



# APPROPRIART!



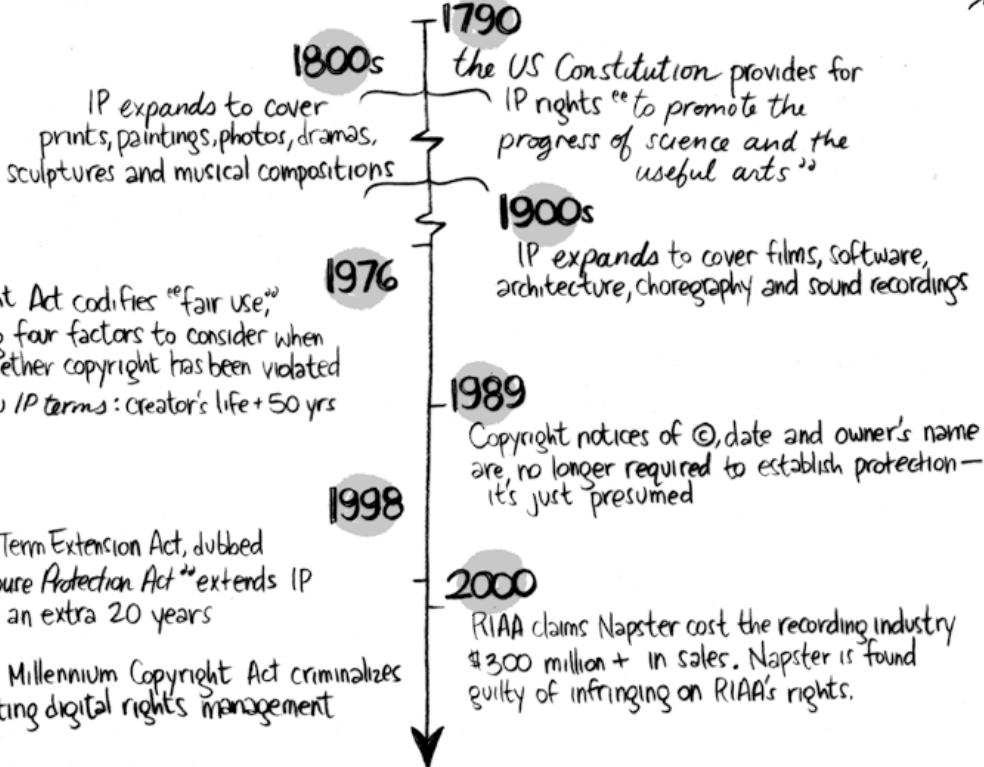
Copyright laws are supposed to spur innovation by protecting creators' intellectual property rights. But with 400 years of legal wrangling, and the complexities of our new technology, the law has become muddled. In some cases, it is being used to protect powerful corporations and maintain monopolies, rather than promoting free expression and protecting artists' livelihoods.



THE FIELD OF KNOWLEDGE IS THE COMMON PROPERTY OF MANKIND



But that's not the way history has played out, Thomas Jefferson



NOT protected by IP



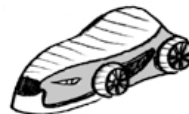
food



fashion



home design



cars



jokes

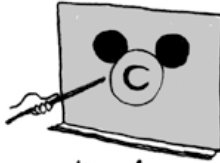
**EXCEPT!** Fair use allows for some usage and derivative works within hazy parameters — you do not need permission from rights holders for:



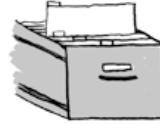
commentary & criticism



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archiving



promoting access

Or so long as the new work passes a vague battery of questions

DOES THE NEW WORK ENRICH THE CREATIVE FIELD?



IS IT FACT, OR FICTION?



DOES IT USE A SIGNIFICANT UNCHANGED PART OF THE ORIGINAL?



WILL IT AFFECT THE VALUE OF OR MARKET FOR THE ORIGINAL?



THIS IS TOO **HARD**



I'M JUST GONNA DOWNLOAD A MOVIE



Even the government admits:



THE DISTINCTION BETWEEN FAIR USE AND INFRINGEMENT MAY BE UNCLEAR AND NOT EASILY DEFINED

And there is

no clear protection for creators whose works might be considered derivative even if they seem to be transformative

PUTTING A HUNDRED SMALL FRAGMENTS INTO A SONG MEANT THAT YOU HAD A HUNDRED DIFFERENT PEOPLE TO ANSWER TO



Chuck D.



Hank Shocklee

PUBLIC ENEMY

IT'S EASIER TO SAMPLE A GROOVE THAN IT IS TO CREATE A WHOLE NEW COLLAGE — THAT WHOLE COLLAGE ELEMENT IS OUT THE WINDOW

# THREE CASE STUDIES in COPYRIGHT COMPLEXITY



## the GRAHAM Dances

work  
for  
hire

In 2002, the Martha Graham Dance Company won a lawsuit against Graham's heir Ron Protas, who had sought to prevent the company from performing Graham's dances, which he claimed to own.

