

COPYRIGHT, COMMODIFICATION, AND CULTURE : LOCATING THE PUBLIC DOMAIN /JULE E. COHEN pdf

1: 43 Essential essays on the commons and Peer 2 Peer theory - Permanent Culture Now

The paper then tests this metaphorical construct of the public domain against descriptive and theoretical accounts of the ways that forms of artistic expression develop, and argues that the metaphor in fact describes the public aspects of artistic, intellectual, and informational culture rather badly.

Sign up Log in Charo, R. Retrieved March, from <http://> Retrieved March from <http://> Volume 6, Number 2, Fall , pp. Retrieved January from <http://> Copyright, Commodification, and Culture: Locating the Public Domain. Genericity in the nineties. In Collins, J et al. Film Theory Goes to the Movies. Retrieved April from <http://> Diirector , Williamson, K. Retrieved May from <http://> Capitalism and Schizophrenia Vol. University of Minnesota Press. Quoted in Torfing, J. New Theories of Discourse: Laclan, Mouffe and Zizek. Freedom of Expression in the Corporate Age. Magazine; Illegal Art issue Retrieved February <http://> The University of Chicago Press. Art, Religion and the Right to be Offended. Rethinking Copyright in the New Information Landscape. The Commodification of Information pp. My Life in the Bush of Ghosts. Retrieved February from <http://> Standardization System; Digital Rights Management. Digital Rights Management Final Report. Directorate General Internal Policies of the Union. Policy Department Structural and Cohesion Policies. The Status of Artists in Europe. Discourse and Social Change. Quoted in Mills, Sara. Discourse; The New Critical Idiom. Studies in Communication Series.

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2: Reclaiming the Commons | www.enganchecubano.com

The relationship between increased commodification and the public domain in copyright law is the subject of considerable controversy, both political and theoretical. The paper argues that beliefs about what legal definition the public domain requires depend crucially on implicit preconceptions about.

It is here the social factory casts its long shadow. The social factory is a place with no walls, no gates, no boss, and yet rift with antagonism. Jim Davis, Thomas A. These people might have been engineers, or sitcom writers, or chefs. They were probably very nice and might have even been very, very smart. All the People Outside the Room. The arrow points just the one way. The authorship of innovation is shifting from the Few to the Many. Creativity and creative practice are social phenomena that are both broader than and antecedent to the institutions with which both economics and more broadly political economy are concerned. If copyright law is to recognize a right of creative access to the cultural landscape, it is precisely this right that must be limited, yet that is precisely what copyright law increasingly refuses to do. The legally constituted common should both mirror and express this disaggregation. The paper offers a different organizing metaphor for the relationship between the public and the proprietary that matches the theory and practice of creativity more accurately: The common in culture is the cultural landscape within which creative practice takes place. Example of innovation as a diffuse process, from a report by Business Week: You will probably find a virtual U. The circuit board may have been designed by Chinese engineers. The dozens of specialty chips and blocks of embedded software responsible for the dazzling video or crystal-clear audio may have come from chip designers in Taiwan, Austria, Ireland, or India. The color display likely came from South Korea, the high-grade lens from Japan or Germany. The cellular links may be of Nordic or French origin. If the device has Bluetooth technology, which lets digital appliances talk to each other, it may have been licensed from IXI Mobile Inc.

3: Diffuse Innovation - P2P Foundation

The relationship between increased commodification and the public domain in copyright law is the subject of considerable controversy, both political and theoretical.

