



數位典藏與數位學習 國家型科技計畫
Taiwan e-Learning and Digital Archives Program

Rights Clearance of the Digital Archives in Taiwan

Speaker:
Professor Ming-Yan Shieh

College of Law
National Taiwan University

Overview

- **Introduction of the Rights Clearance Project (RCP) of TELDAP**
- **Importance of the Rights Clearance Process**
- **The Rights Clarification Form**
- **The Difficulty of the Rights Clearance Concept Promotion**
- **Our Prospect**
- **Future: System & Licensing Platform**

- **The Rights Clearance Project (RCP)**
- **It is indispensable to conduct thorough rights clearance process for making the results of the Taiwan e-Learning and Digital Archives Program (TELDAAP) more widely applied and accessible to the general public.**
- **This project has helped all the participating institutions and projects to clear the rights of the digital assets since 2007.**

Importance of the Rights Clearance Process



- **1. IPR Management**
- **2. A Complete List of IPR and Other Rights of the Digital Results**
- **3. Preparation for Licensing**
- **4. Prevention of Rights Infringement**

The Rights Clarification Form



- **Step 1 Basic Information**
- **Step 2 Digital Collection & Rights Clearance
Item Information**
- **Step 3 Usage Limitations**
- **Step 4 The Classification of Rights (IPR &
Other Rights)**
- **Step 5 Rights Restriction and Prescription
Information**
- **Step 6 The Right Holders**
- **Step 7 Usage Condition Survey**
- **Step 8 Dispute or Related Litigation Survey**
- **Step 9 New Plans for the Digital Collections**

Step 1 – Basic Information



步驟一、 填寫基本資料

1.1
單位

1.2
計畫名稱

1.3
填表人

1.4
填表時間

- 1.1 Institution Name
- 1.2 Project Name
- 1.3 Data Entry Person's Name
- 1.4 Entry Date

Step 2 – Digital Collection & Rights Clearance Item Information



步驟二、數位典藏品及盤點項目資料

2.2盤點項目			
2.1. 數位典藏品 名稱	2.2.1 盤點項目 名稱	2.2.2 盤點項目 編號	2.2.3 附表 序號

- 2.1 Object Name
- 2.2 Rights Clearance Item Information

2.2.1 Item Name

2.2.2 Item Number

2.2.3 Number on the Digital Asset List

Step 3 –Usage Limitations

步驟三、素材使用限制

3.1
種類

3.2
使用流程
的行政規則

3.3
解密檔案的
解密時間

- **3.1 Types of Limitations (Regarding Classified National Security Information, Individual Privacy, etc)**
- **3.2 Administration Regulations**
- **3.3 Declassification Date**

Step 4 – The Classification of Rights (IPR and Other Rights)



步驟四、 判斷盤點項目屬於 何種智慧財產權之種類	
4.1 智慧財產權與 其他權利之種類	4.2 細目

- **4.1 Categories of Rights**
 - 1. Copyright**
 - 2. Patent**
 - 3. Trademark**
 - 4. Trade Secrets**
 - 5. Privacy**
 - 6. Portrait**
 - 7. Name**
 - 8. Rights from the Indigenous Peoples Intellectual Creation Act**
- **4.2 Sub-categories of Rights**

Example 1



Title: Scenery

Rights:

1. Copyright-

- **Artistic Works- Pu Xin-yu's Artwork**

- **Literary Works- Pu Xin-yu's Poetry**

2. Name Right - Pu Xin-yu's Name

Example 2

**Title: Removed Patients' Teeth on the Street
(Dr. Mackay and His Students)**



Rights:

- 1. Copyright-
Photographic
Work**
- 2. Portrait Right-
Dr. Mackay's, the
Students', and the
Patients'**
- 3. Privacy Right-
The Patients'**

Source: TELDAP- "Dr. George Mackay and Oxford College Project"
<http://catalog.digitalarchives.tw/dacs5/System/Exhibition/Detail.jsp?OID=538286>

Step 5 –Rights Registration and Prescription Information



步驟五、
盤點項目之權利登記與有效期間

5.3 權利有效期間				
5.1 專利權、 商標權、 製版權、 原住民傳統智 慧創作保護與 古物是否依法 辦理登記？	5.2 第5.1 欄證書字 號與主旨	5.3.1 著作 權	5.3.2 其他 權利 有效 期間	5.3.3 第一次 公開使 用日期

