Intellectual Property and Protection of Cultural Heritage:

The case of the national museums of arts and civilizations in France

Study carried out
for the World Intellectual Property Organization (WIPO)
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ABREVIATIONS

ADAGP: Society of Authors in the Graphic and Plastic Arts

AVICOM: International Committee of Museums promoting Audiovisuals and New Images and Sound Technologies

CECOJI: Centre for Studies on International Legal Cooperation

CNRS: National Centre for Scientific Research

MuCEM: Museum of Civilizations of Europe and the Mediterranean

OCIM: Office of Museographic Cooperation and Information

RMN: Meeting of National Museums

SCN: Service with nationwide jurisdiction

TMS: The Museum System

TREEMUS: Tools for Researching European Ethnographical Museums

UNESCO: United Nations Educational, Scientific and Cultural Organization

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INTRODUCTION

CONTEXT

"The body of all natural or man-made goods, with no limit as to time or place"[1]: the notion of cultural or natural heritage has evolved considerably to encompass, in its broadest sense, cultural expressions and traditional knowledge. They are important because they are perceived as valuable sources of identity, creativity and diversity. As such, they are recognized as forming the "intangible" component of cultural or natural heritage. The researchers and curators responsible for collecting, studying, conserving, preserving, showcasing, revitalizing and protecting such heritage are now focusing on both of its forms – material and intangible.

GOALS

This trend has led to a change in the way in which institutions for the conservation of heritage manage cultural heritage. Thanks to information technologies relating to the recording, digitization and distribution of databases, cultural institutions have radically changed the arrangements for accessing cultural heritage by making it more widely available, while at the same time increasing the risk of illicit appropriation and misuse. The indigenous communities which possess, maintain and produce the cultural expressions and traditional knowledge are therefore demanding a greater say in the arrangements for accessing and managing this heritage, in order to ensure that its protection and legitimate use are guaranteed by the cultural institutions concerned, by means of respect for general principles and the implementation of appropriate protocols of conduct.

Certain aspects of these protection-related good practices primarily concern intellectual property rights. The Global IP Issues Division of the World Intellectual Property Organization (WIPO) has launched an initiative called the "Creative Heritage Project" aimed at encouraging the current process of discussion of how cultural institutions take intellectual property rights into consideration. One of the project components consists of making an

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[1]DESVALLEES André, 1995, "Emergence et cheminements du mot patrimoine" (The emergence and development of the word "patrimoine", *Musées et collections publiques en France* (208-3) : 6-29

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inventory, through studies carried out in different geographical regions, of experiences, practices, protocols and general policies applied to the conservation, digitization and archiving of cultural expressions and traditional knowledge. The aim is to pool documentary resources that can serve as an empirical basis for the long-term preparation of a set of coherent, relevant guidelines.

SCOPE OF THE STUDY

This study sets out the findings for the survey of the two national museums of society and civilization in France. These establishments keep three categories of cultural productions: European heritage, extra-European heritage (produced and collected outside Europe) and immigration-related heritage (productions rooted in an extra-European culture but put together in Europe). Given the nature of their collections, institutions of this kind very often directly face problems and issues relating to the protection of the heritage of the indigenous communities and intangible heritage in general. In addition, they are engaged in a process of renovation, radical reform and restructuring, which makes them particularly interesting to study. These major projects aimed at transforming them from an architectural, museographic, scientific and ideological perspective also provide an opportunity to reflect upon innovative institutional practices for the management of the collections and documents kept. More generally, the aim is to rethink the relationship with the Other, which implies taking a fresh look at the protection of cultural heritage. The way the collections came into being and the relative age of the documentation must without any doubt be taken into consideration when assessing current practices. Problems concern both the legal management of past collections and recent acquisitions. These two groups are likely to generate different forms of cooperation between institutions and source communities.

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THE NATIONAL MUSEUMS OF ARTS AND CIVILIZATIONS IN FRANCE

BACKGROUND

The history of the national ethnology collections has long been marked by efforts by the French cultural institutions to take intangible cultural heritage into consideration. The same holds true for the desire to safeguard, preserve and protect cultural expressions and traditional knowledge, which has evolved as a result of the institutional changes these collections have undergone. Ethnological collections are kept by national institutions which have undergone numerous radical reforms since 1878, the most recent of which are still under way. Along with these many renovations, which have led to the establishment of two institutions, a new approach to intangible heritage has given birth to the Convention for the Safeguarding of the Intangible Cultural Heritage, which was adopted in 2003 by UNESCO. With the Convention has come a reaffirmation of the need for these "living libraries" to operate in optimal conditions in order to protect, safeguard and ensure respect for the source communities and their heritage. As a result, the legal management of intangible cultural heritage has thus emerged as a priority issue.

The map of the French national museums of arts and civilizations has been redrawn as a result of two major turning points. The first came in the 1930s, when the Trocadéro Museum of Ethnography (1878–1928) was replaced by the Museum of Mankind, which opened in 1937, the National Museum of Popular Arts and Traditions from 1937 onwards (up until 2005), and the Museum of Colonies (1931), which was itself replaced by the National Museum of Arts of Africa and Oceania in 1971 (up until 2003). The second phase of major transformation came at the end of the 1990s, when the ethnological collections of the Museum of Mankind were divided up between the two new planned museums of civilization. In Paris, the collections of extra-European ethnology were combined with those of the National Museum of Arts of Africa and Oceania in order to present the civilizations of Africa, the Americas, Asia and Oceania at the Quai Branly Museum, which was created in 1996 and inaugurated in 2006. In Marseilles, the collections of European ethnology were merged with those of the National Museum of Popular Arts and Traditions with a view to presenting the civilizations of Europe

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and the Mediterranean at the Vieux-Port Museum, which was created in 2001 and is due to open at the end of 2012.

This recurrent reorganization of the landscape of ethnological museums reflects the changing relationship with the world of French society, and more particularly its relationship with the traditional societies and ethnological collections which evoke them. This new direction for the museums of civilization has resulted in different arrangements for managing and understanding the collections, and hence an awareness of intellectual property problems. Such issues are relevant for the many fields of museum praxis, such as putting together collections, taking inventory, registering artefacts and ensuring suitable public access.

