

# Intellectual Property Rights in the Digital Age

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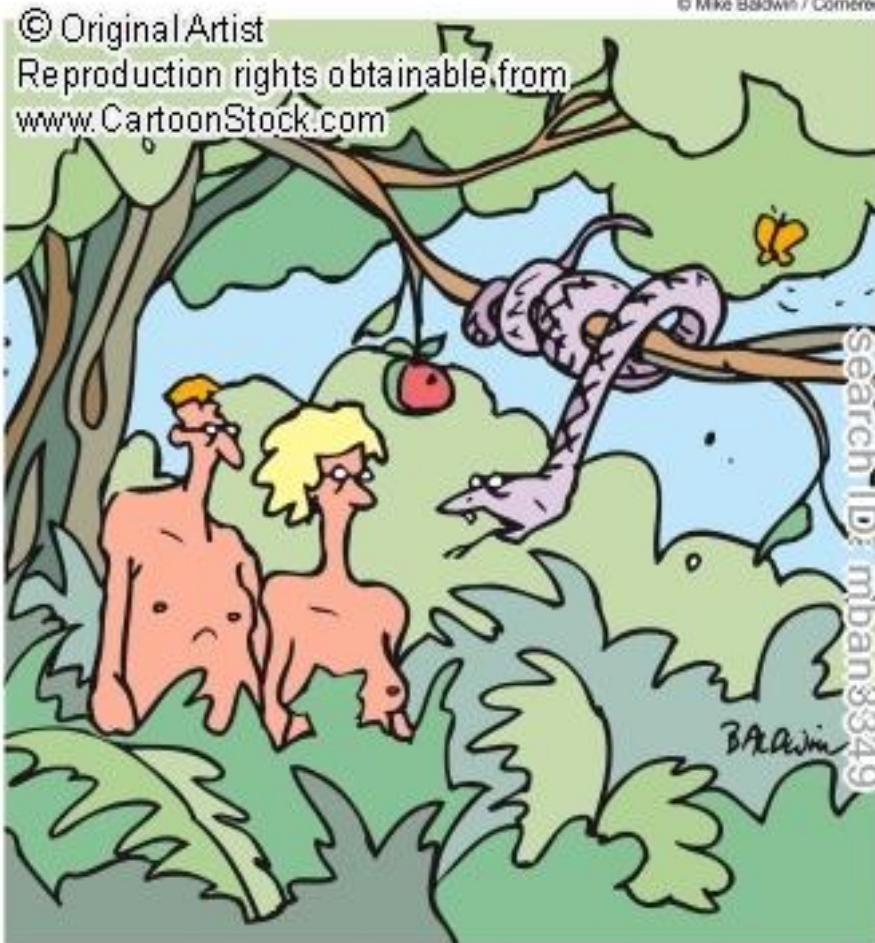
# Plan

- What is IPR?
- IPR in the digital age
- Digitization, digital preservation and access
- DRM systems

# Learning Outcomes

- Be able to define and understand the term “intellectual property rights” in general and “copyright” in particular
- Realize the limitations of copyright in the digital age
- Review the relevant IPR issues regarding digitization, preservation and access, orphan works, social media and mobile technologies

# A Brief History of IPR



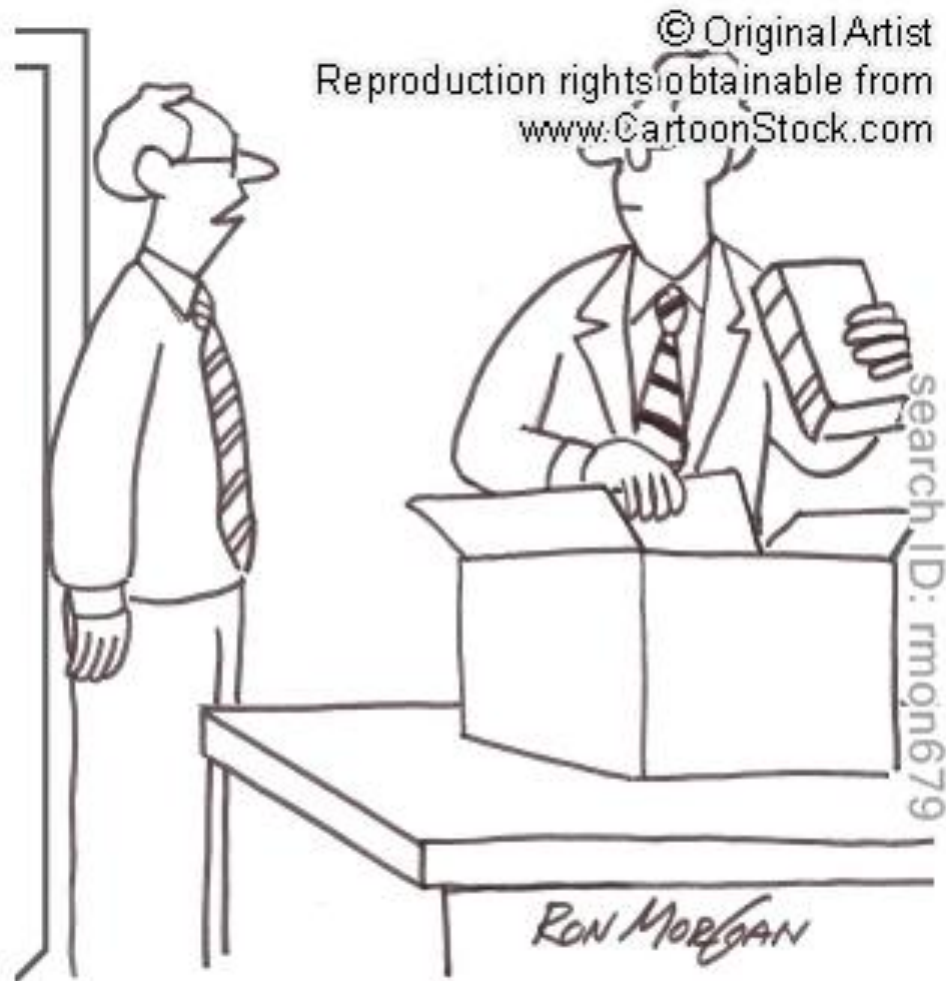
“Go ahead, you’ll be fine. Just be sure to keep the intellectual property rights to your story.”



