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Szabolcs Dancs

National Széchényi Library

Budapest

e-mail: dancs.szabolcs@oszk.hu

ELDORADO: A SOLUTION OF HUNGARIAN LIBRARIES TO PROVIDE ACCESS TO DIGITIZED DOCUMENTS UNDER COPYRIGHT

ABSTRACT:

ELDORADO is a nationwide library system, established by the National Széchényi Library of Hungary. It is characterized by a complexity stemming from the variety of the materials to provide (e.g. books, journals, maps, pictures), the diversity of legal and digitization status of the documents provided (public domain, out-of-commerce/in-commerce works, digitized/not digitized documents), and, last but not least, from the wide range of electronic library services it includes, such as copy-on-demand, e-lending, online reading, etc. The article outlines the copyright clearance method of ELDORADO which was developed in harmony with a European directive and based upon the possibility of reuse of digital information, as it is guaranteed by trends over Europe supported by EU regulations. Implementation of this method aims to ease retrieving information on the commercial availability of a work and the licences that are applicable, thus it requires a close cooperation with stakeholders of the book value chain.

KEYWORDS:

Copyright. Copyright clearance. Copyright infrastructure service. Library digitization. National Széchényi Library, Hungary. Orphan works.

Introduction

The main goal of ELDORADO¹, the new complex service of the national library system in Hungary is to provide digital access to documents preserved in the collections of libraries all over the country. Works both in public domain and under copyright are to include in the scope of the service, regardless of the fact if the publications containing these works are already digitized, or not. By adding features such as workflow management of library digitization, and enabling a wide range of electronic document delivery services, ELDORADO is a natural complement to the common library services in Hungary, which already include union catalogue and – related to the latter – interlibrary loan.

So, ELDORADO is a sort of one-stop-shop, in the framework of which works already out of copyright can be downloaded free of charge, in a so called “standard format” which is not suitable to reprint. A copyright clearance method is implemented to help users to find out if a document is copyrighted, or not, and under what conditions a copyrighted document is provided. (Conditions, incl. prices and ways of availability, are set by the copyright holder or his/her representative.)

Nevertheless, this new service focuses on works that are no longer commercially available in customary channels of commerce². As it is clearly shown by models already implemented in Europe (see below), electronic re-edition of non-commercial-works cannot be realized without the active contribution of stakeholders such as copyright holders, collecting societies, organization of publishers or/and authors, companies responsible for the implementation and maintenance of so called Books in Print databases, etc. In addition, legislation supporting mass digitization is also required. As a lucky coincidence, the European Parliament

¹ ELDORADO is an acronym stemming from the full name of the service (ELEktronikus Dokumentumküldés Országos Rendszere, Adatbázisa és Dokumentumtára = Database and Repository of the National Electronic Document Delivery System).

² For the definition of out-of-commerce works, see: [6].

and the Council adopted the directive 2012/28/EU on certain permitted uses of orphan works on the 25th of October 2012. As it is defined in the document (Article 9), “Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 29 October 2014” [4], this date met the deadline of the physical realization of ELDORADO project which fell on the 31th of October the same year.

The ELDORADO story

In connection with the Europe 2010 strategy, and as part of the New Széchenyi Plan (Új Széchenyi Terv) a tender (TÁMOP-3.2.4.B-11/1 – Knowledge Repository-Express – The extension and development of national library services for supporting education and training) (“Tudásdepó-Expressz” – Országos könyvtári szolgáltatások bővítése, fejlesztése az oktatás és képzés támogatásának érdekében) was organised during the spring of 2012 for developing the national system of electronic document delivery. The envisaged nationwide system is aimed at “allowing the access of users and readers to copyrighted library documents besides documents not protected by copyright, promoting in this manner their training and instruction”.

The non-reimbursable funding amounting to 250 million Forints has been awarded to the project submitted by National Széchenyi Library (SZNL/OSZK – Országos Széchenyi Könyvtár). The two-year project was started in November 2012. Among activities covered by this period are those that considered to be typical in a project aiming to establish a new system of library services, these are, for instance, system design and development. On the other hand, several steps had to be undertaken in order to create the legal background of the service. It mainly required cooperation with authorities responsible for intellectual property issues in Hungary. For the efficiency of the project stakeholders of the book value chain needed to be involved, such as publishers, collecting societies, etc.