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THE QUAI BRANLY MUSEUM IN PARIS

Created in 1996 and inaugurated on June 23, 2006, the Quai Branly Museum showcases representative cultural artefacts from the arts and civilizations of Africa, Asia, Oceania and the Americas. It is designed to serve as a forum for scientific and artistic dialogue, and has defined its mission as "*participating in national and international efforts to preserve the tangible and intangible heritage of these societies*".[2]

The Quai Branly Museum is a national public establishment of an administrative nature which is under the joint supervision of the ministers in charge of higher education, research and culture. Its president is appointed by decree in the Council of Ministers, on a proposal by the supervising ministers. The president, who is picked from the body of civil administrators, is neither a curator nor a researcher specialized in the collections kept in the establishment. Nevertheless, all administrative, political, cultural and scientific decisions are subject to his approval. As a result, it is the president who sets the establishment's policy with regard to intellectual property, not the scientific body of heritage curators.

The Museum is financed by subsidies, advances, funds from competitions and other public contributions, as well as its own resources and patronage. These own resources are generated by the commercial activities in which the Museum engages, on the strength of its collections.

COLLECTIONS

The collections comprise some 300,000 artefacts in all, most of which come from the ethnology laboratory of the Museum of Mankind (250,000 items), the National Museum of the Arts of Africa and Oceania (25,000 items) and the acquisition policy followed since 1997. The Museum's goal is to display all of the 300,000 artefacts kept over a 12-year cycle. In the permanent exhibition, also known as the "reference collection", 3,500 pieces selected from among the 300,000 objects in storage provide an introduction to the arts and cultures of the four continents. In this vast, decompartmentalized area, the presentation of the collections is rounded out by different types of additional information: posters, texts or multimedia programmes which include photographs, films and music.

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[2] *Report of activities 2006 of the Quai Branly Museum*

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The collection is divided into four continental heritage units which match the geographical regions covered by the museum: Africa, the Americas, Asia and Oceania. Each heritage unit is run by a team composed of staff responsible for collections, collection directors and heritage curators. The breakdown of the four units is as follows: Americas – 97,372 artefacts; Africa – 70,205; Asia – 54,041; and Oceania – 28,911 artefacts. The collection also includes cross-cutting units: the history collection, with 4,987 documents; the textiles collection, with 25,000 items; the photography collection, with 700,000 items; and the collection of musical instruments, with 9,500 items. The richness of the photography and musicology collections and the relevance of the scientific and documentary resource they represent have encouraged the Quai Branly Museum to pay particular attention to intellectual property questions: legal projects have been launched to deal with these issues.

Out of the 700,000 vintage and contemporary photographs, around 580,000 come from the Museum of Mankind and 66,000 from the National Museum of the Arts of Africa and Oceania, topped off by new acquisitions. The oldest photographs in the collection date back to 1841: the photographs taken between 1840 and 1870 are one of the high points, with daguerreotypes that bear witness to the first applications of photography to anthropology. Many of these photographs were brought together in the 1930s with a view to forming a coherent documentary whole. The "collections project" has made it possible to digitize over 200,000 photographs, making this reference collection available to researchers through the iconography department (part of the catalogue can be accessed via the Internet) and the room set aside for the consultation of valuable collections.

A legacy of the Museum of Mankind and the National Museum of the Arts of Africa and Oceania, the collection of musical instruments, which was begun in 1878 and has been enriched by French ethnographic missions, is one of the largest in Europe. Among the 9,500 musical instruments from different periods, 4,250 come from Africa, 2,150 from Asia, 2,100 from the Americas (including 750 pre-Colombian artefacts), 550 from Oceania and 450 from Insulindia. The Quai Branly Museum showcases this exceptional collection in various ways. The traditional museographic presentation, among the other items presented in the permanent exhibition collection, is rounded out by an original staging from the reserve collection of musical instruments in the *Tour de musique*, a large glass tower running through the building on five stories and illustrating museum classification practices. Finally, the multimedia

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installations in the music boxes offer a striking example of the museography of the intangible. To accompany the collection of musical instruments, the museum also has sound archives which are managed by the multimedia library. These archives contain the 4,500 CDs acquired by the museum with their distribution rights. A methodology is being prepared to give listeners wishing to consult these CDs access via the Museum's multimedia library and the intranet. Specific restrictions apply to the other archive collections that make up the Gilbert Rouget collection, shortly to be supplemented by productions designed for the music boxes and recordings made at concerts and shows.

DOCUMENTARY SYSTEM

As far as documentary systems are concerned, the Quai Branly Museum has opted for The Museum System (TMS), a state-of-the-art archiving system developed and produced by the company Gallery Systems. TMS is a computerized tailor-made database which allows museums to catalogue and record items and to assign them a complete identification sheet. TMS is accompanied by a software program called eMuseum for placing the museum's entire catalogue on line, in order to facilitate access by the scientific and university community as a whole. This online catalogue allows users to discover items through digital photographs, whether or not they are actually on display. The entire collection of artefacts can also be studied at the museum's resource library.

Notes provide specific information on items. The TMS documentary system makes it possible to identify specific references to intangible cultural heritage and to input data concerning the source communities. At the Quai Branly Museum, several headings supply information on source communities via the vernacular name, toponymy, ethnonyms, names of persons and institutions, or in references concerning the origin of the item. Toponymic and ethnonymic explanations systematically retrace the origins of the artefacts, from the continent to the exact place of collection or manufacture.

The notes were corrected and updated following a scientific verification and correction campaign carried out from 2003 to 2005 and now contain legal information in addition to scientific information: verification of acquisition modes, status of deposited items and logistics (dimensions of items, existence of digital photos, location).

Background documents and archives can be consulted by means of an online catalogue. The

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archives and documentation for collections consist of the files on the collections (legal, administrative, technical and scientific documentation on each collection), documentary files on anthropologists, missions, artists, exhibitions, inventories, bibliographic references relating to the collections and to the documentary files, as well as public and private archives. This online option can be supplemented via the on-site consultation of the corresponding 90,000 digitized documents.

The TREEMUS project (Tools for Researching European Ethnographical Museums) is an initiative by the Quai Branly Museum's research and teaching department with input from several other museums. This European project is designed to pool the digital databases of the collections of European ethnography museums. It is estimated that the extra-European heritage of all European museums contains between five and ten million items. Integrating digital catalogues, documenting them and placing them online will, however, require joint protocols for managing intellectual property issues.

MANAGEMENT OF INTELLECTUAL PROPERTY ISSUES

Conditions of access to the collections

The Museum's collections and scientific and cultural productions are governed by internal rules for outside users,[3] which make it possible to control the way in which third parties use the Museum's collections for commercial purposes. The Quai Branly Museum does not allow photography, filming or visual or sound recording[4] in the display rooms, for either private or public use. However, authorization for filming[5] for commercial and/or professional purposes is granted upon special request, subject to prior agreement with the Museum President. Likewise, the copying of works requires authorization[6] ensuring the protection of the works to be copied and respect for the corresponding reproduction rights. In this way, the Museum can see to it that third parties respect the terms of use as well as the ethnic nature of such works.

