IS INTELLECTUAL PROPERTY SACRED?

by

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Introduction [1]

Philosophers, ideologists or mere intellectual guru's have considered property from radically opposed standpoints. For some, like Adam Smith or Thomas Jefferson, property was sacred, for others, like Rousseau or Marx, it was merely a theft that lies at the origin of inequality and exploitation. In the information age, one is more interested in intellectual property than in the tangible one, e.g. real estate. As soon as one makes the distinction between intellectual and tangible property, one notices that the most ancient traditions treat them quite differently. The Old Testament implies that tangible property is sacred, taken into account that the Promised Land was granted by God himself to his people of choice. Moreover, in modern times, the early American pioneers regarded the New World as a continent which Providence has given to them (Mihalache 2005: p. 106). Conversely, the Greek Mythology narrates that the secret of fire-making was stolen by Prometheus from the Gods, which was clearly a case of patent infringement.

All along history, the place intellectual property occupied in the interval that ranged from sacred to theft shifted back and forth from one end to the other. However, in recent years, intellectual property has become even more sacred than the tangible one. One often takes for granted the rationale for intellectual property protection, based mainly on moral grounds, without a lucid, critical appraisal of the general benefits or bad consequences of excessive protection. We shall provide an overview of the evolution of intellectual property rights, which is bound to clarify the present–day issues and to provide some ideas for a balanced legal enforcement procedure.

Knowledge as Non-Commercial Property [2]

Taking money for disseminating knowledge has long been considered inappropriate. In ancient Athens, Socrates blamed the sophists for such commercial procedures. That is why only those that could support themselves, like Plato, from tangible property, could afford to provide intellectual enlightenment. In the times of the Roman Empire, one did not live from the sale of one's publications. Multiplication by copying was expensive, making the dissemination of knowledge prohibitive. Thus, the grants awarded by the emperor or by the rich sponsors were the only means to foster intellectual achievement. However, writing for fame alone did not prevent the authors from being resentful towards those that borrowed without consent part of their works. Cicero was the first to claim that knowledge was as much a good as property (*possesio*). Plagiarism comes from *plagiarius*, a Latin word that initially signified the person that took a slave from his lawful owner. Later on, Martial blamed the authors of compilations (*compilatio*), who used to appropriate large excerpts from others' works.

However, in the Middle Ages, compilations were generally accepted as creative works. The remnants of knowledge from the good old times were so precious and scarce that any means to preserve and to disseminate them was considered acceptable. Isidor of Seville tried hard in order to provide a compendium of the ancient knowledge, in the form of an encyclopedia, before it would get lost, so that he was entitled to become, according to Vatican's decision, the saint of the Internet. Knowledge was, in those days, public property for the few that cared for it. Moreover, any commerce with knowledge was unthinkable. In the XIIIth Century, precisely when the first Universities bloomed, the basic idea was that *Scientia donum dei est, unde vendi non potest.* (*Science is a gift from God; therefore it cannot be bought or sold*) (Burke 2000: p. 216). Knowledge belongs only to God, not to those that managed to acquire it. They were not its creators, but the recipients of knowledge, mercifully inspired by Him, so that they should act as mere intercessors, without any demand for payment. St. Bernard denoted such claim as *turpis quaestus (shameful gain).* However, the staff of the newly–founded universities (the faculty or academia) needed something to live on.

The solution to the problem was provided by the observation that the intellectual should be paid only for the pains he takes, not for the knowledge he dispenses. There were two ways to reward the professors. The first was the wages, which could be paid directly by the student (the customer) or by the public authority: local council or prince. However, the Church was opposed to students paying taxes. At the Lateran Council, Pope Alexander III proclaimed the principle that learning should be free, enabling thus the poor students to gain access to knowledge. An alternate means to provide for the professors was the benefit: a land rent or a church function (*officium*). In the first case, the intellectual was driven to real estate investments and speculations, which should not have been his main concern. In the second case, the faculty would benefit from the church, thus leaving open the door for its involvement in the academic process. The *cathedra* (*chair*) would have been associated with the *cathedral*, in the sense of a physical, as well as ideological, proximity.

As a matter of fact, although Pope Innocent III acknowledged the distinction between the didactic and the religious function, such was the influence of the church on the university that a gap was created between 'high' knowledge, according to religious standards, and practical knowledge e.g. accounting or engineering. The gap still exists nowadays and efforts are made to bridge it.

