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Museums and Management of Intellectual Property

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Abstract: This article aims to present the management of intellectual property in museums, in a scenario where these cultural institutions became users who not only respect the intellectual property, but are intermediaries in the possible use for third parties. The document explains the different conceptions of museum and the importance of management of intellectual property in museums. It identified that intellectual property in museums generally serves two functions which must be balanced: (i) the greatest possible social diffusion ensuring the copyright and (ii) the commercial exploitation of intellectual property, in order to ensure the survival of the cultural institution.

Keyword: Museum, management of intellectual property, industrial property.

1. INTRODUCTION

The term museum comes from the Latin *mouseion*, which means “temple of the muses” [1]. The museums can be understood, according to the International Council of Museums as a permanent non-profit institution, at the service of society and its development, open to the public, and conducts research on the material testimonies of the human being and his environment, which he acquires, preserves, communicates and exhibits, with Purposes of study, education and enjoyment [2].

In this sense, it is necessary to draw attention to one of the main roles of museums: the creation of a national ethos and a nation project [3], insofar as it reflects the culture and traditions of a people and that allows the temporary connection (past, present and future). Likewise, museums create knowledge, projects and ideas of the future, which feedback comes from the social imaginary of a nation and is related to the creation of knowledge.

Related to the last point is the fact that museums are responsible for preservation (including the acquisition, conservation and management of collections), research, communication (education and exhibition) of the elements in custody and management (understood as the action that ensures the management of the administrative affairs

of the museum) [1]. These elements are the “objects, memories, experiences and realities of a community, region or country and that allow their respective circulation and exchange” [4]. And it is necessary to recognize the lines of interpretation in which the testimonies are inscribed (each museum privileges a view and each spectator chooses its own) and seek the most appropriate means for its diffusion [5]. In all these contexts the definition and use of IP is framed.

The emergence, development and improvement of intellectual property (IP) rights is related to an increase in the quality of life and economic growth of societies [6], [7], [8]. Currently, its management is not limited to law or economics, but is of interest to other areas such as Business Administration, Accounting, Engineering, among others, and is an expanding field for research.

From the perspective of the relationship between economy and IP, it is possible to identify several positions that interpret the definition of IP rights as a factor that encourages and favors innovation. For example, [9] consider that the IP system solves problems of asymmetric information between buyers and sellers. [10], for its part, proposes that the definition of IP rights does not solve the problem of risk associated with inventive step, but can favor the functioning of financial markets by mobilizing resources for innovation.

Also, [11], [12], [13] and [14] indicate that IP facilitates cumulative processes, that is, researchers build on existing knowledge to build new technologies or products. Other approaches indicate that the IP system favors the specialization of firms, since the granting of exclusive rights is an incentive to give the company market power.

All these optics focus on the relationship of IP and business, but little has been explored about IP in cultural institutions such as museums, libraries, archives, among others.

Therefore, this document presents the definition and importance of the management of intellectual property in museums (MIPM), in a scenario in which these cultural institutions changed from users who respected the IP to manage it and be intermediaries in the possible use for third parties.

2. METHODOLOGY

In order to identify the importance of the management of intellectual property in museums, a review of academic literature was carried out, following the following protocol in accordance with the scheme of systematic reviews: (i) identification of the field of study, subject and period to be analyzed; (ii) formulating the problem; (iii) definition of search criteria for information; (iv) selection of references and studies; (v) critical reading and risk assessment of bias in included studies; (vi) extraction of relevant information and data; (vii) analysis and synthesis of scientific evidence.

3. RESULTS AND DISCUSSION

According to [15] at the beginning of the nineteenth century the notion prevailed among cultural heritage professionals, who were more non-IP owners; However, with ICT, the importance of IP was increasing, to give access and preserve collections; Manage and distribute cultural heritage contents, among others. In this sense, museums went from being users who respected the IP to manage it and to be intermediaries in the possible use for third parties ([15], [16] and [17]). A clear example of this, where information, users and ICT interact, are virtual museums [18], hence the need to redefine the way in which museums understand and use IP protection resources.

The GPI in cultural institutions is related to the administration of intangible assets and materials, from the preparation of an inventory, definition of IP policy, licensing strategies, use of digital rights, outsourcing, and

the plan of Communication and marketing, knowledge of the environment ([19], [20], [21], [22], [23]). Although in many scenarios it may be perceived that third party copyright is an obstacle to reproduce or distribute cultural heritage contents for educational or conservation purposes.

In that context, [17] states that museums work with works of art that have copyright that require proper management and mentions some of the main difficulties to manage IP: different types of works and services; the relationship between the originality of works and the protection of IP; the diversity of elements that make up expositions and the protection associated with each, restoration and the need to respect the moral rights of authors; the different forms of reproduction of the works; exploitation of own intangible rights; exploitation associated with the reproduction, distribution and public communication of protected works (catalogs, guides, brochures, posters, invitations with reproduction of the work, dvd, audio-visual materials); merchandising; and new artistic formats vs. Conceptions of conservation and exhibition.

