

COPYRIGHT INNOVATION IN ART

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Abstract

Art should be considered for its innovative expression. With art, comes context. The context of the work may be a reinterpretation or means of communicating a review, criticism, or other comment. Challenges of rights ownership, registration and copyright related to art images are helping create greater public interaction. Libraries, archives and museums are engaged with challenges of copyright while introducing digitization, access, considerations among owners, registrars, artists, publishers, scholars, and those with a passion for particular works of art, artists or artistic themes. Copyright is important to consider in advance of the works displayed. Documentation and agreements need to be flexible to meet a variety of needs. Assertions of copyright by institutions are made despite contrary clear public domain attributes. Alterations, derivative works, changes by masking or superimposing other graphic works affect copyright. Examples of art copyright challenges include cases for ethical questions and discussion. Beyond copyright are issues regarding privacy, injury, moral rights, amount used, compliance with donor wishes and rights to forget.

Keywords: *Copyright; Digitization, Intellectual property; Art; Derivatives; Transformative; Challenges*

Introduction

Assertions of copyright by institutions are made despite contrary clear public domain attributes. How do alterations, derivative works, changes by masking or superimposing other graphic works affect copyright? Copyright cases should be reviewed for ethical questions and discussion with colleagues. Technologies such as digital watermarks or other means of tagging digital objects should take into consideration whether relying on community participation has value and worth the effort and risk. Privacy, injury, moral rights, amount used, compliance with donor wishes and rights to forget are also important considerations to list and address. The intent of this paper is to apply knowledge of copyright related to:

- Leadership applications in art promotion
- Outreach to intellectual property for mutual benefit
- Innovation and creativity with copyright
- Enhancing the value of copyright for museums, libraries, archives and artists
- Developing teaching and learning strategies for copyright
- Emphasizing artistic expression to communities, nations, cultures and professional practice

Images from the distant past are public domain. Many museums, archives, libraries and art centers consider their ownership also includes rights to their collections. Not so. Many larger art centers are making images freely available. Others are retaining some level of control by providing a balance between high quality images for commercial use and lower resolution for instruction and educational purposes. More and more, institutions are recognizing art works in residence belong to the public and, rightfully, should interact to the greatest extent possible [1-5].

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Innovations with Interaction with Art

The Cleveland Museum of Art has enabled the works in its collection to be accessed by popular technologies including downloads to iPad apps, downloads of selected works, line and shape matching with body positioning, activities for children to interact with art works online, matching expressions with other pieces. In short the visitor is embedded in the art collection by numerous means.

