Copyright is for Copying

Hans-Christoph Steiner
hans@at.or.at

"This song is Copyrighted in U.S., under Seal of Copyright #154085, for a period of 28 years, and anybody caught singin' it without our permission, will be mighty good friends of ourn, cause we don't give a dern. Publish it. Write it. Sing it. Swing to it. Yodel it. We wrote it, that's all we wanted to do."

Never before have artists and performers been so well versed in copyright law. In the past decade, there has been a big push for media creators to explore what copyright means, and how they want to use it. Creative Commons and other organizations are putting a lot of work into making copyright law more understandable and usable. At the same time, copyright law is being used to try to enforce new kinds of stipulations which the creators of copyright law never would have thought of, like enforcing sharing and attribution. In this paper I argue that using copyright to enforce attribution provides little benefit to creators, and that such licenses do in fact cause harm. Additionally, there is already a well-established code of ethics in the realm of creative work that long predates copyright which is in fact the most useful mechanism for ensuring that creators get credit where credit is due.

0.1 Experimenting with Copyright

Starting in the seventies, hackers kicked off a new era of experimenting with copyright licenses. The Tiny Basic Copyleft is an early, informal example. Starting with the Emacs General Public License [23], Richard Stallman and the Free Software Foundation (FSF) began to explore using copyright law to enforce concepts that are not commercial in nature. This lead to the GNU GPL, which is a copyright license that encourages people to freely modify, copy, and distribute the copyrighted material, with only one caveat: that if they distribute any modifications to that work, they must grant the same freedoms as the original work did. A crucial point here is that the FSF has laid out a code of ethics[13], and uses the license as a tool to enforce them. Copyleft licenses like the GNU GPL were designed to use the copyright system as a means to work against it, aiming to enforce freedom and disallowing as many restrictions as possible. Many authors even ascribe their copyright to the FSF to further circumvent the copyright system. In order to take a copyright issue to court, you must have the permission of all of the relevant copyright holders. Instead of the typical view that owning the copyright means owning the creation, these authors trust that the FSF will enforce their code of ethics, leaving the creators free to work on their creations.

Since the creation of the GNU GPL, a wide variety of licenses have been created with a wide variety of terms included in them. The Free Art License[6] was an early effort, designed to bring the freedoms of the GNU GPL to art. One of the most prevalent licenses in the art world is the Creative Commons suite of licenses. Creative Commons aims to make copyright law accessible to ordinary people since they believe that copyright law is the central tool for managing creative work. Creative Commons licenses are organized into license "modules" which the user can mix and match in order to put together a set of restrictions they want to place on their work. While they were directly influenced by the GNU GPL, an essential difference between Creative Commons and the FSF: Creative Commons has not established a code of ethics to guide their work, and the licenses do not demonstrate a unifying code of principles[16]. Creative Commons has deemed their attribution clause so important, it is not optional. Every Creative Commons license now includes the attribution clause.

0.2 Copyright Was Created For Publishers

To start out, I should point out that this article has a strong bias towards British and American copyright systems based on what came out of Britain. These systems of copyright law have evolved into the international standards, whether or not they are broadly accepted domestically in every country or whether a given country had its own system beforehand. Many countries have very different legal structures related to publishing creative works. For example, the French droit d'auteur and German Urheberrecht systems give moral rights to creators in addition to the property rights of copyright.

An early example of copyright started with the monopolies, usually known as patents, that some monarchies would grant to specific publishers or creators. Only a handful of authors and composers were ever granted this right, more often it was publishers who received these royal monopolies. In Britain in the 1550s, the Stationers' Company, a publishers' guild, was granted a monopoly on all publishing. In 1710, the Statute of Anne was an attempt by Parliament to limit the timeframe and scope of these publishing monopolies, which by then had been established in the common law outside of statutes. This was the beginning of copyright as we know it now. While it introduced language framing copyright in terms of the author, it was in fact the pub-

lishers that were lobbying for the enactment of such a law. Although copyright laws are often framed around the idea of creator's rights, they have always been enacted due to the lobbying of publishers. The very name "copyright" explains very well what it aims to protect.[12] It is interesting to note that the first copyright in China, introduced in 1068, was also a protection for printers. [25] Copyright did not apply to other creations like performances, drama, paintings, sculpture, and drawings until much later.[22] After all, these did not involve a publisher copying them. New laws extended copyright to cover these starting in the mid 19th century. For example, rules covering performance of music were added in the 20th century at the behest of music recording industry once people starting playing their recordings in public.

