

Global reuse & adaptation in creative industries

Three further arguments against intellectual property based on lessons from China

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IP is broken

- So let's now think about some useful ways we might help break it further

- Knowledge growth in CI is an evolutionary process
- IP as an environmental factor in evolution of industries
- If evolutionary, then an open system model likely
- China as an interesting case study

China

1. Weak CR in China, but still developing CI
2. Music: structural differences:
 1. less physical product
 2. more services
3. Blurry definitions of sectors: music vs. telcos vs. ISP vs. broadcast vs. advertising

Some debates in IP law

- IP in general vs. copyright in particular
- van Schijndel & Smiers (2005): ‘imagine a world without copyright...’
- Vaidhainathan (2003): ‘**cultural diversity** and **artistic practice...**’
- Ongoing problems with Western-style copyright systems in the developing world & critiques of **cultural imperialism**

ARTS, CULTURE, IDENTITY, DIVERSITY, LOCAL & GLOBAL

Economics of intellectual property

- nonrivalrous ideas under PC = 0 supply
- Boldrin and Levine (2008): intellectual property vs. *intellectual monopoly*

INCENTIVES, MARKET FAILURE, MONOPOLY

The problem with IP in CIs

- Restrictive nature of copyright in a digital world
- Instead: GPL, CC, FLOSS, etc...
- All weaker ... but still lawyerly solutions
- Separation of amateur & commercial activity...?
- Moral campaigns really no better

- Problem of reuse & systematic violation & transaction costs & 'just stop me' & why not ...
- Law does not relate to how we actually create & protect...

However...

Three further aspects of the practical weakness of IP as exemplified by CIs (in China)

1. Global
2. Reuse
3. Business model adaptation



IP in the CIs is a global game

- CIs are global, yet law is national
- Leads to game of 'play' cooperate locally, but defect globally
- Dominant strategy is to act 'as if' IP weak everywhere
- Thus IP may not matter in global business strategy

Credibility signalling in international treaties: Is IP all just a game?

- IP is an effective gambit to signal commitment to other global treaties (trade, security, etc)
- Observable, politically labile, lobby friendly, bilateral
- The higher the **cost** to law & economy, the better it works **as a gambit**
- Yet CIs pay the price. This is reckless in 'growth of knowledge' context

Creativity & value from re-use

- new ideas vs. re-use of ideas: **which creates most value?**
- IP vs. intellectual monopoly
- H_0 : Value of re-use dominant in the CIs

Public & private gains

Other industry gains

Entrepreneurial gains

Consumer gains

Business models adapt to legal systems

- IP is weak in China, so business models adapt
'IP rights and industry evolution' Lampel, Bhalla & Pushkar (yesterday)
- China - are alternative models for industry development possible?
- ... **Creative Industries may just look different**

& that may mean evolution, not regression

Conclusion

1. Importance of these 3 further factors in IP law debate & especially copyright
2. CIs as special, but illustrative case
3. China as bellwether?

A broken IP system might be improved by breaking it further
Along that path lies business adaptation & institutional co-evolution



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