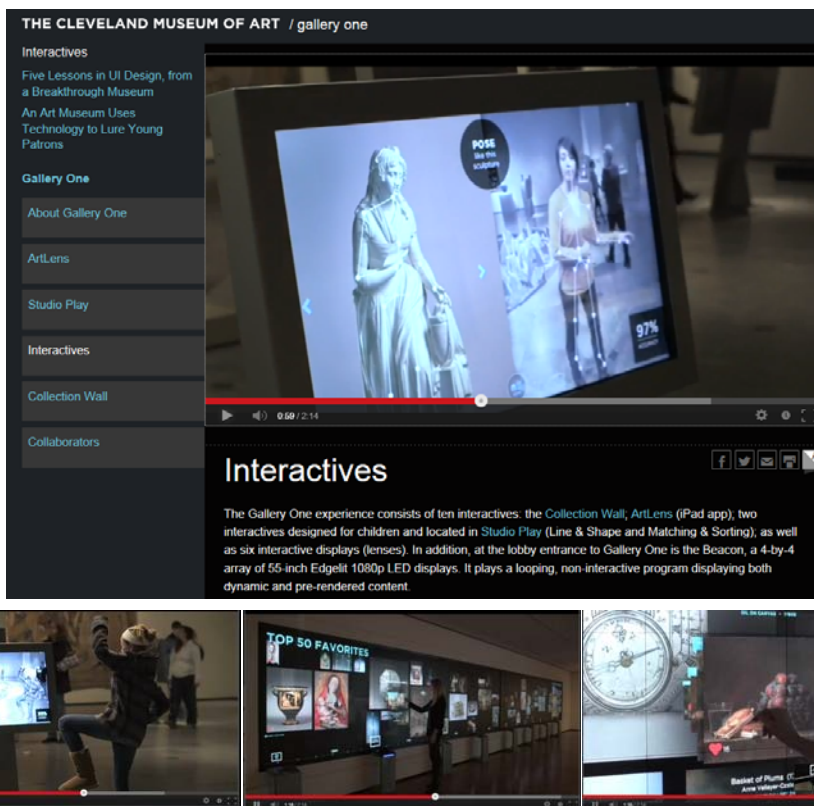


Fig. 1. Cleveland Museum of Art interactive displays.
Visitors shown items in the collection matching facial or body position [6]

Further examples and resources

The Rijksmuseum, in Amsterdam, Netherlands [7] offers downloads of high-resolution image and allows visitors to transform artworks into stationery, T- shirts, tattoos, plates or even toilet paper. The Smithsonian Institution, Washington, D.C., USA offers 860,500 images, video clips, sound files, online, unfortunately with low-resolution to discourage commercial use [8]. Sweden's Royal Armoury, Skokloster Castle, and The Hallwyl Museum publishes 40,000 images offering under open licenses. The National Gallery of Denmark has launched a database of art images under a Creative Commons license [9]. TinEye is a reverse image search engine. It finds out where an image came from, how it is being used, if modified versions of the image exist, or if there is a higher resolution version [10]. A list of winning innovative examples is available from the MW2013: Museums and the Web 2013 [11]. Guidelines for Digital Content Creations is available in the site [12]. Open source services for digital creations is available in the site [13]. Licensing guidelines for Learning Objects is available in the site [14].

Christina's World and Moral Rights

The original work, *Christina's World* by Andrew Wyeth, 1948, is still under copyright protection. It was a surprise to Andrew Wyeth some of his earlier works needed serious conservation and preservation measures. There are other than copyright considerations to art representations. One of these is the aspect of moral rights. Using the examples found by a simple search in Google for *Christina's World*, several copies have been mocked without regard to the story in context to the original work. "Wyeth saw the figure as a summation of his subject's life, an incarnation of her youthful freedom, before she became paralyzed, and the entrapment she experienced as an adult." [3].



Fig. 2. The utilization of the painting *Christina's World* can have commercial negative purposes:
a – original picture, b - *Christina's World* with the bottle of Absolut Vodka, c and d – other tips of artistic composition

Images above were randomly selected from over 100 examples from a Google Image search "Christina's World".

Moral rights protect the integrity, reputation and respect for the creator whether artist or author. Moral rights are not universally recognized and only in a very specific small way for art prints in the USA.

Transformative Use

Another example of a moral rights dispute came from an artist's casual search on the Internet for 'war' pictures. Finding a suitable example, Joy Garnett painted the now famous "Molotov Man" in 2003. Unfortunately, equally famous, was the original photograph by journalist Susan Meisalas on July 15, 1979 of a Sandinista rebel in Nicaragua. The Molotov Man was an unauthorized copy of a photograph taken by Susan Meisalas. The new rendition of the image corrupted the initial intent of the work. See reference below with link to Harper Magazine article for more details of the popularity and history of the Molotov Man and other images.



Fig. 3. Images from On the Rights of the Molotov Man: Appropriation and the art of context, Harper’s Magazine

Discussions

Copyright allows review, comment, criticism, parody and adds appropriation and transformative exceptions. Joy Garnett [1] admits her work stems from copies of photographs and alterations in the composition. Works of appropriation are becoming more common and generally more accepted due to their nature of being transformative. The art world can find many examples of works admittedly borrowed from others whether or not in the public domain. Courts tend to frown on misuse of creative works due to the loss of potential sales and market values but accept nuances of changes to works if they, in fact, provide an alternative or variant interpretation of the original work. Other rights of privacy, omission, redaction and donor wishes form strong portions of the art museum, archive or library.