Intellectual Property in the Printing Machine Time [3]

The printing machine was a harbinger of the industrial age. For the first time, knowledge could be easily disseminated, as it could be packaged in a series of identical objects, sold as commodities. This basic idea of the industrial economy would be extended to all sorts of products 350 years later, when the steam engine would be invented. The commerce with books announces prematurely the commerce with goods. The easy spread of ideas did not fail to challenge the political power. In order to get some control over publications, privileges were granted to publishers. Thus, nobody could publish a book without the consent of the authority and nobody else could reprint it without permission. François I in France, Charles V in Spain, the Parliament in England (The Licensing Act from 1662) aimed to get

control and, as a by product, publishers were endowed with property rights on content. One notices that the technological leap in reproduction implied an enforcement of the intellectual property rights. The law gave publishers a monopoly as a way to make easier to control what was published. There are, however, some isolated examples of authors who owned the content they created (Burke 2000: p 222). The first copyright was granted to Marcantonio Sabellico, author of a *History of Venice,* published in 1486. Titian's paintings were copyrighted against forgery in 1567, in Venice. The first patent was obtained in 1421, by Brunelleschi, for the particular design of a ship. However, they were the exception, not the rule. Usually, the editors owned the content and the authors had to rely on their benevolence in order to get paid. Thus, Jacob Tonson, from the Conger group, owned Shakespeare's works until as late as 1774.

The Statute of Anne (England, 1710) was a turning point as far as intellectual property rights were concerned. This was the first copyright act that focused on authors rather than editors. According to it, all published works would get a copyright term of 14 years, renewable once, if the author was alive at the time. Moreover, all works already published would get a single additional term of 21 years. The Statute of Anne was the first law that instituted what we call now the public domain. However, the contradiction between positive law (the Statute) and the common law enabled publishers to defer the application of the Statute until 1774, when the public domain eventually emerged.

The US Constitution was devised by men who had the utmost respect for property. That is why the Vth Amendment specifies that a just compensation should be given to anyone for taking his property for the benefit of the state. However, the Founding Fathers made a clear cut distinction between tangible property and the intellectual one. The first was sacred, the second was considered in the spirit of the Statute of Anne. Creative property is, according to the Constitution, only temporarily protected; afterwards, it goes to the public domain. It is important to note that the rights are given to authors and inventors, not to publishers or patrons. The Progress Clause runs as following: "Congress has the power to promote Progress of Science and useful arts, by securing for limited Times to Authors and inventors the exclusive Right to their respective Writings

and Discoveries". The general interest claims that intellectual property should be protected, in order to stimulate creativeness, but also that it should not be indefinitely protected, in order not to stifle in its cradle the future developments of old ideas.

We have witnessed, in the US legislation, a continuous tendency to extend the term of the copyright law, from 1790 to our time. In 1790, the copyright held for 14 years and it was renewable once for another 14 years, only upon the author's demand, if he was still alive at that time. In 1831, the initial term was extended to 28 years, supplanted by an additional 14 years, upon renewal. By 1909, the initial term extended to 28 years and another 28 years were added, based on the author's request. Since 1962, progressive extensions of existing and future copyrights have been provided. A turning point is 1976, when all existing copyrights were extended by 19 years and, more important, the demand for renewal was no longer required. Works created after 1978 would be protected during the author's lifetime and 50 years after, while corporations would hold the copyright for 75 years. In 1998, the Sonny Bono Copyright Extension Act added another 20 years to all existing copyrights. This tendency to progressively extend copyrights had some relationship with the interests of corporations who wanted to preserve their monopolies on certain brands: Walt Disney was very reluctant to release Mickey Mouse into the public domain.

Not only the duration of copyrights were extended, but also their scope. At first, copyright was related to maps, charts and books. Derivative works were not included, so that anyone could freely transform a novel into a play or provide a sequel to a good story. By the end of the XXth Century, any creative work - music, architecture, design, fashion, software – fell under the restriction of the copyright law, which also controlled derivative works. Moreover, the copyright is obtained automatically, based on the very act of publication, without demand for registration and without the deposit of a copy. Also, the demand for renewal is no longer required. All the above considerations do not hold for patents. In their case, registration is required, the duration of exclusive rights is fixed at 20 years from the application filing and they cannot be renewed.

