

INTELLECTUAL PROPERTY

By Dmitri Tcherbadji

What is Intellectual Property? Wikipedia.org quotes excrements from Eugene R. Quinn, Jr., *“Introduction to United States Patent Law”* and summarizes it as:

In law, intellectual property (IP) is an umbrella term for various legal entitlements which attach to certain names, written and recorded media, and inventions. The holders of these legal entitlements may exercise various exclusive rights in relation to the subject matter of the IP. The adjective "intellectual" reflects the fact that this term concerns a process of the mind. The noun "property" implies that ideation is analogous to the construction of tangible objects.

When discussing such concepts which involve large amounts of controversy, I like to consider two possible points of view: idealistic and realistic. Idealistic point of view involves an assumption that everyone is concerned with common good (i.e. socialistic concept), while realistic point of view assumes selfish human nature (i.e. capitalistic concept). Interestingly, while one of those models is awarded with power in a given society, the other one automatically becomes an outlaw, which furthermore highlights their incompatibility. Good examples of such incompatibility are the cold war era and prohibition of any for-profit organizations in communist Russia and outlawing of free-for-all hacker community ideals of sharing. In my opinion, balance between the two is the best possible solution, since we as humans are not all-selfish neither all-selfless. However, I will first consider both extremes and their negative and positive attributes, before reaching any sort of conclusion.

I think it is safe to assume that socialism has failed to be promising governing system – and it is evident not only from transformation of people-oriented laws into dictatorship machines designed to enslave nations, but simply because the idea of power and government in it's core is completely opposite of communistic ideals. However let me discuss few highlights of Intellectual Property side-effects first.

According to Rollingstone.com (2000), American Punk-Rock band The Offspring has decided to publicly support Napster and its policy on free online sharing of music files. In exchange, they have gotten with a lot of quarrels with their recording company. This raises an obvious question: why would a band voluntarily support free distribution of their work – portrayed as something that “hurts and destroys the music” by our beloved media? Well, according to Musicbizacademy.com, it turns out that musicians do not make much money from individual CD sales at all (it turns out that most revenue for artists comes from live shows and merchandise sales). Nine Inch Nails (UltimateGuitar.com) have appeared to be quite pissed about high pricing of their CDs, according to them, the recording industry's reaction to music sharing is to “screw the consumer over even more”(UG, 2007).

From the above stated, I believe it is quite simple to come to a conclusion that record labels are doing precisely the same thing as online music sharing communities – distributing artists' works cross-nationally, with one exception: record industry makes fortunes off consumer wallets, and, being the law, they are most of all interested in choking their competition – free online distribution. It goes in the same fashion for any intangible product distribution (whether it is software, music, graphics, video etc.). Recently, this went slightly overboard when MPA has decided to shut down every single web-site based in United States that has published guitar tablatures online (UG, 2006). Guitar tablatures are transcriptions of songs that users submit online for others to play to. Most interestingly, those tablatures are by-ear representations of the music heard by individual users and are not copied from any sheet music books available for sale. Next time you hear a bar band doing a cover tune, don't be surprised when police rushes them down the stage and sues them for copyright infringement.

The problem is evident: for-profit distribution companies hate competition (not-for profit distribution) and are empowered by law and supported by media to destroy it. Even though an artist would not suffer in any way from his work available freely to bigger masses, public has led to believe that somehow record companies are the ones that create music and suffer from barbaric acts of thievery.

According to the Copyright board of Canada (in short) copyright means the sole right to produce distribute and reproduce own work. However this concerns the producer side (i.e. this protects artists from having other artists take advantage of their work and profit from it without artist's consent) – online sharing community would qualify as consumer side (therefore they do not profit in any way and do not portray the work as their own when distributing it online). Neither the less, there are many people who are ready to take advantage of others' success. According to Findarticles.com, thanks to the copyright law, ZZ Top has successfully sued Chrysler Corp in well-publicized court case. The car-manufacturing company believed that if they would hire outside musicians to play the bass line from ZZ Top's 1973 signature hit La Grange (without paying any royalties), everything would be fine. It wasn't, and they had to pay 15,000\$ to the musicians.

Intellectual property, divided into Industrial Property and Copyright (World Intellectual Property Organization, 2007) is an idea or concept, which belongs to its author. Ideally, the author, being an artist or inventor would make it freely available to public and at the same time be appreciated for his/her work with publicity, money or whichever way else is appropriate. At the same time artist/inventor would be protected from others trying to plagiarize his efforts and pass as their own for profit of any kind. Unfortunately, (especially in the Copyright case) authors are generally unappreciated for their work or wrongly motivated by large incomes. In Western world, publishing companies are taking advantage of authors' works and re-sell their creations for excessive amounts of profit, pressuring governments to hunt down free distribution communities, and turning artists' motivation from working for the sake of creation, self-expression and public education to formula-driven money making business dictated by corporate world.

http://en.wikipedia.org/wiki/Intellectual_property

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