- **5.1 If the Rights (of Patent, Trademark, Plate Right, Indigenous Peoples Intellectual Property Right or Antiquity) Was Registered?**
- **5.2 Registration Certificate Number & Summary**
- **5.3 The Duration of Protection**

Step 6 –The Right Holders



6.1 著作權、專利權與營業秘密，來源為受雇人														
6.1.1 著作權				6.1.2 專利權					6.1.3 營業秘密					
6.1.1.1	6.1.1.2	6.1.1.3	6.1.1.4	6.1.2.1	6.1.2.2	6.1.2.3	6.1.2.4	6.1.2.5	6.1.2.6	6.1.3.1	6.1.3.2	6.1.3.3	6.1.3.4	6.1.3.5
著作人	著作人之名稱/姓名	著作財產權人	著作財產權之名稱/姓名	發明人之名稱/姓名	發明人之名稱/姓名	專利權人之名稱/姓名	專利權人之名稱/姓名	專利證書標示之發明人	是否給付專利之報酬給員工	創作人	創作人之名稱/姓名	權利人	權利人之名稱/姓名	是否給付營業秘密之報酬給員工

6.1 Copyright, Patent, Trade Secrets: from Employment

6.1.1 Copyright

6.1.2 Patent

6.1.3 Trade Secrets



6.2 著作權、專利權與營業秘密，來源為受聘人												
6.2.1 著作權				6.2.2 專利權				6.2.3 營業秘密				
6.2.1.1 著作人	6.2.1.2 名稱/姓名	6.2.1.3 著作財產權人	6.2.1.4 名稱/姓名	6.2.2.1 發明人	6.2.2.2 發明人名稱/姓名	6.2.2.3 專利權人	6.2.2.4 專利權人名稱/姓名	6.2.2.5 專利證書標示之發明人	6.2.3.1 創作人	6.2.3.2 名稱/姓名	6.2.3.3 權利人	6.2.3.4 名稱/姓名

6.2 Copyright, Patent, Trade Secrets: from Commission

6.2.1 Copyright

6.2.2 Patent

6.2.3 Trade Secrets

6.3 權利人的名稱/姓名

- **6.3 Right Holder's Name of Other Rights**

6.4 權利來源為契約												
6.4.1 契約當事人基本資料				6.4.2 契約文件		6.4.3 權利取得方式之性質		6.4.4 權利範圍				6.4.5 回饋金或利益之約定
6.4.1.1 契約種類 6.4.1.2 契約之我方當事人 6.4.1.3 契約他方當事人名稱/姓名 6.4.1.4 有權簽約 6.4.1.5 無權簽約，有權利者				6.4.2.1 是否有契約文件存在？ 6.4.2.2 契約文件編號		6.4.3.1 讓與、授權、得利用 6.4.3.2 受人/被受人/得利用人名稱/姓名		6.4.4.1 取得權利種類：著作權				
								6.4.4.1.1 著作人格權 6.4.4.1.2 姓名表示權 6.4.4.1.3 禁止歪曲竄改 6.4.4.2 著作財產權				

6.4 Rights from Contracts/Agreements (part 1)

6.4.1 Contract Information

6.4.2 Contracting Documents

6.4.3 Rights Acquisition Methods (Transfer, Licensing)

6.4.4 Scope of Rights

6.4.5 Royalty

6.4 權利來源為契約				
6.4.6 共有權行使之約定				
6.4.6.1 共有人之應有部分		6.4.6.2 代表人		
6.4.6.1.1 有無約定及參與創作之程度是否明確	6.4.6.1.2 參與、人數或約定之百分比	6.4.6.2.1 有無約定代表人	6.4.6.2.2 代表人名稱/姓名	6.4.6.3 對代表人權利之限制

- 6.4 Rights from Contracts/Agreements (part 2)

6.4.6 Rights in Common

6.5 依法律規定使用

- **6.5 Fair Use**

Step 7 – Usage Condition Survey

步驟七、
確認盤點項目權利對外利用狀態

7.1 對外進行權利之利用		7.2 利用種類及時效		
7.1.1 是否有對外進行權利之利用？	7.1.2 附表序號	7.2.1 利用種類	7.2.2 利用之有效期間	7.2.3 契約編號