The citations were chosen by Stefan Merten of Oekonux. By experimenting with fundamental notions of what constitutes property, this community has reframed and recast some of the most basic problems of governance. At the same time, it is remaking the politics and economics of the software world. If you believe as I do that software constitutes at once some of the core tools and core rules for the future of how human beings work together to create wealth, beauty, new ideas, and solutions to problems, then understanding how open source can change these processes is very important. In Chapter 1 "Property and the Problem of Software": I explain the creation of a particular kind of software - open source software - as an experiment in social organization around a distinctive notion of property. The conventional notion of property is, of course, the right to exclude you from using something that belongs to me. Property in open source is configured fundamentally around the right to distribute, not the right to exclude. If that sentence feels awkward on first reading, that is a testimony to just how deeply embedded in our intuitions and institutions the exclusion view of property really is. What would a broader version of this political economy really look like? This book uses the open source story as a vehicle for proposing a set of preliminary answers to that very large question. Ultimately the success of open source is a political story. The open source software process is not a chaotic free-for-all in which everyone has equal power and influence. And it is certainly not an idyllic community of like-minded friends in which consensus reigns and agreement is easy. The management of conflict is politics and indeed there is a political organization at work here, with the standard accoutrements of power, interests, rules, behavioral norms, decision-making procedures, and sanctioning mechanisms. But it is not a political organization that looks familiar to the logic of an industrial-era political economy. Creation and innovation as collective process: Creativity and creative practice are social phenomena that are both broader than and antecedent to the institutions with which both economics and more broadly political economy are concerned. If copyright law is to recognize a right of creative access to the cultural landscape, it is precisely this right that must be limited, yet that is precisely what copyright law increasingly refuses to do. The legally constituted common should both mirror and express this disaggregation. The paper offers a different organizing metaphor for the relationship between the public and the proprietary that matches the theory and practice of creativity more accurately: The common in culture is the cultural landscape within which creative practice takes place. Since intellectual labour is at the center of the productive scene, the merchant no longer possesses the juridical or material means to impose the principle of private property. When immaterial goods can be reproduced at will, the private appropriation of goods makes no sense. In the sphere of semiotic capital and cognitive labour, when a product is consumed instead of disappearing, it remains available, while its value increases the more its use is shared" Bifo, in Neuro, e-newsletter Herve Le Crosnier Herve Le Crosnier summarises the different attempts to extend commodification to the informational sphere: We can learn, that ownership is a result of the development of the way to produce our lives and of the productive forces, it was always in history in this sequence. Thus, we have to develop a new way of production using most developed productive forces, and then ownership will follow. But it would be the right sequence: First the production, then the societal form. We saw this "logical" sequence in free software and free culture movement: The Success of Open Source , explicitly interprets the open source production process as centered a new vision of property seen as a right not to exclude, but to distribute. Recommended by Bollier, David:

4: Copyright Mechanisms & Artistic Struggles by anima suri - Issuu

Julie E. Cohen the nature and function of the public domain. But the pro-commodificationists and the anti-commodificationists do not understand the public domain the same way.

Examines the inter-relationship between peer governance and representative democracy. It ends with a critique of the naturalistic conceptions of the Power Law , which states that networks inevitably become unequal, counterposing Knowing Networks as a counter-example. Did the process involve the widest possible spectrum of points of view? Did people who interpret the matter one way, and from one set of background assumptions, interact with people who approach the matter from a different perspective? Second, and related, autonomy. Were the individual knowers contributing to the interaction of their own accord, according to their own knowledge, values and decisions, or were they acting at the behest of some external agency seeking to magnify a certain point of view through quantity rather than reason and reflection? A different type of knowledge is produced one way as opposed to the other. Just as the human mind does not determine what is seen in front of it by merely counting pixels, nor either does a process intended to create public knowledge. Fourth, and again related, openness. Is there a mechanism that allows a given perspective to be entered into the system, to be heard and interacted with by others? Also contains important republished mini-essays such as: His model of the circulation of capital traced the metamorphosis of the commodity into money, which commands the acquisition of further resources to be transformed into more commodities. The theorists of autonomist Marxism demonstrated how this circulation of capital is also a circulation of struggles, meeting resistances at every point. But although this concept proved important for understanding the multiplicity of contemporary anti-capital, it says very little about the kind of society towards which these struggles move, a point on which the autonomist tradition has mainly been mute. Today, new theorizations about multitude and biopolitics should to reconsider this silence. I suggest that the cellular form of communism is the common, a good produced to be shared in association. The circuit of the common traces how shared resources generate forms of social cooperationâ€”associationsâ€” that coordinate the conversion of further resources into expanded commons. On the basis of the circuit of capital, Marx identified different kinds of capitalâ€”mercantile, industrial and financialâ€”unfolding at different historical moments yet together contributing to an overall societal subsumption. By analogy, we should recognise differing moments in the circulation of the common. These include terrestrial commons the customary sharing of natural resources in traditional societies ; planner commons for example, command socialism and the liberal democratic welfare state ; and networked commons, the free associations open source software, peer-to-peer networks, grid computing and the numerous other socializations of technoscience. Capital today operates as a systemic unity of mercantile, industrial and financial moments, but the commanding point in its contemporary, neoliberal, phase is financial capital. A twenty-first century communism can, again by analogy, be envisioned as a complex unity of terrestrial, state and networked commons, but the strategic and enabling point in this ensemble is the networked commons. These must however, also be seen in their dependency on, and even potential contradiction, with the other commons sectors. The concept of a complex, composite communism based on the circulation between multiple but commons forms is opens possibilities for new combinations of convivial custom, planetary planning and autonomous association. What follows expand on these cryptic observations. What they discovered was that structureless anti-authoritarian modes actually lead to hidden power distributions, so that it is important to have open and transparent procedures that can insure a flexible and wide distribution of power. The following comes from a seminal essay on the subject: Any group of people of whatever nature coming together for any length of time, for any purpose, will inevitably structure itself in some fashion. The structure may be flexible, it may vary over time, it may evenly or unevenly distribute tasks, power and resources over the members of the group. But it will be formed regardless of the abilities, personalities and intentions of the people involved. The very fact that we are individuals with

