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REFRACT

An Open-Access Visual Studies Journal

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Introduction

As a journal founded by graduate students in one of the few visual studies programs in the United States, *Refract* has always sought to consider its own role within its relatively new and often-contested disciplinary field. This focus on the possibilities and limitations of visual studies methodologies is exemplified by our Voices of Visual Studies section, an ongoing, cross-volume conversation between diverse practitioners. However, we have had fewer discussions about the implications of our open access digital publication method, despite the fact that such a format also represents a relatively novel approach to scholarly production. While *Refract's* founding editors debated the merits and drawbacks of digital publication, the majority of our conversations in subsequent years have centered on the goal of increasing accessibility: our digital team has worked to ensure that *Refract's* format is compatible with evolving screen reader technology and that we are producing effective alt text, for example.

Recent funding from The Humanities Institute (THI) at our home campus, the University of California, Santa Cruz, has given us an opportunity to extend these preliminary efforts and deepen our understanding of the stakes of digital publishing by producing a special supplement titled “Imagining the Future of Digital Publishing.” We have invited a group of scholars and practitioners to share their perspectives on publishing scholarship digitally and the issues that might shape this endeavor in the near and distant future. The following questions served as initial lines of inquiry and provocation:

How do you view the relationship between digital publishing and peer review, or between self-publishing and peer review? Are there other ways to create and assess legitimacy and scholarly rigor in digital publication and self-publication spaces?

How can scholars measure the impact of their work in the digital realm as technologies evolve and transform? What are the potential impacts of shareability and virality on digital academic publishing?

How might digital publications include media beyond text? What opportunities or ways of reimagining the relationship between form and content are unique to digital publishing, and what risks or stigmas must those approaches contend with?

Although digital publications may seem less fragile than their analog counterparts, the infrastructure of computing and the cloud often results in shorter lifespans for born-digital content. How do digital publications interact with and alter the infrastructure of analog archives? How might digital publications be preserved into an indefinite future? What might the archives of digital publications look like ten, twenty, or fifty years from now?

Contributors were invited either to respond to these questions directly or to use them as a jumping-off point to explore related ideas, and we have received a wide range of thought-provoking responses. John Warren, director of the Master's in Publishing Program at the George Washington University, considers, among other things, the potential impact of artificial intelligence (AI) and publishers' use of non-fungible tokens (NFTs) to disrupt secondary markets for academic texts. In a reflection on her own experience publishing a digital monograph through an academic press, the Egyptologist and digital humanist Elaine Sullivan highlights the opportunities presented by multimedia scholarship, the preservation challenges that characterize such innovative work, and the potential for postpublication peer review to alleviate forms of academic gatekeeping. Katie Fortney, copyright policy and education officer at the California Digital Library (CDL), describes the challenges that writers face in obtaining permission to include copyrighted images in work published in digital and open access formats. She offers an overview of the impact of these hurdles on academic freedom and how a better understanding of fair use law may provide a way forward for researchers from a wide range of backgrounds. In a collaborative contribution, Justin Gonder, Rachel Lee, and Charlotte Roh—also of the California Digital Library—point out the increased accessibility and values-based publication decisions that open access publishing makes possible, while gesturing toward the important steps that eScholarship and the CDL are taking to archive and preserve digital materials and publications like *Refract* for the long-term future.

Daniel Story, digital scholarship librarian, and Martha Stuit, scholarly communication librarian—both of UC Santa Cruz—also share their insights collaboratively. With backgrounds encompassing self-, academic, and commercial publishing, Story and Stuit offer specific examples of innovative peer review practices while inviting us to reevaluate terms like *impact*, which are often assumed to be inherently positive. They note the limitations of metrics, an ambivalence toward virality, the question of authorial intent, and crucial issues of labor and access. Labor and access are recurrent themes in a contribution by Cosette Bruhns Alonso, contemporary publishing fellow at the Center for Research Data and Digital Scholarship and the University of Pennsylvania Press, who speaks to the multimodal capabilities of digital publishing and highlights the unequal distribution of access to resources for producing digital scholarship across academic networks. In so doing, she concludes that digital publishing is uniquely positioned to address issues of access and equity while transforming the boundaries of traditional scholarship. In a reflection on previous volumes of *Refract*, our founding managing editor Kate Korroch highlights the ways in which the journal's born-digital format has contributed to its mission of foregrounding methodologically innovative scholarship.

Taken together, the contributions to the “Imagining the Future of Digital Publishing” special supplement inspire continued experimentation and reflection on the intersection of form and content in the still-emerging digital publishing space. We invite the continuation of the conversation begun here and anticipate the addition of new ideas and perspectives in the years to come.

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Postpublication, Measuring Impact, and Multimedia

Elaine Sullivan

Associate Professor of History, University of California, Santa Cruz

How do you view the relationship between digital publishing and peer review, or between self-publishing and peer review? Are there other ways to create and assess legitimacy and scholarly rigor in digital publication and self-publication spaces?

For my digital monograph I worked with a traditional academic press to get my work peer-reviewed by colleagues in my field. But the digital aspect certainly added new wrinkles to that process. The peer reviewers evaluating my work did so before the final version of the project was ready—they did an early review of the written manuscript, images, and some videos, but they weren't reviewing the fully final published project with all the interaction that was part of the final web-based publication. So I think it is clear that making a direct one-to-one transition between traditional book publishing and web-based publishing doesn't necessarily work.

We may decide that in the digital environment we should emphasize *post-publication* peer review in the form of scholarly reviews and critical engagement with digital publications instead. In my own discipline of history, there is a long tradition of book reviews that provide a type of postpublication assessment by scholars, and those can be weighted very heavily in evaluating the quality of a scholar's research. In many of the sciences, how often an article has been cited is one way to estimate its importance on the larger field. So I think there are already existing ways to think about alternative forms of peer review besides the initial prepublication blind review led by a press.

For people doing experimental digital work that they feel strongly should be made public (especially works they self-publish), if they aren't necessarily interested in first going through review by a press or journal, thinking about ways they can get their projects reviewed after the fact seems important. Just because something is published digitally doesn't mean it is not or should not be rigorous scholarship. And if you have done the work to make something that is rigorous and that provides something useful to your field, you want to make sure that your effort is credited in your field.

How can scholars measure the impact of their work in the digital realm as technologies evolve and transform? What are the potential impacts of shareability and virality on digital academic publishing?

Finding ways to measure how your work is being accessed and by how many people is certainly important. Getting analytic data from the web publishing platform can help scholars make an argument about the importance and reach of their digital work, especially if you are interested in public humanities or public scholarship and you are publishing via digital methods in order to reach the greatest possible audience. Because I published my digital monograph with a press, they send me the analytics of who is accessing the monograph online, and that has provided me with really useful information: both the numbers of unique users accessing my materials but also where those users are from. This allows me to see the international impact of my work, which is especially important because my field of Egyptology is so global. When they first sent me that list after the publication had been out for one year, I was really thrilled to see that all the major countries were hubs of Egyptology, including of course Egypt, which means that I know that my colleagues and students around the world are finding the project and using it.

How might digital publications include media beyond text? What opportunities or ways of reimagining the relationship between form and content are unique to digital publishing, and what risks or stigmas must those approaches contend with?

One of the major strengths of digital publication is the ability to include multimedia, and it is the reason that I published my own monograph digitally. There is no 2D book format that would allow me to do the kind of dynamic presentation of 3D models that was important to my own study. At the time when I began the project, none of the online publishing platforms that I was interested in using

actually worked with 3D content. So I approached the Scalar project and asked if we could collaborate on making their really excellent publishing platform incorporate 3D. That cooperation really allowed me to reimagine what my book could do, and what its purpose would be. I have longform narrative text (like a traditional history monograph), but it also allowed me to create a deep archive on the history or the excavations of the site of Saqqara at the same time. In literature, that is usually called a “scholarly edition” and usually focused on the history of a text; it isn’t really a tradition in history. So the affordances of the digital allowed me to really do something that isn’t traditional in the field but that can be used by scholars in multiple ways. I’ve received a number of emails and comments from other scholars in my field that indeed they use the project especially for the archive.

One of the risks with doing digital publication is that people consider your project “just a website.” One reason I decided to publish the project in a format that parallels the monograph and that I went through a traditional academic press is that I wanted to break from that stigma. I think it’s really important that digital scholarship be taken seriously, and because the current environment in the humanities really prioritizes initial peer review, I wanted to go through that process to create an example of a digital “book” that worked in a way that was fully equivalent to a traditional book but actually exceeded the book’s limitations. I think that once a clear set of precedents are set, where we have really great scholarship that comes out *only* in digital format, and where people see that it’s not an example of “less than” a book but instead “more than” a book, those kinds of stigmas will be broken down. But it is true that we are not there yet.

