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**DAVID BOWDEN**



**DEBATING MATTERS**  
**TOPIC**  
**GUIDES**

[www.debatingmatters.com](http://www.debatingmatters.com)

**MOTION:**

**“COPYRIGHT  
BENEFITS  
THE ARTS”**

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## KEY TERMS

Copyright

Creative Commons

Freeconomics

Intellectual Property

# INTRODUCTION

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# NOTES

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An article about the recent J.K. Rowling court case [Ref: [Guardian](#)] reported that ‘Judge Robert Patterson looked a little bemused that a case on copyright law had turned into a discourse on the writer’s art.’ But art’s relationship to both its creator and wider society are at the heart of copyright [Ref: [Wikipedia](#)] – it is included in the US Constitution [Ref: [Wikipedia](#)] ‘to promote the progress of Science and the useful Arts.’ Today copyright is often associated with earning royalties for multimillionaire artists like Rowling or Damien Hirst – not to mention huge corporations such as Disney [Ref: [New Statesman](#)]. In contrast major recording artists such as Radiohead [Ref: [NME](#)] and Nine Inch Nails [Ref: [cnet](#)] make a virtue out of giving away their work for free, while the Illegal Art exhibit laments the work ‘censored’ by copyright and openly mocks the legal scaremongering of copyright agreements [Ref: [Illegal Art](#)].

But according to Andrew Orłowski, ‘freeeconomists’ [Ref: [Wired](#)] such as Chris Anderson risk taking copyright for granted [Ref: [spiked](#)]: artists need revenue in order to keep on creating, and copyright is their only protection. Helienne Lindvall makes the point that copyright does more to help struggling, upcoming artists than fat-cat megastars [Ref: [Guardian](#)] – something which the Featured Artists’ Coalition (including members of Radiohead) seems to recognise [Ref: [Guardian](#)]. Culture Secretary Andy Burnham has stated there is a moral case for extending performers’ copyright to 70 years so that they can financially benefit for the full course of their life [Ref: [BBC News](#)]. But Cory Doctorow warns of its terrible implications for preserving artistic legacies [Ref: [Guardian](#)]. Elsewhere, William Rees-Mogg admits that copyright can be used as censorship but that it is essential in allowing for something more important – the spreading of knowledge and ideas [Ref: [Times Online](#)].



## Freedom of ideas?

Cory Doctorow highlights the problems with trying to determine ownership of ‘intellectual property’ [Ref: [Guardian](#)] – how do we balance an artist’s interests in their own work (work that society itself may value and want to preserve) with society’s interest in that work as part-and-parcel of both its artistic heritage and artistic innovation? Colin Burrow illustrates the way in which artistic development relies on the ability to plagiarise and borrow from others’ work [Ref: [Guardian](#)] while the rap group Public Enemy have railed against copyright restrictions on sampling [Ref: [Stay Free Magazine](#)]. Much anger has been raised at the intrusive [Ref: [Guardian](#)] and threatening nature of copyright enforcement [Ref: [Times Online](#)], particularly when it is arguably used as a form of censorship to protect a wealthy artist’s ego [Ref: [Adam Macqueen](#)]. But copyright also allows judgment to be exercised over how a work is reproduced: why shouldn’t an artist have a right to control their work’s reproduction and prevent, for example, well-known fictional characters being used in material that many would deem offensive [Ref: [Guardian](#)]? Wouldn’t art – particularly in an age of digital reproduction – descend into anarchy without such judgment and control? Moreover, when the reproduction of an artist’s work makes vast sums of money [Ref: [ft.com](#)], shouldn’t they (or their relatives) benefit financially? But big copyright fees, says Martin Kemp, are actually damaging the publication and circulation of fine art images [Ref: [Guardian](#)].

## Valuing artists?

It is worth noting that many of the artists promoting free art actually do expect some form of remuneration [Ref: [Guardian](#)]

– it is just that they plan to gain revenue in more creative ways. One of the more innovative solutions being advocated by the Stanford law professor Lawrence Lessig is Creative Commons Licensing [Ref: [spiked](#)]. This offers more freedom in the way in which rights are released, allowing artists to share their work with fellow artists, students and for other public services (as long as they are credited), but still allowing them control over who uses their work. But, says Orłowski, CC is primarily useful to amateur artists more interested in self-expression than creating great works of art. Great artists, he implies, need to get paid for their work – and they have earned the right to do so [Ref: [The Register](#)]. This poses important questions. Should society value and reward artistic genius – and the product of that genius – differently from other sorts of labour? Or is art a pinnacle of human endeavour that belongs to and benefits us all – and which should be rewarded enough for its creator?

## Standing on the shoulders of giants?

In 2006 HM Treasury Gowers Review of Intellectual Property [Ref: [H M Treasury](#)] (summarised here [Ref: [Public Technology.net](#)]) called for tougher legal penalties on IP to prevent piracy and copyright infringement. Gowers defended this on the basis that the UK economy was now ‘knowledge-based’ rather than producing physical capital, and that creativity needed to be protected and ‘incentivised’ through copyright. But he also wanted to encourage creativity and innovation by increasing the free share of ideas so that ‘innovators can see further by standing on the shoulders of giants.’ The phrase was made famous by Sir Isaac Newton, whose discoveries helped shape mankind’s understanding of the world and improved people’s



## DEBATE IN CONTEXT CONTINUED...

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lives through technological advancement. But both scientific discovery and artistic creation can be long and arduous processes. Without the money from their rights many artists would be struggling to support themselves [Ref: [ft.com](#)] – let alone their families. Does copyright allow artists to stand on the shoulders of giants or does it censor expression and creativity? Should society instead find alternative ways of supporting artists financially so they can get on with creating great art [Ref: [Guardian](#)]?