# A Brief History of IPR

- Copyright Act of 1709 (Statute of Queen Anne)
  - 14 years + 14 years
- US Constitution, 1776
  - "the Congress shall have power ... to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."
- The U.S. Copyright Act of 1790
  - 14 years to *American* authors + 14 years
- The Bern Copyright Agreement, 1887
- The U.S. Copyright Act of 1976
- WIPO Copyright Treaty (WCT), 1996
- Digital Millennium Copyright Act (DMCA), 1998
- EU Copyright Directive, 2001

Source: Varian, 2004



"Before you leave, we have to do a brain scan to see if you're taking any intellectual property with you."

# What is IP?

- “Creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.”
- “Industrial Property, which includes invention (patents), trademarks, industrial designs, and geographic indications of source;
- “Copyright, which includes literary and artistic works such as novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs. Related rights to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and those of broadcasters in their radio and television programmes.”

Source: WIPO



# Parameters of IP Protection

- Height
  - the standard of novelty required for a work to be protected
  - anything "fixed in tangible form" is automatically copyrighted
- Width
  - the breadth of coverage
  - expression is protected; not facts, ideas, concepts, or methods of operation
- Length
  - the term of copyright

Source: Varian, 2004

# Copyright Term Extension (USA)

- 1790: 14 yrs + 14 yrs
- 1831: 28 yrs
- 1909: 28 yrs + 28 yrs
- 1962: 47 yrs
- 1967: life of author + 50 yrs or 75 yrs for “works for hire”
- 1978: 67 yrs
- 1998: life of author + 70 yrs or 75-95 yrs for works for hire
- “Fewer than 11 percent of the copyrights registered between 1883 and 1964 were renewed after 28 years. Furthermore of the 10,027 books published in 1930, only 174 were still in print in 2001”

Source: Varian, 2004

# Copyright Extensions



## EUROPEAN UNION

THE EUROPEAN PARLIAMENT

THE COUNCIL

2008/0157 (COD)

Brussels, 1 September 2011  
(OR. en)

PE-CONS 16/11

PI 27  
CULT 23  
CODEC 593

### LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF  
THE COUNCIL amending Directive 2006/116/EC on the term of  
protection of copyright and certain related rights

### *Article 1*

### *Amendments to Directive 2006/116/EC*

Directive 2006/116/EC is hereby amended as follows:

(1) The following paragraph shall be added to Article 1:

- '7. The term of protection of a musical composition with words shall expire 70 years after the death of the last of the following persons to survive, whether or not those persons are designated as co-authors: the author of the lyrics and the composer of the musical composition, provided that both contributions were specifically created for the respective musical composition with words.'

# Copyright Extensions (cont'd)

- “Copyright extensions are bad for innovation, bad for the economy and bad for our culture. The only people they are good for are those who collect the royalties and according to research that’s far more likely to be record labels and already-rich stars than it is to be struggling musicians.”
- Shane Richmond, Head of Technology (Editorial)

Wednesday 14 September 2011

## The Telegraph

HOME NEWS SPORT FINANCE COMMENT BLOGS CULTURE TRAVEL LIFESTYLE

Technology News Technology Companies Technology Reviews Video Games Technology

Technology News

### Will copyright extensions ever end?

As copyrights for recorded music are extended, Shane Richmond argues that this is just the latest step in a campaign that is set to continue until copyright never expires.



