

How do
Cultural
Institutions
Employ Rights
Management
Technologies
and Policies ?

Digital Rights Management and Cultural Institutions

Case Study: New York Public Library, Library for
the Performing Arts

Project Description

The New York Public Library's Library for the Performing Arts (LPA) collection documents the history of the performing arts in New York, "from Broadway theater and Tin Pan Alley." The collection contains around 16,000 objects including books, newspaper clippings, stage drawings and instructions, manuscripts, moving images, musical scores, recordings, photographs, posters, lobby cards, and programs. The collection draws on NYPL's Jerome Robbins Dance Division, Music Division, Rodgers and Hammerstein Archives of Recorded Sound, and Billy Rose Theatre Collection, and was partly funded by the National Endowment for the Arts.

Reasons for controlling access and use

According to interviews with Barbara Taranto (Managing Director, NYPL Labs) and Tanisha Jones (Project Manager for NYPL's Dance Heritage Center project), the LPA seeks to expand access to its important works within a framework of respecting the various IP rights holders while also controlling access and reuse in order to alleviate concerns about misappropriation, privacy and donor relations.

Special points of interest:

- Address: http://digital.nypl.org/lpa/nypl/lpa_home4.html
- The New York Public Library is one of the largest public library systems in the United States and is a leading research institution.
- NYPL controls access or use to some collection items due to concerns about misappropriation, privacy, copyright and unclear rights/donor relations.
- NYPL is in the process of creating a network to expand access to parts of a collection of dance videos with other dance institutions.
- NYPL uses, or plans to use the following technological tools to control access and use: the MrSID viewer plug-in, IP range controls, and a user login system.
- Recommendations from NYPL include: integrating rights metadata into the bibliographic record; using discretion in choosing which items to make available; and maintaining good relationships with potential allies in the community.

The collection includes works of art in various forms (video, audio, notes, drawings) and artists have expressed concerns to NYPL about ensuring the integrity of their work. Noting the tendency of new works of art to remix or modify existing works, library staff points out the difficult dynamic that can arise when an artist disapproves of the ways in which their work has been used by another artist.

The NYPL is also concerned about privacy issues within all its collections and especially in the Performing Arts where there are generally multiple IP issues. In some cases, the library is able to obtain consent for such images; in others, the staff conducts a risk assessment. If use of an image is deemed too risky, it may be restricted to in-library use or consigned to a digital dark archive not accessible to the public.

The collection also contains material with complex copyright issues. Clearing rights for video recordings of performances may require numerous levels of permissions.

The browser plug-in called MrSID allows zooming, rotating, and resizing, but it can also prevent full-size viewing of the whole image at once and therefore frustrate attempts to save the full image.

For example, a choreographer in most cases has agreements with the underlying rights holders (e.g., musicians, composers, dance company, and unions) to perform the work. When the library wishes to record a perform-

ance for archival purposes, an agreement is reached for these purposes only. For these reasons, access to recordings of performances have traditionally been restricted to in-library use regardless of storage media (analog tape, DVD and other external media).

A complicating factor can arise from recordings where all the underlying rights have not been cleared by the various parties. In either case, if new uses are requested, such as sharing content outside the library, due diligence must be performed and rights must be obtained when at all possible.

Collections with Controlled Access: Technological controls employed

The New York Public Library takes two approaches to access and use control for its LPA digital collection: the use of a software viewer to control reuse of some of the collection's visual content, and restricted access to some performance materials via an (expanding) LAN network.

While most images in the web portal can be freely viewed, manipulated and saved, NYPL used the plug-in MrSID, made by LizardTech, to present some images (see Figure 1). Because the collection has a strong focus on theater and dance, the ability to zoom in on details of lighting, stage design, musical scores, and the positions and gestures of the dancers themselves are important to many of the collection's users. MrSID allows zooming, rotating, and resizing, but MrSID's zoomability can also frustrate attempts to save a full image at scale.