0.3 The Law is Expensive

"...[H]ere's the fundamental design flaw of the copyright system. It was architected imagining that it would be implemented by about 150 lawyers around the United States, who would be living in relatively large institutions and able to manage the intricacies of the system. Because of digital technologies, this extremely arcane, complicated system of regulation now gets extended to everybody who wants to express themselves using creative work." [17]

Creative Commons believes it is possible to use copyright law to benefit creators despite being created for publishers. The key question here is: do you believe that the legal system is accessible to artists? Lawrence Lessig, who spearheaded the creation of Creative Commons and its licenses, is a lawyer who believes in copyright law as a useful tool. Lawyers generally believe that the law works while overlooking how expensive the law is. For lawyers and entities with substantial resources the law works well, they can represent themselves effectively within the legal context. For basically everyone else, we have to pay a lot of money to get effective representation in court (unless we are fortunate enough to get someone to volunteer their services).

Adam Curry, of MTV and podcasting fame, recently sued a Dutch newspaper for using one of his Flickr images, marked with a Creative Commons noncommercial clause, without permission. While technically, he won the suit since the court found some merit to his claims. But the ruling was so weak that it is hard to call a win: the court ordered a fine of 1000 only if the newspaper violated Curry's copyright license again, there were no damages or other requirements of the newspaper.[11] What the press did not mention is how much money Curry spent on lawyers fees. Facing the experienced lawyers of a tabloid newspaper undoubtedly requires a good lawyer spending many hours of billable time. So when it comes down to it, are you going to spend thousands of dollars suing someone who didnt give you attribution? If it was free content, they would still be able to distribute and use it for free.

When using copyrighted materials, a creator had best understand copyright law. Misusing copyrighted materials can cost you dearly in damages and lawyers fees if you tangle with a vindictive organization like the RIAA. Normally in torts [1], the person bringing the lawsuit must prove that they were harmed by the wrongful acts, it is not enough to show only that the were wrongful acts. Copyright law is unusual because it includes statutory damages, meaning that the person suing only has to prove infringement in order to receive a payment for damages. For example, in the United States, these damages are set out in the law, and can range between $200 and $150,000 per work. Even if someone had no intention or idea that they were infringing on a copyright, they could still be required to pay these damages. A recent example of large, statutory damages can be seen in the U.S. case Capitol Records v. Jammie Thomas. Jammie Thomas was ordered to pay $222,000 in damages for sharing 24 songs via KaZaa, in addition to her substantial legal bills.[1]

To avoid getting penalized, you have to keep up with copyright law, and make sure that you are aware of the license terms for every bit of material you are using. Creative Commons licenses are fully part of the copyright system. That means that even if you use material with the most liberal license, the Attribution license, these statutory damages can still apply. Additionally, since Creative Commons started releasing licenses in 2002, it has released new versions every year and a half (1.0, 2.0, 2.5, 3.0) of its core license modules. While it is admirable that Creative Commons is trying hard to make the law more accessible, it is still approaching the law from a lawyer's perspective. Frequently tweaking the license means that artists have to do even work keeping up with the changes to make sure they are operating legally. In comparison, the FSF has just released the third version of the GNU GPL after 18 years. The previous version was in use for 16 years. Additionally, share-alike clauses regulate copying, which copyright law was designed to do, there is a clear, general understanding of this. This means it is rarely necessary to court to enforce such clauses, unless the violator is uncooperative. If you use the GNU GPL, the FSF will help to represent your claim.

0.4 Using Copyright for Attribution has Unintended Consequences

There are many arguments in favor of giving attributions, an key attribution can help launch the career of an artist. The key part of my argument is not whether giving credit can be beneficial. Instead it is a question of whether creators benefit more from copyright than they lose. Attribution clauses have been widely discredited in the free software world. In the late nineties, people began to realize that the attribution clause in the original BSD license was causing problems with projects that involved large collections of packages, such as GNU/Linux distributions.[14] Basically, the attribution clause required them to have hundreds of attributions on any advertisement they published. Imagine trying to include hundreds of attributions on a banner ad and you get the picture. Then factor in the amount of work that someone would have to do just to keep track of all these attributions. The new BSD attribution clause is harmless because it ties attribution only to distribution: just include the license file with the files that you distribute. Similarly, the GNU GPL requires that the name of the copyright holders of any included work are listed only where a copyright notice is listed. On the other hand, the Creative Commons attribution clause is very broad, creating more work than the original BSD license. (see section 4(b) of Attribution 3.0 Legal Code)[8].