# Four Elements in IPR

- Protection for invention
- Protection for manufacture
- Protection for design
- Protection for the expression of ideas

Source: Cornish, 2004

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search ID: wda0270

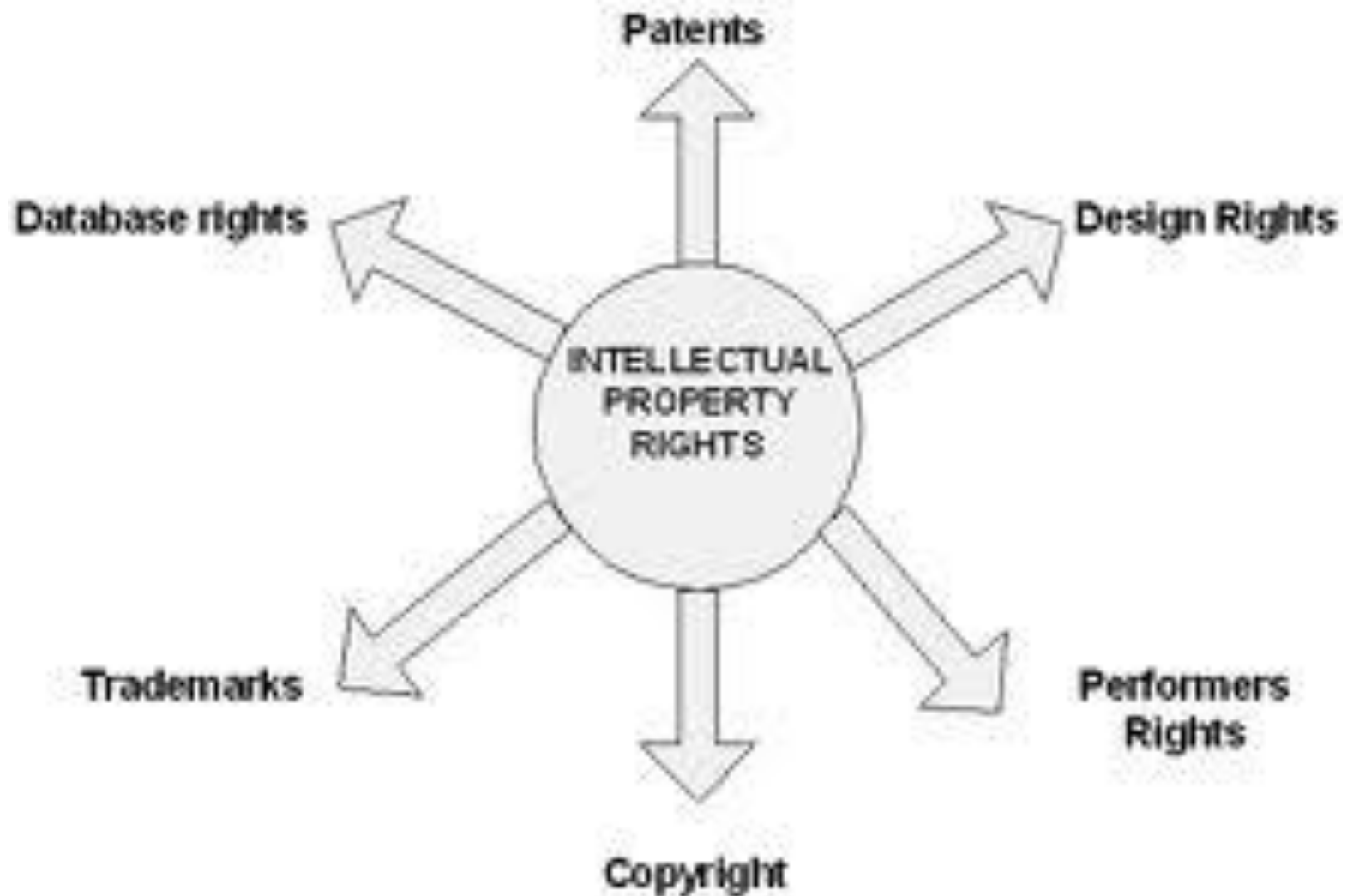
"I've invented copyright."

# Types and Characteristics of IPR

<i>Type of IP</i>	<i>Protects</i>	<i>Lasts for</i>	<i>Registerable or not</i>
Patents	inventions	20 years approx.	registerable
Design right	appearance	10-15 years	can be registered or not
Trade marks	distinguishing sign	indefinite	registerable
Copyright	expressions of creativity	70 years after death	not registerable

Source: Cornish, 2004

# More . . .





# Author's Economic Rights

- Copy the work
- Make the work publicly available
- Perform, show, play or broadcast
- Adapt or translate
- Lend or rent the work.

Source: Cornish, 2004

# Author's Moral Rights

- Inclusion of author's name when published
- Prevention of removal of significant parts of the work
- Prevention of significant additions being made to the work
- Prevention of significant alterations being made to the work
- Prevention of someone else's name being added to the work
- Prevention of works being attributed to someone when they did not create them.