European models to provide copyrighted library documents

According to the Copyright Law in Hungary, in case of providing access to a digitized material under copyright, the main criteria is to get the permission of the rightholder, who is most of the cases the author of the work. You might contract the holder of the copyright directly, or via a collective management organization representing him/her. These or-

ganizations (e.g. collecting societies, collective licensing agencies, associations of authors and/or publishers) are also responsible for collecting and distributing royalties. Needless to emphasize, that it is much more convenient for a memory institution performing mass digitization program including copyrighted documents to get author's permissions and remunerate rightholders through a couple of organizations instead of engaging in negotiations with each of the copyright holders. In case of out-of-commerce publications it is nearly impossible to contact the total group of rightholders or find any organizations representing them all, however there are solutions that might be taken into consideration while designing a system which is to serve similar purpose as of ELDORADO.

In France, the Law No. 2012-287 of 1 March 2012 [5] created a legal framework of digitized re-edition of out-of-commerce books published before 2001. The law empowers the Bibliothèque Nationale de France (BnF) to establish and maintain a database listing works supposed to be unavailable in commerce. Any citizen has the opportunity to suggest the registration of a work as "unavailable", but there is a committee to decide whether it is really an out-of-commerce one. Database ReLire (which means "reread" in English) is updated on a yearly basis, on the 21th of March. Within the next six months copyright holders are allowed to request for withdrawal of their works from the list. If the request is approved, the publisher is obliged to exploit its right to publish the withdrawn work in electronic format within two years. Thus, unavailable works get a chance to return to the commerce. Once a work has been listed in ReLire for more than six months, the right of its digitization and electronic re-edition transfers to a collective management organization.

The French model, however heavily criticized, seems to be quite effective, albeit it cannot be implemented in Hungary due to the lack of the legislative background it requires.

Being much simpler than the French one, the Norwegian model can be summarized into one single sentence. The state pays for copyrights via an organization (an umbrella group representing major authors and publishers, named Kopinor) so that the National Library of Norway can provide free online access to works (published in Norway before 2000) in the whole territory of the country, i.e. for any citizen owning a Norwegian IP [3].

Needless to say that national library in Hungary cannot afford to build its digital document delivery service according to the practice outlined above. So we had to establish a business model in which royalties for the use (downloading, online reading, e-lending, etc.) of a copy-

righted work are reimbursed by the user (customer), i.e. the one who ordered the digital document.

Sources of diligent search in the 2012/28/EU directive and the Government Decree 138/2014

As it was mentioned above, according to the 9th Article of the 2012/28/EU directive EU countries were obliged to implement the Directive in their national legislation by the end of October 2014. In Hungary, the Government Decree 138/2014 (IV. 30) was created and brought into force for the detailed regulation of the use of orphan works.

The directive says: “For the purposes of establishing whether a work or phonogram is an orphan work, the organisations referred to in Article 1(1) shall ensure that a diligent search is carried out” (Article 3,1.) [7]. The sources of diligent search are determined by each Member State, but should include at least the relevant sources listed in the Annex of the document (Article 3,2.). For published books these sources are the following:

- (a) legal deposit, library catalogues and authority files maintained by libraries and other institutions;
- (b) the publishers' and authors' associations in the respective country;
- (c) existing databases and registries, WATCH (Writers, Artists and their Copyright Holders), the ISBN (International Standard Book Number) and databases listing books in print;
- (d) the databases of the relevant collecting societies, in particular reproduction rights organisations;
- (e) sources that integrate multiple databases and registries, including VIAF (Virtual International Authority Files) and ARROW (Accessible Registries of Rights Information and Orphan Works).

In the Government Decree you find a larger group of sources:

- a) the database of the Hungarian National Union Catalogue (MOKKA);
- b) legal deposit, Hungarian National Bibliography;
- c) library catalogues and authority files maintained by libraries and other institutions;
- d) the publishers' and authors' associations;
- e) existing databases and registries, WATCH (Writers, Artists and their Copyright Holders), the ISBN (International Standard Book Number) and databases listing books in print;
- f) the databases of the relevant collecting societies;

g) sources that integrate multiple databases and registries, including VIAF (Virtual International Authority Files) and ARROW (Accessible Registries of Rights Information and Orphan Works);

h) database of the National Electronic Document Delivery System (EL-DORADO).