- 7.1 Usage Condition

- 7.2 Exploitation and Use Period

7.2.1 Exploitation Types

7.2.2 Effective Use Period

7.2.3 Document Number

Step 8 – Dispute or Related Litigation Survey



步驟八、
確認權利爭議或相關
訴訟之進行狀態

8.1 爭執

8.2
爭執情形

8.3 無權使
用被訴訟
風險期

- 8.1 Disputes
- 8.2 Dispute Status
- 8.3 The Extinctive Prescription of Damage Claims

步驟九、
確認對盤點項目是否有新產品與新計畫

9.1 新產品與新計畫

9.2
計畫概要說明

- 9.1 Plans
- 9.2 Descriptions

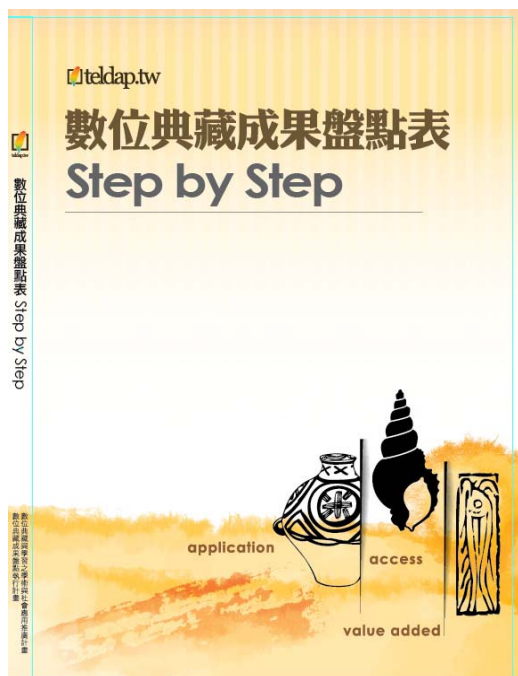
Difficulty of the Rights Clearance Concept Promotion



- **There was a certain degree of difficulty for the participating institutions/projects to apply this rights clearance process to the digitizing procedure for the following reasons:**

- 1. Lack of Funding**
- 2. (The Participants) Lack of Background Knowledge in Rights Clearance**
- 3. Lack of Time for Clarifying the Rights**
- 4. Workforce Shortage**
- 5. Problems of Filling out the Rights Clarification Form**

- **Two Publications:**
 - 1. Rights Clearance Step by Step**
 - 2. Rights Clearance Q&A**



- **Services that RCP Provides:
Workshops, Conferences, One-on-One Tutorials,
Group Sessions, Email & Phone Consultations**
- **The rights clearance process is accepted widely
by the institutions and projects of TELDAP.**

Workshops~~photographs



2009/3/17 in Taipei

2009/3/31 in Taichung



2009/4/1 in Nantou



Give-away Item

2009/3/27 in Tainan

The Rights Clearance Results of 2008



- **1. 52 institutions (a total of 139 projects) were involved.**
- **2. There were 1,769,783 digital files.**
- **3. 2,692,887 rights were clarified.**

The Rights Clearance Results of 2008 (Cont.)



Highlights:

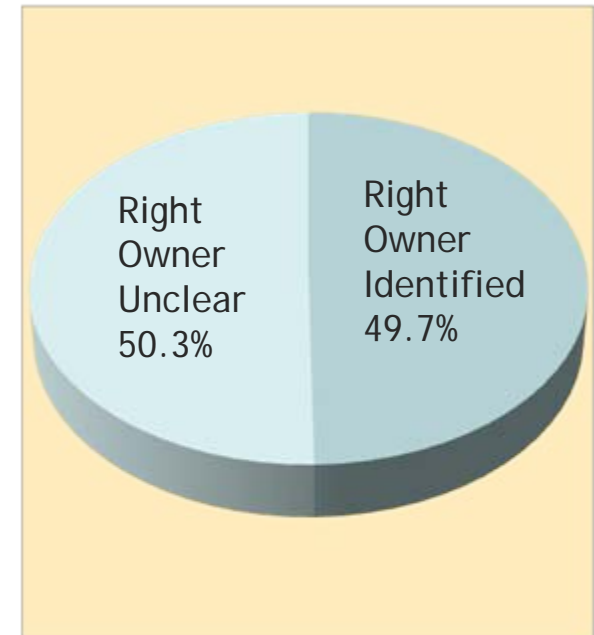
- Copyright 66%
- Digital Data 33%

Rights Categories	Quantity	Percentage
Copyright	1,781,566	66.1582%
Patent	2	0.00007%
Trademark	2	0.00007%
Trade Secrets	0	0.00000%
Privacy	9,550	0.3546%
Portrait	1,596	0.0593%
Name	1	0.00004%
Indigenous Peoples Intellectual Property	1,918	0.0712%
Antiquity	95	0.0035%
Information of the First Excavation	3,548	0.1317%
Digital Data	894,467	33.2159%
Plate Right	142	0.0053%
Total	2,692,887	100%

The Rights Clearance Results of 2008 (Cont.)