The Case of the Knowledge-Based Economy [4]

Nothing is more wrong than to consider the virtual as the opposite of the 'real'. The virtual space, cyberspace, has the same objective reality as the tangible, physical space itself. It is composed of the totality of sites online and each cybernaut can follow the same route along them as another. The economic agents acting online as dotcoms form the virtual, or the e-economy. However, the "New Economy" is a broader concept, as it includes the companies from the tangible space, which extended their businesses in cyberspace, adapted their methods accordingly, and adopted some new economic business models.

The virtual economic exchange confronts two tenacious prejudices. The first denies any novelty to the "new" economy, and considers it only a division of the service economy. The service itself is not incorporated into a commodity, so that the models that govern the service economy could be successfully employed for a thorough understanding of the virtual economy. This crude simplification is apparent in the reform policy of academic training within the Bologna treaty. According to the Bologna framework, the student is the customer, the professor is the supplier in the process of knowledge transfer, which is perceived as the pouring of content from the source to a recipient. One overlooks the obvious fact that a service is necessarily guaranteed, while the transfer of knowledge is not. The lawyer is not responsible for winning a case, he only assists his client with his expertise; the physician is not bound to cure the disease, but to supply medical care; the professor, at his turn, is only a guide who shows you the way, not a vehicle to carry you to the destination point. In virtual economy too, there is not a guarantee for success. The transformation of information into knowledge, that is expertise formation, supposes cooperation between the parties involved in the trading process, based on mutual trust, but unsure of the final result. The knowledge supplier, unlike the service supplier, gives only a chance to win, not an insurance against losses.

The second prejudice, even more important, denies that the virtual exchange could be managed using money as an instrument. The virtual commerce of commodities does not raise such problems, but it is a hybrid. When ordering a commodity online, a process is triggered, partially in the

virtual space, partially in the tangible one. In the first, the payer's card is debited; in the second, the product is packaged and sent. As soon as intangible entities are involved the reasoning comes to a standstill. One is naturally willing to pay for a book bought online at www.amazon.com or www.polirom.ro but one hesitates to pay for the electronic file of a book available to download. The reason of this behavior lies in the fact that, upon selling a tangible product, the seller parts with it, he does not possess it any longer; becomes the property of the customer. When intangible products are sold, they remain in the possession of the supplier. One should pay only for such things that the vendor is deprived of. The distribution of entities which are not incorporated into physical, tangible, objects should follow other rules than the ones economic science accustomed us to.

The virtual economy was, at its beginnings, a gift economy. The famous Declaration of Independence of Cyberspace, written in the romantic period of the net by John Perry Barlow, asked the authorities of the tangible space to abstain: *Governors of the industrial world, you weary giants of steel and stone, I come from cyberspace, the new home of the mind. In the name of the future, I ask you, who belong to the past, to leave us alone.* In the "new world", money should not matter. Why ask a price when, as a reward for one's intellectual contribution, one can get for free, at one's convenience, much more than one ever provided, from the digitalized treasury of knowledge? The exchange becomes ideal: one gives less and gets more. In a world of knowledge abundance, the communist slogan gets a fresh look: "from everybody, according to his capacities; to anybody, according to his needs". The reference is not only the communist doctrine, but also the North-American practice of *potlatch*. The term signifies those exchanges which are not traded at the lowest price, but tend to overwhelm the customer by the supplier's generosity. The representatives of an Indian-American tribe are invited to a ceremony by another tribe. They receive a large quantity of gifts and, at their turn, they invite their donors and try to overcome them by an even more generous offer. The winner is he who gives most, and thus gets a superior status. He wins the others' respect and, consequently, his own self respect.

It was then natural for the virtual economy to be a gift economy. This idea is supported by the marginalist economic theory. This explains the

mechanisms of the industrial economy by the concept of marginal cost that is the additional cost involved in the production of a supplementary unit. Contrary to the Marxian approach, which explained value as the incorporation of work that is proportional to the required time for completing a product unit, the marginalists found the objective source of profit outside the ethical considerations related to exploitation and the appropriation of the plus value by the capitalist. They showed that in an ideally competition-based economy, as soon as the marginal cost becomes equal to the price on the market, the volume of production finds its equilibrium point. The profit results from the difference between the marginal cost and the average unitary cost (Blaug 1992: p. 363). If one applies the marginalist theory to the virtual economy, one notices an unsuspected peculiarity. In the industrial economy, the marginal cost decreases with the production volume until it reaches a minimum, then begins to increase, as supplementary investments are needed. On the contrary, in the virtual economy, the marginal cost does not increase, whatever the production volume. The production of the first version of a software program involves a very high cost, taking into account the research and development efforts required. However, the cost of an additional copy of the software is next to zero. Its asymptotic decrease supports the idea that the intangible products developed in cyberspace should be distributed for free.