Art in the mind of the beholder

Other moral rights are whether the art act or effect is purposely harmful such as a work displaying a fish in a blender encouraging viewers to push the button and watch the result or starving a dog as an exhibit. When does art go above the law? And yet we accept, to some degree, the works by Gunther von Hagens of Body Worlds.



Fig. 4. Images of slaughtered chicken juxtaposed with Gunther von Hagens’ Body Worlds.

Future Art Opportunities

Digital innovations are creating opportunities for art allowing appropriation of other works or services, expanding into virtual worlds, apps, mobile devices and displays. Publishers are soliciting authors to create a graphical abstract of their writing.

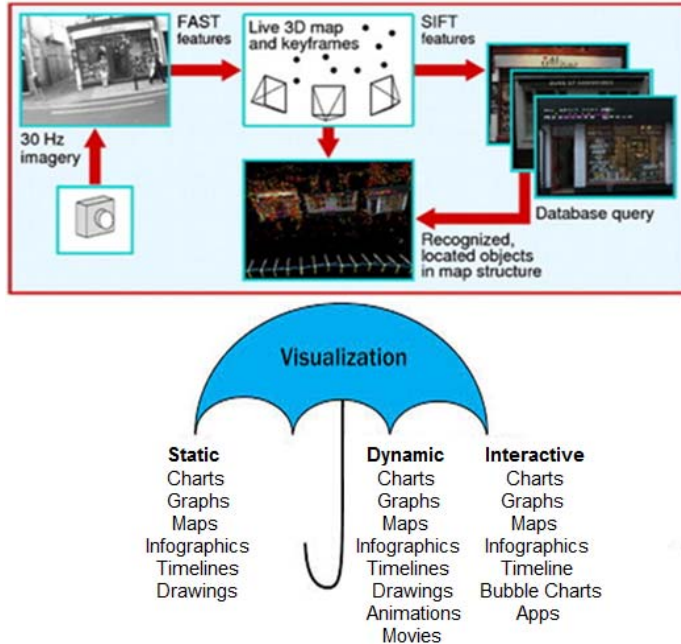


Fig. 5. Images of Apps, visualization techniques and recent requests by publishers to provide a graphical abstract.

Museums, archives and libraries need to resolve the major quandary of copyright with the images and objects they protect and provide for display or research. Instead of claiming or hiding items due to questions of copyright, display them, digitize them, put them on mobile devices! Following are the National Gallery of Art declarations. Note the NGA does not claim rights but rather declare they only house the items and, for the purpose of instruction, provide access.

Make Access and Innovation Norms in Collections

Example – National Gallery of Art (USA)

1. No copyright or other proprietary right in the image itself or in the underlying work of art is conveyed by making the image accessible. Furthermore, in making the image accessible, the National Gallery (US) does not grant the user an exclusive right to use or reproduce such image or work of art.
2. As a courtesy to the Gallery and to enable others to identify and locate information about its collections, the Gallery encourages users to include the following credit with any use of one of its open access images: Courtesy National Gallery of Art, Washington
3. Users may not suggest nor imply that the National Gallery of Art endorses, approves, or has participated in any projects utilizing images obtained from the National Gallery of Art.
4. The Gallery asks users aware of any rights information associated with an image contact NGA Images at rights-ngaimages@nga.gov with this information.

Conclusions

The future will be more restrictive for access to digital resources unless libraries, museums and archives can stress the importance and continue to show evidence restrictions on use and promotion actually cause economic decline and loss in industrial innovations. The future will most definitely apply more licensing, contracts, and click through agreements than copyright notice. Conduits to information will follow rules for internet service providers. Artlibre.org gives details on art images and content.

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