- **Right Owners Were Identified:**
1,337,422 of the Total Number of the Clarified Rights (49.7%)
- **Right Owners Were Unclear:**
1,355,465 of the Total Number of the Clarified Rights (50.3%)



- **1. Improve the Quality and Accuracy of Clarification Results**
- **2. Promote Efficiency in the Rights Clearance Process**
- **3. Provide Legal Consultations in Rights Clearance**

Future: Levels of Clearing Rights



- **In order to assist all projects in rights clearance with limited resources, RCP is drafting a standard which divides the work into three levels.**

- **Three Levels:
High, Medium, and Low**

- **Goal:**
 - **Conduct a complete right holder investigation**
 - **Examine the rights the institution has (sufficient for the uses the institution are planned?)**
- **Target:**
 - **Planned to license**
 - **Planned for public use**
- **Right Clarification Form : Complete the Form**

- **Goal:**
 - **Conclude the right holder of each right**
 - **Understand if the institution owns the rights**
- **Target:**
 - **Planned for public browse**
- **Right Clarification Form :**
 - **Step one to 6.4.2**
 - **Fair use and unauthorized use: Step 1 to 6.4.2 and 6.5 (unauthorized use: fill out “N/A” in 6.5)**

- **Goal:**
 - **Analyze the rights of each digital result and determine the categories of the rights**
- **Target:**
 - **Planned to preserve only (for interior use or only accessible to certain people)**
- **Right Clarification Form : Step 1 to 4**

Future: Licensing Platform



- **The “Best Collections” website, where the participant projects manage themselves and display 10 or more selected items with clear rights, will be transformed into a licensing platform in the future.**

最新品項

[首頁](#) > [圖庫](#)

[more](#)更多內容

最新品項為最近三個月內上傳的典藏品，您每次進入本網站首頁都將看到不一樣的最新品項，或者您可以點選more看看所有的最新品項。

計畫數目：83

品項數目：717



計畫名稱：[織品服飾數位博物館加值計劃-魅力台灣](#)
品項名稱：[CTCCC000601 五彩緞地彩繡花蝶飄帶裙](#)
上傳日期：[20090821](#)
簡介：[清代晚期 \(1860~1890' s\)](#)



計畫名稱：[台灣外省人生命記憶與敘事資料庫 \(I\)](#)
品項名稱：[高秉涵：請問你是誰：返鄉照片](#)
上傳日期：[20090818](#)
簡介：[1948年，13歲的高秉涵先生（左），甫...](#)



計畫名稱：[台灣外省人生命記憶與敘事資料庫 \(I\)](#)
品項名稱：[于愷駿：樂親人相會喜龍鳳呈祥：返鄉照片](#)
上傳日期：[20090817](#)
簡介：[此張照片為于愷駿先生於1998年首次返口.....](#)

“Best Collections” Website (Cont.)

首頁 > 圖庫 > 觀光休閒學系-休閒組 > 數位典藏-澎湖的石滬形式與文化 > 158 西頭滬

觀光休閒學系-休閒組
數位典藏-澎湖的石滬形式與文化

Project Name

主持人：李明儒
助理：陳宗惠（聯絡電話：06-9264115）
地址：澎湖縣馬公市六合路300號

Contact Information



+ 品名：158 西頭滬

+ 品項說明

大約耗時1-5年完工。今日該滬已成半塌。滬房沙子淤積許多。滬內部分區域多珊瑚礁。

+ 備註

捕魚、蝦

Item Description



489 滬目



526 牛心灣
外滬



155 坪仔滬



307 外新滬



52 角帶滬



399 紅土滬



61 外滬

回可授權品項選報

Other Items of This Project

Future: Rights Management System



- **RCP is continuously developing a rights management system software which enables people to clarify rights and manage the results. Furthermore, the users are able to customize their search, information output, and statistics of data.**

Thanks



數位典藏與數位學習 國家型科技計畫
Taiwan e-Learning and Digital Archives Program

<http://teldap.tw>