

**The Process of Policymaking:
From IP Audit to Valuation and Management
September 4, 2002**

1) THE AUDIT: Why, Who, When, Where, What?

Why Should a Museum Conduct an IP Audit?

- For the sheer joy of inventory: what do you have? Where did it come from?
- To trigger and facilitate creative projects using found “assets”
- To monitor compliance (for your use of third party IP and vice versa)
- To avoid infringement
- To create an accurate IP POLICY

Who Should Conduct a Museum’s IP Audit?

- Anyone dealing with or benefiting from the Assets in the Ordinary Course of Business

When should a Museum Conduct an IP Audit?

- Regularly
- Prior to a business dealing or new project
- With introduction of a new rights or permissions employee
- As result of law suit

Where is a Museum’s IP?

- Know Your Departments and Office

What Are You Looking for, What are you looking at, Exactly?

- Trademarks (Names, Logos and Building Images), Trade dress, Domain Names (SM), Copyrights
- Federal Registrations/State/Foreign/Common Law
- Collections, Publications, Products, Websites, Databases, Exhibition Names, Design, Lectures, Images
- How to Analyze Ownership: A Primer on Assignments, Licenses, Releases and Work for Hire
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2) VALUATION: Intangible Assets Can Have Tangible Worth

- Formal Valuation/Risk analysis for balance sheet vs. Informal Cultural Assessment
- Measuring through Licensing (in both directions):
- Scope of Rights Conveyed Weighed Against Restrictions or Conditions
- Measuring through Industry Standards/Comparable Arms Length Transactions (Fair Market)
- Generating Revenue and other Pleasant Surprises: Exploiting IP within the Mission of your Museum

3) MANAGEMENT: Building the Great IP Database

- Keeping Good files
- Writing Good Contracts and Licenses/Record Keeping
- Tracking Ownership and Rights
- Tracking Copyright Status (Copyright Term/A Word about Shorter Durations)
- Remembering Photo Rights and other subsidiaries (but see Bridgeman)
- Register
- Monitor for Infringers
- Attach proper legal notices, credit lines, framing & linking, conditions of website use
- Create an IP INTRANET for employees to learn about IP and IP procedures