

Best Practices in image rights and intellectual property for the preservation and sharing of collections

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This chapter presents the results from the study conducted during Bianca Gama's post-doctoral internship. Bianca Gama idealized the eMuseum of Sport Project and conducted this study during the eMuseum's 2021-2022 season. The study was directed by Prof. Dr. Rita Pinheiro, along with Prof. Dr. Patricia Peralta, and was conducted at the National Institute for Industrial Property (INPI). The study consisted in identifying the best practices present in possible collaborative projects between Sports Museums from various countries regarding the identification, cataloguing, selection, reproduction, sharing, and protection of Intellectual Property (IP)¹ as well as image rights, extending to event consumer public and relevant sportive moments.

The chapter was divided in three parts, with the first part containing the three sections listed below:

Moment 1: Qualitative study with semi structured script conducted between March and August of 2021;

Moment 2: Evaluation as an observer of the digital initiatives from 5 Olympic Museums based on reports from the "General Assembly of Olympic Museums Network" event, held by the International Olympic Committee (IOC) on November 27th, 2021;

Moment 3: practical experiment creating virtual museums for 5 Brazilian soccer clubs between March and October of 2021.

In the three data collection moments, the observations were based on the protocols, guidelines and technology that were used, as well as on intellectual property and image rights protection standards and any international cooperation that occurred.

The second section contains the eMuseum of Sport's asset protection records.

The third section presents the documents were created based on this study.

¹ Intellectual property involves all human creations: inventions, literary and artistic works, symbols, names, images, drawings and models used in commerce. It is divided into three large fields: Industrial Property (patents, including software, trademarks, industrial design, geographic indications), Copyright Law (literary and artistic works, computer programs, internet domains and intangible culture) and *Sui Generis* Protection (integrated circuit topography, traditional knowledge and associated genetic assets, cultivars).

Materials, Methods, and Results

Materials and methods

Data collection happened at three different moments, as shown in Table 1. These three moments contributed jointly to identifying the best practices.

Moment 1: Qualitative study with semi structured script.

Data collection was conducted with an online questionnaire intended to be filled in by those responsible for the selected Museums (Attachment I). They received a release about the project by e-mail with an invitation letter to participate in the study which contained details about the investigation and explained the importance of participating in the study.

The semi structured script, which was approved by Rio de Janeiro State University's Ethics Committee, discussed the protocols, guidelines, and technologies that were used, as well as any intellectual property and image rights protection standards and instances of international cooperation that occurred. The participants signed an informed consent form authorizing the use of the data they provided.

The 5 museums that participated in this part of the study included 3 international ones and 2 national ones:

1. Barcelona Olympic Museum, Spain
2. Tokyo Olympic Museum, Japan
3. "Pierre de Coubertin" Sports Museum, Cordoba, Argentina.
4. Soccer Museum, São Paulo, Brazil
5. Chapecoense Club Museum, Santa Catarina, Brazil

Results:

We used Bardin's (2010) content analysis technique to evaluate the five questionnaires we received. Three of the museums mentioned digital initiatives, the Barcelona Olympic Museum, the Soccer Museum, and the Chapecoense Museum.

The Barcelona Olympic Museum had a platform for organizing and cataloguing its collection digitally but does not share it with other Olympic museums. Their digital collection is not fully shared with the public.

The Barcelona Museum manager reports an important issue on the questionnaire when mentioning the need for a platform that serves as a digital database for

collections, permitting communication and exchanges between Olympic museums to create a single shared memory center.

Chapecoense club's virtual museum is not linked to a physical museum, but, through a partnership with the eMuseum of Sport, which is a virtual platform for the creation of virtual galleries and museums, the club created its virtual museum and, from that point onwards, began the process of digitally cataloguing its photos and videos, and also made its collection accessible to the public (PENA, 2020a; PENA, 2020b; PENA, 2021a; PENA, 2021b).

For the creation of their virtual museum, a series of legal matters needed to be dealt with. First, they signed a contract with the eMuseum authorizing the eMuseum to share their collection with the public and make some necessary adjustments. Afterwards, the eMuseum of Sport shared various legal instruments with the club regarding image rights for photos and videos, including those of the athletes who were victimized in the plane crash. In this case, the club needed the victims' families to sign the image rights agreements.

The Soccer Museum has a digitalizing and cataloguing initiative, and part of its collection is available on the Google Arts and Culture platform. Some physical objects are shared on loan agreements, with shared objects entering and exiting their collection. They use data protection documents, such as terms of responsibility, loan contracts and image, copyright, property, and voice and image sharing contracts.

The Cordoba museum and the Tokyo Olympic Museum do not possess digital initiatives, neither as a way of cataloguing and preserving their memory nor as a form of sharing their collections.