However, considering the new challenges of digitizing museum content, the work of [25] asks: what are the challenges that museums in relation to the management of the rights of material objects that integrate their heritage (owned by themselves or others) and the possibility and need for digitization? Later this author [26] highlights the need to identify the inventory of intellectual property as a fundamental tool for the management and administration of IP. The phases for this would be [26]: (i) identification of intellectual property and the legislation that protects them; (ii) establish whether the goods belong to the public domain or the private domain of the museum or third parties; (iii) find who owns the rights; (iv) get the authorizations, permissions or licenses of use or reproduction that exist on each intellectual property as a condition of its accessibility to the general public.

Taking stock of the elements covered by the IP in museums are those indicated in Table 1. In addition to the above, the work developed by [22] and [23] proposes that museums can benefit from their prestige, their scientific authority, Content and exclusive knowledge that they possess, to achieve a greater diffusion of culture and cultural heritage while earning income. One of the main recommendations derived from this study is that mechanisms for digital management of museum rights are required in order to achieve content security, the protection of its brand and its identity.

This author also makes a distinction between the categories to which IP is applied: collections; academic activities; Technologies for collection management, conservation, commercial methods; Administration of the museum. In addition, in a subsequent work [23] from The Canadian Heritage Information Network (CHIN), identified 5 types of IP that can be managed by museums, and which differ somewhat from the Lima approach (2011) (Table 1).

[26] went further and considered that IP included a wide variety of goods: collections (paintings, prints, drawings, documents, manuscripts, videos, films, artifacts and sculptures), publications, databases Objects, inventories of galleries and museums collections, scientific and research data), CD-ROMS, photographs and images, films and video recordings, as well as sound recordings. According to this author, museums are faced with challenges due to new technologies, for example, in relation to what can legally be published or exposed, through online images.

The discussion is that some traditional cultural expressions (TCEs) may not have a clearly defined nature and that there is no specific legislation on the subject that directs the management, accessibility and use of TCEs, many of which fall into the public domain, for example the folklore ([19], [27]). [27] also propose “digital rights management” and “technological protection measures” to prevent access or use of works protected by copyright, except under the conditions defined by the owner.

Table 1
Types of IP that can be managed in museums

<i>Type of protection</i>	<i>Product</i>
Copyright	Scientific and educational publications in general that incorporate drawings or photographic images (in printed or digital format); teaching material, whether in the form of text or games; audiovisual and multimedia productions (in digital); databases, compilations of data or other materials; photographic objects and works of art from the museum's collections; audio recordings; filming; publications on CDs; audiovisual works; multimedia productions, either on CD or available on the Internet; TCE performances.
Brands	Drawing of the building as an integral part of the cultural identity of the museum; web pages where content is organized and exposed; titles of exhibitions and programs of activities; the name of the museum and any logo or graphic that allow to identify it; name of an artist or his signature as a trademark; the building in which the museum is housed, especially if it is highly recognizable; titles of exhibitions and programs that may be protected as trademarks; the packaging or the color of the objects in the museums; it is often sold in their gift shops, as a way of branding; works of art that can be protected as trademarks and with high remembrance associated with the museum; brands.
Industrial design and models	Design of exhibits (as a result of research, organization and arrangement of information and materials); designs applied to merchandising objects; folder designs and various materials for advertising activities; designs applied to merchandising objects; objects in a collection that require licensing for reproduction and distribution; custom works.
Patents and confidential information	New scientific conservation techniques; confidential information regarding new findings that are still being studied, or about user data, GPS of archaeological sites guarded as secrets; IP on museum management practices such as database content of users, donors and sponsors, methods of obtaining funding; identification of the collections; academic activity, for example, in the contextualization of information about collections; in technologies, such as specialized management methods collections and technical applications (specialized and specific HTML language for museums, scientific conservation techniques, commercial methods related to various e-commerce capabilities related to e-commerce); IP on museum management practices such as database content of users, donors and sponsors, methods of obtaining funding.
Domain names and other forms of identification in <i>social media</i>	Definition of mechanisms for renewal and defense of domain names; use of different social networking platforms, in accordance with respective policies and guidelines.

Source: Own elaboration base on [15], [22], [23], [24], [25], [27], [28], [29] and [30].

4. CONCLUSION

As we have seen in the document, both the conception of the museum and the environment in which the cultural manifestations that protect these cultural institutions are developed have undergone great transformations in recent decades. This implies that the relationship with ICTs and mechanisms for the protection of intellectual property must be redefined.

IP in museums generally fulfills two functions that must be balanced: the widest possible social dissemination by guaranteeing copyright and the commercial exploitation of IP as a source of resources, in order to guarantee the subsistence of the cultural institution. The difficulty is that many museums in Latin America do not even have a clear inventory of their testimonies, making it more difficult for a clear and implemented IP policy to exist.

The protection and management of IP is not limited to traditional copyright mechanisms. Alternatives such as Creative Commons, is a way to supplement or replace traditional protection, depending on what interest in the museum, dissemination or commercial exploitation. In this sense, it would be relevant to evaluate whether museums use the traditional scheme or copyleft alternatives, to guarantee copyright.

It can be concluded that museums face a trade-off between the commercial exploitation of IP and mechanisms for a greater social diffusion of their testimonies that guarantee the protection of copyright.

Equally, it would be very useful for the museum entities to have an alternative intangible valuation model that is not based on the cost system or on the calculation of past and future economic benefits.

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