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Navigating Copyright Law, Databases, and Accessibility when Creating Online Exhibits

By: Abigail Epplett

Abstract: During Summer 2020, I planned, designed, and implemented a born-digital online exhibit called "Abby Kelley Foster: Freedom, Faith, & Family", which focused on the life of a 19th century human rights activist. While finding materials from the life of Abby Kelley Foster is difficult to begin with — as a devout Quaker who prized living modestly, she left behind few possessions — the closing of museums, libraries, and archives during the pandemic forced me to become even more creative. This paper will focus on the preliminary research, curation of artifacts, and production of a digital exhibit while being limited to materials found only on the web. After turning to digitized archives and collections to find materials, I quickly discovered several novel solutions and brand-new problems. I was impressed by the potential of open access digital archives, but poorly built interfaces and malfunctioning search functions sometimes caused more frustration than fruition. When curating the digital materials, I discovered the limitations of displaying physical objects as part of a standardized, slide-like image. Finally, I wanted this exhibit to be accessible to the widest possible range of visitors. Besides following the accessibility guidelines of the National Park Service, I created supplemental materials with IDEA design principles in mind. Currently, a set of pop-up posters, a narrated video, and a Q&A program cover the same material as the exhibit, with opportunities to expand and diversify the formats in the future. Digital technology was crucial to creating both the basis for this exhibit and future in-person events.

Keywords: *digital curation, digital exhibit, copyright, online exhibition, accessibility, Abby Kelley Foster*

Background in Digital Exhibitions

In the summer of 2020, I started working on a digital exhibition with the National Park Service as part of the celebration of the 100th anniversary of the 19th amendment that gave American women the right to vote in federal elections. My exhibit, "Abby Kelley Foster: Freedom, Faith, and Family", focused on the life of 19th century human rights activist Abby Kelley Foster. I was inspired by one of Foster's many quotes: "Harmony! I don't want Harmony, I want Truth!" So often, museums conduct programs and build exhibits in the way it has always been done. The staff wants to maintain "Harmony" with the board, museum members, and visitors. However, when museums are cautious, they miss out on a chance to bring "Truth" to a wider audience, whether they are sharing resources with researchers from around the world or engaging with different demographics than would typically go to a museum.

Museums must go beyond harmony and conforming to the status quo in order to embrace this new digital reality and to spread truth to a larger audience. This change has three prerequisites. First, museums must make artifacts more accessible for researchers by utilizing digitized database systems with effective search functions and clear copyright information. Also, curators must be diligent when choosing what digital artifacts to include in their born-digital exhibits, which are exhibits that were first created online or in a virtual setting, without a physical counterpart.

Finally, exhibition designers must strive to make these exhibits accessible to the widest range of visitors from the general public. Currently, the information needed for these exhibits is already available online, but it is only easily accessible to those who have developed the research skills for the digital environment. In addition to improving databases infrastructure so that this uncurated information is accessible to those who do not have advanced research skills, museums should also create born-digital exhibits that allow virtual visitors to easily process the information.

Preliminary Research

When conducting preliminary research in a digital environment, the researcher must navigate digital collection systems and rules of reproduction. A wide range of research resources already exist online. Digital archives are a common resource, some of which are digital reproductions of physical archives found in specific museums, while other archives are born-digital. Online libraries and online journal databases, like JSTOR, have already existed for many years and continue to grow.

There are pros and cons to using digital databases in their current state. As of right now, digital databases have huge potential and will become increasingly relevant in the future. In fact, many national organizations have already made this transition from physical to digital. The U.S. National Archives and Records Administration, which began its digital archives fifty years ago, "will no longer take records in paper form after December 31, 2022" as part of a larger strategic plan to promote "digital transparency" and modernize the federal recordkeeping system.[i] Library and Archives Canada took a similar approach, as the Archives now saves Word documents and emails in their original formats.[ii] Countless other government agencies, museums, and libraries are digitizing their archives and collections to make them accessible to the public.

The advantages of a digital database system are clear, as these records are accessible anywhere with an internet connection and at any time. Saving articles or artifacts for later research is easy and efficient compared to the travel and permissions needed to visit many physical archives, making the experience of research more equitable.