To better visualize these results, we created four questionnaire analysis categories to observe the occurrence and non-occurrence of certain activities on the museums' part: 1. Collection digitalization and cataloguing; 2. Collection (physical or digital) sharing among museums or with other entities; 3. Accessibility to the public; and 4. Using industrial property (IP) protocols and documents. Thus, we present a summary of the analysis pertaining to the existence or not of these four categories in Table 1.

Table 1: Summary of Questionnaire Results

Museums	Digitalization and cataloguing	Sharing	Accessibility to the public – Virtual Museum	IP Protocols*
Barcelona Olympic Museum/ Espanha	Yes	No	No	No
Soccer Museum, São Paulo, Brazil	Yes	Yes	Yes	Yes
Chapecoense Club Museum, Chapecó, Brazil	Yes	Yes	Yes	Yes
“Pierre de Coubertin” Sports Museum, Córdoba, Argentina	No	No	No	No
Tokyo Olympic Museum/ Japan	No	No	No	No

Source: The author, based on the collected data.

*IP – Intellectual Property

Moment 2: Evaluation, as an observer, of digital initiatives from 5 Olympic Museums at the “General assembly of Olympic Museums Network” held by the International Olympic Committee (IOC).

The event happened on November 27th, 2021 and included 37 Olympic museums that are a part of the International Olympic Committee’s International Museum Network. It is important to note that although Brazil’s eMuseum of Sport is not yet a part of this select group, it was invited along with the Morocco Olympic Museum in Africa and the Lake Placid Olympic Museum from New York, US, to participate as Observers and share their respective experiences.

1. U.S. Olympic and Paralympic Museum, Colorado Springs, USA
2. Athens Olympic Museum, Athens, Grécia
3. The Sports Foundation of Finland, Helsinki, Finlândia
4. Qatar Olympic and Sports Museum, Doha, Qatar
5. Estonian Sports and Olympic Museum, Tartu, Estonia

Results:

Of the 37 Olympic Museums present in the IOC’s network, only five shared their initiatives during the General Assembly. This leads us to consider that digital actions, whether for the preservation of collections or for sharing them in virtual museums, are still incipient. Considering the pandemic period all nations have been undergoing since the beginning of 2020, which strongly increased the presence of the digital world in people’s lives, the number of experiences shared was very small.

All five museums showed their webpages for the visualization of their digital collection catalogs and for virtual visits. No physical or digital collection sharing initiatives were presented, neither were any allusions made to the use of intellectual and image rights protection strategies or international cooperation initiatives, despite this small group containing countries such as the United States and Finland.

During the presentations, it was possible to ask the speakers questions about the use of legal documents for protecting image rights or the lack thereof. Only the Museum from the US mentioned a partnership with the sports confederations allowing them to use the athletes' images.

The invitation made by the IOC for the eMuseum of Sport to show its platform, even though it is not yet a part of the Network, was highly relevant, as it highlights the digital essence of its DNA, as mentioned by the event's moderator when referring to the Brazilian initiative.

Besides its obvious importance for the eMuseum of Sport, participating as an observer and as a speaker was very relevant for this study, as it showed the recognition this project received as an original and unprecedented initiative. The reason the invitation is being linked to this study is because it was through an invitation sent to answer the study's questionnaire that the museum's found out about the eMuseum of Sport's initiative and this possibility came about as a positive result of this situation.

This is an important aspect which I consider vital for the international recognition, not only of the technology that was used but especially regarding the creation of a strategy for using the intellectual property protection system, which was developed thanks to the eMuseum of Sport's manager and idealizer's practical needs.

Moment 3: Practical experience creating virtual museums for 5 Brazilian soccer clubs.

5 Virtual Museums were created for the following Brazilian soccer clubs:

1. Clube de Futebol Coritiba, Curitiba, Brazil
2. Clube de Futebol Grêmio, Porto Alegre, Brazil
3. Clube de Futebol Fortaleza, Fortaleza, Brazil
4. Clube de Futebol Vasco da Gama, Rio de Janeiro, Brazil
5. Clube de Futebol Juventude, Rio Grande do Sul, Brazil

The intention behind evaluating the clubs that received virtual museums has to do with investigating the best practices present in possible cooperative work for identifying, cataloguing, selecting, reproducing, sharing and protecting intellectual property before the digital initiative's creation.

