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COPYRIGHT & THE ARTS

DAVID BOWDEN
& JACOB REYNOLDS



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CONTENTS

Introduction

Key terms

The copyright and the arts debate in context

Essential reading

Backgrounders

In the news

KEY TERMS

Copyright

Creative Commons

Freeconomics

Intellectual Property

INTRODUCTION

1 of 6

NOTES

1
1
2
4
5
6

In April of 2012, the High Court ruled that several of the UK's largest Internet Service Providers (ISPs) were legally obliged to block access to the file-sharing site 'The Pirate Bay' [Ref: [BBC News](#)]. The move was welcomed by most in the record and film industry as they have argued that the free access to vast swathes of Intellectual Property (IP) costs the industry, and ultimately the artists, billions of pounds each year. Critics of the move suggest that it is part of wider attempts to clamp down on internet freedom in response to file-sharing. However, this particular controversy reflects a long-running argument about the role of copyright in the arts industries, and perhaps more profoundly, arts relationship both to its creator and wider society. Copyright has existed, though always disputed, as a method of protecting artists' intellectual property since the eighteenth century, when parliament decided to create a law that would protect books from piracy. More recently the issue of copyright has come under fire with the growth of the mass media, particularly the internet. Crucial to understanding the debate is the question of whether art can ever be owned by an individual or company (especially its creator) or whether it belongs to an intellectual sphere free of normal property restrictions. Does copyright, as some argue, protect the integrity of the arts and its creator? Or is the public benefit of the arts stifled by its imposition? With large sums of money at stake in some arts sectors, and very small amounts available in others, it is a debate which transcends easy cost-benefit analysis and straightforward technical solutions and goes to the heart of the question of what society understands art to be.



Digital rights and wrongs

Copyright law has evolved as technology and society has adapted to different methods of consuming art, which seeks to balance both rewards to the creator and the benefit to society of access to free knowledge and ideas, known as the public domain [Ref: [Economist](#)]. This is currently divided into economic and moral rights over ownership granted to the creator [Ref: [Art Newspaper](#)]. Always controversial – famously Disney has extended almost indefinite copyright over characters taken in part from the public domain - the development of the internet age has given the debate a new urgency [Ref: [Observer](#)]. How then do we balance an artist's interest in their own with society's interest in that work as part-and-parcel of both its artistic heritage and artistic innovation? Critics argue that copyright has now moved beyond its original intentions and is being used as a method to stifle creativity and the free exchange of ideas, a shift that is detrimental to the dynamic of artistic innovation [Ref: [Guardian](#)]. It is claimed that just as the printing press created a need for copyright, so the 'freeconomy' of the internet should signal its end [Ref: [Wired](#)]. But what would this mean for the arts? Copyright, say its supporters, allows judgment to be exercised over how a work is reproduced. Wouldn't art – particularly in an age of digital reproduction – descend into anarchy without the judgment and control individual artists have over their work? However critics insist that attempts to maintain the status quo can only ever become more restrictive and unworkable, as evidenced by Vince Cable's suggested 'rowing back' on some of the elements of the Digital Economy Act [Ref: [Guardian](#)].

Valuing artists?

Inevitably, the contemporary debate on copyright often hinges around a fundamentally moral discussion about whether piracy is 'stealing'. Some artists argue that copyright is the best way to realise and reward their creative labour [Ref: [Wall Street Journal](#)]. Without intellectual property protection, some argue, the creative industries cannot survive [Ref: [New Statesman](#)]. Neither is it just the wealthy songwriters or superstar visual artists who benefit from copyright, says songwriter Helienne Lindvall, but the smaller independent artists who rely on the income that it guarantees. But others remain unconvinced. It is argued that copyright is predominantly beneficial to powerful companies with expensive legal teams, who effectively restrict the creative freedom of individual artists to protect their pay-packets [Ref: [New Yorker](#)]. David Lowrey, a musician and songwriter, has received exposure for his impassioned attack on the Free Culture movement (Ref: [The Trichordist](#)). Central to his case was a moral critique of a generation of people who have been happy to pay large sums of money to hardware and network 'mega-corporations', whilst refusing to pay the musicians for the music they create. Such discussions often lead to a consideration of the place of companies such as Google, who have arguably profited from being able to sell adverts next to links to pirated material. In 2010 Prime Minister David Cameron ordered another review into UK IP law, a review that was quickly dubbed the 'Google review' (Ref: [Guardian](#)) owing to the government's concern that a company like Google could never have started business in the UK, and recently Shadow Deputy Prime Minister Harriet Harman has voiced concerns about the influence that Google seems to have on UK government policy (Ref: [The](#)

Register). The broader technology industry is clearly wielding more lobbying power, as seen in the demise of copyright laws SOPA and PIPA in the US (Ref: New York Times). However, is this 'political coming of age for the tech industry' merely a reflection of the changed attitudes of consumers with regard to copyright, or, as Lowrey argues, has the industry had an instrumental role in undermining the incomes of artists?

Standing on the shoulders of giants?

