Time to give up on copyright law?
By Ed Quillen

Tuesday, August 19, 2003 - Although I own hundreds of copyrights, I'm beginning to think that society would be best served if copyright laws were repealed.

At heart, there's nothing complicated about a copyright. If you create something (literature, music, art) on your own time, you have the right to determine whether it is reproduced, and you can charge for it. That "right to copy" is a copyright, and you can lease it or sell it. Copyrights are valid for a limited time, and after that, the work passes into the public domain, where anyone can use it.

The first complication is that even if you're the creator, you might not own the copyright. If you create your work on company time as part of your job, then it's a "work for hire," and the company owns the copyright. Or you might sign a contract that assigns the copyright to the company.

It's usually clear what's a "work for hire" and what isn't, although some companies try to make it unclear. For instance, I used to contribute occasional articles, including some home-rolled software, to various computer magazines owned by Ziff-Davis.

On the back of any check they sent, above the endorsement line, there was exceedingly fine print which said, in essence, that your endorsement constituted the assignment of all rights to Ziff-Davis - which meant that at some point, Z-D could have charged me to use my own software.

Fortunately, the local bank tellers knew how to stamp the endorsement with something like "For Deposit to the Credit of the Account of the Payee," so my signature never appeared under their "contract."

To move on, there has been much in the news lately about how recording companies are pursuing people who share music files on their computers. One reason the companies do this, they say, is to make sure the recording artists get paid.

That's got to be a joke. I have never read a good word about Allen Klein, the New York accountant who once managed both the Beatles and the Rolling Stones. Note, though, that Klein got to that level because he was very good at auditing the books of record companies and discovering millions of dollars in unpaid royalties that he would then secure for his clients. That Klein flourished demonstrates that record companies don't make a priority out of paying their artists.

Then there's the hypocrisy of the Walt Disney Co. Disney has made many millions by adapting old works that had passed into the public domain: "Pinocchio," "Cinderella," "Alice in Wonderland," to name a few.

But Mickey Mouse's copyright was supposed to expire this year, and Disney sure didn't want that rodent loose in the public domain. So the Disney folks and their allies donated $6.5 million to congressional campaigns a few years ago, and the result was the Sonny Bono Copyright Term Extension Act. Mickey remains Disney property until 2023, though the bagmen will doubtless purchase another extension before that.

It's fine with Disney if Lewis Carroll's work goes into the public domain to be used by Disney, but Disney will get the law changed before its critters reach the public domain.

And there's computer software. I use Linux, which is generally covered by something called a "copyleft" or a "General Public License," agreed to by the creator of the software.

Under the GPL, you are free to copy programs, and sell or give them away if you want. However, you have to include the source code, and if you or others modify those programs, the modifications are also covered under the GPL. You can't take somebody else's work, tweak it and claim ownership.
That seems fair and sensible. So naturally, somebody is trying to wreck it. A Utah software firm, the SCO Group, has gone to court against IBM, along with Linux users like me (though I haven't been served yet).

SCO argues that the federal copyright law for computer software allows users to make only a single backup copy, and it supersedes the GPL. That is, no matter what the intentions of the creator were concerning distribution of his work, he can't allow you to give a copy of it to a friend.

SCO has even engaged a legal heavyweight, the law firm of Boies, Schiller & Flexner. It’s headed by David Boies, who represented Al Gore in Florida and the U.S. in the Microsoft anti-trust prosecution. But IBM can afford some big-league legal talent, and besides, the Boies record isn't that good - George Bush is president, and Microsoft still has more than 90 percent of the market.

So there's hope that American copyright law will allow creators to control how their work is distributed. But any law that can be twisted the SCO way, enforced the RIAA way, extended the Disney way, or abused the Ziff-Davis way is a law that ought to be repealed. All it does is enrich lawyers and big companies, and they'd probably get along just fine without it.

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