Source: Cornish, 2004

# Exceptions: Fair Use

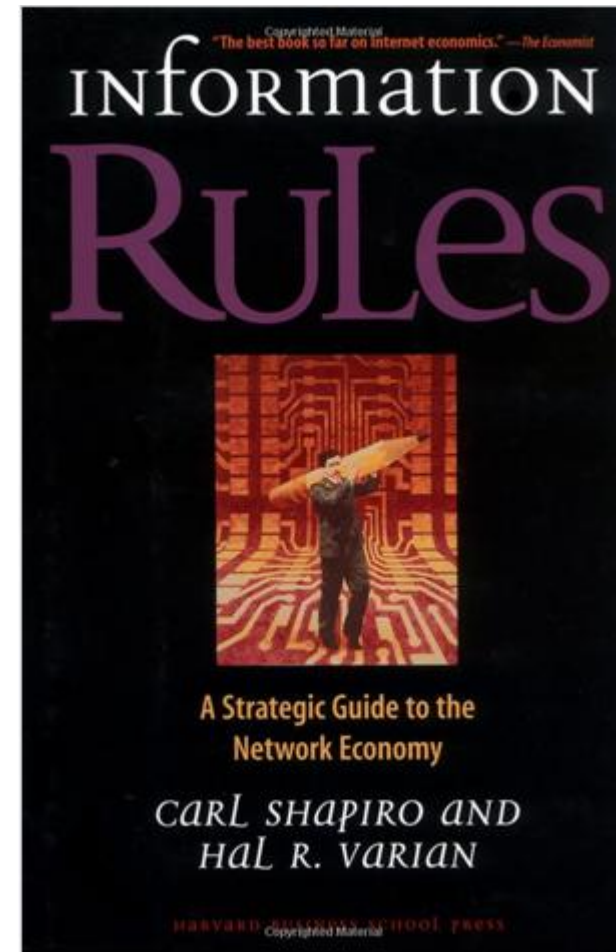
- Reproductions for purposes such as "criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright" (The U.S. Copyright Act of 1976)
- 4 factors to determine if use is fair:
  - (1) the purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes;
  - (2) the nature of the copyrighted work;
  - (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
  - (4) the effect of the use upon the potential market for or value of the copyrighted work. (U.S. Copyright Act, Title 17 of the *United States Code*, *Section 107*)

# Exceptions: Library Use, Preservation and Archiving

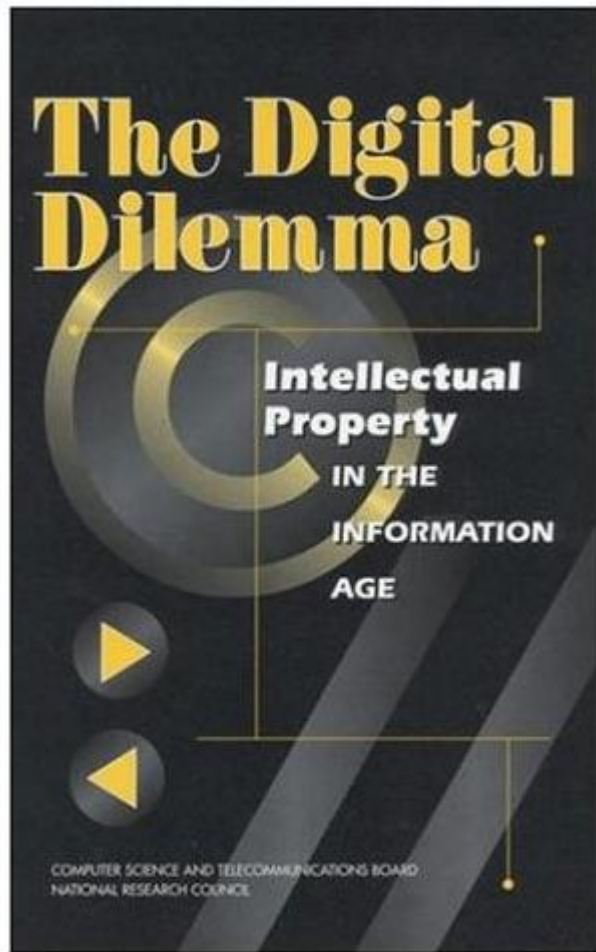
- First sale doctrine: Libraries may distribute or loan their lawfully acquired copies of works to users including inter-library loans
- Libraries may copy works for library users as well other libraries! users
- Libraries may copy works for preservation and archiving purposes
- Libraries may archive lost, stolen, damaged or deteriorating works

# Digital Publishing Technologies

- Reduced costs
  - Reproduction
  - Distribution
- E-content is sometimes distributed free of charge
- Product differentiation
- Developing complementary products



# Digital Dilemma



## **The Digital Dilemma: Intellectual Property in the Information Age**

Committee on Intellectual  
Property Rights in the  
Emerging Information  
Infrastructure, National  
Research  
Council

ISBN: 978-0-309-06499-6, 364  
pages, 6 x 9, paperback (2000)

# (Why) is There a Problem?

- Advances in technology have produced radical shifts in the ability to reproduce, distribute, control, and publish information
  - Information in digital form has radically changed the economics and ease of reproduction
  - Computer networks have radically changed the economics of distribution
  - The World Wide Web has radically changed the economics of publication, allowing everyone to be a publisher with worldwide reach
- With its commercialization and integration into everyday life, the information infrastructure has run headlong into intellectual property law

Source: The digital dilemma, 2000

# Why the Issues Are Difficult?

- The stakeholders are many and varied.
- Content creators have different agendas, handle IP according to varying strategies, and look for different kinds of return on their investment.
- Fundamental legal concepts can be interpreted differently.
- Laws and practices vary worldwide, yet networks have global reach.
- The economics of information products and IP can be subtle.