Through these authorizations and instructions which the Museum imposes on third parties, the recommendations from the source communities can be incorporated in the institution's policy as need be. It should be noted in this connection that the Quai Branly Museum does not take

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[3] http://www.quaibranly.fr/uploads/media/reglement_general_de_visite.pdf
[4] règlement général de visite (general visiting rules), article 37
[5] règlement général de visite (general visiting rules), article 38

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into consideration taboos laid down by the source community with regard to the nature of the use of the artefacts. With both collections of items and collections of photographs, the museum's principle is to disseminate and showcase its collections, barring exceptions and exceptional circumstances: for instance, artefacts and photographs considered to be sensitive are subject to specific restrictions and special treatment. By way of example, the examination or consultation of human remains or certain ceremonial objects is only authorized if the request is justifiable, and only a thumbnail version of the corresponding photographs is made available on line.

Conditions for placing material on the Internet

In addition to possibilities for display and study in the Museum's public areas, the resource centre and the documentation and archives centre, the collections are also available online. The conditions for accessing documents placed on line are set out on the Museum's Internet site. When material is placed on line, this should in principle imply that all of the authors, subjects (persons represented on the documents) and other beneficiaries have been consulted in advance and their rights have been negotiated. Such a tedious procedure (that is materially impossible for collections of this scope) could have jeopardized online distribution as a whole. The Museum has therefore opted to place virtually all of the digitized documents on line, accompanied by complaint forms as proof of its good faith.

Two forms making it possible to regularize copyrights and rights for images can be downloaded: the *Declaratory Note for authors and non-identified beneficiaries of the works distributed*[7] and the *Authorization for the reproduction and representation of photography*[8]. The wording of these forms is the outcome of an internal brainstorming process on intellectual property issues. A committee for the placing of materials on the Internet has been set up to implement a legal project bringing together the research, heritage and cultural development departments and the legal unit. With the help of these forms, the authors, subjects and beneficiaries can exercise their claim to the works presented on the site, as the museum sees fit, in accordance with the provisions of the Code of Intellectual Property.

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[6] General visiting rules, article 39
[7] http://www.quaibranly.fr/fileadmin/DS_conditions/Notice_d__clarative_des_auteurs_et_ayants_droit_non_identi fi__s_des_oeuvres_diffus__es_01.pdf
[8] http://www.quaibranly.fr/fileadmin/DS_conditions/Autorisation_de_reproduction_et_de_repr__sentation_de_ph otographies_01.pdf

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No complaints have been submitted via these forms to date.

Specific experiments

The legal projects relating to the intellectual property issues taken up by the Quai Branly Museum apply to various forms of heritage such as artefacts, sound collections, aboriginal painters or photographic collections.

The Claude Lévi-Strauss theatre provides a venue for theatre, dance and concerts. Thematic cycles introduced by lectures facilitate an understanding of the oral, musical and literary traditions of the cultures represented at the Quai Branly Museum. For example, the cycle "*The Spirits Are Listening – Shamanism in Siberia*" gave the public an opportunity to discover the musical and sung traditions of shamanic inspiration from Siberia. The shows staged in the Museum auditorium were recorded by an outside team of studio managers, who signed the recording rights over to the Museum. These recordings are designed for use in connection with scientific events. However, the question of middlemen arises, because if the Museum decides to publish the recordings of some of these shows, the artists will not deal directly with the Museum but rather with middlemen, who will then become the sole contact persons for the Museum. The resident ethnomusicologist is studying the best way to ensure that the artists actually receive the fees earmarked for them. This problem concerns for example a project to publish under the *Naïve* label recordings of a concert given on Museum premises by Nyathi, a group of non-professional female singers from Zimbabwe. The fees for the first shows were paid indirectly, and only the middleman could contact the artists. As the responsibility for scheduling concerts is most often entrusted to people outside the Museum, there is a need to set up a database for registering the contact details of the artists who perform at the Museum in order to be able to contact them directly at a later date. In addition, the resident ethnomusicologist regrets that, as the recording made by the Museum did not authorize future use for scientific purposes, the rights must be renegotiated after each use. Budgetary constraints for an institution such as the Quai Branly Museum make it impossible to derive full scientific benefit from these productions.

The **Fonds Gilbert Rouget** (Gilbert Rouget Collection) was entrusted to the Museum subject to certain restrictions imposed on its consultation. Gilbert Rouget, who founded and directed

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the ethnomusicology laboratory of the National Centre for Scientific Research (CNRS)[9] from 1965 to 1985, was instrumental in enriching, developing and popularizing the collections of musical instruments of the Museum of Mankind. The archives in question consist of sound recordings and information of an ethnographic nature which Gilbert Rouget collected in the course of research missions to Africa, mainly Benin, but also Mali, Senegal and Morocco. Unfortunately, the collection containing more than 10,000 photographs, the oldest of which date back to 1947, and the many field notebooks were not included in those archives. This collection constitutes a unique body, given the great scientific and historical value of the documents it contains. It represents around a hundred hours of music recorded between 1958 and 1987, as well as an extensive database carefully kept on cards. The sound recordings, which Gilbert Rouget began to collect in 1958 from communities of women initiated into the cult of *vôdoun* (or divinities) with the Fon and Goun peoples in southern Benin – especially the recordings of the female choirs of the King of Gbefa (1948-1976)[10] – are at present the only documents that show and explain these important religious institutions, which have since disappeared. A large share of the initiation songs and dances of the vôdoun cult in Benin recorded by Gilbert Rouget were brought out in a boxed set in 2002, including a book of photography and sound recordings.

This ensemble was subject to very specific listening conditions. The book of photography was freely sold whereas the boxed set could only be consulted in libraries for research purposes, in order to preserve the secret nature of the songs for the initiated. Gilbert Rouget's approval was required to use elements from the Collection. For example, radio broadcasts were strictly forbidden, and the recordings could only be used for scientific purposes. Here as well, the collector acted as a middleman between the institution and the source community when it came to managing ethical considerations and legal issues.

The **music boxes** originally meant for use in movie theatres were turned into a zone for presenting a multimedia programme designed by Madeleine Leclair, an ethnomusicologist[11] in charge of the Museum's collection of musical instruments, and Stéphane Bézombes, the

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[9] The CNRS ethnomusicology laboratory was housed in the musical instruments' department of the Museum of Mankind.