Unfortunately, there are plenty of cons to the current system. Many databases have poor and outdated infrastructures. The search functions, whether these use a filter system or a keyword search, frequently do not generate correct results. Finally, the rules of reproduction, or the ability

to repost and share digital information like an image, document, song, or other virtual materials, are often unclear. Museum staff cannot fix all of these issues. Programmers and computer scientists create the code and user experience design that contributes to database infrastructure, and they create the natural language processing algorithms that improve search systems. However, programmers working in museums are more qualified to create solutions for the current reproduction issues.

Solutions for Improving Terms of Reproduction

The first solution is for websites and databases to create clearer terms of reproduction. While many websites have permissions pages that give details, these details are frequently unclear or put all the responsibility on the user. Additionally, museums must decide what type of copyright to give to their works. Images owned by a museum can be placed in the public domain or use a Creative Commons license, which is described on the Creative Commons website as "a free, simple, and standardized way to grant copyright permissions for creative and academic works".[iii]

While conducting preliminary research for the Abby Kelley Foster project, I frequently used the collections of the American Antiquarian Society (AAS) and the Boston Public Library (BPL). The two permissions pages could not have been more different. The AAS page, "Obtaining Digital Images: A Step-by-Step Guide" clearly explains the rights and permissions to use the images displayed in their archives. This is the most thorough reproductions page I have found to date. On this page, AAS states that it has made "available, without charge, all our existing medium resolution (up to 72 dpi) digital images that are in the public domain to be used for any purpose under the terms of a Creative Commons License. No permission is required though attribution is required."[iv] In other words, images from the AAS digital collection can be reproduced by any user as long as the image is attributed to AAS.

On the other hand, the BPL "Rights & Permissions" page is less straight-forward about the reproduction of images, and for good reason. BPL does not hold the copyright to many of their items and cannot grant permissions for reproduction.[v] This puts the onus on the researcher to determine the original copyright owner of the image, adding hours of time to the research process.

With so many copyright restrictions and unclear rules, it is tempting to avoid copyright issues altogether by only using artifacts in the public domain. The common public opinion on the public domain is cynical, as many believe the public domain is a place that artifacts finally enter when they are so old or so common that the government and giant corporations no longer have a use for them. Indeed, some companies have pushed to extend the length of copyright to prevent their material from entering the public domain.

However, there are actually four ways for works to enter the public domain. While it is true that the work may be old enough for the copyright to expire, it is also possible that the copyright of the work was not properly renewed, that the work was marked as open and free to the public and never had a copyright, or that type of work simply is not protected by copyright,[vi] such as common phrases or symbols, design layouts, typefaces, or blank forms like checks and schedulers.[vii] To reiterate, while the public domain is commonly thought to be the copyright designation for older works, any work can be placed into the public domain regardless of age, but the owner will lose complete control of the work.

This is why the Creative Commons licensing system, which is separate from the public domain, is crucial in this new age of digital research, and why museums should adopt a policy of using Creative Commons licenses for their images, video, transcripts, and other resources whenever possible. Museums have varying levels of control when creating a digital reproduction of a modern piece of art or artifact, as copyright laws are rightfully designed to protect the intellectual property

of living creators. A series of national and international laws, including the Digital Millennium Copyright Act, defend creators from copyright infringement in the digital sphere.[viii] However, museums frequently place copyrights on reproductions, like images or video, of objects that are in the public domain. This system allows museums to profit from the work of deceased or "unknown" artists.

Six levels of Creative Commons licenses exist and are ranked from most to least permissive. The most permissive license, CC BY-SA, allows users to edit, remix, or reproduce a work in any form as long as credit is given to the original author. The least permissive license, CC BY-NC-ND, only allows users to replicate the object exactly as it appears and in a non-commercial form, and of course, requires that credit is given to the original author. All items under the Creative Commons license are completely free for reproduction.[ix] This creates the opportunity for museums to share digital reproductions of their artifacts both with other museums and the general public free of charge while maintaining complete control of the work — something that the AAS has successfully accomplished.

Besides improving licensing, databases must be easily searchable. All databases should provide at minimum a highly visible search bar that allows users to search by keyword. Artifacts should be searchable by file type, such as image, document, audio, and video. Additionally, the traits of the artifact should be divided into categories and subcategories so that users can find objects based on their interests even without knowing the correct keywords.

