

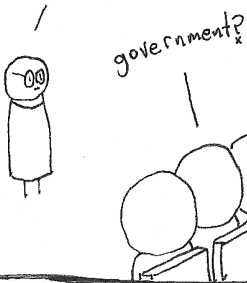


INTELLECTUAL PROPERTY IS THEFT

COPYRIGHT, ANTI-COPYRIGHT, PUBLIC DOMAIN, AND CREATIVE COMMONS



Good day, I am here to talk to you today about a rather grave problem that faces us.



No, far worse.



well, it's not that bad. I'm here today to talk about intellectual property.



Now, if you were to steal something from someone else, that would be theft, right?



err... okay... well, if someone were to steal from you, that would be theft.



Right. Now, as anarchists, we contend that if someone were to hoard something needed by everyone, like land or "the means of production," that would be like stealing from everyone.

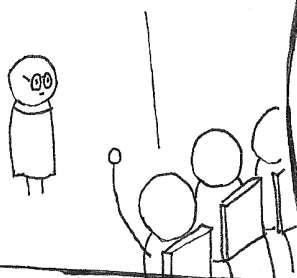


Therefore, "property is theft," when "property" means land, essential utilities, the means of production, etc.



yes?

is the end result of all of this going to give me a philosophical excuse to download pirated movies?



uh... well... sorta.



Now, "intellectual property" is the ownership of ideas. For example, I "own" the jokes in this comic —

but this comic isn't very funny.



what?!

yeah, this is one of your "serious" comics, and they're never as funny as your regular comics.

Uh...



the point is, if I were to hoard my ideas, I would be denying growth to my own culture, the culture I hope to expand.

someone's feeling rather self-important today...



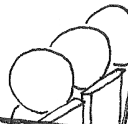
Folk music, as an example, developed as musicians fed off one another, rewriting and performing one another's songs as if they belonged to everybody.



so kinda like fan fiction?

No.

why not?



'Cause fan fiction is dumb.

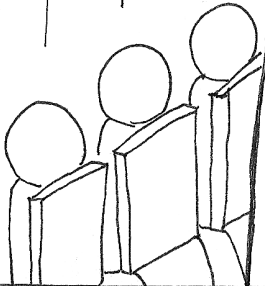


Anyhow, intellectual property is theft from culture, the same as land ownership is.



Some should smash intellectual property!

with hammers and bricks!



right. good luck with that.



Then there's public domain. Public Domain encompasses all of the ideas that aren't owned by anyone.



But there's a problem... Disney, as an example, is notorious for capitalizing off of stories in the public domain.



Snow white, Alladin, sleeping beauty...

shrek!

Uh... sure.



So if I record a song and release it into public domain, BMW can use it in a commercial.



And I would have no legal recourse to sue.

if you sue, you're giving in to the legal system, and I'll get mad at you.



So for a long time, anarchists solved this in two ways:



One, they used traditional copyright, and then just didn't sue one another when they "violated" that copyright. This works alright, but it doesn't make a statement.

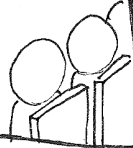


Two, they called their work "anti-copyright" or "copyleft." Strangely, in the eyes of the law, these are more or less the same as copyright if they aren't accompanied by a license.



is that kind of like how people who are into "anti-politics" spend all their time talking about politics?

exactly.



So some liberal lawyer types got together and wrote the "Creative Commons" Licenses.



These licenses allow you to control the amount of freedom people have with "your" ideas.



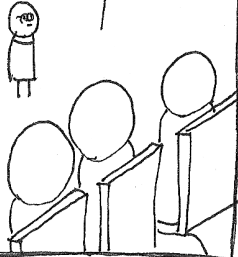
For example, you can say "anyone can copy this work for non-commercial purposes so long as they don't change it."



or "anyone can sample this work, even for commercial purposes, or copy all of it for non-commercial purposes."



can they say "anyone but law enforcement?"

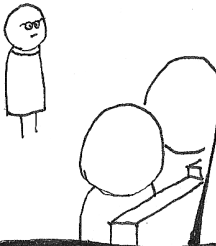


er... no, not as of now.

well, they should work on that.



You remember how I said they were liberals?

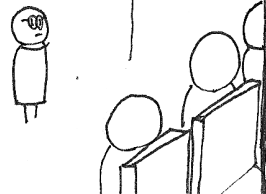


oh. right.



I can't believe you're promoting a liberal ideology.

sigh.



COPYRIGHT

I AM AN ANARCHIST, with no love for the “founding fathers” of the USA. That said:

Thomas Jefferson, for one, considered copyright a necessary evil: he favored providing just enough incentive to create, nothing more, and thereafter allowing ideas to flow freely, as nature intended. His conception of copyright was enshrined in the Constitution, which gives Congress the authority 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.” This was a balancing act between creators and society as a whole; second comers might do a much better job than the originator with the original idea.¹

Copyright, as currently exists however, is a very different beast. All works created are automatically protected by copyright law, whether they display a copyright notice or not. The length of copyright protection is currently the life of the author plus seventy years. As for what is copyrighted, I quote at length from the US copyright website:

Copyright protects “original works of authorship” that are fixed in a tangible form of expression. The fixation need not be directly perceptible so long as it may be communicated with the aid of a machine or device. Copyrightable works include the following categories:

1. literary works;
2. musical works, including any accompanying words
3. dramatic works, including any accompanying music
4. pantomimes and choreographic works
5. pictorial, graphic, and sculptural works
6. motion pictures and other audiovisual works
7. sound recordings
8. architectural works

These categories should be viewed broadly. For example, computer programs and most “compilations” may be registered as “literary works”; maps and architectural plans may be registered as “pictorial, graphic, and sculptural works.”