Although digital publications may seem less fragile than their analog counterparts, the infrastructure of computing and the cloud often results in shorter lifespans for born-digital content. How do digital publications interact with and alter the infrastructure of analog archives? How might digital publications be preserved into an indefinite future? What might the archives of digital publications look like ten, twenty, or fifty years from now?

These are extremely fraught questions and I’m afraid I don’t have good or easy answers. Hundreds of years of using books in very similar formats means that we as a global society have developed expensive and effective infrastructure, like libraries, to store and sustain that medium. We know how to do it, and we’ve been pretty successful at that. The fluid nature of digital content and online platforms means that parallel infrastructure is not really there for the digital world. In my own digital projects across the past fifteen years, I’ve seen a number of changes in

web publishing that meant my projects no longer worked and they had to be renewed, which is expensive and time-consuming.

Because I worked with an academic press for the digital monograph, they were very concerned with archiving and sustaining the digital content. So I had a digital specialist from the press help me with many of these issues, and they worked to archive my materials in the press's university library. That is of course one advantage of working with a formal press; they are interested in archiving their material and maintaining its accessibility and you as the individual scholar don't have to be solely responsible for that.

At the advice of the press, I created multiple ways to access and document my content, including videos of me reading the monograph and utilizing the 3D models so that someone watching that video could see the original intended interaction even if the web browser broke in a decade. That of course necessitates that people can still watch an MP4 in 2030 or 2040. That is not something I can guarantee. Certainly there are many academic presses and university libraries that are working hard on thinking through these questions, and no individual scholar can solve this problem. So I do see a major value for publishing your scholarly work with some kind of journal, web archive, digital library, or press, in that your work then becomes part of a whole collective of materials that they are interested in sustaining. I can imagine a future where a library or university is converting thousands of files from what are now standard formats like MP4 or PDF to the new future version of those platforms. And as a scholar you want to make sure that *your* materials are one of those moved from the old technology to the new.

* * *

Dr. Sullivan is an Egyptologist and a Digital Humanist. Her work focuses on applying new technologies to ancient cultural materials. She acts as the project coordinator of the Digital Karnak Project, a multi-phased 3D virtual reality model of the famous ancient Egyptian temple complex of Karnak. She is project director of 3D Saqqara, which harnesses Geographic Information Systems (GIS) technologies and 3D modeling to explore the ritual and natural landscape of the famous cemetery of Saqqara through both space and time.

Her field experience in Egypt includes five seasons of excavation with Johns Hopkins University at the temple of the goddess Mut (Luxor), as well as four seasons in the field with a UCLA project in the Egyptian Fayum, at the Greco-Roman town of Karanis.

What Does It Mean to Be Truly Open Access?

Kate Korroch

Coeditor, *Visual Studies*

In 2016, when my colleagues and I founded *Refract: An Open Access Visual Studies Journal*, we spent several sessions making mind maps to generate and settle upon a name for the journal. “Refract” is where we landed, aptly reflecting our aim to break up and reallocate how we produce, present, and grapple with the dissemination of ideas. The element of the title that did not require extensive discussion was “open access.” We instinctively knew that we wanted the journal’s content, contributors, and readership to be as broad and inclusive as possible. Because of that, we prioritized publishing on a digital platform. Digital publishing is an inherent characteristic of open access. But what exactly is open access? How does it encourage innovative scholarship? How does it perpetuate or dissolve academic gate-keeping?

Director of the Harvard Open Access Project, Peter Suber, has been chronicling and writing about open access since the early aughts, defining it as follows: “Open-access (OA) literature is digital, online, free of charge, and free of most copyright and licensing restrictions.”¹ This delineation focuses on overcoming the pragmatic obstacles of circulating publications. OA is pragmatically accessible; it is not a book available only for purchase or a study behind a paywall. Among various articulated tenets, Suber reflects that OA does not equal universal access; language and ability are still pervasive hurdles to accessing materials. That raises the question, what is required for a publication to become truly open access?

Merriam-Webster uses phrases like “accessible on . . . or nearly all sides” and “having no closing or confining barrier” to define “open.”² The dictionary

describes “access” as “permission, liberty, or ability to enter” and “freedom or ability to obtain.”³ *Open* and *access* together release boundaries and barriers, and permit free entry. In many ways, OA digital publishing does just that. Where Su-ber’s description gives language and disability a quick nod, *Refract*’s OA approach strives for a nuance that expands not just who can click on what but how and why that engagement happens.

On *Refract*’s academic digital publishing platform, the journal’s material moves into nontraditionally academic production and reception. In volume 1, “Re-frac-tion,” Erick Msumanje contributed his film *VOLTA VOLTA* (2017). The work was accompanied by an artist’s statement by collaborator Alexis Hithe. Msumanje’s film and Hithe’s artist statement reflect on “ritual” and “digital” spaces; they discuss the black body and the digital experience and documentary. Editorial board member Kristen Laciste interviewed Msumanje and Hithe, to pro-vide a deeper context for *VOLTA VOLTA*. Here, *Refract* highlighted critical visual cultural output outside the bounds of traditional articles. In the interview Msumanje, Hithe, and Laciste elaborated on the ideas within the piece, creating an access that is not simply the opportunity to successfully click on a link but a calling-in to the actual material. At the end of the interview, Msumanje reflects on their conversation and the medium:

I was thinking about listening. What is listening? How do we listen? And how are we trained to listen to certain sounds, and why do we hear certain sounds and leave others out? What does the sonic say about the human experience in general? In connection to *VOLTA VOLTA* I’ve been thinking about the concept of listening. To me, listening is seeing. Listening is reading. Listening is connecting.⁴

The scholar and filmmaker speculates on the hierarchies of what we hear and see and how we experience our world. “Listening is seeing.” Msumanje’s expansion of the senses is a thread that *Refract* prioritizes both for the dynamic engagement with ideas but also to flesh out materials in a way that makes them intellectually reach-able.

In the second volume, “Translation,” *Refract* deliberately took up intersec-tions of the senses and troubled the assumption that we access materials in a com-mon way. In part, Antoni Abad’s project, *La Venezia che non si vede / Unveiling the Unseen* (2017) at the Venice Biennale inspired our approach. In Abad’s project the city was mapped through sound by people who were blind or visually impaired. They offered tours to Biennale goers, to share the experience. Implicitly, the piece was not only about disability and access but also about translation of language. The

Venice Biennale is a cosmopolitan event, and attendees come from all over the globe. Spoken languages may not be shared, but perhaps languages of the senses can help bridge the gap of communication and experience. Pairing creative articulations of access with Msumanje's contemplation that rearticulates the senses, for "Translation" we focused on contributions that spoke to access and the senses more explicitly.

Alexandra C. Moore's piece for the volume, "All le moto a ces droits: Notes on Hervé Youmbi's Translation of the Déclaration Universelle des Droits de l'Homme (DUDH)," brings together translations of language, history, and imagery. Moore presents images of signs in situ around Douala, Cameroon. Each sign features a select article from the Universal Declaration of Human Rights.⁵ The declaration was first written in English and French; Youmbi signs translate the original text into Camfranglais, a vernacular of Cameroon. On the journal's page, each image is accompanied with typed Camfranglais taken from the text on the sign, an English translation of that, a description of the artwork, and cultural social contextualization of its significance. Moore presents these layers of access to the complex histories of language and colonialism in Cameroon with criticality and care and offers an inviting and deep examination of Youmbi's work with multiple entry points of access.

Continuing to interrogate access and the tools available to do so, two additional contributors used various media to call attention to the disconnection and fracturing that happens for deaf people in a world designed predominantly for people who hear. In "Craptions: Instagram Notes from Joseph Grigely," the artist presents various social media posts documenting the perplexing and absurd glitches he encounters navigating his daily life. Accompanying an image of a professional baseball player on the pitcher's mound captioned with gibberish, Grigely says, "We are approaching the fiftieth anniversary of putting a man on the moon and still can't get right the technology for captioning."⁶ The tone is exasperated and even playful but points to a very serious example of deep-seated inequity. Moving off the page, Marrok Sedgwick's film *Untitled (Speech Poem #2)* privileges the disabled viewer, creating content most accessible to a d/Deaf viewer and walking the viewer through the different voices available to them for communicating. Their voice in the film is signing, writing, and body language. Sedgwick critiques that which is left out of translation—emotion, tone, and more—and "subverts this obfuscation of meaning, turning the tables to privilege disabled communities over non-disabled communities."⁷

The rest of the volume "Translation" and the volumes that follow strive to "obfuscate meaning" in order to reroute pathways of knowledge, making and engaging to enrich the existing dialogues and stretch to new communities of

thinkers. When *Refract* was founded, being an open access journal meant we could use a digital platform that allowed us to make something. It was also a guidepost ideology that offered an expansiveness within academic publishing that I hope continues to be rigorously dynamic and continually assessed.

