

Professor Johanna Gibson
Herchel Smith Professor of Intellectual Property Law
Co-Director Queen Mary Intellectual Property Research Institute
Queen Mary University of London
67-69 Lincoln's Inn Fields
London WC2A 3JB
Tel: +44 (0) 20 7882 8068
Fax: +44 (0) 20 7882 8101
Email: j.gibson@qmul.ac.uk

Use is the Judge
The Art of Use in Copyright Policy and Development

The figure of the "consumer" is becoming less adequate to capture the role of users in the knowledge economy. While a "consumer" comes after the product, the contemporary user is instrumental in the creation of the product and the creation of its value. Thus, modern business models are necessarily addressing this contribution of users in the context of a more sophisticated understanding of the relationship between the "product" of intellectual property and the "creativity" of use. Industries, such as the music and television sector, arguably are being driven to innovate in their approaches to the product/consumer relationship as it becomes less relevant and effective to rely upon the physical narrowing of knowledge through distribution channels and the presumption of uncompensated amateurs. This paper will consider the nature of "use" in the valuing and exchange of copyright products and the different rights to use as comprehended by the law, not only rights of the "owners" but also the liberties of the consumers.