Source: The digital dilemma, 2000



# Issues in Access to Information

- Copying and Access
- *The information infrastructure blurs the distinction between publication and private distribution*
- Licensing and Technical Protection Services
  - *The confluence of three developments—the changing nature of publication in the digital world, the increasing use of licensing rather than sale, and the use of technical protection services—creates unprecedented opportunities for individuals to access information in improved and novel ways, but also could have a negative impact on public access to information.*
- Archiving and Preservation
- Access to Federal Government Information
- Private Use and Fair Use
- Business Models

Source: The digital dilemma, 2000

# Traditional vs. Digital IPR

- Traditional

$1-1 = 0$  (owner),       $0+1 = 1$  (user)

- Digital

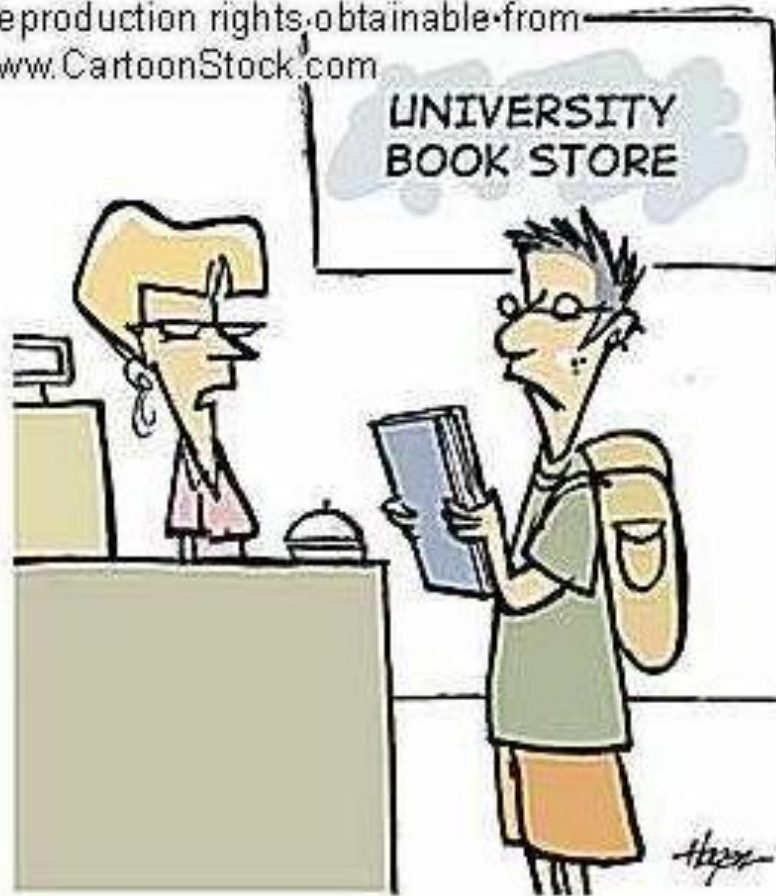
$1-1 = 1$  (owner),       $0+1 = 1$  (user)

Source: Cornish, 2004

# Language in the Digital Environment

- “Sharing”
  - 1-N = 1 (owner “sharing”), 0+N = N (users) →  
N-N =  $\infty$  (users “sharing”)
- Copying
  - One must “copy” first to use digital information (think of visiting a web site)
- Publication
  - A web site: publication or cable TV?
  - Subject to copyright law, but whose law?
- License vs. copyright

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search ID: rhan988

NO, I DON'T HAVE A SCANNER YOU  
CAN BORROW.

# Language in the Digital Environment (cont'd)

- Journal
- Pricing
  - Differential pricing
- Document supply
- Intermediary
  - Gain access to, store, retransmit a work
- End-user
  - Consult, store the work; Confidentiality of use activities; Assurance of the origin, originality and integrity of the document supplied

Source: Cornish, 2004

# What is Copyright Infringement?

- Using material protected by copyright without permission from the owner

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[www.CartoonStock.com](http://www.CartoonStock.com)



"It was owned by a little old lady. Legally, that's all I can say. She still owns the intellectual property rights to her story."

# A Nation of Constant Infringers

“On any given day, ... even the most law-abiding American engages in thousands of actions that likely constitute copyright infringement. ... We are, technically speaking, a nation of constant infringers.”

