



## New Ways of Using Digital Images

### Recommendations Concerning the Free Use of Visual Media for Scholarly Purposes

By Christine von Oertzen

Today more than ever, scholars in the humanities require unfettered access to digital visual media. While the digitization of cultural resources housed in museums and other repositories has fostered new scholarship, researchers in the humanities lack a clear sense of how, where, and to what ends they may use digitized cultural media.

Two main obstacles impede scholars' access to digitized culture. High license fees, coupled with a legalistic approach to access, are placing significant limitations on scholars' ability to use visual documentation. This observation is especially true of e-publishing, where the question of scholars' rights to digital cultural heritage is becoming increasingly urgent. The Max Planck Institute for the History of Science – a co-initiator of the Open Access movement – has drafted a set of recommendations concerning scholarly use of visual sources. With these best practice recommendations, the Max

Planck Institute for the History of Science seeks to promote trust and cooperation between scholars in the humanities and leading media repositories.

The 'visual turn' in the humanities has encouraged researchers to make increased use of paintings, photographs, and digital media. In the history of science, these sources have moved to the center of scholarly practice. Compelling examples of the integral role assumed by visual sources in ongoing projects at the Max Planck Institute for the History of Science include the

history of scientific observation, the study of drawing and recording as scientific techniques, as well as the epistemic history of architecture.

Among scholars in the humanities, interest in visual sources will continue to grow. For this reason, we must ensure that researchers and curators work together to secure scholarly access well into the future. At museums, libraries, and other image repositories, financial considerations limit scholars' access to digital media. Budget pressures have led many libraries, museums, and archives to charge substantial fees for the right to use digitized media – and this despite the fact that the original objects in question are often no longer covered by copyright. Other institutions have ceded the processes of digitization and marketing to commercial image providers. This for-profit approach to digital cultural heritage circumscribes scholars' use of historical image collections. Precisely at the moment that new e-publishing practices are beginning to change the nature of scholarship itself, researchers face soaring costs for the rights to use digital cultural resources.

At the crux of many discussions about access is the issue of copyright. All countries distinguish between the physical property of an object (image, text, or art work) and intellectual property. Only the latter is protected by copyright. If an author has been dead more than seventy years, his or her work is in the public domain in most, but not all, countries. Rights of physical property are regulated by a contract between the owner and the user. Ownership rights should not be confused with intellectual property rights, even when the object in question is

unique. Access to unique historic objects, images, or texts – cultural heritage – is only rarely a copyright issue. Access to cultural heritage is first and foremost a contractual matter. As such, access to cultural heritage is inherently negotiable. When repositories impose excessive fees on scholars, with reference to copyright they may not be operating within the boundaries of the law. In any event, by restricting access and use they are limiting in unforeseen ways the scholarly potential of digital cultural media.

Financial and legal considerations are not the only reasons museums and collections restrict access to digitized cultural heritage. Fear of abuse and theft also factor in how curators make decisions about access and use. Digitalization simplifies the distribution of reproductions, opening the floodgates to forgery and incorrect attribution, a potential threat to the painstaking work of image curators. If an object can no longer be identified, it loses its value – not only to cultural organizations, but to scholars as well. As the trustees of cultural heritage, curators in museums and collections must guard against such abuse.

Until recently, efforts to address this new digital divide between researchers and curators assumed the form of scholarly initiatives to secure open access to visual sources. One of the most important of these initiatives is European Cultural Heritage Online, launched by our Institute and supported by the European Commission. Today, a number of prominent museums are demonstrating a renewed willingness to take into account the particular needs of scholars, exploring new ways to reconcile



Rembrandt (1606-1669), *Aristotle with a bust of Homer*, 1653. Image displayed free of charge with the kind permission of the Metropolitan Museum of New York (MET).

scholarship with stewardship. Several institutions have recently begun to provide researchers free-of-charge access to some of their digitized collections. The Victoria and Albert Museum in London, for example, now offers scholars this service from the museum's home page, while the Metropolitan Museum of Art in New York is cooperating with scholars through ARTstor, a non-commercial digital library. Via the database Images for Academic Publishing (IAP), high-resolution images from the Metro-

politan Museum of Art's collections are now available for scholarly use. The U.S. Library of Congress as well as the German Federal Archives and the State and University Library of Saxony in Germany have entrusted parts of their digitized photographic collections to the safekeeping of Wikimedia, an open image database. And there are encouraging signs that other repositories will follow these important examples.

In January 2008, our Institute brought together a small group of scholars, curators, publishers, and other stakeholders to reflect on the state of affairs described above. In light of our discussions, we feel strongly that further restrictions on scholars' access to, and use of, digital image collections must be prevented. To promote creative scholarship in the humanities and to foster a deeper understanding of cultural heritage, curators and scholars of the humanities will need to work together in new ways. If museums, libraries, and other repositories allow researchers to use their visual image resources, scholars must do their best to attribute, authenticate, and otherwise identify objects of cultural heritage. Researchers must be prepared to share in the cost of digitization, e.g., to pay reasonable fees for the media they need to complete their studies.

Following the January 2008 gathering of experts, our Institute, with input from all participants, drew up a set of recommendations to improve scholars' access to digital media. This document calls upon curators and scholars to enter into a new relationship to promote mutual trust and common interests. The aim of our compact is to address the pressing challenges raised by our digital present and future. We request that curators refrain from arbitrarily restricting the public domain. We further ask our colleagues in libraries, museums, and other

repositories to accommodate the needs of scholars for freely accessible, high-resolution digital images. This request concerns not only print publications, but also new forms of electronic publishing. We exhort scholars in the humanities to respect the special custodial responsibility of museums, libraries, and other image repositories. In particular, we insist that careful attention to attribution must become part of each scholar's contribution to a relationship based on trust and mutual benefit.

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