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The Future of Copyright

A talk given at CFP 2002, San Francisco, April, 2002

This talk was given on a panel at Computers, Freedom and Privacy in April of 2002. There were four panelists, and I was given only five minutes to comment on the impact of copyright law on technology.

I am one of about 120,000 people in this country whose profession it is to collect, organize and preserve the knowledge of our civilization, and to make it available for consultation today and for the future.

I am of course talking about librarians.

Copyright has always been a relationship between law and technology. Printing ink on paper is technology, after all. The impact of technology on creators and their creations is not new.

But I am concerned about the forced and ill-conceived requirements being made on technology by copyright law and proposed intellectual property law today. I have only a short amount of time so I will give you two of my reasons.

1. Technology Fails

I am less concerned with how technology protects intellectual property than I am with how it fails. And technology fails -- it might be today, it might be tomorrow, but eventually all technology fails, even paper. How the failure happens and the consequences of that failure depends on how the technology is designed.

If your DVD fails because you're on a Linux machine, then the technology was designed to reach a majority of consumers but does not support universality. This has social consequences.

If you're on a gurney going into an operation room and your doctor can't access recent research on your condition because the digital rights management system fails, then the technology was not designed to meet its responsibility for human welfare.

If a researcher or historian 20 or 50 or 100 years from now cannot study our time because the technology was designed for short-term goals only, then we have created a new, electronic dark ages, and we have failed future generations.

The big question is: What will be the design principles of technology as it is dictated by copyright law? Will it be designed to reach a large but incomplete consumer marketplace? Will it meet the rigorous needs of human welfare? Will it be designed to function over time, with a goal not just of years but of centuries? Will the design recognize the importance of knowledge and the responsibility of technology to protect it AND make it available for use?

2. Whose Content?

My second point is that we are not being clear in this debate about who the copyright law and the technology are designed to serve.

In 1994, the intellectual property "industries" convinced Congress that there would be no content on the information highway without a change in the copyright law, and we got the DMCA.

Many of you were on the information highway, that is the Internet, in 1994, and you know that it was a teeming mass of interesting and high quality content (although no ads). This fact was completely ignored in the debate over the DMCA.

Although this debate supposedly revolves around "content", in fact the changes to the copyright law primarily serve only one sector of our society that creates intellectual property, and that is the commercial IP industries and primarily those producing entertainment. Left out of the debate are all of the other producers of intellectual property: governments at all levels, academia, research, non-profits and NGO's, and the millions of individuals with ideas and imagination who just want to be heard.

Are we confident that copyright and technology changes that primarily serve one sector will not do damage to the ability of others to express themselves?

I'm convinced that we should not make any decisions until we open up the debate to include the entire knowledge picture, not just a particular set of interested parties.

Conclusion

Knowledge is a continuum, and we are neither at the beginning nor the end of it. We must think about both the past and the future.

Knowledge is much, much more than the interests of today's most vocal intellectual property community. You might say it is civilization itself. And this is why these questions deserve our attention.

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