Underlying this debate is a complex tension between creativity and originality. Art often draws inspiration from other works, and it is this tendency to borrow which generates the most conflict with digital rights [Ref: Guardian]. An art-form such as hip-hop, it is argued, would have struggled without the ability to sample and essentially steal copyrighted work [Ref: New Statesman]. The 2006 Gowers Review of Intellectual Property argued that copyright needed to strike a balance between 'incentivising' creativity while allowing freedom so that 'innovators can see further by standing on the shoulders of giants' [Ref: HM Treasury]. The phrase was made famous by Sir Isaac Newton, whose discoveries helped shape mankind's understanding of the world and improved people's lives through technological advancement. For opponents of copyright, the phrase highlights the absurdity of assuming human creativity and endeavour will only occur through financial incentives: many great artists rarely made a penny. But for commentator Andrew Orłowski, attacks on copyright often act to undermine the role of the artist in the creative process and ignore that the arts are an industry with economic needs like any other [Ref: spiked]. As journalist Cory Doctorow notes, the question should be approached by

going back to first principles and asking what copyright should be doing [Ref: Guardian]. Does copyright allow artists to stand on the shoulders of giants, or does it restrict expression and creativity?



ESSENTIAL READING

Copyright comes a cropper in the digital age

Robert McCrum *Observer* 9 January 2011

Copyright and wrong

Economist 8 April 2010

Art and copyright: what's at stake

Simon Stokes *Art Newspaper* April 2009

FOR

In defence of the Digital Economy Act

John McVay *New Statesman* 12 July 2010

Copyright critics rationalise theft

Mark Helprin *Wall Street Journal* 11 May 2009

Music: Support from the masses

Christopher Thompson *Financial Times* 24 November 2008

This digital utopianism is glorified piracy

Andrew Orlowski *spiked* 9 October 2008

AGAINST

The Digital Economy Bill: a nightmare of unintended consequences

Mike Butcher *Telegraph* 8 April 2010

The Permission Problem

James Surowiecki *New Yorker* 11 August 2008

"Intellectual property" is a silly euphemism

Cory Doctorow *Guardian* 21 February 2008

Stealing beauty

James Clasper *New Statesman* 6 November 2006

IN DEPTH

What do we want copyright to do?

Cory Doctorow *Guardian* 23 November 2010

The real cost of free

Helienne Lindvall *Guardian* 19 November 2010

The borrowers

Colin Burrow *Guardian* 6 December 2008

Free! Why \$0.00 Is the Future of Business

Chris Anderson *Wired* 25 February 2008

Culture Warrior

Sandy Starr *spiked* 2 July 2004

4 of 6

NOTES



BACKGROUNDEERS

Who runs UK? 'Tories, Lib Dems and Google' says Labour

Andrew Orłowski *The Register* 4 July 2012

Letter to Emily White at NPR All Songs Considered

The Trichordist 8 June 2012

A Political Coming of Age for the Tech Industry

Jenna Wortham *New York Times* 17 January 2012

Sopa and Pipa anti-piracy bills controversy explained

BBC News 17 January 2012

Vince Cable: government plans to block illegal filesharing sites

unworkable

Guardian 2 August 2011

The Hargreaves Review

Intellectual Property Office May 2011

Q&A: The Digital Economy Bill

BBC News 9 April 2010

At a glance: Digital Britain

BBC News 16 June 2009

Copyright this!

Worldbytes 2009

Music: Support from the masses

Financial Times 24 November 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

Intellectual Property Guide

Guardian

Lessig

Boing Boing

The Register

5 of 6

NOTES

ORGANISATIONS

Creative Coalition Campaign

Design and Artists Copyright Society

Featured Artists Coalition

Illegal Art exhibition

Open Rights Group

Pirate Party UK

IN THE NEWS

The Pirate Bay must be blocked by UK ISPs, court rules
BBC News 30 April 2012

David Cameron's 'Google-model' vision for copyright under fire
Guardian 14 March 2012

Sopa and Pipa bills postponed in US Congress
BBC News 20 January 2012

Music industry working on global copyright database
Reuters 21 January 2011

Harry Potter plagiarism case dismissed in US
Reuters 7 January 2011

Copyright review: again?
Reuters 17 December 2010

Net providers get Digital Economy Act judicial review
BBC News 10 November 2010

Scrap Digital Economy Act, say public
Daily Telegraph 2 July 2010

Angry note over BNP music sales
Evening Standard 28 May 2010

Lords force rethink of government's online piracy plans
BBC News 5 March 2010

Web giants unite against Digital Britain copyright plan
BBC News 2 December 2009

Pirate Party hopes for free future
BBC News 19 October 2009

Elton John backs Lord Mandelson's move to disconnect illegal file-sharers
The Times 22 September 2009

Court jails Pirate Bay founders
BBC News 17 April 2009

Rowling wins book copyright claim
BBC News 8 September 2008

JK Rowling calls for protection of authors' rights
Daily Telegraph 17 April 2008

6 of 6

NOTES

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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
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