According to interviews, while concerns about controlling reuse did not figure into the library's initial decision to use MrSID, staff see these features of the plug-in as a "bonus" protection measure and the library hopes they will prove a helpful tool in negotiating donations and digitization with artists or rights holders in the future.

Access to most video in the Performing Arts Collection has been limited to in library use due to the aforementioned use concerns. In the past, NYPL has made these videos available on video viewers and on library computers via a secure LAN. But the library is undertaking a project to expand access to some performance pieces in its collection to others in the dance community. Ideally the project will make the videos accessible from a broader range of access points outside the physical NYPL buildings. The first stage of this project will allow members of the Dance Heritage Coalition (DHC) to access this collection remotely. The DHC is a consortium of nine organizations that share access to dance materials in order to promote the creation and preservation of documentation of American dance. Its members include libraries, museums, dance research institutes and

dance festivals (www.danceheritage.org).

The planned controlled network, built by an independent

"One benefit of the kind of viewer-based access restriction enabled by MrSID is that it can prevent misappropriation or decontextualization of content, both of which are matters of concern for the library."

contractor, will use a central streaming video server to facilitate access to the video while avoiding downloading issues.

Access to the streaming server will be controlled through both IP range restrictions and a login system, and each

member institution will be able to choose how many computers at the institution will act as access points.

A number of aspects of this project are still under consideration, including the software that will stream the videos and the details of the login system that will be used. Also undecided is the question of whether each participating

institution will have a shared single user id and password, or whether each user will be asked to create their own account. These questions will likely be answered by the third quarter of 2011, the estimated completion date provided by the contractor.

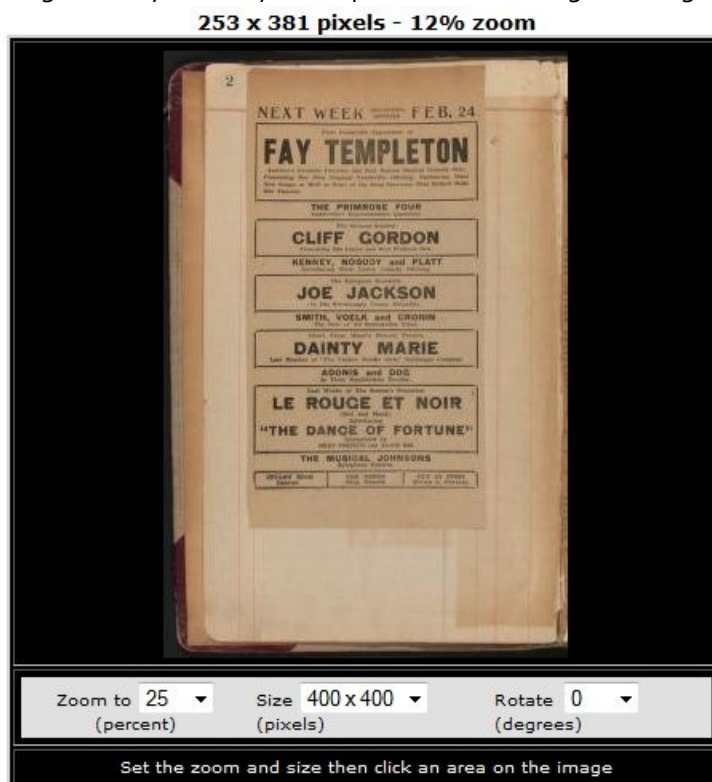
The second planned stage of the controlled network development will investigate shared access with an expanded range of educational institutions.

Recommendations for use of technological controls

The NYPL suggests that difficult rights issues require better organization of rights metadata to increase use and help prioritize rights clearances. The NYPL is integrating rights information into its bibliographic database, creating new tables for rights data and linking them to the canonical records for objects.