The fact that the virtual economy should be a gift economy finds an additional support in the famous work of Marcel Mauss (Mauss 1923-1924). The French anthropologist studied the system of exchanges of the American Indians and proved that a gift economy is perfectly viable. The gift preserves the imprint of the donor's personality, his 'aura'. Consequently, donation is never pure and simple; it resembles more to a loan. In order to get rid of the magic influence of the object, the person that received it has to react in the same generous manner and to amply compensate his supplier, overwhelming him, if possible, with other gifts. The winner does not take all, but gives more, thus acquiring a superior social status. Mauss conception was criticized and several counter examples were provided (Testart 1998; Laidlaw 2000). Such counter examples come from marginal, but typical exchanges from the tangible space. Testart considered the case of

charity performed towards a perfect stranger; Laidlow pointed to the practices of Indian ascetics, who accept food from anyone as granted, without reciprocation. However, Mauss' ideas seem appropriate to describe the exchange of virtual entities. The tangible object is a natural extension of the body of its manufacturer, it remains constitutive to him. The knowledge disseminated on the net is detached from the body of its author, it floats above him. The inseparability between the gift and the donor fits in the framework of Mauss' model, provided that the gift is tangible. Such 'organic' relationship lacks in the case of the virtual product. He who contributes disinterestedly to the advancement of knowledge can be amply compensated at his turn, but not necessarily according to a reciprocal rule. He can himself plunge into the vast amount of knowledge provided by cyberspace, in order to satisfy his needs. Everyone that participates in the virtual processes is supposed to bring his own contribution; otherwise his virtual identity remains incomplete and suffers from lack of acknowledgement.

In spite of the expectations of the romantic pioneers of cyberspace and of the reasoning inspired from the marginalist doctrine and from the anthropological research, the virtual economy did not develop into a gift economy. The big fortunes accumulated in the years of the dot-com bubble, as well as the penetration of corporations into cyberspace are enough proof that money, albeit virtual money, remains the main means that makes economy go. The idea that knowledge should not be paid for, as the donor is not deprived of it, fades when one considers the fact that anyone who shares his knowledge loses some of his competitive edge with respect to others. The penetration of corporation by such projects as CNN Pipeline or by fusions between traditional media companies and net-based ones (Walt Disney and Lycos, Time Warner and AOL) proves that the logic of capitalism holds even in cyberspace. There remains still, in the interstitials of the net, an intermediary manner of doing business, halfway between the gift economy and the market economy. This is the open source or free software movement (Bauwens 2005), which claims that the codes of operating systems and of the applications based on them should be a common property. The contributions of the participants in these projects remain the common property of the members of the movement; nobody can

appropriate whatever, not even the results of one's own research. However, these are not distributed for free on the net, beyond the community associated with the project. What is available is free in the sense of free speech, not in the sense of a free beer.

Property Rights in Cyberspace [5]

The Information and Communication Technology (ICT), provides new and more effective means for content reproduction. The copyright law was devised basically for the printing technology and was progressively adjusted to the audio-visual ones. Plagiarism and piracy are made easier by ICT. Moreover, as we have seen from the previous section, the knowledge-based economy failed to become a gift economy and, since the 'burst of the bubble' and the penetration of corporations in cyberspace, new sources of sound revenue are needed, in order to promote creativeness. The protection of intellectual property rights in cyberspace becomes vital if we want to make the e-economy go. How to detect and how to punish the infringement of intellectual property is a major challenge to the law experts.

Extension into cyberspace of the copyright laws that rule the tangible space is by no means straightforward. We have seen that, in tangible space, any published work is automatically protected. However, physical publication is also a legitimating act, a symbolic acknowledgement of the authorship status. As anybody can 'publish' almost anything on the web, do such virtual publications fall under the rules of copyright?

First, if we consider sites with editorial impact, with a board for reviewing proposals prior to posting them, online-publication observes the same rules as the 'real' one. Virtual publications can be quoted or included in a bibliographical list, on the condition that the URL and the date of the most recent access are provided. Usually, the author keeps his copyright and is entitled to publish subsequently his work on paper, the virtual copy being withdrawn in that case. Any reproduction of the website content without the permission of the author is illegal. This can be illustrated by such sites as www.ctheory.net or www.liternet.ro .

