free culture

OSCON
July 24, 2002
<refrain>
1. Creativity and innovation always builds on the past.
2. The past always tries to control the creativity that builds on it.
3. Free societies enable the future by limiting the past.
4. Ours is less and less a free society.
1774
1774
Donaldson v. Becket
1774
Donaldson v. Beckett
Free Culture
1774

Donaldson v. Beckett

free culture

born
1710
1710
Statute of Anne
1710
Statute of Anne
limited term
1710
Statute of Anne
limited term
14 years
1740s

Scottish publishers reprint classics.
1740s
Scottish publishers
1740s
Scottish publishers reprint classics
London publishers:
London publishers: “copyright is forever”
[Sonny Bono: “forever minus a day”]
London publishers: “copyright is forever”
publishers
“old patentees and monopolizers in the trade of bookselling, men who do not labour in an honest profession to learning is indented.”
“common law copyright”
1769

Millar v. Taylor
publishers prevail
1774
Millar reversed
Shakespeare free
freed culture
<refrain>
1. Creativity and innovation always builds on the past.
2. The past always tries to control the creativity that builds on it.
3. Free societies enable the future by limiting the past.
4. Ours is less and less a free society.
</refrain>
1790
unregulated creativity
1790
unregulated creativity
“printing”
1790
unregulated creativity
“printing”
free derivatives
unregulated creativity

free derivatives

"printing"

1790

14 years
1790
free code
1790
free code
transparent technology
control
control
not
just
then
1928
Walt Disney
1928
Walt Disney
Steamboat Willie
Buster Keaton and Ernest Torrence
"Steamboat Bill, Jr."
1928
Walt Disney
Steamboat Willie
Steamboat Bill, Jr.
“always parroting the feature length mainstream films”
Pinocchio (1940)
Cinderella (1950)

Pinocchio (1940)
Alice in Wonderland (1951)

Cinderella (1950)

Pinocchio (1940)
Alice in Wonderland (1951)

Cinderella (1950)

20,000 Leagues (1954)

Pinocchio (1940)
Alice in Wonderland (1951)

Cinderella (1950)

20,000 Leagues (1954)

Jonny Appleseed (1955)

Pinocchio (1940)
Alice in Wonderland (1951)
Paul Bunyon (1958)
Sleeping Beauty (1959)
Cinderella (1950)
20,000 Leagues (1954)
Jonny Appleseed (1955)
Pinocchio (1940)
<table>
<thead>
<tr>
<th>Movie</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alice in Wonderland</td>
<td>1951</td>
</tr>
<tr>
<td>Paul Bunyon</td>
<td>1958</td>
</tr>
<tr>
<td>Sleepy Hollow</td>
<td>1958</td>
</tr>
<tr>
<td>Sleeping Beauty</td>
<td>1959</td>
</tr>
<tr>
<td>20,000 Leagues</td>
<td>1954</td>
</tr>
<tr>
<td>Cinderella</td>
<td>1950</td>
</tr>
<tr>
<td>Kidnapped</td>
<td>1960</td>
</tr>
<tr>
<td>Jungle Book</td>
<td>1967</td>
</tr>
<tr>
<td>Jonny Appleseed</td>
<td>1955</td>
</tr>
<tr>
<td>Pinocchio</td>
<td>1940</td>
</tr>
</tbody>
</table>
The Little Mermaid (1989) Alice in Wonderland (1951)
Sleepy Hollow (1958) Paul Bunyon (1958)
20,000 Leagues (1954) Sleeping Beauty (1959)
Jungle Book (1967) Cinderella (1950)
Kidnapped (1960) Jonny Appleseed (1955)
Pinocchio (1940)
<table>
<thead>
<tr>
<th>Movie Title</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Little Mermaid</td>
<td>1989</td>
</tr>
<tr>
<td>Alice in Wonderland</td>
<td>1951</td>
</tr>
<tr>
<td>Beauty and the Beast</td>
<td>1991</td>
</tr>
<tr>
<td>Paul Bunyon</td>
<td>1958</td>
</tr>
<tr>
<td>Sleepy Hollow</td>
<td>1958</td>
</tr>
<tr>
<td>Sleeping Beauty</td>
<td>1959</td>
</tr>
<tr>
<td>20,000 Leagues</td>
<td>1954</td>
</tr>
<tr>
<td>Cinderella</td>
<td>1950</td>
</tr>
<tr>
<td>Kidnapped</td>
<td>1960</td>
</tr>
<tr>
<td>Hunchback</td>
<td>1996</td>
</tr>
<tr>
<td>Jonny Appleseed</td>
<td>1955</td>
</tr>
<tr>
<td>Jungle Book</td>
<td>1967</td>
</tr>
<tr>
<td>Pinocchio</td>
<td>1940</td>
</tr>
<tr>
<td>Movie Title</td>
<td>Release Year</td>
</tr>
<tr>
<td>-----------------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>The Little Mermaid</td>
<td>1989</td>
</tr>
<tr>
<td>Beauty and the Beast</td>
<td>1991</td>
</tr>
<tr>
<td>Sleepy Hollow</td>
<td>1958</td>
</tr>
<tr>
<td>Mulan</td>
<td>1998</td>
</tr>
<tr>
<td>20,000 Leagues</td>
<td>1954</td>
</tr>
<tr>
<td>Hunchback</td>
<td>1996</td>
</tr>
<tr>
<td>Jungle Book</td>
<td>1967</td>
</tr>
<tr>
<td>Alice in Wonderland</td>
<td>1951</td>
</tr>
<tr>
<td>Paul Bunyon</td>
<td>1958</td>
</tr>
<tr>
<td>Sleeping Beauty</td>
<td>1959</td>
</tr>
<tr>
<td>Cinderella</td>
<td>1950</td>
</tr>
<tr>
<td>Kidnapped</td>
<td>1960</td>
</tr>
<tr>
<td>Jonny Appleseed</td>
<td>1955</td>
</tr>
<tr>
<td>Pinocchio</td>
<td>1940</td>
</tr>
</tbody>
</table>
commons
lawyer
I at yer
“limited Times”
1790
“fourteen years”
maybe x2
to 42
(1831)
63
(1967)
65
(1969)
66
( 1970)
75 (1976)
95
(1998)
Sonny Bono Copyright Term Extension Act
aka
No one can do to Disney, Inc. what Walt Disney did to the Brothers Grimm
<refrain>
1. Creativity and innovation always builds on the past.
2. The past always tries to control the creativity that builds on it.
3. Free societies enable the future by limiting the past.
4. Ours is less and less a free society.
</refrain>
different now
2002
regulated creativity
law.
“publishing” to “copying”
“copies” to “derivative works”
“14 years” to “life+70”
technology:
opaque creativity
controlling uses
The publisher of Middlemarch has given you the following permissions for its use:

**Copy**
You may copy 10 text selections to the clipboard every 10 days.
You have copied 0 text selections to the clipboard in the last 10 days.

**Print**
You may print 10 pages every 10 days.
You have printed 0 pages in the last 10 days.

**Read Aloud**
You may use the Read Aloud button to listen to this book.
The publisher of The Politics of Aristotle has given you the following permissions for its use:

**Copy**
You may not copy any text selections to the clipboard.

**Print**
You may not print any pages.

**Read Aloud**
You may use the Read Aloud button to listen to this book.
The publisher of The Future of Ideas has given you the following permissions for its use:

**Copy**
You may not copy any text selections to the clipboard.

**Print**
You may not print any pages.

**Read Aloud**
You may not use the Read Aloud button to listen to this book.
law + technology:
Law regulates “copies”
uses
unregulated
unregulated

read
unregulated

read
give
unregulated

read

give

sell
unregulated

sell

read

give

sleep
unregulated

fair use
uses

- unregulated
uses

- unregulated
- regulated
uses

• unregulated
• fair use
uses

- unregulated
- fair use

©
enter the net
every
every act’s a
every act’s a copy
unregulated uses
regulated
uses

• unregulated
  • fair use
  • ©
<del>
“fair use”
</del>
QuickTime™ and a Sorenson Video decompressor are needed to see this picture.
<http://aibopet.com>  
“teach your Aibo jazz”
“[Y]our site contains information providing the means to circumvent AIBOware's copy protection protocol constituting a violation of the anti-circumvention provisions of the Digital Millennium Copyright Act.”
uses

• unregulated
• fair use

©
uses
controlled creativity
never more controlled
term
term scope
term
scope
concentration
never
never
fewer
never fewer more
1773
control
<refrain>
1. Creativity and innovation always builds on the past.
2. The past always tries to control the creativity that builds on it.
3. Free societies enable the future by limiting the past.
4. Ours is less and less a free society.
</refrain>
you
transparent creativity
free sharing
common base
create
like it’s
1790
proprietary
v.
free
proprietary

v.

free
for now
<refrain>
1. Creativity and innovation always builds on the past.
2. The past always tries to control the creativity that builds on it.
3. Free societies enable the future by limiting the past.
4. Ours is less and less a free society.
</refrain>
(5)
free code threatens
threats to free code
item
sw patents
Mr. Gates on SW patents:
If people had understood how patents would be granted when most of today’s ideas were invented and had taken out patents, the industry would be at a complete stand-still today.
The solution . . . is patenting as much as we can. . . . A future start-up with no patents of its own will be forced to pay whatever price the giants choose to impose. That price might be high: Established companies have an interest in excluding future competitors.
The solution . . . is patenting as much as we can. . . . A future start-up with no patents of its own will be forced to pay whatever price the giants choose to impose. That price might be high: established companies have an interest in excluding future competitors.
Established companies have an interest in excluding future competitors.
4 years
tiny changes
tim changes
q. todd changes
apologists
what have you done?
“excluding future competitors”
defensive
offensive
what have you done?
item

copyright wars
homeric tragedy
$25,000
insane rules
insane rules for the whole world
broadcast flag
mandated fritz chips
“police state in every computer”
digital vigilantes
“a terrorist war”
for what?
“to stop the harm”
the harm
the harm
5x
the harm
5x
-5%
what have you done?
<refrain>
1. Creativity and innovation always builds on the past.
2. The past always tries to control the creativity that builds on it.
3. Free societies enable the future by limiting the past.
4. Ours is less and less a free society.
</refrain>
(6)
JC Watts
“If you’re explaining, you’re losing.”

JC Watts
6 years
what have you done?
Boucher
Cannon
Hank Perritt
eff.org
do something