

Copyrights

What's Wrong and How to Fix It

Matter, Energy, and Information

- Matter
- Energy
- Property
- Information
- Why not "Intellectual Property?"

Economics

- Based on Law of Scarcity
- Does information have value?
- Individual vs. Society

Incentives

- People are self-interested
- Need for scarce resources

Copyright

- Works with "aesthetic value"
- Quid pro quo
- Public Domain

Constitutional Basis

- "The Congress shall have power ... To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries...."
- Science and Useful Arts

Copyright Basics

- Exclusive rights
- Terms
- Registration

What copyright is not

- Patents
- Trademarks
- Trade Secrets

Copyright

- Necessary
- Recent changes fail to serve purpose

Fair Use

- Non-infringing uses of copyrighted works
- Does not reduce incentive to create

Types of Fair Use

- Excerpt for Critical Review
- Excerpt for Academic Use
- News Reporting
- Satire and Parody
- Time and Space Shifting
- Right of First Sale

Threats to Fair Use

- Licensing
 - No sale, so no “first sale”
 - Contractual surrender of fair use rights
- Encryption
 - DMCA
 - DRM

Digital Rights Management

Digital Rights Management (DRM) technology is based on a newly invented concept called "access rights". First, a work is encrypted so that it cannot be accessed without a special tool or program, available only from the copyright holder. This tool uses technological means to prevent me from exercising my rights under fair use. The tool also has a license agreement which says that I may not even read this paragraph aloud to the class. Under the Digital Millennium Copyright Act (DMCA), any action I take to defeat these restrictions is illegal. In fact, by using Jeromy's cellophane to read this message, rather than the authorized cellophane from Larry, I am breaking the law.

Digital Rights Management

- Encryption
- Security through obscurity
- Criminal protection to trade secret
- Loophole!
- Solution: Fair Use cannot be restricted legally or technologically

Extending Fair Use

- Digital issues
 - Compatibility
 - Data and transmission formats
- Solution
 - Reverse-engineering as fair use
 - Exchange formats uncopyrightable

Copyright Length

- 14 years, renewable for an additional 14
- Sonny Bono Act:
 - Life of the author plus 70 years
 - Shorter of
 - 95 years from publication
 - 100 years from creation

Copyright Length

- Shorter of
 - Life of the author
 - 50 years
- Software
 - 5 years
 - 5 years renewal if not dead work

Dead Works

- What is a Dead Work?
- Examples
- Use it or lose it

Transferability

- Copyrights as property
- Copyright Empires
- Copyrights not property
- Prohibit transfer of rights

