

Copyright is right

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Abstract

In the information age, high technology has become popular. With current technologies, it is simple to make a digital copy of information. Consequently, copyright violation has become more common. People can easily access the Internet to download and use illegally software and information. Some people think that this is the end of copyright and the concept of copyright is flawed. However, this is not true. Copyright is right and it will continue to exist. This paper addresses the necessity of copyright. It discusses some counterclaims and arguments refuting these claims. In addition, the paper presents copyleft license as a means of using copyright to create freedom for users in software industry.

We begin in section 1 with an overview of copyright and the position of this paper. Section 2 defends the existence of copyright. Section 3 discusses some main counter arguments of the paper position. Section 4 describes an outline about copyleft, a concept that looks as if opposed to copyright but in fact coexists with it.

1. Introduction

Copyright is rights of creators to exclusively control their works. It specifies rights reserved for authors, composers, or writers to publish, produce, sell, or distribute their creations. The first copyright act, the Statute of Anne, was passed in England in 1710. By the end of 19th century, most the countries of the world have established laws that protected authors. In 1955, the Universal Copyright Convention took effect. It provides the protection for foreign works as well as domestic works in all countries, regardless of where the work was first published. [1]

Copyright protects several kinds of material: [2]

- Works: all written material, musical, dramatic, artistic
- Subject matter other than works: films, sound recording, broadcast, published edition
- Performance: most types of live performance

Copyright concept is right because it establishes an order society. Let us suppose that we abandoned all copyright laws. We can imagine how an anarchical situation this would cause. Many organizations, companies, factories would be closed because customers did not buy their products - they bought cheaper copies. Many people would stop working because their works gave them no profit. Everyone would keep ideas in secret because of fearing somebody steals their thunder.

Nowadays, the ease of copying and sending information through computer networks has challenged copyright law enforcement. With the development of technology, copyright violation situations have become more difficult to control. Nevertheless, copyright is still existing and being a very important factor of the development. It is maintained by law and by people's responsibility. Moreover, copyright laws can be developed to keep up with rapid changes of technology. One of the most successful efforts to extend limitations of copyright in the software industry is the copyleft concept, which uses copyright to guarantee freedom for users.

2. Copyright necessity

Together with other laws like patent, trademark, and antitrust, copyright law guarantees that intellectual properties receive the protection they deserve. For example, when a programmer develops a utility, it is the outcome from his labor. Thus, the utility belongs to its author. To exploit this utility, users need to have an agreement from its owner. This obvious rule is the basic for the copyright concept, which is playing an important role in our society.

The purpose of copyright is to recognize innovation. It encourages and rewards creative works. Many people are devoting their time to create new things. Novelists, music composers, painters, artists, etc. can do their job because they can make a living from their creativity. They should be remunerated from their works. By profiting from the results, they are willing to continue working. By this way, copyright promotes the creation of new values. If copyright did not exist, many people might not want to share their ideas with others and this would impede developments.

Let us think about professional painters, music composers, or filmmakers. With current technology, it is very easy to make exact copies of their paintings or songs or movies. If these copies were distributed without author permission, it would be a serious problem for people who do not want to live by donations but want to make money from their works. If we were free to take copies of their works, all of them would very soon close their business.

In the case of the software industry, the situation is different than above because users not only want to use software but they may also want to know how it works, to customize it, or to improve it. Thus, there are some advantages to make software free from copyright. However, making all kinds of software free is unrealistic since many developers want to make sure they are paid for their job. We will discuss about free software in a later section.

Now let us consider the publishing industry. The money gained when selling a book should cover the costs involved in the process of publishing that book. If we look into the process of making and selling a book, we realize that the costs for this process include:

- Content creation costs: invested time, materials, effort, and capital to create the content of the book.

- Setup costs to convert the raw content to a form ready to print.
- Costs to produce books: paper, printing, binding, packaging, etc.
- Marketing costs
- Distribution costs

All above costs are expected to be back when the books are sold. If there was no copyright law, readers could buy unauthorized copies of the book with lower price, the author and publisher would lose their investment, as their books were stuck in warehouses. There would be no incentive to publish because publishers took all the risk and their profit would go to someone who was quick to copy their successful books. When we move to electronic publishing, the cost to publish a book will be reduced and there is more chance for free digital book. However, the cost is still existed. If for any reason the author cannot cover expenses and need to sell his book, then copyright of his book is necessary.