* * *

Kate Korroch is Co-Editor of *Visual Studies* and a PhD Candidate in Visual Studies at the University of California, Santa Cruz. Korroch was the founding managing editor of *Refract: An Open Access Visual Studies Journal*. Korroch recently curated *What is an image?* for the International Visual Sociology annual conference and they are currently working on a project about femininities and the Korean Wave. Korroch contributed a chapter titled “The Isolated Queer Body: Harisu's Dodo Cosmetics Advertisements” to *Queer Asia: Decolonising and Reimagining Sexuality and Gender* (Zed Books, 2019), and “Cover Guys: Trans Male Portraits from *Original Plumbing Magazine*” in *Art Journal* (2021).

Many thanks to Rachel Bonner, Maureen McGuire, and the *Refract* Editorial Board for inviting me to contribute to this issue. Thank you to Alex Moore and Stacy Schwartz for their insights and feedback on these ideas.

Notes

¹ “Peter Suber, Open Access Overview (Definition, Introduction),” accessed September 19, 2022, <http://legacy.earlham.edu/~peters/fos/overview.htm>.

² *Merriam-Webster*, s.v. “open,” accessed September 19, 2022, <https://www.merriam-webster.com/dictionary/open>.

³ *Merriam-Webster*, s.v. “access,” accessed September 19, 2022, <https://www.merriam-webster.com/dictionary/access>.

⁴ Erick Msumanje, Alexis Hithe, and Kristen Laciste, “In Conversation with Erick Msumanje and Alexis Hithe,” *Refract: An Open Access Visual Studies Journal* 1, no. 1 (2018): 33–34, <https://doi.org/10.5070/R71141458>.

⁵ Alexandra C. Moore, “All le moto a ces droits: Notes on Hervé Youmbi’s Translation of the Déclaration Universelle des Droits de l’Homme (DUDH),” *Refract: An Open Access Visual Studies Journal* 2, no. 1 (2019), <https://doi.org/10.5070/R72145862>.

⁶ Joseph Grigely, “Craptions: Instagram Notes from Joseph Grigely,” *Refract: An Open Access Visual Studies Journal* 2, no. 1 (2019): 19, <https://doi.org/10.5070/R72145852>.

⁷ Marrok Sedgwick, “Untitled (Speech Poem #2),” *Refract: An Open Access Visual Studies Journal* 2, no. 1 (2019), <https://doi.org/10.5070/R72145861>.

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Peer Review Models, Publication Types, Open Access, and the Future

Daniel Story and Martha Stuit
University of California, Santa Cruz

How do you view the relationship between digital publishing and peer review, or between self-publishing and peer review? Are there other ways to create and assess legitimacy and scholarly rigor in digital publication and self-publication spaces?

First off, we acknowledge that digital publishing can take many forms, from standard article or book formats that are enhanced by digital visualizations or interactivity to a variety of less text-centered formats. Likewise, digital projects may enter the world by means of self-publishing (Daniel's main area of expertise) or through more established academic and commercial publishers (Martha's main area of expertise). Peer review will shake out differently across these contexts, as will other factors around digital publishing, with each presenting its own challenges and opportunities.

In the realm of academic and commercial presses, we cannot help but think of the increasingly acknowledged academic labor bottlenecks around peer review. If finding qualified reviewers is a challenge generally, finding reviewers with the particular mix of digital and disciplinary expertise to review digital projects will be harder still, and these on top of the importance of including [diverse representation in reviewer selection](#). But this could also be a moment for innovation. One possible alternative that intrigues us is open peer review, a practice by which a piece of scholarship is released for public review while it is still in progress (see [other definitions](#)). Comments are submitted publicly. Scholars can then respond and revise.

In addition to making the peer review process more transparent, open peer review might help address the reviewer challenge by crowdsourcing peer review to find not just willing reviewers but the mix of expertise that might be required for a particular digital submission. *American Historical Review*, for which Daniel consults, not long ago [undertook just such an experiment](#) with a submission by Joseph L. Locke and Ben Wright. The article, [“History Can Be Open Source: Democratic Dreams and the Rise of Digital History,”](#) went through multiple rounds of public comment and author revision and was eventually accepted for publication in the journal’s December 2021 issue. The piece itself is a compelling read on the topic of digital publishing and crowdsourced scholarship, but the review process was just as notable as a demonstration of what an alternative peer review model might look like. Additionally, a somewhat less-involved version of this might be the practice of posting a preprint of an article as a way for authors to get early [feedback](#) on their research while also attributing their work to their names early on.

To push this further, who is to say that peer review has to happen before final publication? With some kinds of work, that is simply not possible, or at least not ideal. Self-publishing often fits this category, as it sits outside the formal peer review process baked into outputs like journals and books whether digital or print. Additionally, some kinds of digital creations are too involved or multifaceted to make any sort of meaningful in-process presentation feasible. Why not channel the postpublication review process as an analog for prepublication peer review? Take podcasting, for instance, a medium that is more often than not a self-publishing endeavor. A podcast can go out into the world, and the peer review can be the reception, perhaps some combination of published reviews of the project and streaming statistics. That is what happened when Daniel produced [Stories from the Epicenter](#), a ten-part documentary podcast about the 1989 Loma Prieta earthquake and its effects on Santa Cruz County, California. The project did not go through a traditional peer review process, but it was reviewed after its release in 2020 in [The Public Historian](#) and [California History](#). Indeed, many academic journals are now regularly reviewing digital projects. One new journal, [Reviews in Digital Humanities](#), was created to tackle this specific challenge/opportunity head-on. Why not consider digital projects reviewed in this way likewise peer-reviewed publications?

Similarly, could a scholar seek comments on their in-progress digital project from colleagues or experts in their field? Could that person then list those contributions in their acknowledgments or via the [CRediT taxonomy](#)? Perhaps this strays beyond what we might consider traditional peer review, but it could be an alternative way to ensure scholarly rigor while being transparent about that process.

How can scholars measure the impact of their work in the digital realm as technologies evolve and transform? What are the potential impacts of shareability and virality on digital academic publishing?

Yes, what is impact? Or what is the kind of impact we are really aiming for? And how is impact demonstrated? Digital pieces can often be more readily tracked using altmetrics—things like numbers of clicks, shares, likes, or comments—which are over and above traditional measures like citation count and impact factor. Some publishers, for example, have created [maps that show live pins](#) where a publication is being read. Visualizing a publication’s reach gives us a glimpse of use in a way that is otherwise harder to track if not digital. Still, not everything needs to go viral, nor will it. Reaching more discrete audiences in meaningful ways may be just as, if not more, impactful. Here, numbers won’t tell the whole story. Rather, quality of engagement, rather than quantity, might be the more meaningful, if less straightforward, measure. The [Open Access Week](#) theme for 2022, “Open for Climate Justice,” points to this directly with the description:

This year’s theme seeks to encourage connection and collaboration among the climate movement and the international open community. Sharing knowledge is a human right, and tackling the climate crisis requires the rapid exchange of knowledge across geographic, economic, and disciplinary boundaries.

A webinar¹ about this theme conveyed that communities and advocates need to be able to find and access data and information, but those who need it the most often have great challenges in getting it. Climate justice is not the only field with this need. All fields grapple in some way with the intersection of digital publication, access, and impact. From a librarian perspective, impact is not just about a lot of impact—however you count that—but also about the information and data reaching the people who need it to further their work.

Also related to impact is what gets credit and why. Questions about credit are larger than whether a work is digital or not, but the digital realm adds more layers. Bibliometrics offers a long-standing area of analysis with various measures that can be problematic: the way that metrics are calculated paired with authors’ priorities in choosing how and where to publish increases the nuance and complexity. What are the authors’ priorities? How are priorities driven by what gets credit? Authors can push the needle on these priorities—and maybe even what type of work gets credit—through the choices that they make in how they publish their work.

How might digital publications include media beyond text? What opportunities or ways of reimagining the relationship between form and content are unique to digital publishing, and what risks or stigmas must those approaches contend with?