[10] ROUGET Gilbert, *Un roi africain et sa musique de cour* (An African king and his court music), CNRS Editions, 1996 (2 CD boxed set)

[11] LECLAIR Madeleine, « La musique et ses instruments au Musée du quai Branly » (Music and musical instruments at the Quai Branly Museum), in *Lettre de l'OCIM* (n° 112, 2007)

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former Director of the multimedia unit. The showpieces of the Museum architecture designed by Jean Nouvel, the music boxes offer a venue for a collective musical experience, conveyed through a multimedia installation and combining devices for 3D audio effects and the projection of immersive images which explain visitors' listening experience. The music boxes, which are the most innovative features in terms of intangible heritage and are present in the reference collection, propose nine multimedia programmes during which visitors are plunged into a *ngaanyka* pre-seduction ritual among the Peul nomads of Niger, vocal polyphony among the Bedzan Pygmies of Cameroon, a *nekowiar* gift-exchanging ceremony in Vanuatu, the sounds of the Amazon or the *dyoh pyakkhan* processionary music and masked dances of Nepal…

The first nine programmes designed by the Museum are composed of sound and visual recordings retrieved from the ethnomusicological archives inherited for the most part from the CNRS laboratory of ethnomusicology that was housed in the Museum of Mankind. The intellectual property issues relating to these archives only surfaced when these extracts from films and music were used as a basis for these programmes. As the Museum was obliged to design a protocol quickly making it possible to remunerate the source communities in question, the ethnomusicologists who had collected the material used for the programmes signed a contract after the event with the Museum, whereby they undertook to pay back the sum set by the Museum to the community with which they did the sound and visual recordings. In the case at hand, it was the performers who were designated as the beneficiaries. The ethnomusicologists were also paid for their recording as producers based on a lower ratio, equivalent to half of the sums received by the performers.

The arrangements for remuneration depend on the situations in the field. Owing to the variety of situations encountered, it is necessary to find solutions on a case-by-case basis, with the means of payment specified by the researcher (acting as both collector and middleman) depending on the cultural context. The specific context has a considerable impact on the perception of the notion of intellectual property in the indigenous communities in question. Among the Wodaabe Peuls of Niger, payment took the form of building a well; in Nepal, payment was made to an association offering training for musicians from Kathmandu; in Benin, the person in charge of the *Gelede* brotherhood was the depositary; in South America, an association was set up to receive funds; and in Vanuatu, the remuneration helped pay for a

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gift-exchanging ceremony very rarely organized because of its high cost.

New multimedia programmes are being prepared in order to ensure new material for museum-goers. It is planned that after three years of existence, two new programmes will be introduced every three years to replace two older programmes. The difficulties posed by the management of intellectual property issues were taken into account when producing the new programmes. As a result, the management of such issues has led to an increase in budget outlay ever since audio, photographic or filmed extracts have been used specifically as a basis for multimedia programmes, with prior negotiation of rights. This has resulted in cost increases due to the recordings made by professionals recruited on the spot. The collector henceforth assures the members of the community with whom he has worked that intellectual property rights will be respected. Among the planned programmes, one project – relating to the preparation of a programme on the Trinidad Carnival – had to be dropped because it was impossible to meet the performers' demands with regard to the remuneration of intellectual property rights: such rights increase considerably when it becomes necessary to foresee individual payment for each participant in a group of carnival performers, rather than joint payment. It should be noted that, following their presentation in the music boxes, productions are kept in sound archives, but there are no plans for publications as yet.

The aboriginal paintings on the ceilings and façades of one of the museum buildings are part of a project on contemporary creation and international cooperation with the Australian Government, through the Australia Council, and the Quai Branly Museum. In response to the discussion on the place of contemporary art in a museum devoted to extra-European art, the architect, Jean Nouvel, offered to present Australian aboriginal art by means of artistic installations incorporated in the Museum's architectural concept by making them visible to the public from the outside. The wall frescoes, painted by Australian artists, reproduce the work of eight aboriginal artists: John Mawurndjul (Kuninjku, Arnhem Land), Lena Nyadbi (Kija, West Kimberley), Paddy Nyunkuny Bedford (Kija, East Kimberley), Judy Watson (Waanyi, Queensland), Michael Riley (Wiradjuri), Gulumbu Yunupingu (Yolngu, Arnhem Land), Tommy Watson (Pitjantjatjara, Western Australia), Ningura Napurrula (Pintupi, Western Australia). The column erected in the library/boutique was painted by John Mawurndjul in person. The funds budgeted were allotted to the technical implementation of the project, which benefited from Australian and French joint funding and the patronage of

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two French companies. The artists were compensated indirectly due to the fact that the increased visibility from the Museum display boosted the prices of their works on the art market. With regard to intellectual property, the Museum found itself facing a dilemma with a clash between first of all the principles of conserving, disseminating and showcasing the works covered by its terms of reference; then respect for the contractual clauses submitted for Australian copyright and hence aboriginal customs; and finally the French copyright system, which does not take customary aboriginal law into consideration. A protocol for the use of the works, drafted by Terri Janke,[12] sets the rules for keeping works. This text recommends for example that in the event of the death of one of the artists, the artist's work and name be covered during the mourning period. Although this protocol is not legally binding, it operates as a set of recommendations for the use of the Quai Branly Museum. The heritage curator, who is responsible for the Australian collections, has promised to see to it that the institution respects the ethical recommendations set out in the protocol.

The Photography Collection has also given rise to a legal project: a brainstorming group responsible for defining the arrangements for managing the intellectual property rights concerning the photographs has been set up. Methodological principles have been drafted stipulating the conditions for commercial and non-commercial use. These principles prohibit the commercialization of photographic documents for which rights have not been negotiated but authorize dissemination via the Museum's intranet without downloading. Nevertheless, by reusing the contracts signed by the authors of the photographs and the Museum of Mankind (which authorize the Museum of Mankind to use these photographs for commercial purposes), the procedure could be made more flexible. Thought is also being given to the possibility of keeping in a frozen bank account for five years the sums which should theoretically be paid in connection with the negotiation of rights, pending identification of the authors or beneficiaries. The period of limitation has been shortened from 30 years to five years. The authors of the photographs kept in the Museum now sign a contract with the establishment whereby they certify that they have obtained authorization for distribution and commercialization from the persons represented. Given that the notion of intellectual property differs depending on cultural context, the procedures for such arrangements are left up to the authors of the photographs: for example, they may consist of a mere tacit agreement. As far as photographs taken in the field are concerned, researchers are urged to distinguish between

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[12] http://www.australiacouncil.gov.au/__data/assets/pdf_file/0003/19758/Visual_arts_protocol_guide.pdf

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photographs to be kept confidential and those which can be distributed, out of respect for the cultural context in which the photographs were taken.

