

Why rights matter (and what we should do about it)

A presentation by Mark Bide
for the 10th LBF Supply Chain Seminar
Wednesday 22 April 2009

EDITEUR

Why rights matter

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“...for the encouragement of learning, by vesting the copies of printed books in the authors or purchasers of such copies...”

The Statute of Anne

“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”

Article I, Section 8 of the US Constitution

The network is changing how and where value can be created

- ▶ In the physical world, simple access created a point of scarcity in the value chain
 - ▶ Know how, investment, entry to the supply chain
 - ▶ Points of scarcity create value for those who control them
 - ▶ Value Chain theory – the greatest rents are collected at the point of greatest scarcity
- ▶ In the digital world, access is no longer scarce
 - ▶ “Making things public” no longer much of a challenge

Copyright and commerce

- ▶ **Copyright creates a point of scarcity in the value chain**
 - ▶ Only the copyright owner can (legitimately) create points of access
- ▶ That scarcity has created the essential framework for monetisation – for creators and those who invest in the creation of content
- ▶ The law has never completely stopped piracy in the past
 - ▶ But “physical” access is not easy to create...
 - ▶ ...unlike digital access

So what happens to the concept of copyright on the network?

“Stealing normal materialized goods takes away the possession and fruits of the thing to someone else. Copying digital content just produces another instance. It doesn't take away a piece from another human. The only thing it does is to not obey to some legal barrier of copying, invented to create a market. So copying outside the legal framework is just diminishing the chances for the estimated benefit and NOT ‘stealing’ at all.”

Rigo Wenning, Moderator of the W3C DRM list

...some other quotes

“Information wants to be free”

[Part of a much longer original quote: “On the one hand information wants to be expensive, because it's so valuable. The right information in the right place just changes your life. On the other hand, information wants to be free, because the cost of getting it out is getting lower and lower all the time. So you have these two fighting against each other.”

Stewart Brand at the first Hackers Conference in 1984]

“It’s mine – you can’t have it. If you want to use it for something, then you have to negotiate with me. I have to agree, I have to understand what I’m getting in return.”

Tim Berners-Lee (interviewed by the BBC in 2008, talking about personal information)

What is already being done about
it?

A role for technology in protecting copyright on the network

- ▶ **The law by itself is not enough**
 - ▶ Infringement is easy – and attractive
 - ▶ Possible to pursue organised piracy using the law (sometimes)
 - ▶ Impossible to take every user of a p2p network to law (and really very silly to try)
- ▶ We need to care about our rights – but we also need to be prepared to trade them
- ▶ *“The answer to the machine is in the machine”*

Charles Clark

Some things being done in common

1. Standards for permissions communication

- ▶ Creative Commons
- ▶ PLUS
- ▶ ACAP
- ▶ ONIX-PL

2. Services

- ▶ RightsLink
- ▶ iCopyright
- ▶ OZMO

3. Registries

- ▶ The Book Rights Registry
- ▶ ARROW

The nice thing about standards is that there are so many of them to choose from...*

* Andrew S. Tanenbaum



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1980s

mid 90's

today

Libraries

MARC

Archives

FRBR

Museums

CIDOC

IMS

Education

LOM

IIM

NITF

Technology

RDF

Dublin Core

SCORM

Newspapers

XML schema

ISO 11179

abc

NewsML

ERMI

UPC

EAN

ACAP

PRISM

Magazines

url

uri

SAN

DOI

MPEG7

urn

Handle

STANDARDS

ISSN

Journals

MPEG21

XrML

ISO codes

CrossRef

SICI

Multimedia

CC

<indecs>

ONIX-PL

ISBN

Books

V-ISAN

P/META

ONIX

IDPF

eBooks

UMID

SMPTE

DDEX

PLUS

ISTC

Texts

Audiovisual

ISAN

DMCS

IPDA

MWLI

ISWC

Photographs

GRid

ISRC

MPid

ISMN

CIS

CAE

Music

Copyright



So why all these different standards developments?

▶ Common threads

- ▶ Firmly rooted in copyright
- ▶ Communication of licence terms/permissions, not their enforcement
- ▶ Recognition of need for standardisation, particularly of semantics

▶ Differences

- ▶ Sectoral (ONIX-PL, PLUS) or general (ACAP, CC – perhaps ONIX)
- ▶ Primarily machine to person (ONIX-PL, CC, PLUS) or primarily machine to machine (ACAP, perhaps PLUS)
- ▶ Commercial (ONIX-PL, ACAP, PLUS) or non-commercial (CC)
- ▶ Full licences (ONIX-PL, PLUS) or simpler permissions (ACAP, CC)

▶ And...critically

- ▶ All of these groups are in contact with one another – working to collaborate not compete

What you can do about it:
3 ideas to carry away

1. **Understand** the challenge

- ▶ Look at the various developments (standards, services, registries) and understand how they may come to change the way business is done on the network
- ▶ Implement the standards that are most appropriate to your business

2. **Manage your assets** properly

...but what are your assets?

▶ Content  Asset

▶ Content + the right to use that content = Asset

▶ If you don't know what rights you have to use your content, it is a liability not an asset – so manage your rights metadata

3. Improve your (rights) metadata management

- ▶ Standards can only provide you with a framework for communication – metadata quality is essential
- ▶ You can't manage rights in anything you cannot identify and describe properly....

Why bother? – well here's one reason

...in order to either collect cash, earn income, or stop Google from using a work they claim as OP, we must affirmatively assert that we are Highly Confident that we are the rights holder. What this means is that we must find a way to open up those creepy, spider-filled vaults, filing rooms, and warehouses and dig through each and every contract to determine if we have reverted the rights to any title listed in the Google Settlement. If we do this, the reward will not come from the arbitrary gross award of \$60 per book or even the yet to be clear business model of selling the content to libraries and consumers. The real reward will come in the form of the affirmation and accounting of exactly what we own, the chance to properly document that information, and the opportunity to think about what we have discovered as a new assets that may be brought to life.

Furthermore, if done en masse by the industry and we dig through our collective heaps of ancient paperwork, we may find that that the vast majority of works scanned are NOT orphan works that Google will solely control, contrary to popular belief. We may find a sizable amount of the works will be claimed by publishers and a somewhat less sizable amount will be claimed by authors and estates, leaving Google with a reduced share of “orphans” and years of challenges and complications with them ahead. That said, the work ahead, the horrible work that has me hoping for delay after delay to the settlement so that I can find time and budgets and manpower to get me through this process... is actually the best thing that could have ever happened to publishing. We are being forced at gun point to clean out our attic and basement or what is remaining will be auctioned off without our say so.

Evan Schnittman, Vice President, Global Business Development, Oxford University Press

The logo for Editeur, featuring the word "EDITEUR" in a bold, serif font. The letter "I" is stylized with a grey, brush-like stroke that extends upwards and to the right, crossing the top of the "D". The entire logo is enclosed in a thin black rectangular border.

And some other immediate reasons...

- ▶ Territorial Rights – a continuing issue in the digital environment
- ▶ ARROW/Europeana - need for feasible (and accurate!) due diligence process for orphan (and that requires non-orphan) works
- ▶ Piracy - need to be able to automatically detect misuse of what you own

In conclusion....

- ▶ On the network we don't deal in content, we deal in permissions to USE content – *every transaction is a “rights” transaction*
- ▶ This is not new – but our response as an industry has been slow: how many publishers are **not** struggling with claims to the BRR?
- ▶ The impact at the moment is peripheral – but it is rapidly moving to centre stage

.....rights matter!

Thank you

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