Another reason for copyright law is that it creates competition. If everything we need is free then there is little motivation to create something better. The cost we are charged will encourage us to work. For instance, if we had to pay a very high price for a computer application, we may want to develop an alternative program with lower price. This new program, if it were created, would make a competitive pressure on the owner of the former application to reduce its price and/or to improve its features. This process would create better and more products for users. If Windows were free, maybe we would not have such a good Linux.

To protect public interests, copyright law has two exception regulations that allow one to use other's works without authorization. The first rule, called *fair use*, permits a small use of protected material for educational and research purposes, in criticism, comment, parody, news reporting, and similar uses in the public interest. Another rule, called *time-limitations*, ensures absolute public access after a certain period [3]. Even though these regulations sometimes provoke disputes once it is difficult to judge whether the use is fair or not and what is an appropriate time limitation, they are very important rules, as they has brought the rationality to copyright law by equilibrating between the rights of authors and the benefits of larger public.

3. Counter argument examination

The most popular argument against copyright concept is users' freedom. People want to access to information without concerns about payment. It is true that copyright law sometimes is an obstacle when people try to share information. It makes restrictions that create barriers in the flow of information and sometimes it limits the freedom of information. However, for valuable information, authorization is necessary. In many cases, it is bad if all information is free. For example, sensitive or personal information should be accessible only by authorized people. It is unacceptable if anyone can freely copy this information. The idea of getting permission from owners before accessing their

information is correct, so the right way is not to remove copyright law, but to improve it so that it is appropriate for realistic situations in order to better supports users' freedom.

Several people have tried to persuade us that the notion of intellectual property is nonsensical. Information is not a physical object, so we cannot lose it. If we give information to someone, we still have that information, so we should give it away for free. [4] This argument is certainly wrong because it lowers and misjudges the value of idea and information. In a competition, information can determine winners and losers. We can look at it this way, if somebody receives information free of charge, he can easily give it away for free because he still has it. In this case, the only loser is the original owner of that information, because he cannot control his information; nobody needs his permission to get the information. Thus, he still has that information but he can lose something else such as the cost to create that information. The value of information is not in the information itself but it is in what it helps we to achieve. If we have a copy of useful software, it can save us hours, days, or months of working. If we have the right idea or information at the right time, it can change our life. That is why we have to pay for needed software or information.

We do not deny ideas about free domain such as free software and free music since they are good ideas about making contribution to common benefit. Free software domain has given users more choices and contributed significantly to the development of IT industry as we will discuss in the next section. But the point is we cannot just abandon copyright law and force everybody to join the free domain. It is the choice of owners to copyright their creation or give it away free of charge. They can choose to sell their products, if there are better free products, then perhaps very few people will buy their products and as a result, their copyright will become meaningless. Eventually, users have their own right to select a free or non-free product. As consumers, we hope the free domain will grow and there will be more people gathering to cooperate and contribute to common knowledge in public domain but let producers decide their own way. In this case, encouraging is better than forcing, there is no need to annul copyright law.

Many people argue that copyright will promote monopoly. For example, if a company has a copyright license for some information, other companies have to get permission every time they want to use that information. The former company can take advantage of this to enrich itself and become a monopolist. We must admit that copyright is monopoly. It grants someone an exclusive right to distribute a product. If there were no similar product, everybody would have to rely on only one producer. This is real, but at the same time, it can create other competitions as discussed in the previous section. In addition, this will not be a problem if copyright law is able to balance interests of producers and consumers by the time of copyright. We know that copyright is legitimate in only a limited time. If this time is too short, producer interests will be damaged. If it is too long, consumers will pay only to enrich several monopolists. Therefore, it is important that copyright time is reasonable, so that it creates a fair balance between producer and

consumer interests. In most countries, copyright lasts 50 or 70 years after the death of the author. There are debates about this length of copyright. In some cases, this period may be too long that can affect the process of creating new values from existing values. Actually, it is difficult to state definitely a fixed duration that is appropriate in all cases. Perhaps it should be varied according to kinds of copyright. Anyway, we agree that a certain limited period is necessary for copyright enforcement.