different talents, predispositions and backgrounds makes this inevitable. The group of people in positions of authority will be diffuse, flexible, open and temporary. They will not be in such an easy position to institutionalize their power because ultimate decisions will be made by the group at large. The group will have the power to determine who shall exercise authority within it. This is not surprising because the whole point of relying on property rights and the market is to enable private appropriation and discourage externalities. The problem with relying on the market is that potential positive externalities may remain unrealized if they cannot be easily valued and appropriated by those that produce them, even though society as a whole may be better off if those potential externalities were actually produced. Yet neoclassical economics and the laws based on it generally discount or ignore these types of value; they assume that monetized forms of individual property are the only important types of value worth maximizing. A must read strategic essay. Full original at <http://> It will emerge instead from iterative human responses to a daunting and worsening set of environmental and economic problems, and it will in many instances be impeded and opposed by politicians, bankers, and industrialists. It is this contest between traditional power elites on one hand, and growing masses of disenfranchised poor and formerly middle-class people attempting to provide the necessities of life for themselves in the context of a shrinking economy, that is shaping up to be the fight of the century. Evolution as a concept seems best left to natural processes. Otherwise intellectual bids to know what evolution is up to and what is coming next culturally, rapidly convert into hegemonic arrogance and attempts at social and intellectual control. The developing of the human spirit in cultural forms is a different category and is very close in my view to the way in which our realization of an extended doctrine of rights, in theory and practice, unfolds. There seem to be at least four degrees of such unfolding: Autocratic cultures which define rights in a limited and oppressive way and there are no rights of political participation. Narrow democratic cultures which practise political participation through representation, but have no or very limited participation of people in decision-making in all other realms, such as research, religion, education, industry, etc. Wider democratic cultures which practice both political participation and varying degree of wider kinds of participation. Commons peer-to-peer cultures in a libertarian and abundance-oriented global network with equipotential rights of participation in decision-making of everyone in every field of human endeavour, in relation to nature, culture, the subtle and the spiritual. These four degrees could be stated in terms of the relations between hierarchy, co-operation and autonomy deciding for others, deciding with others, deciding by oneself. Hierarchy defines, controls and constrains co-operation and autonomy. Hierarchy empowers a measure of co-operation and autonomy in the political sphere only. Hierarchy empowers a measure of co-operation and autonomy in the political sphere and in varying degrees in other spheres. The sole role of hierarchy is in its spontaneous emergence in a the initiation , and b the continuous flowering, of autonomy-in-co-operation, of spirit-in-manifestation, in all spheres of human endeavour. Creating a ommicentric Ideosphere Kosmic Alignment. A Principle of Global Unity. By Yasuhiko Genku Kimura. The act of idea-generation through authentic thinking and the sustained engagement in the conversation of humankind, if conducted in the context of pursuit of truth, beauty, and goodness, will lead to powerful moral action that will engender a New World. To engage in such moral action and to become a co-creator of a New World is to become a world-weaver in the act of weaving the world and a history-maker in the act of making history. It belongs at the far end of our axis, with meagre individual liberties. Now, notice how the nearest challenger of the Evil Empire in this respect is unrestrained capitalism! Market liberalism weakens the position of the working individual on the labour market as far as it can, and does pretty much the same with the political bodies of democracy. Neoliberalism is perceived as reactionary. Therefore we fight to defend what already exists. But there is something to fight for beyond the instable truce of the so-called mixed economy of Keynesian times. Therefore, we also fight for what does not yet exist.