What Is Not Protected by Copyright?

Several categories of material are generally not eligible for federal copyright protection. These include among others:

-Works that have not been fixed in a tangible form of expression (for example, choreographic works that have not been notated or recorded, or improvisational speeches or performances that have not been written or recorded)

-Titles, names, short phrases, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering, or coloring; mere listings of ingredients or contents

-Ideas, procedures, methods, systems, processes, concepts, principles, discoveries, or devices, as distinguished from a description, explanation, or illustration

-Works consisting entirely of information that is common property and containing no original authorship (for example: standard calendars, height and weight charts, tape measures and rulers, and lists or tables taken from public documents or other common sources)²

FAIR USE

THERE IS A CLAUSE on copyright law that intends to keep copyright from being too utterly draconian (although it often fails at this!): the concept of *Fair Use*. The fair use section of the law is:

Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

1. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
2. the nature of the copyrighted work;
3. the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. the effect of the use upon the potential market for or value of the copyrighted work.³

Currently, there is a rather major abuse of copyright occurring: thanks to the UN ratified WIPO [World Intellectual Property Organization] Copyright Treaty”, and the US’s DMCA [Digital Millennium Copyright Act], companies are sending take-down notices to websites all over the world, bullying them into giving up their fair-use of various documents: teachers denied the right to teach with materials, news-blog sites forced to shut down, etc., all in the name of ending “piracy.”

PUBLIC DOMAIN

THE PUBLIC DOMAIN IS essentially what anarchists argue for: works within the public domain are free to be used by all, for whatever ends may please them. For the most part, works within the public domain are those for which the copyright has expired, and includes most work from before 1923.

Even if an anarchist society will view all ideas as public domain, you may want to consider *not* releasing your work into the public domain while capitalism remains in power. Simply put, your enemies will be free to use your work as well as your comrades, and it would be a sad day to hear your song advertising for Mazda, your cartoons advertising for American Apparel. (To be branded a sell-out, without the financial rewards!)

ANTI-COPYRIGHT, COPYLEFT, ETC.

IT IS FOR THIS fear of capitalist co-option, primarily, that has turned people towards releasing their works under “anti-copyright” or “copyleft” licenses. I myself have released dozens of videos and zines under the ‘anti-copyright’. These labels carry very little legal value, however.

Since unless a work is explicitly released into the public domain, it is copyrighted, most “anti-copyright” and “copyleft” releases are still technically under copyright, although a court would be quite likely to side against you if you tried to sue a corporation for copyright infringement after releasing your work ‘anti-copyright’.

Within the anarchist movement, of course, there is a long-standing, unspoken agreement that we can reprint, quote, or generally be free with one another’s work, even copyrighted work, as long as we are not doing it for selfish reasons.

CREATIVE COMMONS (AND OPEN LICENSING)

THERE ARE A VARIETY of “open content” licenses available for you to ascribe to your work to allow people more freedom. Most of these blossomed out of the open-source software movement. But the most user-friendly option available to creators of various media aside from software has to be Creative Commons.

Personally, I advocate for Creative Commons, not because I believe in their stated intent: “Too often the debate over creative control tends to the extremes. ... Balance, compromise, and moderation ... have become endangered species,”⁴ but because I find it useful to use the legal system to protect my creations from the evils of capitalism.

When your work has been licensed in the Creative Commons, you retain your Copyright. For example, this zine’s license allows “non-commercial” reproduction. If someone wants to make money of this zine however, they have to contact me and ask my permission, and I would have the right to sell them the commercial rights to the work.

FINAL THOUGHTS

DON’T LET THE LAW scare you: aside from online movie and music downloads (and the corporate crap anyhow), people are not generally getting slapped with huge fines or thrown into prison for copyright infringement.

MOST OF THE INFORMATION herein refers to the territories occupied by the United States of America, and the laws quoted are from said government. However, thanks to that country’s stranglehold on world politics, the rest of the world is rapidly adopting US policy.

Further, Creative Commons have licenses applicable to dozens of countries, with more on the way.

SOURCES

- 1 – The Tyranny of Copyright, Robert S. Boyton, *New York Times*, January 25th, 2004. Available online at: <http://query.nytimes.com/gst/fullpage.html?res=9801EFDA1439F936A15752C0A9629C8B63>
- 2 – Copyright Office Basics, <http://www.copyright.gov/circs/circ1.html>
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- 4 - <http://wiki.creativecommons.org/History>

published in 2007 by
Strangers In A Tangled Wilderness
www.tangledwilderness.org

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