

My name is Bruce Elrick and I'm a Canadian Citizen and a constituent of the Calgary Nose Hill Riding.

I work in the Information Technology industry and have a Ph.D. in Physics as my education, so intellectual property, as it is unfortunately known, is a key component of my life and work.

I've kept abreast of the laws regarding copyright in Canada and the United States over the past decade and in particular watched the US implement their DMCA. I know the Bill C-32 includes digital lock provisions that currently trump fair dealing exceptions much like the DRM-breaking criminalization of the DMCA trumps fair-use in the US. I think this is backwards. Fair dealing should trump digital locks.

But the issue of digital locks is a red herring, in my opinion, and ignores the larger issue. Why do we have copyright protections? Or rather, why do we grant a monopoly to creators of works? How you frame that question is important. The former framing casts people who create works as needing protection from those who seek to copy. The latter describes the actual bargain that was struck when the issue of copyright was first discussed in Britain hundreds of years ago.

The discussion of that bargain appears to have been successfully obscured by the content-creation management and distribution industries (note that I distinguish these industries from the content creators themselves). When copyright was first conceived, it was understood that copying an idea, a work, is fundamentally different from taking a real object in that it does not diminish the ability of the owner of the original from using their copy in its intended way.

A novel is written to be read. If an author writes a story and copies are made allowing others to read it, the original still can be read. Thus copying is not stealing. Yet the debate these days has deteriorated to the point where, for example, the recording industry can call copying stealing.

The original bargain in creating copyright was to grant creators a limited-term monopoly on copying and creating derivative works, which is an injury to the public at large, to give the creators an opportunity to gain some economic benefit from their creations, and *this monopoly was granted to encourage the creation of new works*. The debate at the time focussed on the harm of granting this monopoly contrasted with the good of encouraging the creation of new works. In that day and age copying was very laborious compared with today, and yet the term of the monopoly was very limited relative to today, namely 14 years.

Over the decades of the last century, the content-creation management and distribution industries have successfully lobbied to have these monopolies extended to 50-70 years after the creator's death or 95 years after the creation of a work by a corporation. They argue that these extensions are required to encourage content creation but they don't provide empirical evidence to support this claim.

I would argue that the opposite is true. If you look at the fashion industry, where there is no copyright protection (yet - I've followed the "counterfeiting" trade talks as well as rumblings to extend copyright to fashion) and on an annual basis there is an explosion of creativity.

I think the extension of the copyright monopoly has resulted in industries that help create the least creative works because they are filled with vested interests that have little incentive to take risks and thus they recycle old ideas. Because they recycle old ideas, there are legions of lawyers whose sole purpose is to stitch together the many licenses required to create these new works. So much of the resources in "creating" new works is in bureaucrats (lawyers, accountants, etc.) not actual creative people. And of course there's no way under the current system an independent creative person could afford to hire the bureaucrats to legally incorporate elements of others' creative works into theirs.

With the advent of the internet the key functions of the content-creation management and distribution industries should be commodity functions. These industries lower the risk of getting multiple content creators together by spreading that risk over many projects and over time as well as by directing content creation towards appealing to the widest audience. They then use distribution channels they control to promote content. This is a valid model but a very bureaucratic one.

The Internet allows all sort of creative people to communicate, socialize, organize and otherwise get together to create works. It also allows these works to be marketed (socially) and distributed with ease and simplicity. It is providing a cheap and easy replacement for what has previously required large institutions and organizations.

The power of collaboration is amplified when there is more cross-pollination. Today's copyright laws worked for a short period of human history, from the early part of the 20th century to the late part. In the future we will look back and view this period as an aberration. I think Canada should be on the forefront of embracing less monopoly on copyable and shareable ideas, rather than the current direction, towards more, set by the United States, a country that seems to have seen its best days in the past.

Finally, I'd like to talk about copyright and its impact on culture. Given my age (42) I am part of the first generation to have its childhood influenced in such a significant way by mass media. As much as I lament the mediocrity that these industries creates, it is still my childhood, a part of my culture. It is immoral for this culture to be locked up for decades. If the original copyright laws were still in force, the copyright protections on these works would have expired in 14 or 28 years and would have available for creative people of my generation to build upon. It is immoral that our culture is owned by corporations.

As a final comment, I'll say that I've followed the analysis and commentary of Professor Michael Geist and, although I think he does not go far enough, I think he does present the best ideas at compromise.

Thank you for your time and attention.

Sincerely,

Bruce Elrick