One simple example for successful categorization is seen on The Mariners' Museum and Park's website "The Ages of Exploration",[x] which combines a simple, visually appealing, and highly legible design with an easy to navigate search system. In addition to a standard search box, the system uses tabs to divide the information into four main categories: "Explorers", "Ships",

"Voyages", and "Tools". The website also provides a dropdown menu that divides the information into three further categories: "Birthplace", "Time Period", and "Goal". Selecting an item from this menu triggers a second menu to appear, offering multiple subcategories and allowing users to easily compare information across articles. Using this type of categorized search in tandem with a well-planned design would greatly increase searchability in other databases.

The creation of a searchable, universal database for thousands of digital archives would greatly improve the online research experience. An example of such a resource would be the Digital Commonwealth, which I used while researching for the Kelley Foster project. This database is used by organizations throughout Massachusetts to access records and digitized artifacts. Of course, the system still has copyright woes. The Digital Commonwealth states on its "Copyright & Terms of Use" page that it "is responsible solely for presenting the online cultural resources of its member institutions. Members are responsible for the observance of copyrights of the materials in their collections."[xi] Users must still track down the original owner of the works. However, should more museums and other organizations adopt Creative Commons licensing to create a unified copyrighting system, databases similar to the Digital Commonwealth would become an invaluable resource to researchers.

Current barriers to an interorganizational, publicly accessible, online database system populated by materials licensed under the Creative Commons are the fear of losing control over reproduction, the loss of licensing fee revenue, a lack of resources in creating the database, and the inability to maintain the database once created. While the Creative Commons licensing system allows museums to choose levels of control, this does not account for lost revenue from image licensing. The organizations would need to seek grant funding not only to make up for lost revenue, but also to build and maintain the database. Implementation of this project would be most

successful when done by a national alliance of museums, libraries, and archives with the resources and leverage to accomplish such a large project. Organizations such as the Library Copyright Alliance and the American Alliance of Museums must partner with government agencies with similar goals, such as the Institute of Museum and Library Services, the National Endowment for the Arts, and the National Endowment for the Humanities, in order to create and maintain the database. This government-nonprofit collaboration would improve funding and allow for consistency across the system.

Digital Curation of Artifacts

Once the research is complete, curators must decide which digital artifacts are appropriate for display. There are multiple barriers to creating legible, virtual exhibits, from small screens and varying screen size ratios to low-resolution images and a lack of adequate digital reproductions. Curators must keep these limitations in mind when making an accessible digital exhibition.

First, when curating artifacts for a digital exhibit, curators must use "common sense", or determine the best course of action by empathizing with the virtual visitor and determining the simplest possible solutions to their problems. They must understand that the end user may not be a professional researcher and accordingly should be presented the material with the lowest barriers to entry.[xii] In other words, digital images used in exhibits must be easy to view and navigate. Some questions for curators to ask themselves when choosing images to include in the exhibit are:

- What is easiest to see on screen using a desktop, tablet, or mobile phone?
- Is an image too light or too dark, or in need of color correction?
- Are details in the piece easy to see, too blurry, or lost in shadows?
- Are handwritten documents legible?
- Is the three-dimensional object able to be properly conveyed in a two-dimensional format?

Several design practices help users interact with digitized written documents. If a piece relies on intricate details, curators can make sure users have a way to enlarge or enhance the image. Handwritten documents are difficult to read, even for an expert, as these were intended to be personal records or correspondences. They frequently contain messy writing, nonstandard English, or snippets of other languages. The margins might be filled with doodles, explanatory drawings, or small diagrams. Transcriptions or brief explanations of written documents act as a work-around for these issues.

Additionally, the actual size of an artifact is difficult to convey on a screen. However, end users most likely have a clear understanding of their own size relative to objects. To convey the size of an object, consider showing a person holding or standing next to it. Even when an artifact would seemingly be easy to contextualize, whether through high resolution images, transcriptions of documents, or size comparisons, finding a digital reproduction of an exact artifact can prove difficult. Using equivalent pieces or "stand-ins" as an example of the artifact can be helpful.

For example, during the Kelley Foster project, I was interested in finding a cloak or dress that belonged to Kelley Foster to demonstrate how her beliefs as a Quaker influenced her style of dress. In the mid-19th century, Quakers commonly dressed in "plainclothes", which were all-gray outfits with little ornamentation. Unfortunately for me, her beliefs also led her to donate anything she no longer needed, so no verified pieces of Kelley Foster clothing exist today. Instead, I used equivalents to demonstrate her preferred style of dress. By combining digital reproductions of clothing worn by another famous 19th century human rights activist and fellow Quaker Lucretia Mott with photographs of Abby Kelley Foster, I gave the visitors the impression of what an original artifact would have looked like.

