

## Copyright mess

I have a small video production company, Resolution Studios. I also create copyrighted works such as novels, songs, paintings, photographs, etc. I have been thwarted at almost every turn when attempting to produce videos, recordings, and documentaries of regional history due to:

### Copyright terms

- Length of ownership

- Who now owns the copyrighted work

- Cost of rights

- Who can inherit the rights (or be assigned the rights) to the material

- Legal actions of current owners against well intentioned users

### Biased legal positions of copyright owners

- Onus is on the individual who intends to use the material to find the legal owner

- Owners are not legally declared or noted in any easily discoverable public record

In fairness to all interested parties, I firmly believe that what looks and feels right is the correct course of action for all interested parties. In this case, the following solutions should be put in place to protect ALL interested parties, and to establish a means of LEGALLY stating claim to a copyrighted piece of work by the party most affected by the work; that of ownership.

Owners of copyrighted work MUST declare their work in an accessible database that can be relatively indexed such that a directed effort will discover the owner. Owners and users of copyrighted material MUST pay for the service through a fee based system of access or “participation” in the system. In other words, a monthly fee should be charged for ALL users of the system (owners and users). If a copyrighted work is not used within a specified period of time, that owner must declare whether or not the work is “of valid interest to the consuming users customer base”. This would imply that a work of antiquity that no one is using should either be archived or disposed of.

At this juncture in time, the relative validity of legal ownership is incredibly bizarre. A photograph in a historical archive at a local museum can sit unused for decades, purely because it is impossible to find out who the actual owner is. This is a problem in many respects due to:

Museums becoming the copyright owner to material donated to them. I don't think this is fair, primarily because the fees they charge are exorbitant and can kill a project that would have revealed the copyrighted material to people who might also want to use the copyrighted material (in other words, you can't use it because the fees prohibit it – therefore it rots away in a file cabinet never to be seen again).

I firmly believe in copyrighting content. I respect copyrighted works (I don't even burn CDs or DVDs of others works unless I purchased the original CD, record, film, or VHS tape) and at that, I use it purely for my own purposes and never sell it to others UNLESS I have purchased the rights to do so.

My personal opinion is:

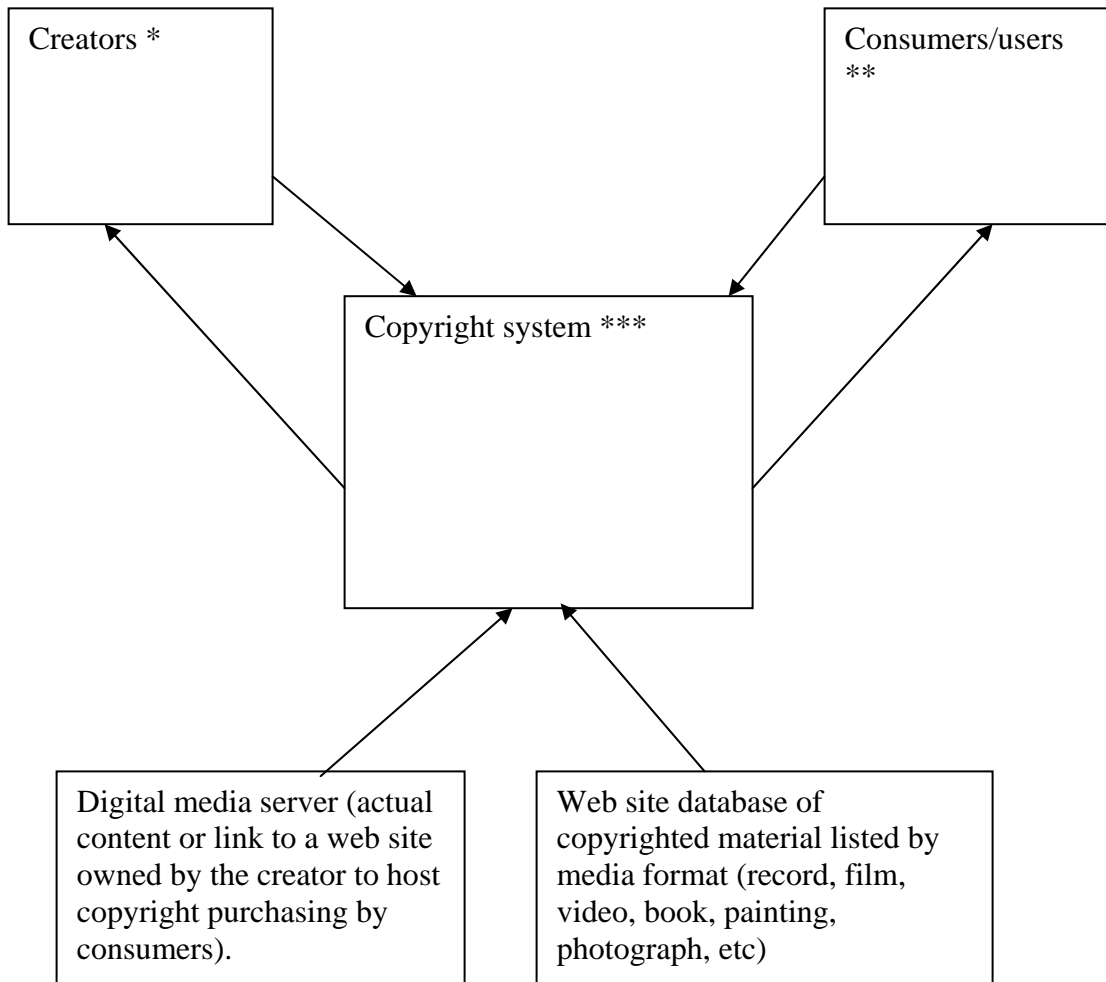
- Copyright should not necessarily be “inheritable”.
- Copyright should NEVER be assignable to another party (hence museums should not control copyrights – though they should be paid an access fee for obtaining, storing, and providing the material for display).
- Copyright should not be as broad as it is today. If someone writes a song in 1910 and that individual dies in 1950. Copyrights to the song should end no later than five years after that person's death (to allow possible inheritors the opportunity to review whether “renewing” copyright is of any value. If they “renew”, they should be charged a fee by the agency that maintains copyright information and be granted NO MORE than twenty years of copyright protection (beyond the death of the individual who created the material). Then the material should revert to the public domain. The same should apply for photographs, movies, books, novels, etc.
- Corporations with vested interests in a specific piece of copyrighted material (for example a cartoon character or character in a movie, should be allowed to retain copyright protection of that character in perpetuity – PROVIDING the character is a mainstream icon, still well recognized, and actively advertised or presented in current productions or recent works. For example Mickey Mouse, Indian Jones, etc. If more than a twenty year stretch of time has elapsed since the copyrighted material is used by the vested interest party, that material should revert to the public domain providing it has lived a First Use copyright lifetime (the life of the individual who created the material).
- A list of RECENTLY reverted copyrighted material should be maintained on a web site, clearly declaring the availability of that material. Basically ADVERTISING to potential consumers of the material that it can now be used without fear of getting hammered by a lawyer.
- Copyright is a legal claim of ownership of a creative work; regardless of the media it takes form within. If a record was made in 1952 but is no longer in production and cannot be obtained from any source, if it has been out of production for MORE than twenty years, it should AUTOMATICALLY become public domain. There is a small but healthy market for material in this category. But, simply because the publishing/recording industry that controls this area does not consider it a large enough market to service, those who desire copyrighted materials in this category are blocked from consuming content created by artists who also have claim to the copyright of the work (and should be paid a percentage of any profits garnered by small – boutique level runs of copies created from the original works). The consuming public and the artists who work in this area, should be allowed to use and profit from works of this type. I would recommend a “boutique” copyright option be allowed for any material that falls

