and uses, and technical and security requirements to fees, terms of license, rights management, and termination. This matrix has been used in the formation of two nonprofit licensing consortia now organizing themselves: the Art Museum Image Consortium (AMICO) and the Museum Licensing Cooperative (MLC). Both are planning consortia that would build a digital library, within which there would be more specialized "products." Both would offer non-exclusive licenses, enabling museums to digitize and market individual works, or to participate in another collective if they so chose. Neither has formal connection or endorsement from the MESL project. Nor, unfortunately, do they include educational institutions as formal, equal partners of the consortia (so far at least): the hoped-for feedback loop has not yet been formally included in their plans.

AMICO is a project of the Association of Art Museum Directors, representing 170 of the larger art museums of the U.S., Canada, and Mexico. Spearheaded by Max Anderson, Director of the Art Gallery

of Ontario and of the Art Museum Network, much of the organizational work is being conducted by David Bearman and Jennifer Trant of Archives and Museum Informatics. Launched as a project this March with an agreement in principle from representatives from 37 art museums gathered in Los Angeles, AMICO expects to be fully incorporated by the end of 1997 and ready for full subscription by the 1999 academic year. Initially, while AMICO's membership would comprise art museums only, its library is planned to be broad and representative, within which many specialties would develop. The focus of its first phase would be the development of a university site license, followed by licenses for museum, K-12, and public library uses. Its financial base would be entirely cyclical: dues and license fees would assist in the continuing expansion of the library. Sliding scales would apply both to museums' participation fees and to universities' annual licensing fees in an attempt to ensure access by all interested institutions. For [details of AMICO's planning development](#).

The Museum Licensing Cooperative is a project of the MLC Development Corporation, masterminded by Geoffrey Samuels, and developed in close consultation with the American Association of Museums. MLC will be open to all museums, not just art museums, and, although its first focus will be in developing an educational site license, it will also work to develop a commercial licensing arm. Its initial library will focus on nineteenth-century American culture, not only to avoid copyright problems in the start-up phase but to build upon the developing critical mass of material already available in projects such as the [Cornell-Michigan Making of America](#) and the [Library of Congress' American Memory](#) projects. It proposes to raise considerable initial capital funds to enable museums to digitize their material. MLC is at the early stage of assembling its advisors, project management team and a core group of museums. It expects to be incorporated by the end of 1997, define its specifications and develop its business plan and services through 1998.

Other Issues and Models

Fair Use

The license model recommended by MESL would have no intention of limiting fair use. The spirit behind both MLC and AMICO, and early language in AMICO agreements, indicate an extremely liberal approach to the uses of material, enabling university community members, for example, to download, print, and copy material and even manipulate copied images. Thus, within the license agreement itself, fair use would be more than protected, and, unlike the scenario with many commercial licenses, should not prove a contentious issue. (Although one question might be after termination of an agreement whether an individual may claim fair use of individual items in his or her possession.)

Commercial Licenses

Although MLC plans to include a commercial licensing wing (for-profit or nonprofit is still undecided) to market museum images for commercial use, there would be no competition between the educational collectives and current commercial digital licensing companies such as Corbis. According to a variety of reports, the images Corbis markets are much more selective (i.e. more big hits rather than a comprehensive "library") and without the high degree of contextualizing documentation that will characterize the collectives' libraries. [5]

Other Solutions

Other, mostly interim or partial solutions to the problems museums and libraries face in producing, marketing, acquiring, and using large volumes of digital visual material include the development of locating directories that also act as central ordering clearinghouses. The most notable of these services for museum images is the [Image Directory](#) under development by Academic Press. This again is fine for individual images, but the costs would still be unreasonably high for negotiating a large volume of images.

Another recent development in helping consolidate the rights clearance of images is the development of

a collective arrangement by the [Copyright Clearance Center](#), through its Media Image Resource Alliance (MIRA), with the American Society of Media Photographers, the National Writers Union, and the Graphic Artists Guild. This, however, would complement the creation of cooperative museum digital libraries, allowing them to expand their collections by entering into cooperative exchange agreements with domestic alliances such as MIRA, as well as with international collectives. As Jennifer Trant points out, "one of the key advantages to a museum-owned collective in the U.S. is that it will be well positioned to collaborate with similar government-sponsored agencies in Europe and elsewhere and international exchange agreements would enable access to the collections of other museums."

The Role of Libraries

I would suggest that libraries can contribute to these new enterprises at two levels. On one level, they may be helpful, given recent experience in hammering out deals and negotiating contracts with vendors over the supply of digital material, in assisting these new consortia as they prepare their license agreements. They would also be a valuable instrument for bringing universities more to the center of consortial discussions and in helping to design their projects.

On another level, libraries might take Clifford Lynch's suggestion of thinking through how they should prepare for an image-rich teaching and research future. Beyond allocating funds and acquiring image databases, this might include the development of sophisticated new architectures for linking disparate image resources and for new cataloging and distribution systems for assisting faculty and students to better avail themselves of museums' rich collections. As Lynch puts it, "Library choices to move more or less rapidly in making [available] rich databases of digital visual materials to their communities will play a key role in encouraging or delaying these changes in community practice." [6] Such decisions, in enabling the clientele of both museums and libraries to gain greater and more flexible access to their collections, in Jennifer Trant's view, will contribute to the greater health of both sets of institutions: "a literate public that feels ownership of its museums' and libraries' collections is our best hope for their preservation and continued relevance." [7]

[1] See [Principles for Licensing Electronic Resources](#), [Licensing Electronic Resources: Strategic & Practical Considerations for Signing Electronic Information Delivery Agreements](#) and [LibLicense](#).

[2] Participating museums are the Fowler Museum of Cultural History (UCLA); George Eastman House, Rochester, New York; The Harvard University Art Museums; The Library of Congress; The Museum of Fine Arts, Houston; The National Gallery of Art; and The National Museum of American Art, Washington, DC. Participating universities are: American University, Washington, DC; Columbia University, New York; Cornell University, Ithaca, New York; University of Illinois at Urbana-Champaign, Illinois; University of Maryland, College Park, Maryland; University of Michigan, Ann Arbor, Dearborn and Flint, Michigan; University of Virginia, Charlottesville, Virginia.

[3] Clifford Lynch, in his argument for more readily available "core reference collections" of digital images and reference databases of images, observes that "The potential to place visual materials on an equal footing with text for the next generation of authors is spectacular." See his article, "The Uncertain Future for Digital Visual Collections in the University," in *Archives and Museum Informatics*, Vol. 11, No. 1, pp.5-13.

[4] For a clear account of the problems museums face with granting permissions and clearing rights for the use of images, especially in dealing with the potential tremendous growth in volume of requests, see David Bearman and Jennifer Trant, "Museums and Intellectual Property: Rethinking Rights Management for a Digital World," in *Visual Resources*, Vol. 12, Nos. 3-4 (1997), pp. 269-279.

[5] See, for example, Jane Lusaka, Susannah Cassedy and John Strand, "Whose 800-lb. Gorilla Is It? Corbis Corporation Pursues Museums," in *Museum News*, Vol. 75, No. 3 (May/June 1996), pp. 34-37, 74-79.

[6] Lynch, p.13.

[7] Jennifer Trant, personal email, July 24, 1997.

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