Of the five clubs listed above, four virtual museums had already been launched when the study was conducted, as per the access links below:

- **Clube de Futebol Vasco da Gama: Launched on September 8th, 2021**

https://expo3d.emuseudoesporte.com.br/3D/gallery/index.html?gallery=67&precac he&language=pt_BR

- **Clube de Futebol Fortaleza: Launched on October 18th, 2021**

https://expo3d.emuseudoesporte.com.br/3D/gallery/index.html?gallery=74&precac he&language=pt_BR

- **Clube de Futebol Juventude: Launched on November 12th, 2021**

https://expo3d.emuseudoesporte.com.br/3D/gallery/index.html?gallery=78&precac he&language=pt_BR

- **Clube de Futebol Grêmio: Launched on March 28th, 2022**

https://expo3d.emuseudoesporte.com.br/3D/gallery/index.html?gallery=96&precac he&language=pt_BR

Results:

The experience of creating virtual museums for the aforementioned soccer clubs was important for learning more about the how each club preserves its memories. None of them had any sort of collection digitalizing and cataloguing initiative in place. Due to this, they also did not have any established manners of sharing their collections with other museums.

It was also noted that their content was not accessible to the public, and there was an obvious acceptance on their end regarding the creation of their respective virtual museums. Finally, none of them possessed the legal knowledge to protect their assets.

The eMuseum showed itself to be a supportive initiative, providing the clubs with legal instructions so they could organize their collections and provide access to the public, as well as adjust their content for people with hearing and visual impairments. This reinforces the need to organize a strategy for using the different forms of intellectual property protection and for compiling documents that are vital for this sort of initiative.

In summation, the study conducted with the clubs helped the present work since, although the clubs that were evaluated did not have any initiatives for identifying, cataloguing, selecting, reproducing, sharing, and protecting intellectual property, the digital initiative has shown itself to be a favorable one for showing clubs about the need for and importance of preserving and protecting their collections, as well as protecting image rights when providing access to the public.

Section 2: Asset protection records as a product of the post-Doctoral internship

Trademarks registered by the eMuseum of Sport

Two trademark registration requests were made, one for a figurative trademark and another for a mixed trademark. The former consists in an isolated letter “e”, as per trademark and registration, and is a figurative trademark. The latter is the “**eME - eMuseu do Esporte**” (**eME – eMuseum of Sport**) trademark, categorized as a mixed or composite trademark.

Regarding the eMuseum’s figurative trademark, 6 classes were required for the requested trademark registrations:

1. 919475850, for the figurative trademark, in international class NCL 45.
2. 919475876, for the figurative trademark, in international class NCL 28.
3. 919475930, for the figurative trademark, in international class NCL 25.
4. 919475949, for the figurative trademark, in international class NCL 16.
5. 919475965, for the figurative trademark, in international class NCL 14.
6. 919475981, for the figurative trademark, in international class NCL 09

As for the mixed trademark, 8 classes were registered:

1. 919479111, for mixed trademark **eME eMuseu do Esporte**, in international class NCL 45, to highlight the previously mentioned services
2. 919479162, for mixed trademark **eME eMuseu do Esporte**, in international class NCL 42, to identify various services, such as the development and installation of software
3. 919479227, for mixed trademark **eME eMuseu do Esporte**, in international class NCL 41, to identify entertainment and educational services
4. 919479278, for mixed trademark **eME eMuseu do Esporte**, in international class NCL 35, to identify and differentiate a plethora of services, such as publicity and advertising services
5. 919479324 for mixed trademark **eME eMuseu do Esporte**, in international class NCL 25, differentiating clothing and footwear products
6. 919479359, for mixed trademark **eME eMuseu do Esporte**, in international class NCL 16, to identify the previously mentioned services
7. 919479430, for mixed trademark **eME eMuseu do Esporte**, in international class NCL 14, to identify jewelry, costume jewelry, and watches, among other such products.
8. 919479456, for mixed trademark **eME eMuseu do Esporte**, in international class NCL 09, also for identifying the same products previously mentioned in the figurative trademark registration.

As for copyright law, the software created for the eMuseum of Sport platform was registered.

Section 3: Documents resulting from this research

The documental organization stemming from the strategy for using the intellectual protection system designed for the eMuseum of Sport's needs happened throughout the post-doctoral internship. I highlight two points of this internship which were important for analyzing the needs for legal documents and those of the assets requiring protection:

1. Directed study conducted in two months with INPI Academy doctoral student Marcelo Nogueira, supervised by Prof. Patricia Peralta and Rita Pinheiro-Machado.
2. Participating as an observer in the "IP Introduction" course held in the first semester of 2021.

From these two points came the full perception of the need for different manners of protecting the eMuseum of Sport and, with this, we created a digital repository with all the documents that were created so that other museums can have access to legal document models for protecting different types of intellectual property.

I consider that the lack of knowledge about legal protection, whether for one's own assets or for the assets of those who detain the rights, limits collection sharing activities, as well as the access to these collections provided by the museums.

Considering this, I see this compilation of documents as a significant difference between the eMuseum of Sport and the museums that were evaluated. Among the final products stemming from this research, this one is extremely relevant as it adds legal security for museums to be able to share their collections and make them available to the general public.