The possibilities beyond text seem almost endless, although usually text of some sort will still be involved. Digital platforms offer ways of serving up various kinds of non-text-centered media, from audio and visual material to interactive maps and other sorts of data visualization, to nonlinear argumentation and storytelling, to immersive elements like 3D objects and virtual reality, to audience feedback and interaction. The list goes on.

Again, we see differences depending on the publishing context. Self-published digital projects, depending on their particular form and medium/s, can take advantage of a wide variety of commercial and open source platforms. Omeka is a go-to for online exhibits. Scalar is often used for nonlinear writing and storytelling. ESRI's StoryMaps platform is another increasingly popular tool that allows one to seamlessly incorporate a wide variety of media. And there are any number of more specialized platforms and approaches to display 3D objects, interactive maps, data models, audio and video projects, and more.

Incorporating these non-text-centric digital projects into the platforms of established publishers can be much more challenging. Many such platforms are inherently limited by past conceptions of what a publication could or should be. Some may offer digital integrations like Manifold ([for example](#)). Others depend on using outside platforms to extend their capabilities, such as with Elaine Sullivan's 3D-enriched digital monograph [Constructing the Sacred](#), published by Stanford University Press with the platform Scalar. Without a doubt, many publications could take more advantage of digital affordances, though cost and labor involved in those endeavors will have to be addressed.

Although digital publications may seem less fragile than their analog counterparts, the infrastructure of computing and the cloud often results in shorter lifespans for born-digital content. How do digital publications interact with and alter the infrastructure of analog archives? How might digital publications be preserved into an indefinite future? What might the archives of digital publications look like ten, twenty, or fifty years from now?

Many of us have had that sinking feeling when a webpage, article, video, site, or other digital item disappears—a real, frightening, and all-too-common occurrence! This is often frustrating, and we think a lot about this issue in libraries because we

are often on the receiving end of such changes. A number of reasons could be the culprit, not just the infrastructure itself. A major factor, though, is the decisions made by the human beings who manage publications, platforms, and preservation. Moreover, their decisions about whether and how a publication is shared and preserved, such as format and backups, ideally should not just be considered later on when there is a final product to preserve but, rather, earlier in the publishing process.

What are those decisions, and who is responsible? Authors have some say over what their publication will look like and its lifespan through their choices of publisher, platform, and/or how to publish (e.g., open access or behind a paywall). However, the decisions that are in the hands of publishers can present more challenges. On the one hand, publishers may be nonprofit, [academy-owned](#), university presses, and/or society (and those categories are not necessarily mutually exclusive). These types of publishers tend to embody values like preservation and openness while still making selections about what to publish, its cost, and so forth. On the flip side, publishers may be commercial and private. They make less transparent decisions on what gets published, how much it costs, who gets to see it, and whether it remains available. Furthermore, digital platforms may be proprietary or open source, which offers publishing options—and conundrums—to authors. Such choices by humans influence the availability and preservation of publications not unlike analog options.

We can delve further into these considerations and choices, such as whether the author keeps all their rights when publishing or if they give some or all their rights to the publisher and/or platform. Yet another question is whether that publisher will continue to exist and make the work available—and what happens if they cease to exist. If the platform and/or publisher go dark, can the author take the content and be able to view it still? This is both a technology question and a copyright question. When a platform changes or goes away, the publication may not be usable elsewhere, or some preservation may be possible but lack full functionality. Aside from being able to take a publication elsewhere, the author may or may not be allowed to do so.

This laundry list of questions about the type of publisher and platform then brings us to still more questions about the type of publication. Long-standing academic outputs like articles and books have more infrastructure and preservation practices in place around them should a publisher disappear, server get destroyed, or some other disruption occur. The full text is often indexed in multiple places. Libraries own copies. Different versions are archived in digital repositories. Digital projects, however, are another story. Again, we ask, is the publication produced in

a proprietary or open source format? Also, how much does publication and maintenance cost? As they like to say, when something is free, you are the product.

Aside from publishers, platforms, and publication types, we also must talk about long-term goals for a publication. Is the publication meant to contribute to the scholarly record for the long term, or is it more ephemeral? If it is the latter, what is the plan for sunsetting the project? Sometimes the answer is not endless preservation but a sensible and graceful retirement plan for projects.

Looking ahead, many experts focus on this thorny problem, such as born-digital archivists. Libraries and archives are in the long game with preserving and thinking ahead so that publications, whether analog or digital, remain available, which is not without its many hurdles. What publications and their preservation look like will continue to evolve, but these considerations of where and how a publication is published—proprietary or open? rights retained or not? long-term or ephemeral?—are persistent and important to answer, and they shape the archive. What also needs to stay stable are the values behind preservation efforts, such as openness and trust, so that what is there now will be available in the future (if so desired).

* * *

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Notes

¹ T. Chalmers, E. Williams, and M. Granados, *What Is Climate Justice? A Pre-OA Week Conversation* (webinar), September 29, 2022, Open Access Week, SPARC, and Creative Commons.

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Navigating Media, Technology, and Narrative: Considering the Digital Turn in Scholarly Publishing

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Though it may seem counterintuitive to digital publishing, reflecting on analog bookmaking practices underscores the multimodal potential that has always underpinned the production of scholarly communications. In a medieval manuscript, for example, the content on a page might include text, illustration, marginalia, commentary, and rubrication, and the relationship between these elements shapes the way in which the narrative is understood and approached by readers; any modification to these formal features could alter how the content is interpreted, and indeed, scholarship exists that addresses the consequences of such changes from one edition of a text to the next. Bringing together formal and narrative elements in order to shape the reader's navigation of content in an analog format is not dissimilar, then, from the requirements for producing a digital publication, insofar as such projects also oblige authors to carefully consider how the placement of multimodal enhancements like digital maps, image collections, and video and audio clips will inform the relationship between media, text, and scholarly argument, in addition to the reader's interpretation of those components. Yet digital publications also introduce new challenges for authors and publishers, particularly in terms of time, cost, and preservation, which might deter potential projects from realization. As academic fields look to future modes of publishing, particularly born-digital or hybrid models consisting of digital and print formats, it is worth remembering that multimodality, creativity, and innovation have long been central

to the creation and sharing of scholarly communications, in order to approach new methods of publication, including digital, as a continuation of long-standing efforts to produce rigorous scholarship and not in opposition or ancillary to these aims. Rather, the collaboration and considerations central to developing and preserving a digital publication, in addition to the inherently broader audiences a digital publication can reach, point to ways in which new modes of publishing can continue to produce meaningful scholarship as well as open the field to more equitable, inclusive, and sustainable practices.

The affordances of digital publication are manifold, especially for scholars engaging in visual, cinema, media, and performance studies, whose scholarship would be otherwise flattened or condensed to a singular representative image in a print format. By engaging in multimodal content, that is, integrating various combinations of video, text, images, audio, maps, or other digital enhancements within a project, digital publications can look beyond text and more effectively pair scholarly narrative with supporting digital tools. For example, a scholar exploring theories of time or space might consider designing nonlinear pathways of reading a project that provide multiple points of entry for audiences to engage with the narrative, rather than selecting a linear structure that encourages readers to adhere to a specific path of navigation, such as following a traditional table of contents. Likewise, digital platforms make it increasingly possible to expand the range of content, linked or otherwise, within a project and to develop multilingual components that more appropriately reflect the language(s) of the community the scholarship explores, in addition to speaking to the scholarly community. Significantly, digital tools and platforms can also make it possible to thoughtfully engage in accessible practices. Publications can support alt-text, which describes visual content, screen readers, and transcriptions that facilitate more equitable access to scholarly publications. Such digital affordances, ranging from creative content to design, to narrative, to accessibility, underscore how creating open access digital publications is an important step toward broadening the visibility of scholarship beyond specialty audiences and facilitating more accessible scholarship.

Yet multiple barriers exist to producing digital publications. A significant number of scholars motivated to develop digital publications lack access to the resources, time, and support for their projects, raising the risk that developing digital publications is limited to well-funded institutions. This challenge is particularly relevant for early career, adjunct, and independent scholars, or anyone working in a contingent capacity, who may not have access to grants, financial or technical support, time, or equipment to realize the multimodal components of their project, and may also face hiring, tenure, and promotion committees that have yet to develop a system for evaluating digital publications. Despite these challenges, the

multimodal affordances of digital publications point to a potential transformation of traditional approaches to scholarly publishing that may expand the resources available for producing such projects in the future. For example, while a gap can emerge in communications between the author and the editorial team under the traditional print publication model, in the case of digital publications, this collaborative effort necessarily begins sooner; the author must be acutely aware of the ways in which readers will navigate the digital project, and therefore must think strategically about the integration of digital tools, media, and design just as much as about sustaining a scholarly argument across chapters. Rather than an author handing off a project to be edited and formatted, there is a necessity to bring together different areas of scholarly, digital, and editorial expertise early in the conversation in order to fully conceptualize the relationship between narrative and form within a digital platform.