This configuration allows the library to attach not only

Figure 1. A newspaper clipping is shown in the MrSID viewer. The zoom function both allows the user to explore the image and stymies any attempts at downloading the image at full resolution.



rights information, but also dissemination information and even a copy of the deed of gift to the appropriate item in the database. Staff emphasize that this system this is an important step up from the realm of paper files, in which as a staffer put it, "Nobody's files talk to anyone else's files."

An additional goal of this project is to develop a vocabulary schema for describing control of items. The goal of this project is a machine-actionable language that will enable informed decision-making about the possible uses of the collection as well as future collection development.

NYPL staff suggest that digital libraries tend to "get hung up on the proper expression and end up with nothing to express." Rather than lose momentum to such issues of terminology, for this project the NYPL is using natural language to build a descriptive narrative with the goal of later translating into an agreed-upon controlled vocabulary schema.

This project is part of NYPL's overall interest in moving paper and analog collections into the digital era.

Policy controls employed

The LPA collection does not have a collection-specific terms of use policy, but refers to the general NYPL website terms of use. The NYPL policy encourages reuse of materials displayed on its website under the following conditions:

- Low resolution images can be used for personal, educational, or research purposes.
- Users are responsible for clearing rights for reuse of digital materials.

"The NYPL Websites contain a wide range of content. They contain materials that are in the public domain as well as materials that are protected by copyright. In cases where materials on the NYPL Websites are protected by third party rights, you are responsible for clearing the necessary rights in order to use the materials in question." (Website terms and conditions)

- All reuse should credit the NYPL.

Additionally, the PAA collection offers copyright information for each item in its metadata record (see Figure 2).

Recommendations for use of policy

Figure 2. Screenshot of a musical score from the digital collection "Performing Arts in America 1875-1923." Copyright information such as the publisher and the year of copyright is displayed as part of the item's header.

Ziegfeld follies. Falling star. Vocal score.
\Falling star / [words and music by] Nora Bayes & Jack Norworth.
 Operatic ed.
 New York :
 J.H. Remick,
 c1909.
 1 vocal score (3 p.) : ill. ; 35 cm.
 Images: 1 to 5 of 5

[View catalog record](#)

Larger images: [1](#) [2](#) [3](#) [4](#) [5](#)



Image ID: WWM9937/G99C826/001
[Save to MyGallery](#)



Image ID: WWM9937/G99C826/002
[Save to MyGallery](#)

controls

these stakeholders.

The NYPL chooses not to rely on an educational fair use argument for digitizing and displaying LPA materials because of the permissions issues outlined earlier. In some cases the rights to record the performances in the first place were never obtained. Digitizing and providing access to these videos under a fair use argument is riskier than digitizing and providing access to an object with clear deeds of gift. Instead, the NYPL puts a high premium on rights negotiation in its collection development process.

Obtaining permissions in many cases depends on good relations with the performance community. Obtaining permission for some objects in the LPA has required negotiation with various theater workers' unions – such as lighting, design, stage, and the like – which wield great influence in New York City. Fortunately, NYPL has had a good relationship with these unions. Library staff stressed the importance of maintaining close relationships with

Figure 3. An advertising card from the silent movie “Broken Blossoms” intended for display in movie theatre lobbies. Permalink to catalog entry: <http://catalog.nypl.org/record=b14426826--S1>





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The case studies portion of the project identified six exemplary projects that employed a variety of rights management technologies and policies to serve as examples from which other institutions might learn.

Related study outputs include:

Eschenfelder, K.R. (2009). Controlling Access to and Use of Online Cultural Collections: A Survey of U.S. Archives, Libraries and Museums for IMLS. University of Wisconsin-Madison School of Library and Information Studies: Madison, Wisconsin. (<http://minds.wisconsin.edu/handle/1793/38251>)

Eschenfelder, K.R.; Agnew, G (2010) "Technologies Employed to Control Access to or Use of Digital Cultural Collections: Controlled Online Collections" D-Lib Magazine.