Another argument says that copyright is dead because there is no way to enforce copyright law. Modern technologies can be easily used to make copies. Besides, the Internet is popular in almost all the countries; people can freely access the Internet and exchange their data. Thus, it is impossible to control copyright. However, technology cannot demolish copyright concept. It is true that copyright law enforcement has some difficulties with the development of technology. Yet, if there are technologies to violate the law, there will be other technologies or measures to protect it. For instance, hardware manufacture can produce chips that only work with authorized software. It is normal that some people do not agree with the law and try to break it. The piracy still exists but it will not be able to prevail. Before information age, it was possible to break copyright. Photocopier, audio, video recorder could be use to copy without permission. However, until now we can see that copyright is being enforced effectively in most countries. Technology is continuing to develop and the laws will prevent most people to use it illegally.

4. Copyleft – the freedom for users

In software industry, when discussing about copyright, we have to mention about copyleft concept. Within limitations of ordinary copyright concept, proprietary software developers do not allow users to copy, modify, or distribute their products. In this aspect, copyright limits freedom of users. Copyleft concept was introduced to promote the free software development, which was not supported by regular copyright concept. A nice feature of copyleft products is they are put in public domain. Everyone can use them to share idea and experience, to learn technology, and to contribute to testing and improving software. The cooperation of many people in voluntary communities has generated a great force that strongly develops free software movement. Consequently, users have more choices and flexibility. Free software has resisted monopoly by creating a strong competition pressure on commercial software. To some extent, copyleft has overcome freedom limitations of copyright.

It is important to note that copyleft license requires not only the original source code but also all derived modifications and extensions be fully provided to users. By this way, copyleft gives users opportunities to learn and change source codes, to copy, buy and sell all the products originated from a copyleft product.

Copyleft concept was invented by Richard Stallman in 1970. Copyleft software, which is also called open source software, became a strong movement after Linus Torwalds developed Linux, a Unix operating system under an open source license called GNU General Public License, in 1991. Recently, Linux and open source application running on it has achieved great successes. The number of servers using Linux has increased rapidly, especially DNS, email, and web servers. Additionally, office automation suites like OpenOffice or StarOffice are helping Linux to expand into desktop computer market share as a replacement for Windows and to become a considerable competitor of Microsoft. Many organizations are moving to open source solutions. The broad dissemination of developing and using open source software is caused by its prominent advantages:

- Low cost: Comparing to commercial software, open source software has a lower price since users do not have to pay for software license.
- Independent: Users do not have to rely on one provider. Open source software is standardized and supported by a broad voluntary community.
- Adaptability: Software often needs to be adjusted, upgraded, or modified. The availability of source code and the right to modify source code are favorable for adaptation.
- Security: As users control source codes, they are assured that there is no backdoor in software they use.
- Quality: Open source software is often developed with no time limitation and tested by many people. Thus, it is reliable.
- Standard conformity: Because open source developers want to make products with high connectivity, they do not use proprietary standards to protect the market.

Although at first glance, copyleft concept seems opposed to copyright, it actually cannot exist without copyright. If free software were exploited to develop proprietary software, copyleft would lose its meaning. Therefore, it has to use copyright to attach source code with freedom. In other words, to ensure that all users have the freedom to redistribute and change software, copyleft software needs an agreement of users to continue keeping it open. Copyright role is to enforce this agreement. In fact, GNU General Public License and other copyleft licenses are copyrighted. This means that copyright law prevents the open source software from being converted to proprietary software by uncooperative people. Under copyleft license, the person who creates the source code is the copyright holder of that source code. Other people are free to use the product within an agreement with the copyright holder that if they redistribute the product, they have to offer all related source codes. If someone took an open source product, modified it, and distributed the result as a proprietary product, he would violate the agreement and could be acted against by copyright holders of the original product. Clearly, copyleft is coexisting with copyright.

5. Conclusion

Copyright is essential. If you are a consumer, copyright will eventually help to provide more products with higher quality. If you are a producer creating valuable intellectual works, copyright law will protect your intellectual property. If you developed a program, you may want to make it proprietary or you may decide to join the open source movement and make it free. That is your choice. Both options are reasonable, but in either case, you need copyright to make sure your intention is carried out.

Like any other laws, copyright law needs to be further developed to keep abreast with changes of science and technology. To maximize the advantage of copyright, we should consider setting an appropriate limited period for protection and moving possible values back to public domain in order to support the creation of new values. There are many interesting discussions and proposals about how to implement copyright law in the digital age with a balance of interests between the public and copyright holders. There may be different opinions about aspects of copyright law implementation, but the concept of copyright is obviously necessary.

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