Institutional policy of the Quai Branly Museum

The Museum has a legal unit where two jurists are responsible for handling intellectual property questions relating to the collections, the Quai Branly brand and its commercial productions. As far as collections are concerned, the solutions implemented are the outcome of cooperation between the curators and the staff in charge of the collections.

As explained above, contracts relating to intellectual property have been signed with the authors acting as intermediaries between the Museum and the other beneficiaries. Explanatory notes for the authors are included when implementing complex contracts of this nature.

Part of the collections and documents disseminated come from two older institutions which did not follow a similar rights management policy. As a result, it is sometimes impossible to identify the authors, and it has therefore been necessary to introduce an ad hoc methodology to manage the photography collection.

The Quai Branly Museum also relies on a company for collecting and redistributing copyrights and related rights – the Society of Authors in the Graphic and Plastic Arts (ADAGP). This body jointly manages the fees it collects then passes them on to the beneficiaries. The Quai Branly Museum pays it an annual fee, which in the case of the aboriginal artists worked out to a 60/40 ratio, as only part of the works and documents kept had been entrusted to the ADAGP for management. In the case of new acquisitions, ADAGP rarely acts as a middleman. Problems with registering new works at ADAGP, such as those collected in the field, encourage case-by-case negotiations. For the works acquired from three contemporary artists from New Guinea (East Sepik province): Kowspi Marek, Chiphowka Kowspi and Agatoak Kowspi, the Museum is for example considering compensating the artists through the increased visibility offered by the institution and the resulting added value on the art market.

In addition to this internal brainstorming process, lectures on legal issues are organized regularly. For example, the Museum organizes monthly lectures for students on culture and the law or on cultural heritage law, in partnership with the Jean Monnet Faculty of Paris-Sud

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XI University and the support of the Research Centre for Cultural Heritage Law (University Paris-Sud XI-CNRS CECOJI). The purpose of these lectures is to explain the role of law in the process of discussion of extra-European societies and their heritage. Moreover, the museum hosted, on October 2 and 3, 2008, the third Economics of Culture Day on the theme "From cultural industries to creative industries".

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THE MUSEUM OF CIVILIZATIONS OF EUROPE AND THE MEDITERRANEAN (MUCEM)

The Museum of Civilizations of Europe and the Mediterranean (MuCEM), which was founded in 2001, has been closed to the public since 2005, pending its reopening in late 2012. It has two sites: Paris, in the building of the former National Museum of Popular Arts and Traditions; and Marseilles, in the renovated Saint-Jean Fort. Its headquarters will be transferred at the end of 2012 to a new building, designed by architect Rudy Ricciotti on the basis of the former port breakwater J4, at the entrance to the old harbour area of Marseilles.

The future museum, which sprang from the reinvention of the former National Museum of Popular Arts and Traditions, sees its role as that of "*a front-row observer of cultural transformation*". This new museum of society aims to enhance understanding of the world in which we live by linking ethnography to history and archeology. The Museum will give pride of place to intangible heritage by acting as a forum, a place for debate, where reference presentations and temporary exhibitions will be based on major issues in society, relying on eyewitness accounts, personal experience and memories.

MuCEM has the status of a service with national jurisdiction (SCN). Such bodies are managed directly by the Ministry of Culture, and all of their commercial activities are part of the Meeting of National Museums (RMN). Accordingly, the fees charged for displaying the Museum's collections are paid to the RMN. In terms of status, it is planned to turn MuCEM into a public establishment, thereby enabling it to define its own intellectual property policy. In any event, this policy must be consistent with the Law on Copyright and Related Rights, which was adopted in 2006 and which amends the Heritage Code.

The first national museum of civilizations built in a French region, MuCEM enjoys the financial support of the territorial bodies as a whole, namely the City of Marseilles, the General Council of Bouches-du-Rhône, the Provence-Alpes-Côte d'Azur Region, the backing of the public establishment Euroméditerranée, the Port Authority of Marseilles, as well as aid from the European Union.

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MuCEM's Collections

MuCEM's collections bear witness to the richness of the popular cultures of France, Europe and the shores of the Mediterranean. Over a million items illustrate the social and cultural changes that have taken place in this geographical area since the Middle Ages. The collection, which was begun in 1878, comes from the former museum of ethnography of the Palais du Trocadéro (1878-1936) and the two museums which replaced it from 1937 onwards: the Museum of Mankind and the National Museum of Popular Arts and Traditions, which was launched at the Bois de Boulogne site in 1972.

The collections inherited from the European ethnology department of the Museum of Mankind (1936-2005) were built up from the end of the 19th century onwards, on the occasion of World Fairs, and subsequently cooperation agreements with States, universities and museums (Berlin, Sofia, Warsaw, Budapest, Riga, Oslo, Lisbon, Bucharest, etc.). The majority of these 29,700 works on deposit since 2005 come from Eastern Europe and the Balkans and consist of textiles, furniture, toys, sculpture, silver and gold plate, paintings, posters and educational pictures.

The collection inherited from the National Museum of Popular Arts and Traditions presents the popular arts and traditions of a rural, preindustrial France. They illustrate regional diversity, social and cultural life (religion, funeral rites and memorial services, beliefs and relationship to the sacred, practices relating to the body and to health, rites of passage, from birth to death) and material culture (agriculture, animal husbandry, rural crafts). Collections have been assembled on regional furniture, rural architecture, domestic life in French provinces, food, household customs and rural means of transport. They come from donations, items acquired in particular with the help of the "Fonds du Patrimoine" (Heritage Fund), and above all a great many field surveys, undertaken from the late 1930s onwards, with CNRS research staff. Artefacts are rounded out by iconographic collections (vintage photographs and postcards), film and music archives, a documentary collection and an extensive library.

In several specific fields, the museum brings together the largest public collections in Europe: for example, not only for the circus and fairground handicrafts but also for an original collection devoted to the *chanson française* (French popular songs) and the urban craft industry (300 model items from an artificial flower industry acquired in 1972) as well as

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crafts (hatter, glover, haberdasher, embroiderer, furrier, wigmaker, sign maker). As regards images, the Museum has, together with the National Library of France, the largest collection of popular prints in France. Replete with masterpieces of classical imagery from the sixteenth to the eighteenth centuries and several thousand playing cards, it also features around a thousand advertising blotters, 45,000 "chromos" – chromolithographic vignettes distributed at the turn of the last century by the major department stores and the food industries –, as well as 350 collectors' albums of prints from the period 1905–1990.