In the case of personal sites or blogs, the work belongs to the public domain. The author is supposed to disseminate freely his work via his

website and to attract collaboration via his blog. There are situations when the content of a personal website or of a blog catches the eye of a 'real life' publisher, who could appropriate it without much ado. However, taking into account that the author royalties do not amount to more than 10% of the profits, the editorial practice is to contact the website's or the blog's owner, in order to make a deal. Considering the issue the other way round, the reproduction of a printed work on a personal website or blog is strictly prohibited, according to the existing copyright laws. The Gutenberg Project (www.gutenberg.org) provides a vast amount of literary works, but all belong to the public domain. The EuroLiteraTur Project (euroliteratur.magister.ro) is rather more flexible. While only texts from the public domain are reproduced, video and audio files are provided for some works that are still under protection.

The e-mails pose some ambiguity problems, because one does not make a clear difference between copyright and privacy. The e-mail is not private in the sense a telephone conversation is. The anti-terrorist legal measures in the USA treat, however, e-mails and telephone calls much in the same way. A suspect's calls and e-mails can be monitored by the police, even without the decision of a law court (as it used to be the case before 9/11), but only as far as the addresses are concerned, not the content itself.

However, the decision of Judge Thomas Pennfield Jackson to admit e-mails as pieces of evidence in the *USA vs. Microsoft* case provided a precedent in support of the idea that e-mails should belong to the public domain. An interesting case is related to the widespread practice of people who write comments on articles and send them via e-mail to the publishers. Once, the editor of a magazine decided to print excerpts from such e-mails. The authors could not invoke a privacy issue, taken into account that they intended, by sending those e-mails, to make their opinions public. However, some of them invoked a copyright infringement: the editor reproduced a work without the author's consent. Scribbling some words on paper does not entail property rights, only publishing those does. However, as the technical means for scribbling and for publishing are the same, the distinction seems to get blurred.

Software is treated mostly as a copyrighted text; however, lately, some

software programs were patented, such as 1-click payment, property of amazon.com. One would wonder why a patent should be preferred to a copyright that lasts much longer, but it is obvious that a program used for practical application on a large scale is bound to bring more money in a shorter lapse of time, if patented. In order to patent a program, this must be able to control a process, such as an online transaction.

Software developers keep complaining about piracy and produce ample accounts of the losses it involves. Curiously enough, until very recently, the corporations did not employ very severe code-based means to prevent piracy. Instead, they kept pressuring governments to stop it, making the political authorities responsible for the protection of their property rights. At their turn, governments, while deploring piracy, took only occasional and well-advertised actions against it, instead of systematic attempts to put an end to it. Game theory helps to explain both strategies. Piracy extends the market for original products via the network effect, according to which the value of a product increases with the number of people using it. On the other hand, piracy decreases the selling price of the original product (Poddar 2005). On the whole, original suppliers get lower revenues than in the no piracy case. However, under globalization, new markets become available and it is important to be the first to occupy them. That is why corporations are ready to sacrifice some of their profit in order to get a larger market share. Moreover, the social welfare, that is the sum of all the revenues and the consumer surplus, increases, under piracy, which explains governments' ambiguous strategies.

The printing technology triggered the legislative effort that amounted to the Statute of Anne and its subsequent developments. At its turn, information technology brought about new regulations of property rights, as summarized by the Digital Millennium Copyright Act (DMCA). According to DMCA, technology itself should control the replication and distribution of copyrighted content. The law should control and ban any technology designed to circumvent copyright protection measures. Lawrence Lessig aptly remarked that the former ways of regulation – the law system, the set of norms, the market incentives – tend to be replaced by code-based regulations. In an ideally organized cyberspace, any mischievous conduct would be technically impossible. However, one still

needs law-form regulations like DMCA in order to deter the development of such codes that would subvert those codes that are supposed to defend the property rights.

A Critical View on Copyright Enforcement [6]

It would be absurd to criticize the protection of intellectual property rights from a moral standpoint. However, it is meaningful to do it from the point of view of the general interest. As stated in the US Constitution, the aim of the copyright law is ultimately to promote progress, not to secure monopolies. The law, as it is nowadays, considers, on one side, the creators of content and, on the other side, the consumers, as two different, fixed, non-overlapping sets. As a matter of fact, this is definitely not the case. Those that create content are precisely the same that benefit most from the creation of others. Extending copyright in time and scope limits the public domain and prevents access to the available knowledge precisely to those who need it most, who work to develop and add value to it. Thus, the effect of over-protecting property rights is the limitation of the knowledge production. The evolution of copyright enforcement can be traced reading the following table top down.

