Crowdsourcing the orphan works problem

Maurizio Borghi & Marcella Favale

Centre for Intellectual Property Policy & Management Bournemouth University

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The EnDOW project



Arts & Humanities Research Council

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









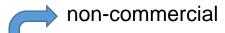


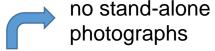


The EU orphan works regime - Dir. 2012/28/EU

Cultural Heritage Institutions (CHI)

1. Permitted use





- Limitations as to the <u>user</u> (art. 1), the <u>use</u> (art. 6) and the <u>subject matter</u>
- '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)

Premised upon diligent search

- ✓ 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; 3.¼ 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.")

^{**} JISC, Assessment of the scope of OW, 2009





^{*} UKIPO, Orphan Works Impact Assessment, 2012

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. <u>Peer-to-patent' project</u>) (Noveck 2006)
- CHIs are well positioned to encourage public participation in projects related to their mission (e.g. <u>Europeana 1914-1918</u>, untold stories & official stories of WWI; <u>Mechanical Curator project</u> 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)



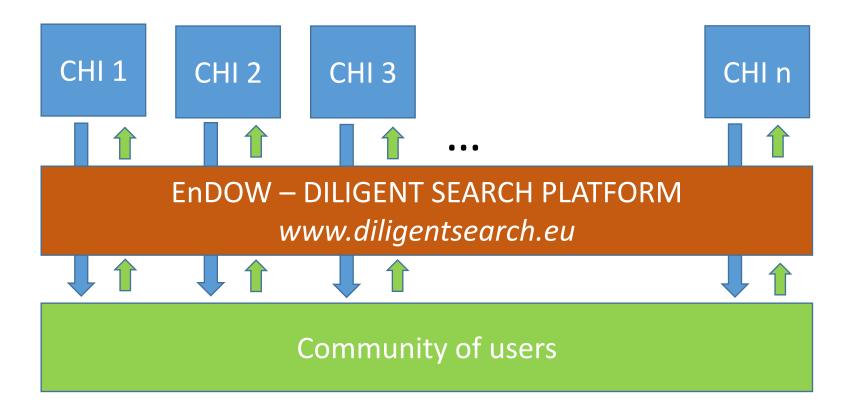
Community

(willing to perform the task)





Crowdsourcing Diligent Searches



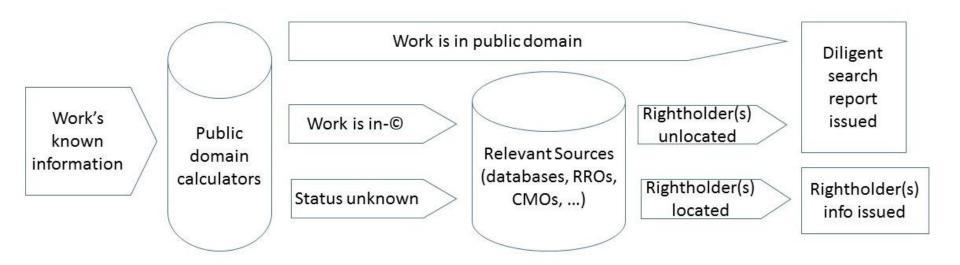




The Diligent Search Platform

 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?
- Beneficiaries of the Directive: small-scale CHI how small?
 Educational institutions? Private collections? ...





Thank you!

More on EnDOW on the CIPPM website:

www.cippm.org.uk

...or on <u>www.diligentsearch.eu</u> (online soon)

mborghi@bournemouth.ac.uk