Sound collections

The department for music and speech houses a hitherto unpublished audio collection, kept in analogue format, which is of great value from a heritage perspective. MuCEM's sound archives contains 84,000 original and edited documents (music and speech – tales, life stories, interviews, etc.), divided up among 1,694 collections. In turn, these collections include bodies of works put together by ethnomusicologists such as Claudie Marcel-Dubois and Maguy Pichonnet-Andralles, archives compiled by ethnologists associated with the museum, material linked to the life of the museum (recordings of lectures and seminars or in-house courses, radio broadcasts chaired by museum staff members), copies of original collections donated by other archives centres and records sold on the market (copies on tape or a copy of the record). The ethnomusicological surveys, which consist of performances of vocal and/or instrumental music and oral inquiries concerning musical practice and the context of the performance, account for the bulk of the in-house collection, totalling 4,000 hours. They are rounded out by a collection relating to oral literature (poems, narratives, tales and spoken prayers; spoken documents with non-declaimed announcements, sermons, speeches, discussions and recipes). The bulk of the unpublished collections, which are either owned by the museum or donated to the sound archives under cooperation arrangements or exchanges, have been digitized, yielding a total of 666 collections of recordings representing 3,500 hours and stored on 2,843 CDs. The acquisition in 2001 of the archives of the "Golf Drouot", a temple of French music, provided the impetus for the launching of a collection of a body of work representative of the development of electrically amplified music. Researchers and regional associations active in the field of ethnomusicology are the main users of the sound collection.

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Photography collection

The MuCEM historical unit keeps some 500,000 conventional photographs and several thousand digital photographs on file. Most of the collection consists of pictures taken during ethnographic surveys conducted since 1937, in France and elsewhere in Europe, by the museum staff. In addition, MuCEM has inherited some photographs from the former Trocadéro Museum of Ethnography. Donations from private individuals, associations or the authorities also helped in putting the collections together. For some 15 years, MuCEM has been enriching its collections by acquiring photographs from private individuals or professional photographers or at public sales.

DOCUMENTARY SYSTEM

MuCEM has adopted the *Micromusée* database, brought out by the company *Mobydoc*. This tool makes it possible to manage the collections of museums of art, archaeology and ethnography, to date 500 museums and public institutions, including the national museums directly attached to the Directorate of Museums of France. This database facilitates exchanges among institutions.

In addition, *Micromusée* can handle all aspects of documentary computerized management of items by offering a wide range of headings. Data relating to artefacts include identification details such as physical description, an iconographic and historical analysis, as well as preventive instructions for conservation, status reports and a recapitulation of restoration work. Other headings supply information on the legal status of collections. The headings devoted to inventory provide information on the circumstances under which the items entered the collections (acquisition, donation, loan or deposit). The scientific and literary documentation accompanying each item leaves room for the inclusion of references of special interest to intangible cultural heritage and the recording of data concerning the source communities. For example, such notes mention the customary rules laid down by the source communities for preserving the integrity of the items.

The documentary approach to collections is rounded out by the resources made available by MuCEM's scientific archives and library. An offshoot of the Office of Folklore Documentation, established when the National Museum of Popular Arts and Traditions opened in 1937, the history unit keeps public and private scientific and administrative archive

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collections, a manuscripts collection, photographs, postcards, technical drawings, maps and thematic documentary files (280 meters of archives, 500,000 photographs, 200,000 postcards). The archives and the documentation on the collections bring together collection files, documentary files on anthropologists, missions, artists, exhibitions, inventories, bibliographical references linked to the collections and to the documentary files, as well as various sets of public and private archives. Taken together, these documents cover a large share of the field of the ethnology of France.

The MuCEM library is the heir to the library of the National Museum of Popular Arts and Traditions, established in 1937 on the basis of the collections of the Office of Folklore Documentation. It has been part of the network of libraries of national museums since 1958. Its collections cover the cultures of Europe and the Mediterranean, from the Hegira (622 A.D.) up to the economic and socio-cultural globalization of the twenty-first century: traditions and customs, popular arts, archaeology, folklore, ethnology, museology, ethnography, social and cultural anthropology, methodology of social sciences. The collection consists of 80,000 monographs, 5000 of which date back before 1800, and 3000 periodicals, of which 95 are still published. There is also a collection of French songs and *pasquilles* from Lille.

MANAGEMENT OF INTELLECTUAL PROPERTY ISSUES

Conditions of access to the collections

At present, a scientific and sanitary assessment of the Museum of Civilizations of Europe and the Mediterranean and its collections is under way. This systematic treatment is one of the aspects of the planned transfer, in 2012, to the new site in Marseilles. In the meanwhile, collections may be visited by researchers and museum professionals who submit a justifiable request and via temporary "prefiguration" exhibitions (*Parlez-moi d'Alger* (Tell me about Algiers) in 2003, *Trésors du quotidien* (Daily treasures) in 2007, *Berbères de rives en rêves* (Berbers from shores to dreams) in 2008).

Conditions for making material available on the Internet

As they come under a Service with nationwide jurisdiction ("*Service à compétence nationale*" - SCN), MuCEM's collections are placed on line by means of three databases which are run

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directly by the Ministry of Culture: the *Joconde* database, a catalogue of the collections of the museums of France; the *PhoCEM* database, which contains photographic collections; and the *Carpo* database, which consists of museum postcards. The catalogue of works in the library can be consulted via the local network.

MuCEM's collections have only been partly digitized and placed on line. As far as the digitization status of the collections and archives is concerned, 180,000 notes on items have already been digitized, of which 8,340 have been entered into the *Joconde* database. The *PhoCEM* database contains 177,000 notes on photographs, while the *Carpo* database comprises 66,600 notes on postcards. Once the museum's administrative status has changed to a public establishment, it is planned to place the body of collections on line, to be entered into a database developed especially for MuCEM.

The *Joconde* database[13], which was set up in 1975, is the joint catalogue of the museums bearing the label "museums of France". This catalogue, which has been placed on the Internet for online consultation, can be accessed by the broadest possible audience. It is managed by the Department of Collections of the Directorate of Museums of France. The *Joconde* database handles the overall computerization of the collections of more than 270 national or territorial museums that house collections of archaeology, fine arts, decorative arts, ethnology, history, and science and technology The introduction of a descriptive system for the museums suitable for nationwide use has made it possible to standardize analytical methods and the terminology used in catalogues. The information exported, that is, made available to the public at large, is deliberately limited to the fields of identification and documentation of works containing permanent, non-confidential information validated by the scientific officer in charge of each participating museum.