## ESSENTIAL READING

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### Art Hole

Adam McQueen *Private Eye* 28 November 2008

The strange case of Harry Potter and the battle of US district court 24A

Ed Pilkington *Guardian* 15 April 2008

Don't steal this article – but please do discuss it

Tessa Mayes *spiked* 6 August 2007

Culture Warrior

Sandy Starr *spiked* 2 July 2004

### **For**

Music: Support from the masses

Christopher Thompson *Financial Times* 24 November 2008

This digital utopianism is glorified piracy

Andrew Orlovski *spiked* 9 October 2008

Going for a song

Helienne Lindvall *Guardian comment is free* 18 July 2008

Grow up, Google: you've accepted censorship, now confront copyright

William Rees-Mogg *The Times* 30 January 2006

### **Against**

"Intellectual property" is a silly euphemism

Cory Doctorow *Guardian* 21 February 2008

The price of making art expensive

Martin Kemp *Guardian art & design blog* 23 January 2007

Stealing beauty

James Clasper *New Statesman* 6 November 2006

How copyright changed hip-hop

Kembrew McLeod *Stay Free! Magazine Issue #20* 8 August 2002

### **In Depth**

The borrowers

Colin Burrow *Guardian* 6 December 2008

Would an artists' parliament really work?

Patrick Marmion *Guardian theatre blog* 21 October 2008

Free! Why \$0.00 Is the Future of Business

Chris Anderson *Wired* 25 February 2008

Released at last

Michael Faber *Guardian* 5 January 2008

Larry Lessig in the lion's den

Andrew Orlovski *The Register* 31 May 2007



# BACKGROUNDEERS

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Copyright extension is out of tune with reality

Andrew Gowers *Financial Times* 14 December 2008

Transcript of Andy Burnham's speech calling for copyright extension

*Music Week* 11 December 2008

Will EU repeat US copyright error?

Cory Doctorow *Guardian* 6 December 2008

Stealing Picasso? Copyright in a digital age

Andrew Gowers et al *Battle of Ideas* 2008

Gowers Review of Intellectual Property

Andrew Gowers *HM Treasury* 1 December 2006

Lawrence Lessig's Supreme showdown

Steven Levy *Wired* 1 October 2002

Stay Free! Magazine

Stanford Center for Internet and Society

The Register

The Long Tail

Chris Anderson

Lessig

Lawrence Lessig

Intellectual Property

*Guardian*

Boing Boing

Cory Doctorow

Free Culture

Lawrence Lessig

## ORGANISATIONS

Design and Artists Copyright Society

Featured Artists Coalition

Illegal Art exhibition

The Progress and Freedom Foundation



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## IN THE NEWS

Ministers in tune with EU by backing lifetime royalties  
*Financial Times* 11 December 2008

Copyright law 'could be extended'  
*BBC News* 11 December 2008

Porn bill for couple who can't download  
*Tony Levene Guardian* 29 November 2008

New fund sings to investors  
Steve Johnson *Financial Times* 16 November 2008

Radiohead reveal how successful 'In Rainbows' download really was  
*NME* 15 October 2008

Guitars down comrades: rock stars launch union to stand up for their rights  
Owen Gibson *Guardian* 4 October 2008

Rowling wins book copyright claim  
*BBC News* 8 September 2008

Illegal downloading is here to stay  
Sean Michaels *Guardian* 4 August 2008

Duffy: downloading music illegally is 'amazing'  
Sean Michaels *Guardian* 30 July 2008

File sharers in first UK arrests  
*BBC Newsbeat* 3 July 2008

Virgin territory for ISPs  
*BBC News* 9 June 2008

Potter book 'threat' to authors  
*BBC News* 17 April 2008

JK Rowling tells court of her Harry Potter copyright fears  
Alexi Mostrous *The Times* 17 April 2008

Trent Reznor: Radiohead's 'In Rainbows' promotion was 'insincere'  
Greg Sandoval *NewsBlog* 14 March 2008

Internet users could be banned over illegal downloads  
Francis Elliott *The Times* 12 February 2008

Court deals blow to copyright owners  
*Financial Times* 30 January 2008

Copyright ruling angers artists  
*BBC News* 24 July 2007

Music stars 'must keep copyright'  
*BBC News* 17 May 2007

Resale royalties for painters and sculptors  
Maev Kennedy *Guardian* 7 April 2005

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## ABOUT DEBATING MATTERS

Debating Matters because ideas matter. This is the premise of the Institute of Ideas & Pfizer Debating Matters Competition for sixth form students which emphasises substance, not just style, and the importance of taking ideas seriously. Debating Matters presents schools with an innovative and engaging approach to debating, where the real-world debates and a challenging format, including panel judges who engage with the students, appeal to students from a wide range of backgrounds, including schools with a long tradition of debating and those with none.



## FIND OUT MORE

Debating Matters engages a wide range of individuals, from the students who take part in the debates, the diverse group of professionals who judge for us, the teachers who train and support their debaters, and the young people who go on to become Debating Matters Alumni after school and help us to continue to expand and develop the competition. If you enjoyed using this Topic Guide, and are interested in finding out more about Debating Matters and how you can be involved, please complete this form and return it to us at the address below.

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- I am a sixth form student and would like further details about events in my area
- I am interested in becoming a Debating Matters judge
- I am interested in sponsoring/supporting Debating Matters
- Other (please specify)

First name

Surname

School/company/  
organisation

Professional role  
(if applicable)

Address

Postcode

Email address

School/work phone

Mobile phone

**“DEBATING MATTERS  
TEACHES A WAY  
OF THINKING.  
INTELLECTUAL  
ARCHITECTURE  
IS CREATED BY  
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**TRISTRAM HUNT, HISTORIAN & BROADCASTER**