Imagine that you are making a new piece and you sample some other video and audio sources. If these sources don't include other sources, then the job of managing attributions

[1]torts is the area of law dealing with wrongful acts that cause damages

shouldn't be too difficult. Since many artists are sampling, you will have to track the attributions of the works that you are sampling, since you might be including parts of those secondary sources in your new work. As people sample more and more, this will only compound, and soon you will be dealing with exponentially increasing attributions. Even if everyone involved just sampled from five sources, through five generations of sampling, then you will have to track down and manage 3125 attributions. That means your album cover, your web page, your video credits, etc. will need to have an additional 3125 credits added. Not only is this a lot of work, but those attributions lose value as their numbers compound. Who is going to bother reading through thousands of credits?

Take the example of Freesound[3] which uses a Creative Commons Sampling Plus 1.0[9] license throughout. If I create a work of my own using samples from Freesound, then I will have to manage those attributions, making sure I have all the details correct, and that they are everywhere they need to be. If I make a mistake in those attributions, then I could be liable for the statutory damages of copyright and the associated legal fees. If I use any of the standard commercial sample libraries such as Sound Ideas, there is no such requirement. Once you have bought the sample library, I can use the samples without worrying about attribution. Considering all of the license grants and restrictions, Sound Ideas seems to provide more freedom than Freesound.

On top of this, someone has to track down the authors and find out how they want to be attributed, unless the attribution is very simple and clearly defined. Imagine if RedHat had to manage attributions for all of the packages that it includes in its distribution. Now consider new uses, what if scientists start releasing data sets using licenses with vague attribution clauses, then an artist working on visualizing data searches a database of these data sets, getting 50,000 useful results. That artist would then have to track 50,000 attributions. That takes real and substantial effort. Some argue that this could be automated so 50,000 attributions would not be hard to handle. That begs the question, how would you display 50,000 attributions, and more importantly, would some collection of 50,000 attributions be a useful thing that people would actually look at? If no one ever bothers to wade through those 50,000 attributions, then it seems quite clear that it was not a useful exercise. The project would need to be extended to visualize its attributions! We are immersed in a world of copyrighted material. When making art the documents the real world, like movies or photographs, it is inevitable that copyrighted work will get included in these documentations.[5] Even if all this material was covered by a Creative Commons attribution license, all of the copyrights will still need to be managed, from figuring out the attributions to handling noncommercial terms.

It is possible that such an attribution might get you high profile attention that you might not otherwise get. The license might also dissuade people from using your work, leaving it unused. As long as you can show that the work originates from you, something the internet makes much easier, then the more your work spreads, the greater the possible effect on your reputation. Adding restrictions can hinder the spread of your work. This is actually quite common in commercial design. If a major corporation wants to use your work, and it does not like the fees or license, it will pay someone else to imitate it, and therefore own the copyright entirely. This is a major activity of sound design firms, especially for music used advertising. They then need to give no attribution for this imitation, and you have gained neither money nor a greater reputation.

0.5 Reputation Works Separately from Attribution and Copyright

When copyright was created, it was never intended to be a "creditright". Through practice of using licenses and a concerted effort by the publishing industries, most people now believe that copyright is intended to be a right to attribution. Attribution is often confused with reputation, they are not interchangeable concepts. While attributions like album credits definitely can help to build a reputation, they are only one of many ways to do so. On web forums like Freesound, download counts and number of comments are a visible way of seeing someone's reputation; the identity of the original author of a useful addition to a program is often spread via email lists while very few people bother to read the copyright statement where the author's name is listed; working at a highly esteemed magazine The Economist will carry a journalist far, even though The Economist does not have bylines on its articles. What is most important to someone working as a creator is their reputation. A reputation is built up by doing good work and people recognizing it. Strictly enforced attribution is rarely how people get recognized.