As far as the museums of France are concerned, the Decree of May 25, 2004 sets the technical standards relating to inventory keeping, the register of the items received on deposit and verification (counting). This instrument proposes that the inventory register of acquisitions and the register of items received on deposit be henceforth published in the form of a computerized, legally recognized publication. A guide to computerizing inventory and documentation validated jointly by the Museum Monitoring Service and the Department of

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[13] http://www.culture.gouv.fr/documentation/joconde/fr/pres.htm

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Collections has therefore been brought out for museum professionals[14]. It is based on good practices in use in a great many museums in France, and takes due account of changes in documentary software. The headings for the regulatory administrative inventory and the headings relating to documentary inventory are explained field by field.

The *Joconde* database contains headings relating to the legal status of the items and to the conditions of their acquisition (inventory number, acquisition mode, name of donor, testator or seller, date of the act of acquisition and allocation to the museum, advice of scientific bodies, purchase price, size of public subsidy, and date of entry in the inventory register[15]). In addition, digital images of the works have been available since 2000 to round out the text information provided by the *Joconde* database. These images require the prior negotiation of a distribution authorization, because the authors (or other beneficiaries) are entitled to a patrimonial right to the reproduction of their works for up to 70 years following the death of the author of the work in question. Some 10 per cent of the works catalogued fall into this category.

The *PhoCEM* database[16], which was established in 2005, incorporates notes from a former database, *Ethnophoto*, which was designed in 1977 and remained in operation until 1999. It enables users to conduct searches by geographical origin, collection name or number, photo number, author's name, caption, the date the photo was taken, the date of acquisition of the photograph and the technique. The site stipulates that authorization is required to use the *PhoCEM* database in any way. Any use of the database, notes or images of this site other than the kind specified in Article L.122-5 of the Code of Intellectual Property requires the prior authorization of the minister in charge of culture or, as the case may be, of the copyright holder, if they are not one and the same, and any violators can be prosecuted for counterfeiting under Article L.335-3 of the Code of Intellectual Property.

The search form and the descriptive notes propose several fields containing information relating to intellectual property: the name of the author of the photograph and/or the author of the duplicate (in the case of a digitized conventional photograph), and the bibliographical references if the photograph has been published. The credits contain a compulsory reference to the name of the holder of the reproduction rights for the photographs and the note

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[14] http://www.culture.gouv.fr/documentation/joconde/fr/partenaires/AIDEMUSEES/methode.htm
[15] http://www.culture.gouv.fr/documentation/joconde/fr/partenaires/AIDEMUSEES/droit-aut.htm

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"authorization required for reproduction and representation". The historical information offers one or more links allowing users to access such details as the album to which the photograph belongs or the ethnographic survey during which the photograph was taken. Also available are details of the arrangements for acquisition (purchase, bequest, donation, allocation to the Trocadéro Museum of Ethnography). A field called "comments" is also used to supply information on the photograph that does not concern any of the other fields.

The *Carpo* database[17] makes available to the public a large share of the MuCEM's postcard collections. The museum's history unit has some 142,000 postcards linked to the ethnographic surveys carried out by researchers from the French Ethnology Centre – National Museum of Popular Arts and Traditions. The bulk of the cards come from the museum's so-called "general" collection, while others are from special collections, such as the Meillassoux, Soury, Van Gennep, Charles Brun and Juston collections. This collection covers the body of topics touching upon ethnography in France (architecture, popular art, regional costumes and types, fairs and markets, civil and religious events, trades and various occupations, civil monuments, museums, natural sites, transport, overall views). Only a small portion of this collection has been described and digitized. The *Carpo* database contains some 70,000 notes.

With regard to intellectual property, the notes provide indications on those behind the creation of the postcard, with actors grouped together under the "author" field: photographer, editor, publisher, bookseller, dealer. The place of execution is specified for each of the known actors. The date of the photograph is specified, with the date of the postmark or the format of the card (pre-1903) taken as proof. In the absence of precise information, an analysis of the iconographic elements of the postcard makes it possible to suggest an approximate date.

The unit in charge of managing MuCEM's photographic collections has developed a number of forms which beneficiaries can use to grant the museum a licence to operate the collections free of charge and with no limit as to time or space. These forms cover all of the fields for the use of the photographs, focussing on questions that can arise when the museum places orders[18], when the rights to the image are used,[19] when documents are placed on line in

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[16] http://www.culture.gouv.fr/documentation/phocem/accueil.htm
[17] http://www.culture.gouv.fr/documentation/carpo/accueil.htm
[18] *Model contract for ordering photographs*
[19] *Model for prior authorization for placing someone's picture on the Internet*

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databases[20] and when the image is registered in the Canadian database *Récol*, which steps in when economic crime is involved.[21]

These administrative instruments are based on an examination of intellectual property issues that has begun within MuCEM and is expected to develop gradually.

Specific experiments

Surveys-collections offer a means of enriching collections that is specific to MuCEM. This museum practice, which was launched in 1966, was inherited from the National Museum of Popular Arts and Traditions, and represents a new way of functioning that is specific to the "museum-laboratory". It combines research and artefact collection, giving priority to the contextualization of items. These interdisciplinary ethnographic surveys are at the basis of dual material and intangible production. The items collected by the museum are associated with audio and visual documents (eyewitness accounts, images, films, narration) recorded at the time of acquisition and included in the accompanying documentary file. The intangible productions that enrich the museum's resources following these campaigns and research missions are destined for distribution and sometimes publication via multimedia programmes. They can generate marketable resources on the occasion of an exhibition. The museum's site also allows users to download musical excerpts collected when research projects and surveys are conducted. One example is a rehearsal by the traditional instrumental ensemble SASSOUN (J.A.F.), which can be downloaded on line, that was recorded in connection with the project "*Far from Ararat – The Little Armenias of Europe and the Mediterranean*".

These surveys-collections are financed by the Heritage Fund of the Ministry of Culture, thereby ensuring that the institution can claim authorship and hence ownership of the productions made on this occasion, especially since they are carried out by members of the museum staff or by persons hired by the museum for the occasion, whether they be curators, researchers or collection directors. It is up to these collectors to negotiate in the field the publishing and distribution rights for the material recorded, on behalf of MuCEM. In some instances, beneficiaries cannot be identified or the amount of rights determined: this was the

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[20] *Model contract for the transfer of economic rights (in the case of acquisition of photographs, Model contract for the transfer of economic rights for placing material on line in the Phocem database; Model contract for the transfer of economic rights for placing material on line in the Joconde database; Model contract for the transfer of economic rights for placing material in the collection management database*
[21] *Model contract for the transfer of economic rights for placing material on line in the Récol database*

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case following research into the popular polyphonies of Bulgaria, which led to the publication of a CD-ROM. In order to anticipate any complaints, an amount corresponding to the rights that should have been paid has been deposited in a blocked bank account for an indefinite period.