Tables: Evolution of copyright enforcement

1	Publish	Transform
Commercial	©	Free
Noncommercial	Free	Free

2	Publish	Transform
Commercial	©	©
Noncommercial	Free	Free

3	Publish	Transform
Commercial	©	©
Noncommercial	©/Free	Free

4	Publish	Transform
Commercial	©	©
Noncommercial	©	©

One can see that, at first, only publishing a work was ruled by copyright; derivative rights were not considered, so that transforming the work was

acceptable. Moreover, non-commercial use was not restricted in any way; even multiplication was accepted, on account that the technology of private copying could not rival with commercial dissemination. Then, transforming for commercial purposes a published work was prohibited and, afterwards, when photocopiers became available, copyrights were at least partially extended to include non-commercial multiplication. At present, fair use of a work is so restricted that using content as raw material to create content has become increasingly difficult.

Another effect of the tendency of over protection of intellectual property rights is that knowledge that used to be public is increasingly privatized by copyright and patent enforcement. Traditionally, property rights were related to expression and invention. The layer of ideas above, as well as the facts below, remained in the public domain for all to draw on, to innovate anew. Ideas and facts could never be owned. This explains why, in 1918, Supreme Court Justice Louis Brandeis confidently claimed that "the general rule of law is that the noblest of human productions – knowledge, truths ascertained, conceptions, and ideas – become, after voluntary communication to others, free as the air to common use". Nowadays, the European Database Protection Directive provides proprietary rights over compilation of facts; patents over genes are sources of profit for private companies, who benefit from a publicly funded, prior research. It is not without reason that the tendency to reduce the public domain in all respects was considered similar to the policy of enclosure in XVIIIth Century England, when the commons were appropriated by the lords, backed by the law (Boyle 2003).

It is somewhat surprising to note that the most eloquent advocates of property rights are the libertarians. On the one hand, there attitude makes sense, as they regard all property as sacred, including the intellectual one. On the other hand, it does not, taking into account their opposition to the state regulation of the markets. According to libertarianism, the state is supposed only to fight monopolies, in order to provide a free, competitive environment for economic development. However, as far as intellectual property rights are concerned, the state is called upon to enforce monopolies in knowledge-based systems of production, in the form of copyrights and patents. This contradiction does not seem to bother those who assume it.

Concluding Remarks [7]

Some practical actions are easy to perform in order to preserve intellectual property rights without excessively restricting the access to knowledge. They can be summarized as follows:

Lower the barriers that traditional intellectual property erects against global educational and cultural access. This can be achieved by shortening the terms until a work becomes part of the public domain.

Provide copyright only on demand. There are plenty of authors who would be only too glad to see their ideas embraced and further developed, without receiving any monetary reward. Cyrano de Bergerac would have been less known today, had not Molière appropriated a line from one of his plays: *Que diable allait-il faire dans cette galère?* Copyright should be restricted to works with commercial value. According to reliable statistics, they do not amount to more than 5% of the whole intellectual production. It is true, on the other hand, that works that did not have a chance for commercial success in the foreseeable future developed, on a sudden, unsuspected commercial qualities. T. S. Eliot wrote refined poems for the happy few and was only too glad to sell his copyright to *Faber and Faber*. The editor, who subsequently sold the derivative rights for *Old Possum's Book of Practical Cats*, was the first to be delightfully surprised at the success of the musical *Cats.*

Do not oppose the 'real' to the virtual. There is a faint suspicion that whatever comes up in cyberspace is either worthless or illegal. The DMCA creates as many barriers as possible to the Web 2.0 projects, based on collaborative work, e.g. Wikipedia or MySpace. Such projects involve the pooling of various sources of information into a new architecture and dealing with every minor copyright issue slows down the process of development.

In the globalization age, WIPO (World Intellectual Property Organization) should facilitate the transfer of technology related to industrial property to the developing countries, in order accelerate economic, social and cultural development. Intellectual property rights are tools, and WIPO needs to respond creatively and flexibly to the new ways, in which those tools can be used, not view any new method of innovation as somehow illegitimate.

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