The movie business is well known for providing detailed listings of attributions, also known as "credits", that appear at the end of movies. It is not because any rule of copyright that the credits are included. They are the product of contracts, union agreements, and a code of ethics. The standard free software licenses, like the new BSD license, the GNU GPL, and others, do not require attribution anything like movies have. Writing software is much like any other creative work, reputation is an essential part of earning of living. Yet even with the vast amount of free software out there, it is extremely uncommon to find people plagiarizing software. It would be a simple matter of downloading the source code of a program, renaming it in the key places, and putting it out there on its own website. There are many other things that make it difficult to get away with plagiarism: it is very easy to find code thanks to search engines, free software users expect to see forums, lists, and a browseable source code repository. Imitating these takes a substantial amount of work, and discovering a fraudulent version it not difficult.

For a new artist starting out, it is more useful to use extra means of proving authorship. If someone plagiarized this new creator's work and gets a lot of attention from it, this new creator can then demonstrate that they were the actual author in one of many public forums and therefore lay claim the credit. There will be a trail of proof on websites, blogs, peer-to-peer networks, and even timestamping services like http://signedtimestamp.org/. "[T]he Internet is also one gigantic detective machine, for one finds stolen material much more readily here than in the real world."[24] When a creator has a reputation, then people who are seeking the works of that creator will want to make sure that they are getting the original versions. This impulse exists outside of copyright. The distribution of media on peer-to-peer networks is a clear example of this. The vast majority

of illegally shared files are accurately labeled, even when the copying is illegal. The success of the creator is based on their reputation. If a creator just rips off people's work and tries to claim it as their own, they can easily be discredited and their reputation will damaged or destroyed.

There are a wide array of occupations where reputation plays a crucial role, yet those involved collectively ignore copyright and attribution. "Most judicial opinions nowadays are written by law clerks but signed by judges, without acknowledgment of the clerks' authorship. This is a general characteristic of government documents, CEO's speeches, and books by celebrities." [21] Business contracts are a similar case, lawyers involved in mergers and acquisitions freely use sections of contracts, often verbatim, without any acknowledgment of original authorship or their copyright.

Before copyright became dominant, the vast majority of composers and musicians made their living from other means, and they built their reputations outside of copyright, often outside of any system of attribution. Before widespread copyright, the most famous composers were known for their musicianship more than their compositions, and were expected to play regularly. Many published pieces of music where not attributed to a composer since it was deemed irrelevant. Composers like Mozart, Haydn, and DuFay relied on a patron to sponsor their entire livelihoods. [10] J.S. Bach and Couperin were organists in the employ of churches for large portions of their lives. While Bach is now known most of all for his compositions like the Brandenburg concertos. He wrote them as an application to be the church organist in Brandenburg. (He did not get the job, and the concertos were forgotten in library of the margrave of Brandenburg-Schwedt for over a decade.) Making money from publishing music and recordings did not become widespread until well into the 20th century, and still the vast majority of musicians make the bulk of their earnings outside of copyright and publishing.

Radiohead experimented with removing copyright law, in effect, with the distribution of their new album In Rainbows. People could download the whole album from Radiohead while paying as much as they wanted. Radiohead earned a substantial amount not because people felt they were required to pay, but rather because their reputation. Radiohead has an excellent reputation with fans and critics alike, and people are willing to give them money in order to ensure that they continue to make music.[20] Another classic example is the Grateful Dead bootleg scene. The band explicitly allowed people to record, distribute, and even sell bootleg recordings of live concerts. Whenever they were touring, they were consistently one of the top grossing concert acts, they even had good record sales, so it is hard to imagine that this voluntary suspension of copyright did them any harm.

Say a new writer publishes a novel under a free license with no broad attribution requirement, and puts it on her website, people download it, read it, and spread it so her reputation builds. Then a publisher takes this novel and prints books out of it and sells it. This publisher now has invested time and money into selling your book, and will want to promote it as much as possible in order to sell more books. They would be foolish to avoid capitalizing on the author's reputation, which would provide them with free promotion, so they would want to be sure her name is on it. Any money they spent on promoting the book would add to her reputation, perhaps they would even hire her to promote your book. On the other hand, if such a printer was publishing the work of a well known author, not much promotion would be needed. But most readers will want to read the author's recommended version. With internet search engines that is becoming ever easier to find, so such a publisher would want the author's recommendation. That said, there will always be unethical copying, but such is the case now, even with draconian copyright laws in place. If copyright was an effective means of deterring people, then RIAA would not have to sue many of its customers. And even with their huge litigation budget, they are only having limited success.