The steps for editing and evaluating digital publications must also undergo transformation in order to appropriately consider the unique affordances of digital publications. One obstacle to developing digital publications is that of identifying peer reviewers who can evaluate both the design and the digital infrastructure of a project—that is, how the publication is navigated and the relationship between narrative and form—as well as critically engage with the scholarly argument. Many institutions have limited digital humanities resources and courses, which indicates that there does not yet exist a generation of scholars who are positioned to evaluate the uniquely interdisciplinary considerations of a digital publication. While this might be viewed as a challenge to the traditional peer review model, insofar as digital publications require an expansion of the typical number of reviewers for a project or may disqualify a go-to reader in a given field, it also opens up space for thinking critically about the role of the peer review process. Given the collaborative approach required to produce digital publications, the peer review evaluation must also become more collaborative. That is, editors must give equal weight to the digital design, layout, and navigation as they would to the scholarly argument, or begin to look beyond traditional review models in order to develop new forms of evaluation that value considerations like accessibility and user experience just as much as narrative. The issue of peer review for such interdisciplinary content points to the need to more proactively address the review processes industry wide so that they expand to address more considerations inherent to the digital format.

Another significant consideration of digital publication is long-term sustainability and preservation. Technology evolves rapidly, and many projects currently being developed use platforms and tools that will need to be upgraded in the future in order to continue to function, until they reach a point where upgrades are no longer possible. While there are sustainable practices scholars can undertake

to preserve their digital projects for a longer period, including minimal computing, there will likely be a point—ideally far in the future—when the digital publication may no longer function as originally intended. Future archives of digital publications currently being developed might demonstrate the potential range, as well as limitations, of such multimodal enhancement. Nevertheless, there are still timely and meaningful reasons to pursue digital and born-digital publication, especially if the scholarship engages in multimodal content that is best expressed in a digital format. Beyond this practical but essential motive, there are also compelling reasons to develop scholarship in a format that has the capacity to prioritize collaborative, accessible, inclusive, and creative content; by integrating multimodal digital enhancements and producing scholarship that is inherently collaborative and interdisciplinary from its origin, digital publications can contribute to transforming what scholarship can look like, who it can represent, and how it can connect with broader communities of readers. Digital publications can thus offer new, iterative, and accessible pathways for creating and sharing scholarship, and importantly, offer a space for creativity and fun that might connect projects with unanticipated yet curious audiences outside academic specialties.

In the wake of the COVID-19 pandemic, the need to pivot to digital methods for teaching, carrying out research, and sharing scholarship continues to be felt acutely as scholars grapple with obstacles that continue to prevent them from connecting with research materials and engaging with colleagues. It is thus vital to critically engage in this transformative moment within scholarly publication in order to expand opportunities for sharing scholarship and to resist perpetuating practices that marginalize underrepresented voices. How can digital tools and platforms be leveraged to develop digital publications that are more accessible and inclusive, and that create more space for elevating new and diverse forms of scholarship? And how do digital publications establish their scholarly legitimacy while actively pursuing new modes of digital expression? These are some of the central questions motivating many scholars pursuing digital publications, especially as the number of open access publishing platforms continues to expand the reach of scholarship beyond traditional academic boundaries. As the number of digital and open access publications grows, the questions of audience and platform will continue to resonate across disciplines and lead to conversations about how scholarship is produced and evaluated, in addition to how the very process of scholarly writing is transformed itself, given the necessity to consider broader communities of readers and address unique multimodal features.

As an essential resource for sharing future scholarly communications, digital publications offer a unique path for creating and assessing scholarly rigor through multimodal enhancements within projects by requiring readers to navigate

the relationship between media, technology, and narrative. Given their collaborative nature, digital publications furthermore create an opportunity to produce more equitable and inclusive scholarship that expands visibility for different ranges of labor and multimodal content integral to producing a born-digital or hybrid publication. And finally, by addressing both specialist and global audiences, digital publications offer an opportunity to engage with increasingly diverse and global audiences. By fundamentally transforming the scope of scholarly communications, the unique affordances and considerations of digital publications introduce an opportunity to engage in the creation of more accessible, equitable, and innovative scholarship, in addition to providing a bridge to future forms of scholarly publication that continue to transform traditional academic boundaries.

As contemporary publishing fellow, Cosette Bruhns Alonso spearheads a pilot collaboration between the University of Pennsylvania Library's Center for Research Data and Digital Scholarship and the University of Pennsylvania Press to design and develop digital publications through innovative uses of multimodal and interactive digital enhancements. She collaborates with campus partners, including the Kislak Center for Special Collections, Rare Books, and Manuscripts, the Schoenberg Institute for Manuscript Studies, Penn Museum, and the McNeil Center for Early American Studies to develop sustainable digital publications driven by faculty research and archival collections. Beyond the University of Pennsylvania campus, she works to advance collaborative, accessible, and antiracist digital publishing practices as a member of the Library Publishing Coalition's Diversity, Equity, and Inclusion Committee. Prior to joining Penn, Cosette held the position of Diversity in Digital Publishing & Italian Studies Postdoctoral Research Associate at Brown University, where she facilitated the NEH Institute on Advanced Topics in the Digital Humanities, *Born-Digital Scholarly Publishing: Resources and Roadmaps*, and supported the editorial and digital development of faculty publications. She holds a PhD in Italian studies from the University of Chicago and a BA in philosophy from the New School.

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Images, Copyright, and the Future of Digital Publishing in the Arts

Katie Fortney

California Digital Library

Publishing in many arts disciplines is enriched by, and may rely on, the use of images. Authors have long found the hurdles and the fees for using these images to be daunting, and the move to digital publishing can make this problem worse. Open-access publishing can prove even more challenging. If scholarship in art history, art criticism, visual studies and other fields is going to thrive in a future where digital and open-access publishing are the norm, we need better options. Fortunately, we have already seen signs that a better future is possible, and communities have been creating resources to make it more likely. Raising the awareness of the individuals and organizations in the art scholarship publishing ecosystem about these resources is a crucial first step toward a shared vision for scholarly publishing in the arts: one that encourages academic freedom and broad engagement through openness and a better understanding of the law.

Authors and Fair Use

Under US law, reproducing an image that someone else created without getting permission sometimes qualifies as fair use and is not an infringement of copyright. Fair use has long served as a crucial mechanism for ensuring that the rights granted to copyright owners do not stifle free speech. As the Seventh Circuit once explained, fair use facilitates “criticism of copyrighted works by enabling the critic

to quote enough of the criticized work to make his criticisms intelligible. Copyright should not be a means by which criticism is stifled with the backing of the courts.”¹ Reproduction of a piece of visual art in order to facilitate critical writing about that piece of art is at the heart of fair use, the statute for which specifically calls out the paradigmatic purposes of “criticism, comment, news reporting, teaching, . . . scholarship, or research.”²

And yet, in interviews and surveys conducted among visual arts professionals in 2012 and 2013, this right was not being taken advantage of because of confusion about fair use and a perception that permission was required.³ This data gathering was the first phase of a College Art Association (CAA) project that sought to develop a code of best practices in fair use for the visual arts, and it was conducted by two law professors who were among the principal investigators for the project.⁴ Instead of relying on fair use, the project found, art scholars were often self-censoring or overpaying for permissions that were not required by law. As described in the project’s *Issues Report* to the CAA in 2014, respondents reported abandoning projects, avoiding certain topics, and warning graduate students away from subjects because of real or perceived copyright issues.⁵ It is difficult to estimate the damage that this culture of permissions has had on academic freedom and art scholarship. Choices like these, as a later recap of the survey results summarized, jeopardize scholars’ “ability to realize their own full potential, as well as that of the visual arts community as a whole.”⁶

As a later phase of the project, the CAA published the *Code of Best Practices in Fair Use in the Visual Arts* in 2015.⁷ The *Code* describes five common scenarios where it should be reasonable to rely on fair use, based on the consensus of focus groups of art professionals and review by external legal experts. The first of these scenarios is in the case of art scholarship: “In their analytic writing about art, scholars and other writers (and, by extension, their publishers) may invoke fair use to quote, excerpt, or reproduce copyrighted works.”⁸

The principle is qualified with a few limitations, including

- “The writer’s use of the work, whether in part or in whole, should be justified by the analytic objective, and the user should be prepared to articulate that justification,” and
- “The amount and kind of material used and (where images are concerned) the size and resolution of the published reproduction should not exceed that appropriate to the analytic objective.”⁹

These limitations and the others included in the *Code* are easily met by most academic writing, where an image is only reproduced so that readers can understand what the author is writing about. And while reliance on permission is

sometimes less about the law and more about maintaining relationships, it should be reassuring to art scholars that the *Code* was endorsed by the Association of Art Museum Curators and received statements of support from the American Alliance of Museums and the Association of Art Museum Directors. Despite all this, however, many scholars remain leery.