Producing a Born-Digital Exhibit

Once digitized artifacts have been researched and curated, it is time to produce the born-digital exhibit. One goal of exhibition planners is to make their exhibits accessible to the widest possible range of visitors. The American Alliance of Museums (AAM) and the National Park Service (NPS) have both set standards to accommodate people of different abilities and backgrounds, which I used during the Abby Kelley Foster project. Although the exhibit may be born digital, it is also important to consider reaching in-person audiences. The Kelley Foster project exists in a range of digital formats to accommodate different learning styles, along with a physical, in-person version of the exhibit.

The AAM set guidelines for inclusivity, diversity, equity, and accessibility in their 2018 report *Facing Change*.[xiii] While exhibition planners are increasingly familiar with these concepts, there are always opportunities for improvement. Exhibit creators might ask themselves:

- Does the exhibit invite all people to explore and share what they have learned?
- Can people see themselves and their cultures represented through historical figures or modern narrators?
- Are all voices treated fairly and with respect?
- Does the exhibit accommodate for different abilities and learning styles?
- Is the environment accessible, allowing the greatest number of people to participate?

Similar to the AAM guidelines, NPS has implemented rules to require information to be made available in a multiplicity of formats.[xiv] Videos are accompanied by transcripts that are screen-reader accessible or use voice-over. Closed captioning or an American Sign Language interpreter must be available during large live events. Some other practices adopted by NPS include providing

large text with a neutral background color for slides and signage, and using audio tours along with written tours.

Because the Abby Kelley Foster project was created for NPS, the material covered in the born-digital exhibit is available in a multiplicity of formats. Though the type of media used to show the exhibit changes, the information shown does not change. The material is available in audiovisual format, from short documentaries hosted on YouTube to live talks over Zoom. Since written articles are still a major factor of online communication, the exhibit has been disseminated in blogs and online magazines in a text-only format. This wide variety of formats is significant because it allows the same information to be experienced in different ways, which benefit different types of learners, along with breaking down constraints of time, geographic location, and other access related barriers. While an avid reader might gravitate towards the articles and blogs, a visual learner may prefer the images in the exhibit, and an auditory learner may enjoy the live talks.

Finally, although digital exhibitions are the future of museums, museum visitors still want to go outside and see an in-person exhibit. Creating a physical version of born-digital exhibits would allow an even greater population to view the exhibit. Tactile or kinesthetic learners often benefit from the movement of walking around an exhibit area. Therefore, the production of an in-person exhibit, in addition to the born-digital exhibit, allows the material to appeal to another different demographic and learning style. A temporary, physical exhibit can also prompt visitors to explore the original, born-digital exhibit or further explore the topic on their own.

In the case of the Kelley Foster project, the online exhibition was reformatted and printed onto pop-up posters. These pop-up posters can easily be moved to different locations within an indoor facility, such as a museum or visitor center, or outdoor recreation areas, such as parks, playgrounds and walking trails. The posters even made their way to a polling station in Worcester, MA during

the 2020 election. Accompanying the posters were free stickers that allowed voters to share their exhibit experience with their families. Recreating the born-digital exhibit in a more traditional format is working backwards from the traditional method of "physical first, digital if we have time", and the process is highly effective when done with patience and careful planning.

Conclusion

While online exhibits will likely become increasingly important in the coming years, many changes must be made to the current online environment for these future exhibits to be designed successfully. Online archives are already a popular resource, allowing researchers to discover and share artifacts at any time and in any place. However, if researchers are to rely more heavily on digital archives, improved databases and search functions, inter-organization collaboration, and clarity of copyright licensing are essential for improving ease of use. Secondly, curators must take care while selecting digitized artifacts for their exhibits by using images that show up clearly in multiple screen sizes and finding digital equivalents to artifacts that are not online, or may no longer exist. Finally, exhibition planners should prioritize accessibility in order to give museum access to the greatest number of people, whether the exhibit is launched on an online platform most conducive to the internet usage of the intended audience, or a born-digital exhibit is recreated in a physical format and placed where the audience is most likely to go.

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