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5: Peer Property - P2P Foundation

THE FUTURE OF THE PUBLIC DOMAIN and Culture: Locating the Public Domain Julie E. Cohen 1. Commodification and the Public Domain: Four Puzzles

A Research Agenda Julie E. Cohen Georgetown University Law Center, jec law. Posted with permission of the author. The statement that the purpose of copyright is to furnish incentives for authors has attained the status of a rote incantation. Court opinions and legislative histories are peppered with references to the incentives-for-authors rationale. Judges recite it as a matter of course when deciding cases, and legislators, lobbyists, and other interested parties invoke it in debates about proposed amendments to the copyright laws. Accepting the fundamental correctness of the incentives-for-authors rationale, we then apply our preferred mode of policy analysis to determine whether particular actions are consistent with it. The incentives-for-authors rationale also informs scholarly critiques of the copyright legislative process. Building on that work, copyright scholars have carefully scrutinized the public face of copyright lawmaking, and particularly the legislative hearing process. Many charge that the legislative process is pervaded with hypocrisy: Another is for participants in the copyright policy process to accept that copyright is centrally about corporate welfare—or, to be more precise, that copyright is about the proper industrial policy for the so-called creative industries—and then proceed without the hypocrisy. In this essay I will argue that the last alternative is the right one. First, the incentives-for-authors story is wrong as a descriptive matter. Everything we know about creativity and creative processes suggests that copyright plays very little role in motivating creative work. Creative people are much more apt to describe what they do as the product of desire, compulsion or addiction, and to understand particular results as heavily influenced by cultural, intellectual, and emotional serendipity. In the contemporary information society, the purpose of copyright is to enable the provision of capital and organization so that creative work may be exploited. Copyright creates a foundation for predictability in the organization of cultural production, something particularly important in capital-intensive industries like film production, but important for many other industries as well. Instead, predictability serves the instrumental function that copyright scholars and policymakers have wrongly envisioned for incentives-for-authors: It is a means through which copyright seeks to ensure that its ultimate purpose of promoting cultural progress is achieved. And the choice of copyright as a principal means of promoting cultural production has consequences for the content of culture as well. Even so, the drafters were not always able to steer clear of the incentives formulation when discussing specific reform possibilities. Tushnet, *Economies of Desire*: This reframing has four important consequences for debates about copyright law and policy: First and most critically, abandoning the incentives-for-authors story requires us to talk about cultural progress differently, and that is a very good thing indeed. Severing the motivational link between creativity and economics requires us to come up with a better understanding of how cultural progress emerges, and a more accurate account of how the economic incentives that copyright provides call them incentives-for-capital affect progress more generally. Copyright scholars habitually compare copyright to property in land, a conceptual move that passes over an important stage in the evolution of economic activity and associated economic rights. There are important benefits to be gained from comparing post-industrial, information property to industrial property, and copyright law more explicitly to corporate law. The comparison requires us to think about copyright as property differently, in ways that foreground its function as a tool for solving resource coordination problems. Third, comparing copyright more explicitly to industrial property and legal regimes governing its use suggests some different ways of thinking and talking about problems of social welfare that so often bedevil regimes of property law. Real property law has tried to solve social welfare problems chiefly by limiting the scope of entitlements, and so has copyright law. Laws that constitute and regulate corporations, in contrast, have approached such problems in ways that are more explicitly regulatory and relational. Although the incentives-for-authors story purports to celebrate authors, it