The writer Stephen King provides an earlier example of using the internet to cash in on reputation while working outside the normal realms of copyright. In 2000, he began to publish chapters of The Plant serially, asking downloaders to pay $1 for the download, either before or after downloading it. He said he would keep on releasing new chapters as long as 75% of downloaders paid. After a few installments, the percentage of payers dropped to 46%, and King stopped the project. Many called the project a failure, and publishing companies breathed a sigh of relief. After a few months, King revealed that he made a $463,832 profit on this half-finished novel.[15] That figure seems quite hard to label a failure, especially since the majority of writers never make that much money on all of their writing.

As it is, attribution in the art world is widely abused and ignored. Consider for example the sculpture of a famous artist like Louise Bourgeois. When you look at the attributions, her works only ever have one: "Louise Bourgeois". But when you consider how they were actually made, there are numerous interns and employees making the sculptures that she signs her name to. This is far from unusual; big name media artists basically always have lots of people giving substantial contributions, who rarely get specific attributions. Yet you will find that many people can build a reputation from this kind of work, it is enough to demonstrate that you worked on well regarded projects in order to boost your reputation.

0.6 Building upon the Creativity of Others

The commodification of creative work has created the artificial idea that the work of art is purely the work of the artist who produced it. This flies in the face of millennia of human endeavor, we are all standing on the shoulders of giants. Art is built upon the works of others, like all of human creativity, it does not exist without being firmly implanted into the context of human communities. If you believe that artists can create great works completely of their own minds, consider the humans who have grown up in complete isolation, such as the legendary Kaspar Hauser. Sadly, they are never able to contribute or even generate much, and even have trouble with the basics of communications. Even if they were to produce substantial works, those works would lack any cultural reference and would be incomprehensible to the current culture. It follows that in order for human creativity to flourish, there needs to be a large body of material for people to draw upon. And if this material is freely available and unencumbered by restrictions such as licenses, then creativity will flow more freely.

Sampling and remixing are natural whenever people are creating. Nabokov's Lolita is widely regarded as a excellent

work of art, but few remember Heinz von Lichberg's story of a 13-year old seductress called Lolita from just a few decades earlier.[19] Could it be that Nabokov was a rip-off artist? Or perhaps he sampled from or even remixed the earlier work to make a more compelling work. This is especially ironic when you consider the copyright infringement lawsuit that Nabokov's family brought against Pia Pera for writing Lo's Diary, a similar story told from the girl's point of view.

The idea of authorship needs to return to its roots, the author is the person who is responsible for the current incarnation of the ideas taken from many people. When we pretend that authorship is complete and total, that every single idea and detail of a work sprung forth purely from the author's mind, then explicit attribution is necessary to counteract that total claim of credit. Whenever we ask, "who are your influences?", "where did you get that sample?", or even "what software did you use?", we are assuming that authorship is not a sweeping totality, but rather the remixing of our experience into a new form.

Now, free software provides an excellent example of freely building upon the work of others. But it is important to note that these ideas did not originate in the world of computers. While academic traditions are often cited as the root of these ideas, there are many other examples. Before recording and the widespread use of copyright, music was also firmly rooted in this method of development. Musicians freely lifted and used other people's music, playing it, modifying it, passing it on. These ideas are present throughout the development of human civilization, you can see it in storytelling traditions, recipe swapping, traditional house designs, painting, and on and on. "[I]t becomes apparent that appropriation, mimicry, quotation, allusion, and sublimated collaboration consist of a kind of sine qua non of the creative act, cutting across all forms and genres in the realm of cultural production." [18]

0.7 The Internet Removes the Middleman, No More Publishers Needed

Up until the past few decades, creative works had to be distributed in physical form. Now, with computers becoming ubiquitous and interconnected, it is no longer necessary to distribute anything tangibly physical in order to reach an audience. There is an essential difference between the world of digital media and the physical world: as the digital world develops, scarcity becomes closer and closer to nonexistent. Making and distributing physical media requires substantial resources, and there are huge gains in efficiency in economies of scale. Creators were not able to reach large audiences without the aid of the publishers and their established distribution networks.