Scholars who work with images need to better understand and advocate for their rights in order to shift away from a culture of permissions. No one is better placed than they are to understand and explain how the use of particular images (or the inability to use them, or the steep cost of using them) affects the scholarship they do and the scholarship they could be doing if copyright concerns were not haunting their disciplines.

However, authors are not the only ones exercising control over fair use decisions. In making their work available to the public, authors partner with journals and presses to publish their work, and these organizations have their own policies regarding fair use.

Publisher Policies regarding Fair Use

The “Policies” page for this journal, *Refract*, states, “Before submitting an article to the journal, please be sure that all necessary permissions have been cleared in any third party material.”¹⁰ Note the word *necessary*; if the law does not require permission, then neither does the journal (nor does its publisher, eScholarship¹¹). But publisher policies vary.

On the one hand, there are presses like those at Yale and MIT, both of which publish monographs in art,¹² and both of which support fair use. The Yale University Press Guidelines for Authors of Art Books include a section titled “Guidelines for Fair Use of Art Images in Scholarly Art and Architecture Monographs.”¹³ According to those guidelines, “Yale University Press supports the fair use of art images in scholarly monographs.” The guidelines walk through each of the four factors of fair use and explain that the press has a general rule of thumb for quarter-page size when images are included in a book as a fair use. If there is a disagreement between the author and the press about whether a use qualifies as fair use, the press gets to make the final decision. But overall, the guidelines reflect a nuanced and flexible approach and portray a publisher interested in working productively with authors to exercise fair use rights in a reasonable way.

The page for Current Authors on the MIT Press website says that in 2017 MIT Press “adopted a progressive policy in order to encourage the fair use of

published materials in scholarly publications.”¹⁴ The accompanying Permissions Guidelines explain what fair use is, reference the CAA Code, and give some examples, including use of images.¹⁵ The guidelines urge authors to think carefully and act responsibly, but also allow them to use their judgment, and state that “MITP does not require authors to obtain permission where they reasonably determine in good faith that fair use applies.”

The University of Chicago Press permissions guidelines, on the other hand, caution authors away from fair use of images: “It is more difficult to claim fair use for copyrighted works of visual art reproduced in their entirety, and you are encouraged to err on the side of caution in such cases.”¹⁶ The section on works of art is even starker: “Unless the work was published in the US prior to 1926, you will need to seek copyright permission to reproduce works of art whose creator died less than 70 years ago.”¹⁷ The University of Minnesota Press has similar instructions: “Artwork, including paintings, drawings, and comics, require permission.”¹⁸ “Photographs other than the author’s own,” they claim, “require permission. Exceptions are screen captures and promotional publicity stills for films, which are considered fair use under the justification that they are small parts of a much larger whole.”

Why would one university press be more cautious than another? Well, no one wants a lawsuit, or the threat of one, and some presses may have reached a different conclusion about the balance of risks than others. Even when the law is on your side, copyright complaints can be stressful, time-consuming, and costly. The previously mentioned guidelines for the University of Chicago Press give another insight: “Lenders may blacklist an author or a Press for using images in their collection without having obtained a Use Permission from them.” This brings us to another of the parties in the ecosystem of art scholarship publishing: those who hold the physical works of art and control access to images.

Museum and Archive Policies

To make fair use of an image you have to have a copy of that image. To publish it—especially in print—you have to have a good quality copy.¹⁹ In some cases, the only way to get that copy is to request it from the gallery, library, archives, or museum (“GLAM” institution) that has the original physical item you want to write about, and to agree to the terms of their particular contract. The terms of these contracts vary even more than publisher policies.

Some GLAM institutions will not provide an image to an author unless that author first gets permission for their use from the work’s artist or the artist’s

estate. In some cases this requirement may come from a restriction imposed on them by the donor or seller of the work in the acquisition agreement, and the institution has no choice. More typically, the GLAM institution is trying to limit its risk based on its understanding of the artist's rights under copyright law, not contract. As discussed above, however, the law often allows the use of a work without permission in the context of criticism of that work. When GLAM institutions require copyright holder permission before giving an art scholar a copy of a work, they are not only deciding not to take advantage of the fair use rights the institution has under the law; they are also preventing authors from using *their* rights to rely on fair use in their scholarship.

GLAM institutions with this practice can do better, and the *Guidelines for the Use of Copyrighted Materials and Works of Art by Art Museums* point the way.²⁰ Similar to the CAA's *Code of Best Practices*, these *Guidelines* published by the Association of Art Museum Directors acknowledge that "when the amount of the copyrighted material and the size and quality of the image are only so much or so large and of such resolution as to accomplish the purpose of the scholarly article, such use of copyrighted material should be regarded as fair use."²¹ GLAM institutions wishing to limit their liability when providing images for fair use to third parties they cannot control, like outside authors, can look to the section on Website Terms of Use²² for conditions to add to the contracts they use. For example, they can require authors to indemnify the institution for uses that exceed fair use or otherwise violate the rights of others.

Use of Public Domain Images

So far I have been talking a lot about fair use. This seems like a good time to pause and point out that some art is actually in the public domain. For those images, authors do not need to rely on fair use because the work is not protected by copyright at all. In the United States, works generally fall out of copyright and enter the public domain ninety-five years after they were published, or seventy years after the death of the creator if never published.²³ That means anyone can use them for any purpose.

Therefore, if a work of art is in the public domain, the copy is good enough to use for your publication, and the image was obtained lawfully and without signing anything restricting your right to use it, you do not need anyone's permission. Neither the artist's estate, the GLAM institution that holds the original, nor whoever made the scan has any legal right to control that image. Anyone who has such a copy could give you a copy or post it online for everyone,

like the Art Institute of Chicago,²⁴ LACMA,²⁵ or the Rijksmuseum²⁶ do. But lots will not.

Some GLAM institutions claim, or seem to imply, that they own copyright in the images of public domain works that they provide. Presumably they are referring to their photograph or scan, not the original work. However, while a photograph of a three-dimensional object is copyrightable, in the United States, a faithful reproduction of a painting or other two-dimensional artwork is not.²⁷ Similarly, there is no *new* copyright in a scan or photographic reproduction of a two-dimensional work that is still in copyright; there is only the copyright of the artist.

Many GLAM institutions either do not realize this, do not believe the law applies in their jurisdiction, or just do not care, and so they assert ownership in a copyright that does not exist. A caption under a photo of a public domain painting that says “(c) MFA Boston” or “(c) Huntington Art Collections” is a false statement. If you need an image from some GLAM institutions, they will require you to perpetuate this falsehood to your readers, in a caption in your work, as a condition of giving you a copy of the image you can use for publication.

It does not have to be this way. More and more museums are taking the opposite tack, making the public domain items in their collections not only available to view online but available under a policy that encourages distribution and reuse. Prominent US institutions like the Smithsonian,²⁸ the Met,²⁹ and the Getty³⁰ have made news with their open content programs, but museums and archives all around the world are increasingly likely to have such a policy. The Open GLAM survey tracks these GLAM institutions openly sharing data and collections in a publicly viewable spreadsheet, and there are now over fourteen hundred of them.³¹ The 2022 update includes links to open collections or open content policies at the Wien Museum in Austria,³² the Museo Nacional de Bellas Artes in Argentina,³³ and many, many more.

Looking to the Future

Ten or twenty years ago some of the things I cite above—open content policies at major museums, supportive fair use guidelines from publishers and museum directors—might have sounded like naively optimistic things to wish for. The book *Permissions: A Survival Guide* captured the state of publishing books with art images in 2006.³⁴ It was written by Susan M. Bielstein, executive editor at the University of Chicago Press, and describes not only issues faced by authors she had worked with at the Press but also her own ordeals in acquiring images for her

own book. Her discussion focuses on print publication; in an early chapter she describes digital publishing of art books as “not likely to happen anytime soon,” and parts of an environment that would support such a thing as “simply not viable.”³⁵

Some seemingly impossible things have become reality, but we are not exactly living in an image-publishing utopia. As described above, many GLAM institutions still claim copyrights they do not have in reproductions of works in their collections. The contracts from some institutions will not only require you to print a false copyright statement; they will also limit the number of copies of your book or article that uses an image, which seems completely out of touch with the way publishing works in a digital age. And some GLAM institutions still charge fees for scholarly uses—legal, fair uses—that scholars cannot afford.