has supported a system of property rights that as a practical matter relegates authors to the economic and political margins of the intellectual property system. Although the incentives-for-capital story appears to ignore authors entirely, when coupled with a theory of post-industrial property it is potentially far more attentive to the interests of authors than the name suggests. Yet until quite recently, copyright scholars have been surprisingly uninterested in testing the conventional wisdom by exploring whether copyright is in fact producing the beneficial effects that we ascribe to it. First, copyright supplies incentives to authors and secondarily to intermediaries for cultural production. Second, by enabling the economic independence of culture producers, copyright disentangles cultural production from official censorship. Copyright, then, is a catalyst for rather than an ingredient in cultural change: Careful contemplation of our own artistic and intellectual history should remind us that progress is far more contingent and less linear than the standard copyright narrative assumes. Cultural change proceeds in directions and patterns that cannot always be predicted, and that cannot be explained after the fact by reference to any single set of neutral criteria of excellence. Understanding how cultural change emerges requires careful attention to both everyday creative practice and its institutional and cultural contexts. Artists can tell us a great deal about the where, what, who, and how of particular creative processes: More academic studies of creativity reinforce those accounts, indicating that creative outputs are heavily shaped by context. Creative practice also has a strong connection to contextual serendipity—the chance encounter or the unlooked-for juxtaposition that inspires a creative response. First, it creates the conditions for more widespread access to the products of a common culture. It enables publishers, record labels, performing rights organizations, broadcasters, software companies, libraries, search engines, and other intermediaries to distribute cultural works for wider public consumption. I suspect, however, that very few fiction writers and visual artists sustain themselves purely on income from works motivated solely by creative desire and intellectual serendipity. Employment as a freelance magazine writer or news photographer, as writer or composer of advertising materials, and so on—or as a creative writing or fine arts teacher at a school or college—may then subsidize the production of additional works motivated by creative desire. At any rate, the question of the precise link between incentives-for-capital and sacrificial days devoted to the pursuit of creative desire requires empirical study. A market-based system of private production may avoid the problem of state censorship, but that does not translate into independence from external influence. In particular, the incentives for capital that copyright supplies support the mass culture industries and mass culture markets which in turn have distinct and well-studied substantive preferences and inclinations. A copyright regime that works to enable the production of big-budget Hollywood movies and long-running television series is not a bad thing. Mass culture has a value that goes beyond the merely economic; it is what gives us things to talk about with one another, to celebrate or criticize, and to define ourselves against. Many of the examples of spontaneous bottom-up culture that copyright critics cite are detached from its mass-culture substrate. This essay seeks neither to bury mass culture nor to praise it. Creative practice is remix, and always has been. Authors are users first, situated in their own cultures and communities. Today, mass culture provides much of the raw material for cultural experimentation and self-definition that myths, legends, and other public domain subject materials formerly provided. Here, a copyright regime that considers only incentives-for-capital creates a potential threat to cultural progress. The conventional account of copyright holds that copyright does not impede progress because it leaves access to essential building blocks unobstructed, but the conventional account is wrong. Cohen, Copyright, Commodification, and Culture: To fulfill its intermediation and privatization functions, a regime of copyright law must supply incentives for capital. To minimize the adverse effects of its obstructive function, it must approach that task in a way that takes into account the essential connection between cumulative creativity by situated users and larger patterns of cultural change. Put differently, a sensible regime of copyright must leave room for culture to move and grow. If copyright is property, it is post-industrial property: In other words, we have chosen to think about copyright using the doctrinal tools of the pre-industrial property system. Industrial