The multimedia collection presents a selection of visual and audiovisual documents collected in the course of field surveys, in France and abroad, by MuCEM researchers and their scientific partners. Launched by the museum's multimedia service, these programmes are broadcast on the ethnology portal[22] of the Ministry of Culture. Seven programmes enrich this collection: "*The Olive Tree, Treasure of the Mediterranean*", "*Hip Hop – Street Art, Stage Art*", "*Glass and its Travels*, "*Cafés, Coffee*", "*Bagpipes of Europe and the Mediterranean*", "*Everyday Treasures? Europe and the Mediterranean*", "*Far from Ararat – The Little Armenias of Europe and the Mediterranean*". The *International Möbius* prize was awarded for the collection as a whole. The site *Bagpipes of Europe and the Mediterranean* won the AVICOM Grand Prize in 2007. Marie-Barbara Le Gonidec, an ethnomusicologist at MuCEM and the scientific director of the programme on bagpipes, designed a six-step animation presenting the catalogue of 61 instruments of this type kept at MuCEM. To do so, diagrams, photographs and 73 audio excerpts, many of them unpublished, were taken from the available resources relating to this catalogue: photographs, iconographic documents, films, videos, sound recordings and other archives produced by researchers who were either from the museum staff or involved in its research programmes.

MuCEM only intends to publish these programmes over the Internet and has no plans to market them via CD-ROM. The digitization of these many resources (audiovisual, sound, image, etc.) which are particularly close to the intangible heritage (cultural practices, community memory, traditional knowledge, urban cultures, etc.) sometimes raises questions as to the right attitude to take with regard to intellectual property. Researchers collecting such materials have very diversified types of status and differing expectations as far as the institution is concerned.

On the occasion of the exhibition "*Berbères de rives en rêves*" (Berbers from shores to dreams) organized in 2008, a music show provided an opportunity to discover the richness of the musical and oral heritage of the Berber culture. Mehenna Mahfoufi, an ethnomusicologist,

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collected Kabyle songs in the course of field surveys then, following this collection, scheduled concerts performed by the Berber Choir of Ile-de-France, an ensemble composed of immigrant women from Kabylie and founded by the ethnomusicologist. This initiative helps ensure the long-term survival of a rare and original musical repertoire in a migratory setting. In addition, the catalogue accompanying the exhibition devotes an article to the retranscription by Mehenna Mahfoufi of many Kabyle songs and retraces his artistic path. Such events give MuCEM an opportunity to showcase its collections, their authors and their present performers while generating publicity for its programme planning and publications.

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[22] http://www.ethnologie.culture.fr/

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CONCLUSION

The radical reform of the national museums of civilization in France at the beginning of the twenty-first century dovetails with a general trend in Europe: museums which have collections of this type are now questioning museum praxis hitherto based on a unilateral assessment of the cultures studied. At the same time, this reshaping offers an ideal opportunity to take up intellectual property issues. Changes in the perception of the collections and accompanying collections of documentation along with a tendency to question the notion of symbolic property are challenging the way in which the relevant rights have been systematically equated with the public sphere.

The French national museums of arts and civilizations have prospered, just like their counterparts elsewhere in Europe, under cover of their geographical remoteness, shielded from the indigenous communities which make the greatest demands with regard to intellectual property and which are the most eager to ensure the application of ethical codes of a customary nature. The establishment of units for managing such questions within the ministries responsible for culture has led to relative administrative centralization, whereas it has proved more appropriate and favourable to manage these questions within the institutions themselves. Thus, it is only normal that these questions did not surface until late in Europe, and France is no exception to this rule. Yet the adoption in 2003 of the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage reflects a growing awareness.

In France, the debate is for the time being focusing on the modalities for recognizing problems and is only moving half-heartedly towards a discussion on the introduction of specific protection instruments. The half-hearted nature of the reforms undertaken is also due to the history of the collections and the French collections in particular, acquired some time ago when intellectual property issues were less acute. To place this heritage in perspective, there is a need to reinvent legal frameworks that give priority to a living dialogue between the producers of the culture and the institutions.

This renewed approach to intellectual property within museums has benefited from the overall climate of reform in relation to dialogue between cultures and the public debates this reform has triggered. The historical reassessment of the colonial era is one of the most sensitive

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aspects of these debates, and the reservations that must be overcome in this respect inevitably affect the treatment of intellectual property issues.

The ethical debates relating to these questions are, however, beginning to rock the ideological foundations of the French institutions. When the Museum of Mankind returned the remains of Saartje Baartman to South Africa in 2002 and when the Museum of Rouen returned a Maori head in 2007, they launched a process of discussion on the ethical treatment of human remains by French institutions of conservation.

These questions are not asked in a vacuum, so it is possible to turn to existing legal or administrative texts with a view to their reappraisal. In addition to the national legal framework laid down by the Ministry of Culture and a handful of professional codes, intellectual property policy in the French museums is generally based on an internal set of rules, which constitute their main instrument for regulation and protection. The internal protocols developed by the institutions rely more on empirical and pragmatic risk management than on a coordinated policy relating to the protection of the intellectual property of the source communities. As a result, these institutions tend to opt for a case-by-case approach rather than draw up guidelines. It should, however, be noted that certain fields receive more systematic attention, such as photography or music. Yet the protection offered is primarily aimed at individuals, as the indigenous community concerned is rarely considered as a whole.

The practices identified in the museums studied show that the day-to-day management of intellectual property issues takes place "in the field", at the discretion of researchers and curators, whether the latter are directly attached to a museum or are only involved as intermediaries. As a result, there is an increased need to standardize practices, not only from a legal standpoint but also from the perspective of the very training of the persons called on to deal with these issues. This standardization also implies greater budgetary efforts to this end by these institutions. The Council of the European Union has called on Member States to step up their efforts to digitize cultural knowledge and heritage (making this goal one of its cultural priorities), as it launches its "*Europeana*" project for a European digital library. This in turn provides an opportunity to secure additional funding or at least reorient budgets in the right direction. The digitization of cultural heritage, on-line availability of cultural content and digital conservation all promote the democratization of access to culture as well as the

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development of the information society and the knowledge economy. At the same time, these changes will inevitably create greater interest in intellectual property issues, given that the online availability of the digitized contents and the development of new uses and new services provided to the public in the cultural institutions raise the question of the legal protection of the information made available on line.

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