The court found that since Graham was employed by the company while creating the dances, the company actually owned them instead.



VICTORY!

for dancers

SO WHAT DOES THAT  
MEAN FOR US?

the choreographers



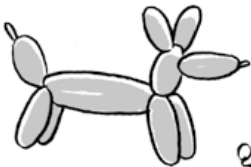
the OBAMA "Hope" <sup>fan</sup> use

In 2008, "Obey" creator Shepard Fairey made a simplified graphic of presidential candidate Barack Obama based on an Associated Press photograph. The graphic was embraced by the Obama campaign and popped up on merchandise across the country.



YOU VIOLATED OUR  
INTELLECTUAL  
PROPERTY

MY WORK IS  
CLEARLY  
TRANSFORMATIVE



the BALLOON Dog <sup>IP</sup> limits

In 2010, artist Jeff Koons demanded that the small San Francisco gallery Park Life stop selling resin balloon dog bookends, which Koons claimed infringed on his copyright to his renowned balloon dog statues. Park Life noted that there is a documented history of balloon dogs dating back to 1958.



WHEN I GOT THE LETTER, I BRIEFLY STOPPED  
SELLING THEM BECAUSE I THOUGHT WE WERE  
IN TROUBLE - BUT THEN I THOUGHT,  
WHO DOES HE THINK HE IS? I'M NOT GOING TO  
LET THIS GUY INTIMIDATE ME

Park Life owner Jamie Alexander

Of course, intellectual property rights don't work like they did 400 years ago.

Now nearly *everything* is elevated from the world of tangibles to the world of ideas, and creators have a host of new technologies that make using pieces of other works easier than ever before.



HERE IN THE **DIGITAL AGE**, WE COPY LIKE WE **BREATHE**,  
SO THE STAKES FOR GETTING THE RULES RIGHT HAVE NEVER BEEN HIGHER

Cory Doctorow

And new players — not creators, or users, but *intermediaries* — stand to control and profit from intellectual property rights.

WE'RE ON THE PATH OF CREATING **MONOPOLY**  
BUSINESS PRACTICES OUT OF COPYRIGHT LAW

Robin Gross



IF WE ACHIEVE THE RECOGNITION THAT NEW CREATORS AND CREATIVE USERS OF COPYRIGHTED MATERIAL HAVE **IMPORTANT RIGHTS**... THAT COPYRIGHT CAN BOTH HONOR **CREATORS** AND HONOR THE COLLABORATIVE SPIRIT OF **CREATIVITY**, WE WILL HAVE ACHIEVED A MAJOR MILESTONE

Patricia Aufderheide



WHAT IS AT STAKE IS THE LONG-TERM HEALTH OF OUR **CULTURE**.  
IF THE COPYRIGHT SYSTEM FAILS, HUGE INDUSTRIES COULD **CRUMBLE**.  
IF IT GETS TOO STRONG, IT COULD STRANGLE  
FUTURE CREATIVITY AND RESEARCH

Siva Vaidyanathan



So in whose best interest does copyright operate?

THE COPYRIGHT SYSTEM IS **BURDENING** CREATIVITY IN A WAY  
THAT HAS NEVER BEEN SEEN BEFORE

Lawrence Lessig



And does it truly encourage innovation, or hinder it?

IF YOU MAKE STUFF, IT IS **NOT YOURS** TO COMMAND ITS DESTINY  
IN THE WORLD — GOD HELP YOU, YOU SHOULD BE **GRATEFUL** IF IT  
HAS ONE. IT'S FANTASTIC IF ANYONE CARES.

Jonathan Lethem



The newest area of copyright contention is in digital rights management — the locks on digital files that are meant to prevent pirating, but also can stop users from copying IP-protected work even for legally protected personal and fair use.



IT GIVES SOME COMPANIES A MONOPOLY ON CREATORS' IP AT THE CREATORS' EXPENSE



NO WAY — IT GIVES CREATORS EXTRA IP PROTECTIONS



CONSIDER THIS BUT A HUMBLE INTRODUCTION — THE FIRST STEP TO CREATING A BETTER SYSTEM, AND A VIBRANT CULTURE, IS THROUGH INFORMATION



THERE ARE SOME **ORGANIZATIONS** WORKING TO CHANGE THINGS

advocating for the rights of artists and users and giving creators new options to license their own work

**CREATIVE COMMONS** (CC)

(creativecommons.org) allows for creators to license their work differently, with options aimed at promoting a richer public domain

**PUBLIC KNOWLEDGE** 

(publicknowledge.org) lobbies for all kinds of user rights in the emerging digital culture

the **FUTURE OF MUSIC COALITION** 

(futureofmusic.org) works to maintain a diverse musical culture and provides a forum for creators to discuss the real effects of policy on art

the **ELECTRONIC FRONTIER** Fnd. 

(eff.org) is dedicated to defending consumer rights, free speech, innovation and personal privacy in the digital age

SUSIE CAGLE has created works of graphic journalism for American Prospect, Truthout, the Rumpus and others. (susiecagle.com)

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