What’s an author to do? For one, make sure you understand the law that controls the use of images. The codes and guidelines described above are short, approachable for nonlawyers, and full of good information. Second, advocate for yourself. If a publisher or a GLAM institution says something that sounds unreasonable based on your understanding of the law or of the economics of academic publishing, tell them so. Show them counterexamples. It may not change their mind for your publication, but maybe if they hear from enough people, they will start to pause and think.

Finally, be transparent to your peers and other readers. Read Bielstein’s book for great examples of this. Her image captions include the credit lines she has been required to use, but she comments on them.³⁶ She says how much she had to pay for each, and to whom, alongside each image and in a summary at the end of the book. In my favorite example of this frankness, there is a blank box with a note: “The Bacon Estate asked to read the relevant text for this image and subsequently refused copyright permission to publish it.”³⁷

Fortunately, badgering by art scholars is not the only motivation for GLAM institutions to adopt better practices. Some have revamped their image policies and fee structures, finding that the revenue they were generating did not cover the administrative costs of maintaining their permissions program,³⁸ or that charging lower fees actually resulted in more income because authors would request more images.³⁹ Christine Kuan, former chief curator of Artsy, has hypothesized that GLAM institutions with restrictive policies might find that their approach can cost them in other ways: “less brand recognition, less public visibility, less educational impact, fewer onsite visitors, fewer scholarly publications (e.g., scholars may choose images that are more easily accessible or free), and less engagement with people who do not have physical access to art museums, art libraries, and other resources.”⁴⁰

When Bielstein was denied permission by the Bacon Estate in the example above, it was because she was using the image to illustrate the statement “about as pretty as a Francis Bacon painting,” which they apparently found unflattering. Intrigued by the blank box, I hopped online, used a search engine to locate a copy of the image, and had a good laugh. The future of digital publishing for art scholarship is bright. Whether that future will include images remains to be seen, but looking at the vibrant HTML and PDF pages of publications like *Refract*, I hope so.

* * *

Katie Fortney provides the University of California campus libraries and their communities with educational resources and policy guidance on copyright and rights-management issues, particularly those related to the California Digital Library’s scholarly research and publishing services via eScholarship and special collections access platforms like Calisphere and OAC. She supports the UC Open Access Policies through her work as part of the Office of Scholarly Communication, and maintains the UC Copyright website as part of her role on the Standing Subcommittee for Copyright Policy of the Systemwide Library and Scholarly Information Advisory Committee (SLASIAC).

Notes

¹ Chicago Board of Education v. Substance, Inc., 354 F. 3d 624 at 628 (7th Cir. 2003), https://scholar.google.com/scholar_case?case=29158225004000339.

² 17 U.S.C. §107, <https://copyright.gov/title17/92chap1.html#107>.

³ Christopher Howard, “CAA Publishes Fair Use *Issues Report*,” *CAA News Today*, January 29, 2014, <http://www.collegeart.org/news/2014/01/29/caa-publishes-fair-use-issues-report/>.

⁴ Christopher Howard, “Update on CAA’s Copyright and Fair-Use Project,” *CAA News Today*, October 7, 2013, <http://www.collegeart.org/news/2013/10/07/update-on-caas-copyright-and-fair-use-project/>.

⁵ Patricia Aufderheide et al., *Copyright, Permissions, and Fair Use among Visual Artists and the Academic and Museum Visual Arts Communities Issues Report*, College Art Association, 2014, 8, <http://www.collegeart.org/pdf/FairUseIssuesReport.pdf>.

⁶ *Code of Best Practices in Fair Use in the Visual Arts*, College Art Association, 2015, 6, <https://www.collegeart.org/programs/caa-fair-use/best-practices>.

⁷ Ibid.

⁸ Ibid., 9.

⁹ Ibid.

¹⁰ “Policies,” *Refract*, <https://escholarship.org/uc/refract/policies>. Accessed August 22, 2022.

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Glimmers of Digital Publishing Innovation

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As an exercise, take a moment to consider: What is the most *innovative* eBook or electronic publication that you have read in the past couple of years? Alternatively, what is the most innovative electronic publication, broadly speaking, that you have *ever* read? You might be asking, what does *innovative* have to do with it? Isn't an eBook essentially the same as print book, just one that you can read on a mobile device? How do you define innovative in terms of electronic publications? The mere fact that you are reading this, however, may predispose you to have some idea, or recollection, of something pioneering and inventive in the realm of digital texts.

This exercise has a second part: If the *innovative* eBook you considered—if, in fact, you recalled any in particular—is one you read more than five years ago, is it still available? Can you access it, read it again? What about an *innovative* eBook you may have read more than a decade ago?

Innovative, in terms of an eBook, can mean a lot of things. For someone with vision or reading disabilities, for example, it might mean an expertly formed, accessible text, one with images that are well described, with charts and tables that are not gibberish with a screen reader. Innovative can mean the seamless and effective use of text, audio, and video. It might mean interactivity, immersing the reader in the text, as a participant.

Most of us, on average, however, don't ask a lot from the eBooks we may read on a regular basis. We expect them to function. That's what most publishers, vendors and platforms focus on. If we check out an eBook from a public library,

using an app such as Libby from Overdrive, or from an academic library using ProQuest or another vendor, we cross our fingers and hope that we have access, can avoid a long waiting list, and can read the text without technological glitches. A couple of dozen eBooks I purchased for my Sony Reader became inaccessible several years ago after the device's demise and Sony's eBook platform itself became nonfunctional. Particularly in the realm of books, there seems to be little true innovation with electronic publications from the reading perspective. This is not to say that publishers haven't pursued some innovations in terms of digital-first workflows and processes, albeit haltingly. "Digital transformation" was cited as the number one business priority by publishers surveyed by Deanta for "Trends in Academic Publishing 2022," while 30 percent of publishers claimed that "developing a clear strategy in a complex world" was holding them back. At least until now the focus of innovation in publishing technology has centered on XML workflows, of late on data analytics, and though less than optimally, on metadata.¹

Glimmers of innovation in digital publishing emerge in the intersection of gaming and text. *80 Days*, developed by [Inkle Studios](#), a UK-based company founded by Jon Ingold that has been innovative in text-based gaming, provides an excellent example. Inkle productions such as *80 Days* have been widely embraced by the gaming community but have received far less attention from the publishing community.² These text-based games can be large or small. An excellent example of the latter is [Scents and Symbiosis](#), developed by [Sam Kabo Ashwell](#), which he calls "a piece of interactive fiction about perfume, memory, and the process of assigning or re-evaluating personal symbolic associations with things: *semiosis*, the creation of meaning."³ Notably, this game is dedicated to [Emily Short](#), the modest but undisputed doyenne of all things text-game related. For an epic, text-based game, look no further than [AI Dungeon](#), developed by a college student named Nick Walton, who subsequently founded game startup [Latitude Games](#). AI Dungeon, as the name implies, is a *Dungeons & Dragons*-style text-based, choose-your-own adventure game that Walton built using the AI text generation system GPT-2. Developed by the nonprofit, venture capital-backed OpenAI—and yes, that is a contradiction in terms—GPT (generative pre-training) became even more powerful with GPT-3, which Walton used to upgrade *AI Dungeon*.⁴ You can play *AI Dungeon* for free, although you'll need a paid account to unlock all story capabilities and more powerful GPT models. Give it a try: you'll pick a setting (Fantasy, Mystery, Zombies, Apocalyptic, etc.), select a character (depending, naturally, on your first choice), name your character, and you're off to the races. Whether *AI Dungeon* will be available to play and read five or ten years from now, let alone fifty, is anyone's guess. At least for now, the [original launch version](#) is still available, even as the

company ventures further with new iterations and improvements enabled by GPT-3.⁵

I don't have a crystal ball, but I have a compass. Of the innovations that will transform publishing, artificial intelligence (AI) is the monster in the room, apt to transform all of society. (Let's check in, in a few years, to see if that transformation is more *Terminator* or *Utopia*; if we're lucky we'll be around to note it's been a combination of both.) AI is already transforming how publishers and other organizations collect and analyze data; it's having an impact on generating audio-books. Google used neural networks, a subset of machine learning, to transform Google Translate overnight from an unreliable tool to a trusted resource.⁶ The predictive text of Google Smart Compose creates cogent sentences to "save" billions of keystrokes.⁷ AI can assist with what one might want to research and even to write a research paper or a novel.⁸

NFTs (non-fungible tokens) remain a wild card, one worth keeping an eye on in the world of digital publishing, with their potential for collectible and transferable ownership, microcredentialing, and microcurrencies. NFTs—ownership records of assets stored on blockchains—can be bought, sold, resold, and traded on online platforms. NFTs can have at least potential value as speculative collectors' items; through the addition of "smart contracts" that govern resale rights, they can track value over time. Ingram Content Group, one of the world's largest book distributors, long a leader in print-on-demand (POD) technology, entered the NFT game by investing in start-up Book.io, with plans to "create NFT ebooks and audiobooks from the world's top authors and publishers" and "bundle NFT eBooks with bespoke printed physical books."⁹ Pearson hopes to diminish the irritating—for them—secondary market for textbooks through NFTs, which would allow the publisher "to *participate* [emphasis mine] in every sale of that particular item as it goes through its life."¹⁰ In theory, at least, NFTs can have an impact on preservation as well as transfer of ownership, ameliorating the issue I described above, with the eBooks from my long-obsolete Sony Reader.

