Intellectual Property Rights and Industry Evolution: The Case of the Recorded Music Industry

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Overview

- Generations Model of industry evolution
- A generations model of recorded industry music evolution
- Industry evolution and creative content
- Industry evolution and IP regimes
- Scenario for Generation ‘G’ in the recorded music industry
“This next block of silence is for all you folks who download music for free, eliminating my incentive to create.”
Industry Life Cycle Model

Birth         Growth     Shakeout    Maturity    Decline

Industry Sales

Time
Creative Industry Evolution: Generations Model

- Succession of technological platforms
- Succession of business models
- Consumer tastes are age related

Interaction

Generational Transitions
Generation Gap 2008

MP3s

VINYL

JAMBA JUICE

OVALTINE

FLAMING LIPS

ROLLING STONES

FACEBOOK

PHONE BOOK

OBAMA

HILLARY
Value Chain Evolution - Timeline

Generations

- Disruptions
- Enhancements
- Present era

- Retail
- Distribution

- Mass Production

- M & D (better Resourced)
  - Emergence of Labels (Trademarks)
  - Economies of scale
  - Lower Manufacturing costs
  - Improved quality of recording
  - Recording quality barriers further reduced
  - Celebrity System

- Technology Shift: Cylinder to Disc

- Arrival of the Radio as a dominant platform for music and Electric Recording

- A & R

- IPR

- Delivery Platform

- Mp3 players

- Digitisation
  - Internet reproduction of music increases manifold

- Cross border
  - IPR issues
  - P2P networks
  - Distribution

- Marketing & Promotion
  - Enhanced Quality - reproducibility

- Recording and Reproducibility of music easier

- TV

- Portability & Reproducibility of music easier

- Innovation in recording Technology

- Formal copyright institutions

- --Road shows/ Concerts

- M & D rights

- Music Cataloguing

- Gramophone

1877-1890

1890-1917

1918-1935

1935-1979

1980-1995

1995-...
**Generation A [1877-1890]**

*Transition*
- Arrival of the gramophone
- Recorded music takes off despite low quality of cylinders
- Distribution and sales are underdeveloped

*IP Regime*
- Patents focus on technology and manufacturing
- No copyright regime designed for recorded content
**Generation B [1890-1917]**

**Transition**
- Replacement of cylinders by disks: better quality, lower costs
- Economies of scale in marketing and distribution.
- Emergence of Majors using trademarks and with global distribution systems

**IP Regime**
- Copyrights overtake patents in importance
- Emergence of industrial scale piracy
Generation C [1918-1935]

Transition
- Radio and of electric recording.
- Radio becomes an important strategic complement
- Advent of sound in motion pictures

IP Regime
- Radio initially poses threat to investments in content
- Institutional mechanisms (e.g. ASCAP) emerge to protect content rights holders
Transition

- Introduction of magnetic recording technology.
- Television emerges as mainstream entertainment medium.
- A&R begins to dominate the value chain (label system).
- Sales charts are established.
- Industry institutions (e.g. Grammy awards) that signal quality are set up.

IP Regime

- Copyright regimes adjusted for television broadcasting.
- Tax on blank tape and cassettes.
- Content piracy is contained.
Generation E [1980-95]

Transition

- Move from an analogue to a digital environment
- Laser-based compact disk technology in personal computers.
- Specialist music television channels (e.g. MTV)

IP Regime

- PCs digital capabilities increase illicit reproduction and distribution.
- Piracy levels increase dramatically: Industry allocates resources to counter piracy by consumers.
- Increase monetizing of back catalogues
**Generation F [1995- Present]**

**Transition**
- Convergence of the internet with digital storage and playback technology
- Internet enables Consumer-to-Consumer exchange of music files (P2P).
- Established value chain begins to disintegrate
- Emergence of online business models

**IP regime**
- Industry takes legal action against P2P websites, but sales continue to fall.
- Industry fights file sharing with legal online sales
Industry Evolution and Creative Content in the Creative Industries

- Creative content and delivery technologies are loosely coupled

- Creative content and delivery technologies co-evolve:
  - *performance of new delivery technologies drive demand for creative content*
  - *increasing demand encourages further innovations in delivery technologies*

- Investment in creative content depends on capturing rents (appropriability).
Industry Evolution and IP Regimes in the Creative Industries

- Capturing rents depends on translating IP rights into revenues.

- New delivery technologies can both increase and reduce the ability of rights holders to translate IP into revenues.

- The evolution of creative industries is therefore marked by swings between rents capture and rents erosion.

- Prolonged rents erosion triggers search for new business models.
Generation G?

- Music piracy continues unabated
- DRM presents technical and legal difficulties
- Value chains continue to disintegrate
- Established performing artists increase their power
- Investment in new talent is falling
Scenarios for Generation G!

**DECLINE**
- Free use doctrine
- Industry Fragmentation
- Outsourcing of key activities
- Promoters and agents dominate
- Investment into product development declines

**STAGNATION**
- Artist management agencies - critical brokerage hubs
- Industry shrinks – major labels cut back on value chain activities like A&R

**REBOUND**
- Successful online business models
- Technological enhancements monitor usage and distribute content online
- Effective DRM
- Effective leveraging of online communities for investment in content development