Now, anyone with a computer can readily copy digital media with insignificant cost. A number of developments are drastically reducing the costs of distribution: the widespread adoption of peer-to-peer distribution technology like bittorrent and the ever increasing bandwidth of network technology. Even the cost of promotion is going down as people get their information from a wider array of outlets, like blogs, netlabels, etc. Once you buy into this system of digital media distribution, the cost of distribution is so minimal that it is no longer a economic factor in the creation of the work.[7] When lobbying for the original copyright laws, publishers often said these laws would ensure that buyers were getting an accurate copy of the author's original work. After all, for another printer to start printing a book, they would have to typeset the whole thing, a laborious, manual process fraught with errors. Karl Fogel outlined an essential difference in the digital world: "To make a perfect copy of a printed work is actually quite hard, although making a corrupt or abridged copy is very easy. Meanwhile, to make a perfect copy of a digital work is trivially easy it's making an imperfect copy that requires extra effort." [12]

We are entering a world where all media ever created will be able to fit inside your pocket, distribution is getting easier and easier, media search technologies are getting better and better. This drives the cost of media down to the point where media will have to become a service rather than a commodity. If a someone wants a particular piece of media they cannot find, they will pay someone to produce it. The internet has proven very useful in allowing people to communicate directly, eliminating all sorts of middlemen. Physical media, the whole basis of existence for publishers, is fading away as means of disseminating creative works. Even many publishers are losing faith in copyright law, and are now attempting to bypass copyright law by implementing digital restrictions management [2]. All this points to one inevitable conclusion: publishers are rapidly becoming obsolete. Copyright was designed around physical media at the behest of the publishing industry. Since the internet is freeing creators from publishers, creators should be freed of the harms of copyright at the same time.

0.8 Free Software, Free Hardware, Free Culture, Free Art!

It is widely established that monopolies generally suppress innovation and drive costs up, yet copyright terms have been continually extended over the past century. Due to the massive benefit of free access to the body of human creativity, new standards of funding artistic work are emerging. Media artists are leading this push since digital media resists the easy commodification of traditional arts. So how then will artists earn an income? Here are a few examples that have nothing to do with copyright: festivals pay for the "performance" of the work, not for the work itself; commissions and grants pay to develop a work; more and more people are making direct donations to artists; and of course, the biggest source of income for artists will likely remain teaching.

Sharing and collaboration are essential human traits, especially when it comes to intangible things like ideas, stories, music, and knowledge. Until recently, existing technology has largely worked against this impulse by turning knowledge into marketable chunks, like recordings, books, etc. Now we have the technology to re-enable this innate human trait on a broad scale. Digital media and the internet basically eliminate scarcity, the costs of copying and distribution in this realm are miniscule compared to the cost of production. Therefore everything that can work within the realm of digital media, can, should and will follow the direction demonstrated by free software.

If you believe that freedom generates the most innovation, then use free licenses. If you want to gamble in the lottery that is the commercial art world and recording industry, then you will most likely be required to restrict freedom and suppress innovation. As more and more of human endeavor can be packaged up into digital formats, it starts to behave

[2] aka Digital Rights Management aka DRM

like models of software development. Chunks of sound, image, and text can be woven together to form a new work with no more difficulty than it takes to use other people's code in your program. If we believe that open source methods provide more efficient production, as free software has clearly demonstrated, we must allow all human creativity to be as free as free software. Free software is well established and in growing ever more in adoption. Free hardware is making inroads to the broader public's consciousness. The idea of open source is also spreading beyond computers, with free scientific journals such as PLoS[4] as well as free movies like Elephants Dream.[2]

0.9 Rely on the Creative Code of Ethics

Hopefully by now, I have begun to make clear that the creator's reputation is what is most valuable, not where she is credited, or the copyrights she owns. In the world of art, music, writing, and creative pursuits, there is a code of ethics that exists. It may not always be clearly defined or communicated, but it is present nonetheless: give credit where credit is due, do not rip off the work of others, support art that you enjoy, to give a few examples. Many organizations have codes of ethics which they require their members to obey. Most unions, including actors and writers guilds, also require their members obey a code of ethics. Academics and doctors follow strict codes of ethics, as do lawyers. If a DJ becomes known for "biting", that can kill any future prospects. Being known as a rip-off artist or a fraud can rapidly kill a creative career. Remember Milli Vanilli? They went from selling tens of millions of albums to almost nothing once people found out that they did not sing any of their songs. If a legal remedy is the only thing that will suffice, then there are plenty of well established laws to rely on, from libel to slander to fraud.