On the more creative side, Amplified Publishing, a Bristol+Bath Creative R+D incubator, has provided support to four prototype teams including Storm Jar, which is pursuing a model of interactive horror fiction utilizing a sustainable version of NFTs, microcredentialing, intelligent design, new forms of storytelling, and Web3 technologies.¹¹ This may give you nightmares or may be a harbinger of things to come.

The Deanta survey mentioned the Jekyll and Hyde nature of the industry: traditional yet agile, siloed yet progressive, cautious yet innovative.¹² Deanta's survey results may refer to different people, or perhaps not. Many publishers, both organizations and individual professionals, contain multitudes, a mix of traditional

business model and agile, digital start-up mode. My compass also points to the northern and southern poles that are the creators and authors themselves. I await the *Don Quixote* or *Moby-Dick*, the *Earthsea Trilogy* or *Americanab* of digital publishing, groundbreaking works that combine anew these elements and push the boundaries between form and content, of what we have experienced and imagined from narrative.

* * *

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Notes

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The Future of Digital Publishing

Justin Gonder, Rachel Lee, and Charlotte Roh
California Digital Library

How do you view the relationship between digital publishing and peer review, or between self-publishing and peer review? Are there other ways to create and assess legitimacy and scholarly rigor in digital publication spaces?

Peer review has long been held as the [gold standard for article](#) evaluation. At its simplest, the goal of peer review is to ensure that a published article in a journal has been appropriately vetted by qualified scholars. Traditional models require that this process is either single- or double-blind; the editor assigns reviewers based on subject expertise and either/or reviewer and author names are hidden. In an ideal scenario, this fosters open and unbiased commentary, but attempts at evaluation and rigor can soon become gatekeeping and exclusion. The reality of peer review is often [fraught with issues](#), including [biases toward race, gender, and language proficiency](#).

For peer review to function ethically, it is vitally important that a journal editor selects an equitable and transparent review model that establishes criteria and best practices for the review process itself. The Library Publishing Coalition's *Ethical Framework for Library Publishing* provides [resources](#) that can support editors in evaluating and revising their journal's peer review practices.

Additionally, the physical limitations of print often limit the academic conversation. However, the digital environment provides a number of tools to support continued reader engagement. Overlay software, like [hypothes.is](#) (which can be

made available to eScholarship journals), “academic twitter,” or Discord help journal authors and editors to diversify and broaden discussion and debate.

Alternate approaches to closed, blinded (anonymous) peer review can also support greater transparency and equitable representation in the review process. Fully open review (where both author and reviewer names are revealed to all participants) has been offered as one solution, along with “[publish, then review](#)” and [crowdsourced peer review](#).

How can scholars measure the impact of their work in the digital realm as technologies evolve and transform? What are the potential impacts of shareability and virality on digital academic publishing?

There’s no question that we’ve found new ways to measure the impact of scholarship beyond traditional citation counts. [Altmetrics](#)—as these new metrics are called—now include downloads, page views, social media shares, and activity in media platforms that aren’t strictly academic. We’ve also seen the rise of criticism, as these quantitative metrics can be manipulated, overinterpreted, and given undue weight. Journal impact factor, for example, has increased in importance, which is particularly frustrating for librarians, who initially created impact factor as a tool to decide which journals to purchase, not as a measure of research quality. [Impact factor](#) does not, in fact, measure research quality, as it does not consider the content of each article, but is simply a popularity count for journals.

Thankfully, open access journals like *Refract* and other journals published by eScholarship don’t have to worry about library purchasing budget cuts, since there are no subscription costs. In addition to alleviating cost, publishing in open access has been found to [increase](#) citation rates of [publications](#). The availability of scholarship through open access platforms therefore increases the reading and sharing of research for greater impact. We can also make values-based publication decisions rather than profit-based decisions, and there are many who feel that that’s how the impact of scholarly work should be measured as well.

Some initiatives are looking at the situation more holistically. The [HuMetricsHSS](#) initiative is exploring evaluation of scholarly work in the promotion and tenure process, and the [Library Publishing Coalition](#) and [Open Access Scholarly Publishing Association](#) are organizations that value ethics and transparency. Finally, we should prioritize long-term access for scholarly works that might not have immediate virality but are important for society.

How might digital publications include media beyond text? What opportunities or ways of reimagining the relationship between form and content are unique to scholarly digital publishing, and what risks or stigmas must those approaches contend with?

Nontextual media in scholarly publishing poses a number of opportunities and challenges. Rich media greatly expands the choices for expression, and may engage a broader set of readers, particularly those for whom text isn't a primary form of communication. Media can also reach across language and cultural barriers. Still, the vast majority of academic articles remain largely text-centric as a norm in Western academic culture. In some ways, this may be symptomatic of limitations that apply to audio and images, such as copyright restrictions. Nontextual media is also more challenging for accessibility, machine readability, and preservation.

As a publisher that deals primarily with text-based scholarship, we don't claim to have this area completely figured out, though publications like *Refract* are doing an admirable job of exploring ways to juxtapose text and media in thoughtful and responsible ways. Generally it's important to keep in mind that media won't necessarily be consumed the same way by all audiences. It's therefore important to observe [best practices](#), such as including text-based alt tags that can be read by screen readers, and captioning video and audio-based materials. Since discovery methods such as indexes, databases, and search engines are also highly text-dependent, these practices have the added benefit of increasing findability, readership, and potential reuse.

Preservation (which we'll talk more about next) is also an important concern when working with media. Simply embedding content from an external site might seem an easy way to include rich media, but the embedded content will invariably move or disappear. This makes it particularly important to embed media directly in scholarly works, or to attach the media as supplemental material so that it can be preserved alongside the text for future readers.

Although digital publications may seem less fragile than their analog counterparts, the infrastructure of computing and the cloud often result in shorter lifespans for born-digital content. How might digital publications be preserved?

Digital publications, without the care of preservationists, can be very fragile. Websites and their content are dynamic, and require expertise to keep running day-to-day and to be preserved for an uncertain future. Even with backups and archives, can we be certain that readers many years from now will be able to find the content

they're looking for? And once they do find it, will they be able to open the files or make meaningful use of them?

This is one area where library publishers like eScholarship benefit greatly from the contributions of generations of academic librarians who are dedicated to the preservation of the scholarly record. At CDL, a team of digital archiving experts manage the [Merritt repository](#), an open-source digital preservation repository that provides the University of California community with long-term archiving and preservation of materials and is [CoreTrustSeal certified](#).

All content in eScholarship, including the articles and files that make up *Refract*, are deposited to Merritt upon publication for long-term preservation. This duplicative archiving practice provides an extra layer of assurance that, should something catastrophic happen to eScholarship and its contents, or should someday in the future the service cease operations, a backup is stored securely with the support of the UC libraries. Other publishers make use of similar archival repositories, or take advantage of community-based preservation solutions such as [CLOCKSS](#) to ensure permanent open access.

Of course, preservation isn't of much use if readers can't find the content, which is where persistent identifiers come in. eScholarship and Merritt maintain both Archival Resource Keys ([ARKs](#)) and Digital Object Identifiers ([DOIs](#)) for content in *Refract*. These identifiers are permanent, and curators ensure that the location that the identifiers point to is up to date. So, if eScholarship ever changes the way its URLs are constructed, or if the content moves to another site altogether, readers will always be able to follow the identifiers in a citation and arrive at the intended content.

* * *

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