Crowdsourcing the orphan works problem

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The EnDOW project

EnDOW: Enhancing access to 20th Century cultural heritage through Distributed Orphan Works clearance

- 3-years collaborative project funded under Heritage Plus, a programme launched by agencies of 18 European countries and the European Commission as part of the Joint Programming Initiative in Cultural Heritage and Global Change.

- A partnership of four European research centres led by CIPPM, Bournemouth University

www.cippm.org.uk/endow
The EU orphan works regime – Dir. 2012/28/EU

1. Permitted use

- Limitations as to the **user** (art. 1), the **use** (art. 6) and the **subject matter**
- ‘**Diligent search**’ of the rightholder required (art. 3) (mutual recognition, art. 4)
- ‘**Reappearing authors**’ entitled to fair compensation (art. 6.5)

2. Specific national solutions – (Rec. 4 / MoU 20.09.2011) – *e.g.*

- Hungarian compulsory licence system (Act CXII of 2008)
- UK IPO licensing scheme (CDPA, s. 116A – ERR Act 2013)
- Danish ECL system (DK Copyright Act, s. 50.2 - 2008)
- French law on digital exploitation of unavailable 20th Century books (2012/287)
- …
Diligent search

- Expensive and time-consuming (est. €50 to €150 per item for books; 3.1/4 to 6.5 hours per hour of TV/radio broadcasting material*; *6.5M days to clear the rights of all UK orphans** – other costs? Fair compensation, Art. 6.(5)?)

- It can be outsourced (Rec. 13: “MS should be permitted to provide that such diligent search may be carried out by organisations referred to in this Directive or by other organisations.”)

- CHIs are ultimately responsible for DS on items in their collections (Art. 3(1): “…the organization … shall ensure that a diligent search is carried out in good faith … by consulting the appropriate sources…etc.”)

* UKIPO, Orphan Works Impact Assessment, 2012
** JISC, Assessment of the scope of OW, 2009
Crowdsourcing

“Online, distributed problem-solving and production model that leverages the collective intelligence of online communities to serve specific organizational goals” (Brabham, 2013)

• Successfully experimented for ‘information gathering’ tasks (e.g. ‘Peer-to-patent’ project) (Noveck 2006)

• CHIs are well positioned to encourage public participation in projects related to their mission (e.g. Europeana 1914-1918, untold stories & official stories of WWI; Mechanical Curator project of British Library)

• Problem: information coming from the crowd might be inaccurate, incomplete or mistaken
Crowdsourcing

Organization
(having a task to be performed)

Community
(willing to perform the task)
Crowdsourcing

Organization
(having a task to be performed)

INFRASTRUCTURE
(to enable performing the task)

Community
(willing to perform the task)
Crowdsourcing Diligent Searches

EnDOW – DILIGENT SEARCH PLATFORM
www.diligentsearch.eu

Community of users
The Diligent Search Platform

- Online publicly accessible platform that enables end users to perform “guided diligent searches” on items contained in CHI collections

Summary flowchart of the operations
Scenario 1 – ‘Top-down’ use of the platform

• CHI to issue lists of works to be cleared and to solicit contribution by communities of users

• Registered users to submit results of their searches to the CHI for validation
Scenario 2 – ‘Bottom-up’ (unsolicited) use of the platform

- The user searching a specific resource online is unable to access the content (legally);
- User to access the EnDOW platform and to perform a diligent search;
- The result of the search is passed on to the CHI that possesses the item.
Scenario 3 – CHI use

- Institutional users engaged in small-scale digitization projects (e.g. small- and medium-size CHI, public authorities or educational establishments operating research and scientific libraries/archives, …)

- Use of the platform to clear rights on items in their own collections
Open issues

- Legal responsibility for false or inaccurate information
- Bad faith use of the platform
- Use of digitized items for indexing and search (but not making available – Google Books model) – permitted in the US, but in EU?
Thank you!

More on EnDOW on the CIPPM website:

www.cippm.org.uk

…or on www.diligentsearch.eu (online soon)

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