The documents are listed below:

<https://drive.google.com/drive/folders/19g5-h7az2jDkdD4PqDBiPLI-GRvpXbLp?usp=sharing>

1. Collectors agreement
2. Image and voice rights concession term
3. Collection sharing rights agreement (author's and image rights hypotheses)
3. Image rights authorization letter
5. Agreement with mascot illustrator
6. Image Rights Report so that collectors can use the collections
7. Confidentiality agreement

8. Author's rights agreement

CONCLUSION

To summarize the results stemming from this research, we can consider that the three moments complemented each other.

The qualitative study with a semi structured script was conducted entirely with physical museums and very little collection sharing was observed among the museums. Based on this, there was the opportunity to present the Brazilian initiative, which has, as its essence, the sharing of collections between sports museums and sports entities.

The participative observation in the "General Assembly of Olympic Museums Network" event which included a presentation of the Brazilian digital initiative validated the actions conducted towards the identification, cataloguing, selection, reproduction, sharing, and protection of intellectual property and image rights.

The experience of creating virtual museums for 5 Brazilian soccer clubs demonstrated how this transition from physical to digital should be conducted and allowed us to create the Intellectual Property best practices document repository so that any entity that wishes to protect its assets can use the proposed models.

The eMuseum of Sport has shown itself to be a theoretical and practical supporter for other museums to gain confidence and follow in this direction.

We consider that the lack of knowledge regarding legal protection limits collection sharing actions.

The documents that were created suggest a guide of best practices for protecting legal relationships.

Looking towards the future, hybrid actions that are both virtual and physical seem to strengthen collection sharing possibilities.

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Attachment I: Semi structured script

Study: Best practices in image and intellectual property rights for the preservation and sharing of collections.

You are being invited to participate in a study about best practices in image and intellectual property rights for the preservation and sharing of collections in Sports Museums.

The goal is to identify initiatives conducted regarding the preservation of memories and the sharing of collection from the standpoint of the interviewed researcher, to suggest protocols that aim to facilitate cooperation regarding the exchange of information/technology between Sports Museums. The results of this study will generate positive impact through the proposition of practical and financially accessible alternatives for preserving memories nationally and internationally that have to do with the Olympic Games and similar activities, especially regarding legacies.

About the interviewee

- 1) Inform the name and city of your Sports Museum: _____
- 2) Interviewee name: _____
- 3) Position _____ held _____ by _____ interviewee:
- 4) Time _____ spent _____ in _____ the _____ position:
- 5) Interviewee's responsibilities in the position: _____

Regarding Museum management:

- 6) Does the museum possess any memory preservation initiatives?
() Yes () No
If there are, please comment on the initiatives:
- 7) Is there any website or platform on which your collection can be viewed/exhibited?
() Yes () No
If there is, please inform access location:
- 8) Is there space on the website or platform for the exchange of information/technology from the standpoint of memory?
() Yes () No

If there is, how does this exchange occur?
If not, explain why:
- 9) Does your museum share collections with any entities linked to the Olympic Studies Centre – IOC?
() Yes () No

If yes:

- a) How is this partnership characterized in institutional terms?
- b) Is there any protocol/normative instruction for controlling/sharing/managing this collection exchange?

If so, what are the protocols?

If not:

- c) Explain why:

10) Does your museum share collections with any Sports Museums?

Yes No

If yes:

- a) How does this partnership occur?
- b) Are there any protocols/normative instructions for controlling/sharing/managing this collection exchange?

If so, what are the protocols?

If not:

- c) Explain why:

11) Are there advanced technologies (augmented/virtual reality, etc) in use for preserving or exhibiting memories at your museum?

Yes No

If there are:

- a) Which technologies are used?
- b) Is there any sort of protocol used to guide the use of these technologies?

12) Do you have any sort of protocol(s)/document(s) pertaining to intellectual property?

If you do:

- a) Which protocol(s)/document(s)?
- b) Are there any guidelines regarding protocols related to intellectual property?

If there are, what are they?

13) Did you experience any sort of intellectual property problem(s)/challenge(s)?

If yes

- a) What kind of problem(s)/challenge(s)?

14) Do you have any type of protocol(s)/document(s) in use regarding image rights?

If so

- a) Which protocol(s)/document(s)?
- b) Are there any guidelines regarding the protocol(s) for image rights use?

If there are, what are they?

15) Did you experience any sort of problem(s)/challenge(s) regarding image rights?

If so

- a) What kind of problem(s)/challenge(s)?

16) What are the largest challenges regarding memory preservation and collection sharing?

17) What are desirable actions, seen as demands, for this area of memory preservation and collection sharing?

18) Could you list success stories from your museum or from another entity regarding memory preservation and/or collection sharing with other entities?