Both of the Directive and the Government Decree mention ARROW as a “source that integrate multiple databases and registries”.

ARROW – a model to implement

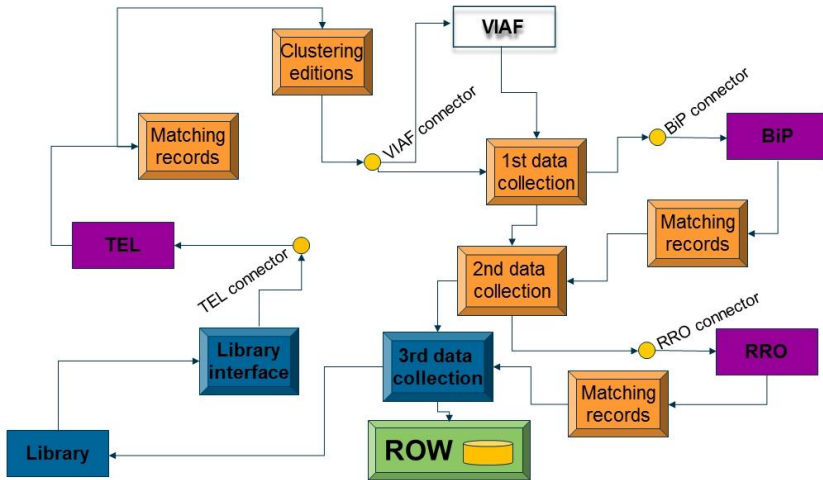
i2010 Digital Library Initiative of the European Union's digital libraries aims to make all resources of European culture and science accessible to all, and preserve them for the future by creating electronic versions of the materials in Europe's libraries, archives and museums. Naturally, before digitizing a document one needs to be aware of its copyright status, which is in many cases very difficult to determine. Therefore libraries planning to start a mass digitization project should find a way to collect copyright metadata with the least effort possible.

The ARROW (Accessible Registries of Rights Information and Orphan Works Towards Europeana) Project started in September 2008, it was co-funded by the European Commission under the programme "ICT Policy Support" theme 2 Digital Library. As it is put in on its official website, “ARROW is a tool to facilitate rights information management in any digitisation project involving text and image based works. ARROW infrastructure allows streamlining the process of identification of authors, publishers and other rightholders of a work, including whether it is orphan, in or out of copyright or if it is still commercially available” [2]. It is worth to add that ARROW is a service that doesn't only make it easier to retrieve copyright information from different resources, but it also facilitates interoperability between databases such as library catalogues and Books in Prints.

ARROW Plus project was launched in 2011 and run till 30 September 2013. The project aimed to increase the number of countries in which ARROW is used, and broadening the types of works for which it is used to include visual material. Hungary was involved as well.

Let us see the ARROW workflow which was served as a model for copyright clearance procedure implemented in ELDORADO (Figure 1).

Figure 1. ARROW Workflow



Source: [1].

Copyright Clearance in ELDORADO

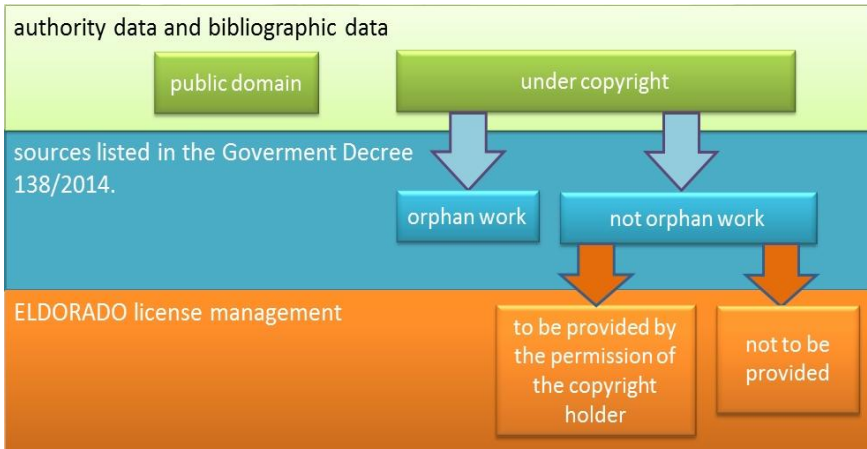
ELDORADO includes a three-level method to group works by their copyright status (Figure 2).