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propertyâ€™corporate propertyâ€™came in between. Corporate lawyers developed techniques for aggregating assets under fictional ownership. Fictional ownership alone was not enough to allow effective management of corporate assets, however, and so innovations in function followed innovations in form. Corporate lawâ€™the law of industrial propertyâ€™developed formal means for separating ownership from control so things could get done, and rules about governance to ensure that management of commonly owned property remained accountable to other stakeholders. Property theory is overwhelmingly land-centered, and has remained so despite a steady stream of challenges to that conceptual hegemony. The study of property rights in natural resources has blossomed precisely to the extent that it has gradually become detached from property rights in land, yet property theory persists in treating property rights in natural resources as variations on the primary theme. As copyright scholars are surely aware, modern copyright law evolved before the modern corporation did. Instead, the argument is that we can regard both corporate law and copyright law as regulatory schemes that required a baseline level of economic development to mature. Corporate law came into full flower once the basic principles of industrial manufacture had emerged, and the Industrial Revolution was well underway. In similar fashion, copyright has come into its own as a mode of facilitating cultural production in the era of the information economy. An Introduction, version of Aug. The answers are bound up with structural and cultural differences among categories of economic resources. Property theory about copyright ought to understand copyrightâ€™and, by extension, other forms of information propertyâ€™as a legal institution that performs a particular set of economic functions related to the management of a particular type of resource. Specifically, copyright law in the post-industrial era works to separate authorship from control of creative works so that a set of coordination and governance problems closely associated with information resources can be solved. Along with the patent laws, the trademark and unfair competition laws, and various laws governing ownership of trade secrets, Title 17 of the U. Code functions as the Delaware law of the post-industrial property system. Here one terminological clarification and one caveat are in order. Much intellectual property is industrially owned, but much is not; a property regime for expressive works must supply rules for both. And though some scholars have heralded the death of the copyright industries, so far those obituaries are premature. Instead I adopt the meaning used by sociologist Daniel Bell, who coined the term to refer to a moment of economic transition away from an economy based principally on manufacturing to one based primarily on the production of information and the delivery of services. Smith, Optimal Standardization in the Law of Property: For glimmerings of a resource-specific approach, see Henry E. In addition, the rules governing property rights in information including expressive works assume new importance, and the need for a conceptually distinct theory of post-industrial property becomes more acute. As for the caveat, my claim is not that copyright functions or ought to function exactly the way industrial property does. The remainder of this essay is intended to sketch a research agenda directed toward three large sets of questions about the function and optimal contours of a regime of post-industrial property, with particular reference to copyright. My excavation of each set of questions is preliminary in nature. I want simply to provoke some much-needed reflection on why we have been content to assume that property in land supplies the best template for resolving them. Within intellectual property discourse, the unit of analysis is generally the individual work or invention. Consider some of the problems that a well-functioning modern copyright system needs to address: It must provide a framework within which authors and intermediaries can come together to negotiate the terms of production and distribution agreements. It must provide a framework for the licensing of already-published works as inputs into various kinds of activities, some consumptive e. It must provide a set of rules for aggregating contributions to large and complex works such as motion pictures and computer programs.

6: Moral Rights : Research Handbook on the Future of EU Copyright

Julie Cohen has urged copyright scholars to think of people moving through "cultural landscapes," in which private and partially private content mingles with public domain material in unpredictable, creative, and productive ways.

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7: Julie Cohen | Georgetown University Law Center - www.enganchecubano.com

www.enganchecubano.com 8/21/ AM Lecture ENRICHING DISCOURSE ON PUBLIC DOMAINS PAMELA SAMUELSONâ€ INTRODUCTION Is there one public domain, or are there many? The scholarly.

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Essentials of the human brain Tales of the city room Leaning on the promises Shared responsibility Fish community results-1990 THEIR PASSION WAS A FORCE OF NATURE, Darker side of desire Librarians and professionalism Ambivalent conquests Your love is not enough Buyers remorse : the tarnished golden age Hispano folklife of New Mexico Welfare strategies The Eating Disorder Solution Vibrio, mobiluncus, gardnerella and spirillum Is the law effective in dealing with domestic violence? V.8. The American Republics. The nucleus basalis-neostriatum complex in the goose (Anser anser L.) French armies of the thirty years war Five for the land and its people A Viets genealogy Chapter 15 Health and Fitness Extras 25 The Book of Hindu Imagery Russia survival guide The Complete Works of William Dean Howells Volume I (Dodo Press) Internationalizing Internet studies Chickens to the rescue Answering objections to inerrancy. The Light of Peace (Deluxe) Elementary statistics brief 6th edition Revolution from within The Columbian exposition album . Worlds Columbian exposition, Chicago, 1893. Metaphysics and essence My Starless Night The Bloomer family in America, 1655-1988 Kites and flying objects. Where in the World Is Geo? Treasured tips from other cultures Telling untold stories Early homes of New England