UNIVERSITY OF UTAH  
S.J. QUINNEY COLLEGE OF LAW



LEGAL STUDIES RESEARCH PAPER SERIES

*Infringement Nation: Copyright Reform and the Law/Norm Gap*

John Tehranian

Utah Law Review, Forthcoming

Loyola-LA Legal Studies Paper No. 2007-46

Research Paper No. 08-20

This paper can be downloaded without charge from the  
Social Science Research Network Electronic Paper Collection:  
<http://ssrn.com/abstract=1029151>

Electronic copy available at: <http://ssrn.com/abstract=1029151>



# Example... John, the law professor

- Email: Automatic reproduction of text to which he is replying (20 reply and forward=3M USD in statutory damages)
- Morning class: Distributing copies of 3 articles in class (violating Copyright Act)
- Faculty meeting: Unauthorized derivative of Frank Gehry's copyrighted architectural rendering
- Afternoon class: reading e.e. cumming's poem aloud, thereby engaging in an unauthorized public performance of the copyrighted work
- Sending 5 photos of a football game (taken by his friend) that he attended to his family: copying, distributing and publicly displaying copyrighted photos
- Displaying his Captain Caveman tattoo during swimming: unauthorized reproduction and public display of an animated character. Sporting the tattoo, John has now become the "infringing work" and therefore he either has to remove his tattoo or will face imminent "destruction".
- Restaurant dinner: Singing "Happy Birthday" and capturing it on his cellphone along with an art work in the wall
- . . .

# Final Tally . . .

By the end of the day, John has infringed the copyrights of twenty emails, three legal articles, an architectural rendering, a poem, five photographs, an animated character, a musical composition, a painting, and fifty notes and drawings. All told, he has committed at least eighty-three acts of infringement and faces liability in the amount of \$12.45 million (to say nothing of potential criminal charges).<sup>50</sup> There is nothing particularly extraordinary about John's activities. Yet if copyright holders were inclined to enforce their rights to the maximum extent allowed by law, barring last minute salvation from the notoriously ambiguous fair use defense, he would be liable for a mind-boggling *\$4.544 billion* in potential damages each year. And, surprisingly, he has not even committed a single act of infringement through P2P file-sharing. Such an outcome flies in the face of our basic sense of justice. Indeed, one must either irrationally conclude that John is a criminal infringer—a veritable grand larcenist—or blithely surmise that copyright law must not mean what it appears to say. Something is clearly amiss. Moreover, the troublesome gap between copyright law and norms has grown only wider in recent years.

# Viviane Reding on Copyright

- Viviane Reding EU Commissioner for Telecoms and Media Digital Europe - Europe's Fast Track to Economic Recovery The Ludwig Erhard Lecture 2009 Lisbon Council, Brussels, 9 July 2009
- <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/09/336>  
(Transcript of the text)
- Video: [Viviane-Reding2.flv](#)

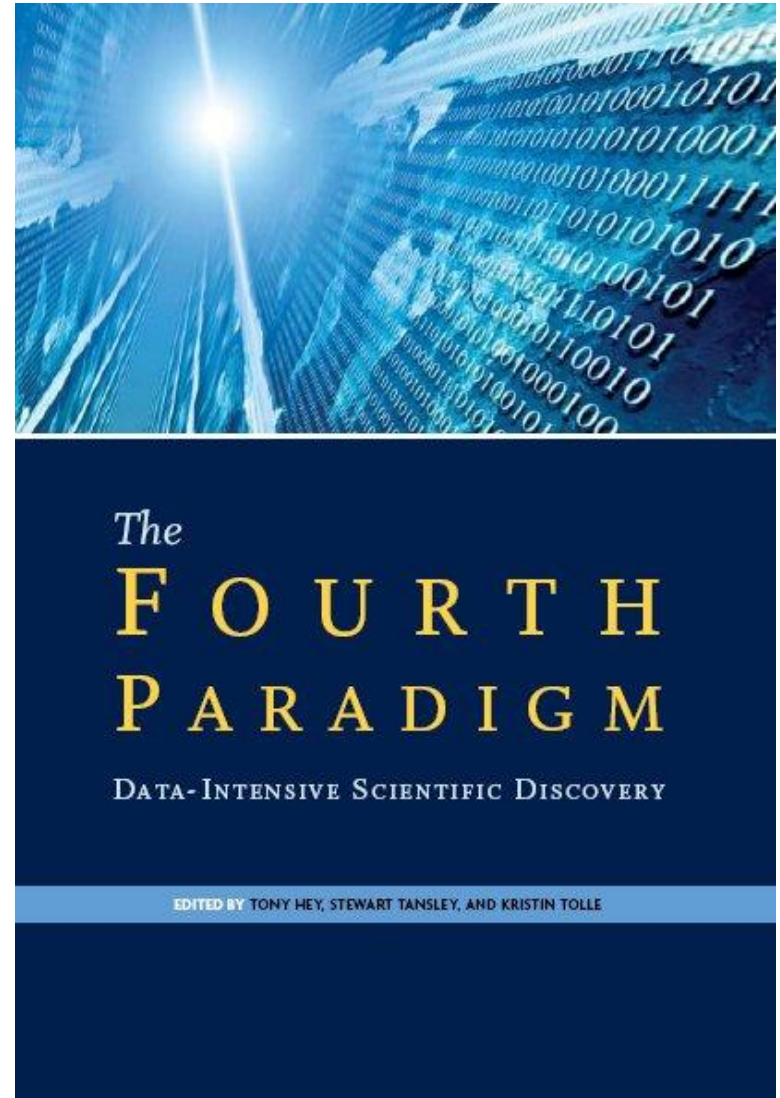
Source: [http://www.youtube.com/watch?v=Nim-8E\\_aUFk](http://www.youtube.com/watch?v=Nim-8E_aUFk) (30'35"-38'28")



