

In Praise of Sharing

For better or worse, the future of ideas is being defined by the entertainment industry via a battle between new disruptive technologies that are predisposed to make information more accessible and extant business models that were built on the premises of limited access and strong control. The battle lines are broad, with campaigns being waged in Congress, in the courts, on college and university campuses, and even in the family living room. Consider an episode of the Disney Channel's animated cartoon *The Proud Family*. For those of you who don't happen to live with a member of the target audience (pre-teens), *The Proud Family* follows the adventures of a middle-class family. In this episode, the fourteen-year-old daughter, Penny Proud, takes an after-school job in a music store. In her first two weeks of employment, Penny spends more on CDs than she earns. She then meets an older, subtly menacing boy who introduces her to file-sharing and the philosophy of "free music." After Penny goes home and installs the software, all hell breaks loose. The music store goes out of business, city services begin to fail because of lost tax revenue, and the cops finally come knocking at Penny's door. In the end, civilization—from retail sales to curbside trash pickup—is restored only after Penny removes the file-sharing programs from her computer.



Illustration by Gary Clement, © 2005

It is tempting to dismiss this episode of *The Proud Family* as little more than a morality play produced by a beleaguered industry. But the cartoon isn't so much about downloading as it is about the concepts of owning and controlling. The broader, more insidious point is that creative works—and, by extension, ideas—are pieces of property, pure and simple. The song "Happy Birthday" and Amazon's patented notion of "one-click shopping" are property, just as Park Avenue is property, with all of the rights associated with property ownership flowing to the owners.

In a very real sense, the recording industry may already have won the ownership battle even as it appears to be losing the downloading war. After all, the most ardent defenders of downloading rarely

question whether *artists* are entitled to profit from and control their works. Instead, these defenders tend to justify their actions by clinging to the belief that *recording companies* have no moral rights to control the music that the companies distribute.

But we should be skeptical of the move to reduce creative works and ideas to pure property. For one thing, there are some fairly striking differences between creative works and ideas on the one hand and real property on the other. As John Perry Barlow noted in a talk given at the University of Michigan,¹ when someone steals real property—say, a car—the owner is deprived of the use of that property. But when someone steals "Happy Birthday" or "one-click shopping" the owners are not deprived in quite the same way. They may lose revenue, but they retain the use of their "property."

A second reason to be skeptical of the pure property view is that this concept is relatively new. When the framers of the U.S. Constitution imported copyright into the document, their goal was explicitly to create incentives that would foster the exchange of ideas, not lock them up. They saw the free exchange of ideas as essential to progress in the sciences and arts. In today's parlance, they saw the free exchange of ideas as essential to innovation. Writing at the time, Thomas Jefferson drew an analogy between the light that is given off by a candle and the illuminated thinking that comes from an

idea. He noted that as ideas pass from one person to another, they illuminate the receiver's world without diminishing the original light.

Reflecting Jefferson's logic, the framers' goal was to create incentives to share ideas. The scheme they invoked was copyright. By protecting published expressions, they allowed the creators to profit from those expressions—the particular ways in which the ideas are expressed—and the world to profit from access to the underlying ideas. The beauty about copyright, classically conceived, is that it creates an incentive to share (i.e., publish) by providing narrow protection to published works and thereby promoting access to ideas—the grist for innovation and societal progress.

This basic logic resonates well with academic culture. Imagine you are a recording executive. Upon learning that the latest work of one of your stars has been freely downloaded a million times, you are likely to be seriously bummed: all those potential royalties vanished into the ether! Now imagine that you are a college/university president. In the same situation, you are likely to be very happy: with sharing comes rising prestige, attention, and other coins of the academic realm.

Traditionally, scholars have published specifically to *lose* control of ideas. Scholars publish as a way of inviting others to criticize, refute, and extend their ideas, and they hold very dear the belief that intellectual progress requires the free exchange of ideas. To be sure, scholars do ask for credit when their ideas are used, but they do not generally expect to control the downstream uses of the ideas—at least, not until recently. But consider four examples, each of which suggests that the notion of ideas as pure property is infiltrating the academy.

- Higher education institutions and their faculty now routinely ask who “owns” the fruits of academic labor. Who, for example, owns class materials? Who owns research data, and does it matter who funded its collection?
- Students are beginning to ask their professors to sign nondisclosure agreements before submitting their projects for grading.

- A growing number of professors are hesitant to work with students because they are afraid that in doing so, they will lose control over any intellectual property that arises from the collaboration.
- Across the country, college/university researchers are advised to be cautious about public presentations of patentable ideas because those public presentations can make obtaining a patent more difficult.

Although each of these examples is understandable in its own right, together they raise the specter of an emerging culture in which professors and students jealously guard their ideas from cradle to grave. So, what should those of us in higher education do to avoid this fate?

I think the answer comes down to encouraging three simple but fairly fundamental shifts in individual and institutional behavior. First, we should reject the notion that we, or our institutions, own ideas. Even though much of what we do can be made to fit an ownership model, this is the wrong model for the long haul. We are not engaged in for-profit activities, and our mission is not to increase quarterly returns to shareholders. Instead, we are “stewards” who have been entrusted by society with resources and with the mandate to feed and nurture the world of ideas and innovation.

Second, and related, we should resist the temptation to think about our endeavors in commercial terms. Colleges and universities are terrific places to generate ideas. But from a business perspective, higher education institutions are rarely good at commercializing those ideas, and we should be cautious about setting commercialization as a metric. Consider the University of California System. Between 1999 and 2003, the UC System averaged \$15 million in net revenues from commercialization. That dollar number puts the system in the upper end of colleges and universities for commercial success, but it is a tiny number when compared with the UC System's research budget of \$3 billion.²

Finally, we should take concrete actions to support and reward sharing. The list of such actions is potentially quite

long, but the “first moves” are becoming evident:

- Build the infrastructure to support digital repositories on campus, and develop policies that encourage scholars to contribute to the repositories
- Encourage institutional participation in open software development and adoption as a way to model the strategic importance of sharing
- Share course materials by launching an MIT-style open courseware initiative
- Support “creative commons” approaches to copyright and patents
- Challenge traditional tech-transfer models that place too much emphasis on commercialization; instead, set giving ideas and knowledge away as the default (only if sharing fails, and it surely will in some instances, should we seek to lock things down and commercialize them)
- Resist the allure of individually negotiated nonexclusive licensing in favor of a bimodal approach: we should either give the fruits of scholarship and research away under a finite set of standardized licenses (e.g., creative commons and open source licenses) or exclusively license it

Colleges and universities will thrive to the extent that they foster innovation and the free exchange of ideas. The ability to do so is threatened by the emerging view of ideas as pure property and by a shift in focus from serving the public good to serving the bottom line. If we want to preserve innovation, we have to begin asking how we can share, rather than how we can protect.

Notes

1. John Perry Barlow, speaker, “The DotCommunist Manifesto: The Practical Economics of Abolishing Virtual ‘Property,’” Copyright Dilemmas in the Information Age Symposium, Ann Arbor, Michigan, December 5, 2000.
2. David Mowery, panelist, “Channeling Knowledge: The Changing Role of Research Institutions,” Advancing Knowledge and the Knowledge Economy Conference, Washington, D.C., January 11, 2005.

James L. Hilton is Associate Provost for Academic, Information, and Instructional Technology Affairs and Professor of Psychology at the University of Michigan. In addition, he is currently serving as Interim University Librarian.

