

# Open Up Museums!

## Prospects and Challenges of Accessibility, Diversity and Inclusion

Edited by

**Giulia Dore** and **Marta Arisi**





# **Open Up Museums!**

## **Prospects and Challenges of Accessibility, Diversity and Inclusion**

**Edited by**

**Giulia Dore and Marta Arisi**

Ledizioni

**A collaboration between**

**reCreating Europe** – Rethinking digital copyright law for a culturally diverse, accessible, creative Europe, Horizon 2020 – Grant Agreement 87062

**DANCING** – Protecting the Right to Culture of Persons with Disabilities and Enhancing Cultural Diversity through European Union Law: Exploring New Paths, European Research Council (ERC) – Grant Agreement 864182

**inDICEs** – Measuring the impact of Digital Culture, Horizon 2020 – Grant Agreement 870792

**MUSE** – Museo delle Scienze di Trento

**Mart** – Museo di arte moderna e contemporanea di Trento e Rovereto



This publication is funded by reCreating Europe (GA 870626)

Each essay reflects the author's and only if explicitly stated the organisation's view

**Copyright of text:**

© with the Authors

**Copyright of images, graphs and tables:**

© with the Authors, unless otherwise indicated

© 2024 Ledizioni LediPublishing  
Via Antonio Boselli, 10 – 20136 Milano – Italy  
[www.ledizioni.it](http://www.ledizioni.it)  
[info@ledizioni.it](mailto:info@ledizioni.it)

*Open Up Museums! Prospects and Challenges of Accessibility, Diversity and Inclusion.*  
Edited by Giulia Dore and Marta Arisi

First edition: July 2024

ISBN print: 9791256000296  
ISBN ePub: 9791256002283  
ISBN open access: 9791256002290

Cover imagine: H. Lyman Sayen, *The Thundershower*, ca. 1917-1918, tempera on wood, 36 x 46 in. (91.4 x 116.8 cm.), Smithsonian American Art Museum, Gift of H. Lyman Sayen to his nation, 1967.6.19

Information on the publisher's catalogue and reprints: [www.ledizioni.it](http://www.ledizioni.it)

# TABLE OF CONTENTS

Preface	7
Roberto Caso	
Editors' foreword	11
Giulia Dore and Marta Arisi	
Accessibility is not an option, it is a right to culture and the enjoyment of art	19
Aldo Grassini	
Making museums accessible: best practices from MUSE	23
Paolo Degiovanni, Patrizia Famà, Katia Franzoso and Romana Scandolari	
Accessibility and Inclusion at the MART	33
Ornella Dossi	
Museo Egizio In & Out	39
Alessia Fassone and Federica Facchetti	
Opening Up to the Community	47
James Bradburne	
A Human Rights Approach to Accessibility for Visitors with Disabilities in Museums. Reflections from the DANCING Project	53
Léa Urzel Francil, Ann Leahy and Delia Ferri	
Regulating Communities: Strategies for an Open Museum Sector	77
Fiona Macmillan	
Reproduction, re-use and open access	101
Barbara Pasa	
Reading 'Open museums' through a copyright lens: a primer on evidence-based legal research	121
Giulia Dore	



# PREFACE

***Roberto Caso***

The cultural heritage of humanity includes works of ingenuity whose economic copyright has expired and, in large quantities, works that have never been protected by copyright, such as Michelangelo's David and Leonardo da Vinci's Vitruvian Man. These latter works represent a significant portion of cultural heritage, as copyright laws cover only a tiny fraction of human history. It is worth noting that the English Statute of Anne of 1710 is the first modern copyright law.

The fact that a large part of cultural heritage belongs to the public domain might suggest that cultural assets' reproduction, especially digital reproduction, is free for both commercial and non-commercial reasons. However, the existence of a public domain regime is threatened by exclusive control asserted by those who own or oversee the material cultural asset subject to reproduction. Two goals generally drive these instances: censorial control and economic control. The former involves assessments of the compatibility of use with the purpose of the asset, while the latter concerns profit prospects associated with its use.

Instances of exclusive control are primarily based on legal instruments that constitute anomalous forms of intellectual property, definable as surrogates of intellectual property or pseudo-intellectual property. The main instruments of exclusive control are listed below:

- a) Prohibitions on reproduction based on ownership of the material asset.
- b) Prohibitions on reproduction based on unilateral statements or contracts.
- c) Prohibitions on reproduction based on public disciplines related to cultural heritage.
- d) Prohibitions on reproduction based on personality rights.

The open access movement to cultural heritage, such as the OpenGLAM network, is investing efforts in promoting the free reproduction of cultural heritage. Many cultural institutions worldwide guarantee free reproduction of their physical and digital collections for any purpose, commercial or non-commercial. However, the online opening of cultural heritage is very far from representing the dominant model.

The Euro-Italian panorama is emblematic. The legal framework issued to protect the public domain at the European Union level is fragmented, incomplete, and only partially effective. Article 14 of Directive (EU) 2019/790 on the reproduction of works of visual arts in the public domain is a provision with limited scope and susceptible to interpretations that further narrow its application.

At the Italian level, there is an emerging idea that Articles 106 to 108 of the Code of Cultural Heritage (Legislative Decree 2004/42) attribute the power of exclusive control over reproductions to the State. It should be noted that this exclusive control would not only apply to reproductions made on the site where the material asset is physically located but would also extend to reproductions of copies already made on-site and communicated to the public. In particular, the extension would also cover digital copies available online. In some legal interpretations, the power of exclusive control deriving from the Code of Cultural Heritage would be associated with a presumed right to the image of the cultural asset based on the discipline of personality rights found in the Constitution and the Civil Code.

The example of cultural heritage demonstrates that the public domain is threatened not only by the extension of intellectual property but also by the emergence of pseudo-intellectual property in the legal scene. Instances of exclusive control over the reproduction of cultural assets heavily impact open science and the common goods of knowledge, eroding fundamental rights and freedoms related to development and promoting culture and research.

These and many other critical issues were explored by the authors of following contributions. I would like to warmly thank all of them for their insightful contribution to the debate. The workshop offered a wonderful opportunity to explore and discuss different perspectives on accessibility, diversity and inclusion in museums. It confirmed the significance of engaging academics and practitioners in a fruitful dialogue I wish will endure.