The law is expensive, slow and cumbersome, and requires armies of highly trained people to navigate, support, create, and manage it. The law is a very useful tool for many problems, but in an ideal world, we would not need the law. Societies and communities have all sorts of rules and codes in many different forms. Compared to the law, social mores and codes of ethics are a lightweight way to establish agreed-upon standards of behavior. It is only when certain people consistently violate these mores and codes of ethics that society needs to have them codified into law.

The law is very much like any other facet of humanity, it is developed to solve problems at hand. Developments in technology and changes in society regularly render things obsolete, think of professions like blacksmithing, technology like oil lamps, and rules about handling horses. Why should the law be any different? Now that people are embracing free culture, they are removing restrictions on copying and distribution. Since copyright was designed around copying and distribution, removing those stipulations means that the core reasons for the existence of copyright have been removed. Free culture therefore needs to move beyond copyright.

1. REFERENCES

[1] Capitol v. Thomas. http://arstechnica.com/news.ars/post/20071004-verdict-is-in.html.

[2] Elephants dream. http://www.elephantsdream.org.

[3] Freesound. http://freesound.iua.upf.edu.

[4] Public library of science. http://www.plos.org.

[5] K. Aoki, J. Boyle, and J. Jenkins. *Tales from the Public Domain: BOUND BY LAW?* Duke Center for the Study of the Public Domain, 2006. http://www.law.duke.edu/cspd/comics/.

[6] Art Libre. Free art license. http://artlibre.org/licence/lal/en/.

[7] J. P. Barlow. The economy of ideas: Selling wine without bottles on the global net. http://homes.eff.org/~barlow/EconomyOfIdeas.html.

[8] Creative Commons. Attribution 3.0 license. http://creativecommons.org/licenses/by/3.0/legalcode.

[9] Creative Commons. Sampling plus 1.0 license. http://creativecommons.org/licenses/sampling+/1.0/.

[10] P. G. Downs. *Classical Music: The Era of Haydn, Mozart, and Beethoven*, chapter Musician in Society, pages 17–21. W. W. Norton, 1992.

[11] A. C. Engst. Creative commons license upheld in dutch court. *TidBITS*, 2006. http://db.tidbits.com/article/8469.

[12] K. Fogel. The promise of a post-copyright world. http://questioncopyright.org/promise.

[13] Free Software Foundation. The free software definition. http://www.gnu.org/philosophy/free-sw.html.

[14] Free Software Foundation. The BSD License Problem. http://www.gnu.org/philosophy/bsd.html, 1998.

[15] L. Harrison. Stephen king reveals the plant profit. *The Register*, February 2001. http://www.theregister.co.uk/2001/02/07/stephen_king_reveals_the_plant/.

[16] B. M. Hill. Towards a standard of freedom: Creative commons and the free software movement. *Advogato*, July 2005. http://www.advogato.org/article/851.html.

[17] L. Lessig. Interview with Jim M. Goldstein. In *EXIF and Beyond*, 2008. http://www.jmg-galleries.com/blog/2008/01/02/exif-and-beyond-lawrence-lessig-interview/.

[18] J. Lethem. The ecstasy of influence: A plagiarism. *Harper's Magazine*, pages 59–71, February 2007. http://harpers.org/archive/2007/02/0081387.

[19] M. Maar. *The Two Lolitas*. Verso, Sept. 2005. http://www.versobooks.com/books/klm/m-titles/maar_m_two_lolitas.shtml.

[20] J. Pareles. Pay what you want for this article. *New York Times*, (9th), December 2007. http://www.nytimes.com/2007/12/09/arts/music/09pare.html.

[21] R. Posner. Plagiarism. http://www.becker-posner-blog.com/archives/2005/04/plagiarismposne.html, April 24 2005.

[22] E. Samuels. *The Illustrated Story of Copyright*, chapter six. Thomas Dunne Books, St. Martin's Press, December 2000. http://www.edwardsamuels.com/illustratedstory/isc6.htm.

[23] R. Stallman. Emacs General Public License. http://www.free-soft.org/gpl_history/emacs_gpl.html.

[24] K.-E. Tallmo. Copyright alert. *The Art Bin*, January 1996. http://art-bin.com/art/acopyalert.html.

[25] F. Zhang and D. Xie. Chinese copyright protection has storied history, strong future. http://www.sourcetrix.com/docs/Whitepaper-China_Intellectual_Property.pdf.