Battles over illegal sharing of music online are so last summer. The hot fight now is over copying of video from television or the Internet that generally has been considered freely available to the public.

If television broadcasters and webcasters have their way in international treaty talks, they would gain new, 50-year rights to virtually any video they beam out, even if no one owns the rights to the content.

So, for example, say ABC or Yahoo offers a broadcast or webcast of a movie no longer under copyright protection, historical footage of a news event or a live feed of a breaking story -- no one could make a copy of that program and rebroadcast it to others.

The result, according to digital rights advocates, is that the viral power of the Internet to expose millions (or billions) of people to news or unprotected creative works will be in jeopardy. The seemingly instant, online cycle of people posting information, seeing it, linking to it or retransmitting it -- as happened with the amateur tsunami videos -- could be dragged into a morass of new ownership questions.

"This new layer turns every distributor into yet another owner," argues James Love, head of the Consumer Project on Technology, which is fighting the treaty. When it comes to content in the public domain, Love contends, there should be no restrictions on who can use the work.

That's a bunch of alarmist hooey, responds Benjamin F.P. Ivins, senior associate general counsel of the National Association of Broadcasters.

Ivins argues that users could still make copies of such broadcasts for private use; they simply could not turn around and redistribute them commercially. When a broadcaster spends money to prepare and distribute footage of an event or a historical work, it should be assured that somebody else can't benefit from that investment by copying the program and retransmitting it, he says.

Ivins and his allies, including the federal government, see the treaty as a simple effort to standardize international laws on what they call "signal theft." In certain Caribbean countries, for example, cable programming has been effectively intercepted and pirated by rival broadcasters.

Internet companies such as Yahoo Inc. and America Online Inc., which are pushing into webcasting of video content, say they are entitled to the same rights as TV broadcasters.

Seth Greenstein, an attorney for the Digital Media Association, which represents many webcasters, argues that protecting the transmissions of webcasters will encourage them to show obscure works that the public
might otherwise never see.

The minutiae and complexity of rights and treaties in those matters are enough to cure a small nation of insomnia.

But the battle demonstrates yet again the high stakes and tensions of an era in which information is king, yet products and services are being produced at lightning speed to make information ever more copyable, malleable and portable.

"We do have an economy that operates on market principles," says Michael Keplinger, a senior counsel at the U.S. Patent and Trademark Office. "And intellectual property rights have served very well to help that market function."

At a fundamental level, digital-rights advocates agree. But that does not mean, they argue, that everything should be owned. They see social value in some works and information being freely accessible, especially in an interconnected world.

For example, say an independent filmmaker releases a movie on a cable TV station. If someone copies it and gets permission from the creator to post some or all of it on a Web site, should that person also need rights from the first broadcaster?

Increasingly, some artists are making their works available under nonrestrictive copyright terms. Would they need to retool those agreements to trump the distribution rights set forth in the proposed treaty?

And then there is the public event, which might be as local as a school board meeting or as international as a war. If Yahoo has the feed, either from its own employee or someone else, what rights does it have as the conduit for millions of viewers?

Broadcasters and webcasters insist that the balance of fair use and public domain works will not be upset by the treaty. Even if the treaty passes and the United States signs it, Congress then must pass implementing rules, and the broadcasters and webcasters say they have no desire to change U.S. laws.

Opponents fear the balance will be upset, noting the support Congress has consistently given to intellectual property holders.

It all might come to a head over the next several months at the World Intellectual Property Organization. At this point, there appears to be sufficient support for proposed rules governing broadcasters, though that could change. U.S. negotiators are in a distinct minority in seeking parity for webcasters.

Jonathan Krim can be reached at krimj@washpost.com.
Public Domain Movie Uncovered
Discover exactly how to find and use copyright-free works without fees or permission. Here’s how to "steal" an almost endless source of content (on practically any subject you could imagine)
www.publicdomainriches.com