All books published more than 140 years ago are considered to be part of the public domain. Other works are filtered by the dates of death of their contributors. A work belongs to public domain, if each of its authors, editors, illustrators, etc. deceased more than 70 years ago. Relevant data can be found in the authority and bibliographic records of the library.

At the second level a diligent search is carried out to check if the work is an orphan one. In this phase sources listed in the Government Decree 138/2014 are queried.

Finally, copyright holder can set under what conditions he or she gives ELDORADO permission to use his or her work.

Figure 2. Copyright Clearance in ELDORADO



Source: own elaboration based on [2].

In-commerce documents and e-legal deposit

ELDORADO was designed not just to manage digitization procedures in libraries but to support publishers to deposit their born digital materials. After depositing an e-book, publishers might opt for permitting National Széchényi Library to provide access to the document via its ELDORADO service.

ELDORADO uses Digital Rights Management (DRM) technology. Different types of licence constructions can easily be set and parameterized through its licence management interface. Publishers can decide under which conditions they would like to provide access to their born digital documents. E-lending, downloading, online reading are all included in the range of services provided. If publisher prefers not to use our service directly, a simple URL can be added to the record which links to the publisher's or a distributor's website.

Summary

According to a new decree [8] about the main tasks and responsibilities of libraries in Hungary, National Széchényi Library is a competence centre in the field of digital content management and digital document delivery (8. § (1) 2). ELDORADO was developed in a way to support our library to fulfil its tasks in these areas.

The digitization workflow management module of the system is available for any library in Hungary free of charge. Using this tool guarantees a standard of digitization procedures.

Spectrum of services contains components not yet realized in Hungarian libraries in such a complex way. Copy-on-demand, online reading, e-lending are involved, however, the most important breakthrough is the establishment of the copyright infrastructure, that might help libraries to make their digital treasures easily accessible to a much wider public.

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Szabolcs Dancs

National Széchényi Library

Budapest

e-mail: dancs.szabolcs@oszk.hu**ELDORADO: SPOSÓB WĘGIERSKICH BIBLIOTEK NA UDOSTĘPNIANIE ZDIGITALIZOWANYCH DOKUMENTÓW Z POSZANOWANIEM PRAWA AUTORSKIEGO****ABSTRAKT:**

ELDORADO jest narodowym systemem bibliotecznym, stworzonym przez Węgierską Bibliotekę Narodową im. Széchényiego. Cechuje ją kompleksowość wynikająca z różnorodności udostępnianych materiałów (m.in. książek, czasopism, map, zdjęć), różnorodność statusów prawnych i digitalizacyjnych udostępnianych dokumentów (domena publiczna, komercyjność i niekomercyjność, posiadanie lub brak wersji zdigitalizowanej), a także szeroki wachlarz elektronicznych usług bibliotecznych (kopia na zamówienie, e-wypożyczenie, czytanie online i in.). Artykuł przedstawia metodę zbiorowego zarządzania prawami autorskimi w ELDORADO, która została stworzona zgodnie z europejską dyrektywą i opiera się na popartej unijnymi dyrektywami idei wielokrotnego wykorzystywania informacji cyfrowej. Wprowadzenie tej metody ma na celu ułatwienie wyszukiwania informacji o komercyjnej dostępności dzieła i stosowanych licencjach, wymagając ścisłej współpracy między udziałowcami w zyskach ze sprzedaży książek.

SŁOWA KLUCZOWE:

Digitalizacja bibliotek. Dzieła osierocone. Infrastruktura usług związanych z prawami autorskimi. Prawo autorskie. Węgierska Biblioteka Narodowa im. Széchényiego, Węgry. Zbiorowe zarządzanie prawami autorskimi.