into this category. AND, any publishing house that does NOT reprint the copyrighted material within a twenty year time span be forced to allow ANY boutique level run of the material to be granted to the first business that applies for the rights. That business must in turn pay a percentage of the profits to that publishing house (it would get the works of the artist back out into the consuming community and allow both the publishing house and artists to benefit from the profits).

As it stands today, the copyright system is broken, badly. The government can easily remedy this system by creating an independent and unbiased agency to manage a copyright database of digital media. This system can be supported by the industries who consume and create copyrightable material through reasonable user fees.

It would also be reasonable to suggest that those items that are converted to digital media and then later revert to public domain, should be submitted to the national archives or Library of Congress for storage and retrieval.

So, as I see it:



\* Creators of copyrightable material MUST be responsible for declaring their ownership and maintain a record in the system (\$5 yearly fee)

\*\* Consumers must pay a fee to use the system (reasonable and fair - \$5 a month)

\*\*\* The copyright system should act as a “purchase” point for consumers if the media is within the system and allow for payment of rights use by consumers. The payment can be used to pay for access to the service by the consumer (if they purchase the rights to at least one item, the service is free for the month, if they purchase twelve, their service is free for a year). A fee for the service provided for Creators is paid as a percentage of the yearly copyright licensing fee. A fee is charged to all creators of material each year (minimal - \$5). If the material is used within a ten year period of time, the system will continue to allow the material to live within the system. If the material is NOT used within a ten year time span a notice should be submitted to the owner/creator that the material may not be worth hosting on the site and should consider relinquishing the rights to the material and reverting it to the public domain. At which time, the material will be advertised for “final rights request”. If no one indicates interest in the material after a five year time span (total of 15 years), the material should revert to the public domain and be submitted to the Library of Congress for historical archiving of the Copyright System DATA (not necessarily the actual copyrighted material unless it existed within the Copyright digital media server).

A system of this type is not rocket science. What I’ve outlined above can be accomplished EASILY. I’d even be willing to create the system myself. The beauty of it is, it can grow without much effort since it can be built with existing technology and proven methods.

A service of this type serves BOTH the user and the consumer. The modest fee would easily pay for the system (with millions of copyrighted materials, the system could actually be a profitable business venture). It would definitely eliminate the myriad of costly and frivolous lawsuits brought against well intentioned consumers.

What I’ve outlined above does not address the issues associated with turning it on, how long does someone have to get their copyrighted materials into the system, how fast can data be entered, etc, but I can easily imagine a five year window from creation to fully loaded. Copyright owners would probably jump at the chance to get their works into the system, simply because it advertises their work to the world, thereby increasing their exposure and profits from such a venture. Copyright search specialists would flock to the site to make their jobs easier. Research specialists would probably scan the site at least once a month for consumable content.

This is something we desperately need to bring order out of the current chaos.

I thank you for your time (if someone has read this far), and hope that a solution similar to this is put in place in the near future.

Sincerely

Michael L. Cook  
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