**“Never, ever, think outside the box.”**

# Stifling Discovery and Innovation

- Mashups
- Reverse engineering
- Data mining
- Machine translation
- Open science

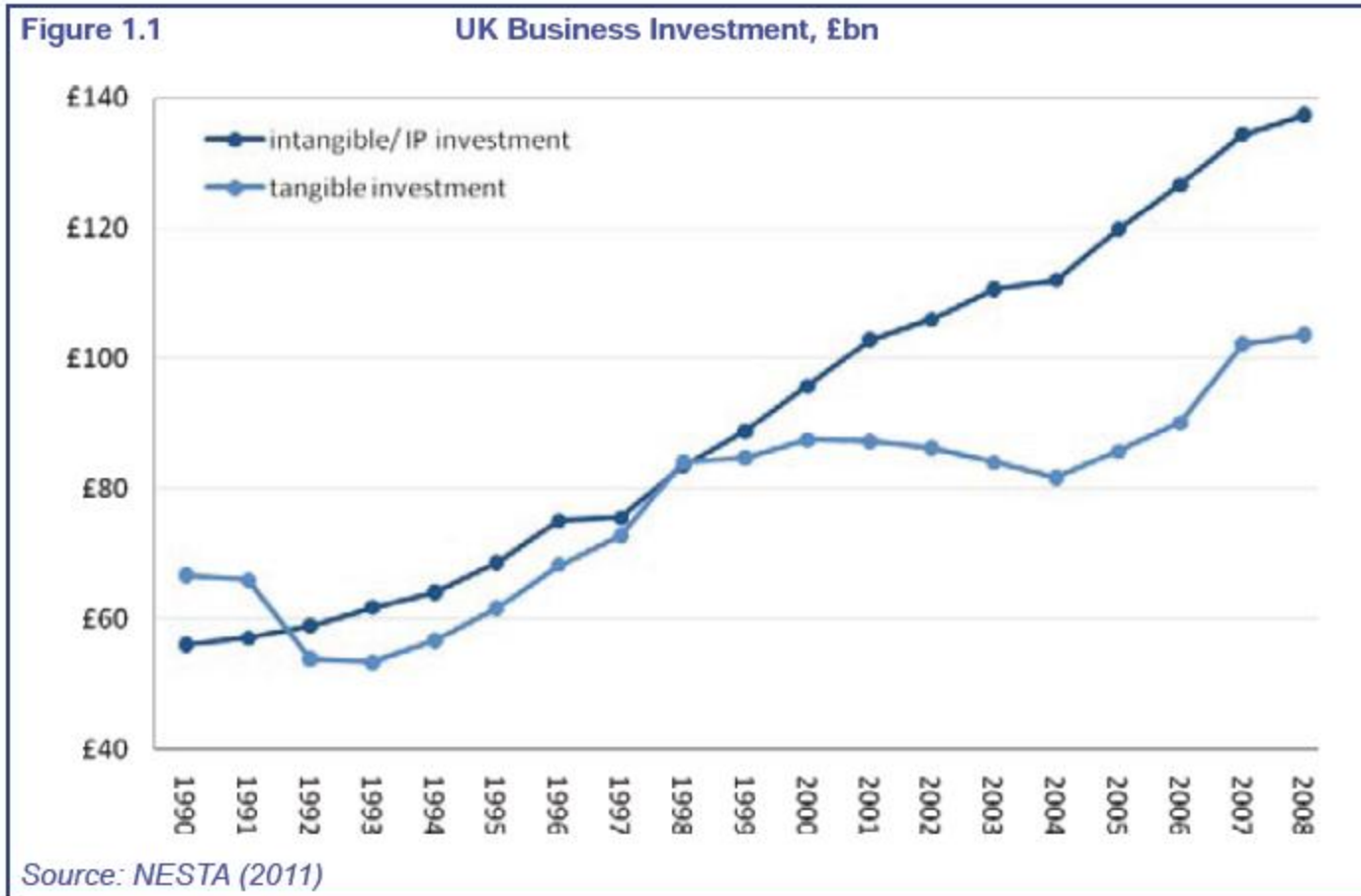


# Digital Opportunity

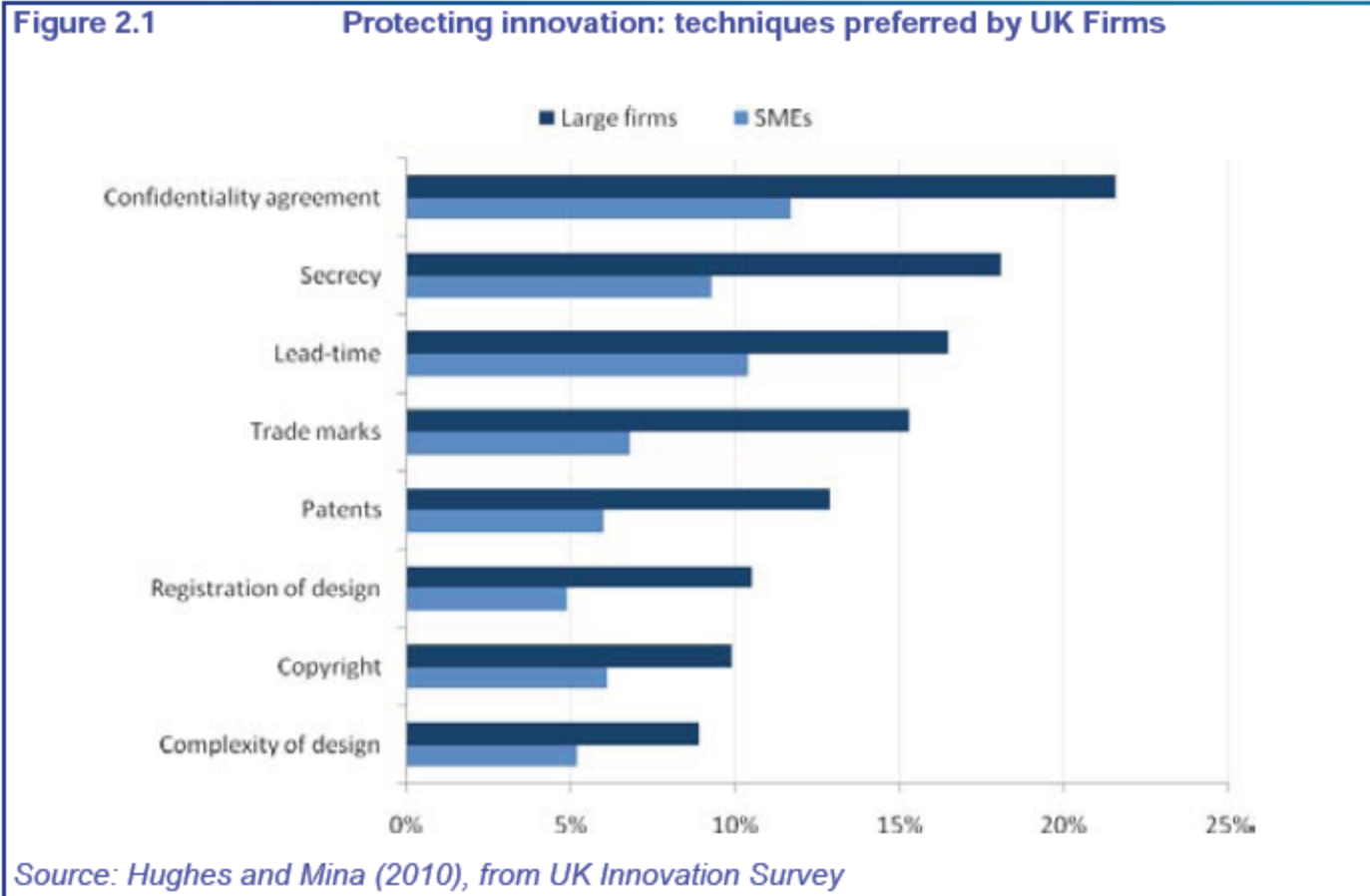
- “Could it be true that laws designed more than three centuries ago with the express purpose of creating economic incentives for innovation by protecting creators’ rights are today obstructing innovation and economic growth?”



# UK Business Investment



# Protecting Innovation





# Digital Copyright Exchange

- 4.31 The aim is to establish a network of interoperable databases to provide a common platform for licensing transactions. By developing an open, standardised approach to data it will be possible to:
  - attach copyright conditions and rights information directly to digital content in a uniform machine readable fashion (so called meta data);
  - license across delivery technologies, to facilitate open competition between services based on different technologies;
  - adapt to emerging technologies;
  - meet the specific needs of different sectors while remaining governed by common standards and principles;
  - bring in licensing for other rights, such as design right

# Orphan Works

- “Works to which access is effectively barred because the copyright holder cannot be traced”
- Represents the starkest failure of the copyright framework to adapt
- Orphaning rate of 40 per cent in some EU archives
- Google Books Project

During 2005-2007 the British Library undertook a project to digitise over 4,000 hours of sound recordings and make them available online for researchers. One part of the project involved the digitisation of 220 oral history recordings of jazz musicians and promoters made in the late 1980s. In 2005-6 they pursued all 200 identifiable outstanding permissions, but 53 could not be traced. Thirteen had died. The orphan works problem defeated even a relatively simple challenge – a group of works created relatively recently, each involving only two performers – the interviewer and the interviewee.

# The New Trend . . .

*"What is not online, does not exist !"*

# Digital Rights Challenges

- Digital content (1) is dynamic, (2) may suffer issues of non-permanence, and (3) may have more than one media format (text, sound, graphics, video, and a variety of other file formats).
- Dynamic content creates problems for preservation
- Data migration
  - Is it copying? Is it against copyright?
  - Is the migrated file the same as original for evidentiary purposes?

Source: Gathegi, 2010

# Document Icons and Page Thumbnails

- Search engines make copies of the images they crawl
- Do they violate the author's exclusive right to make reproductions of a work?
- Do they violate the author's exclusive right to public display?

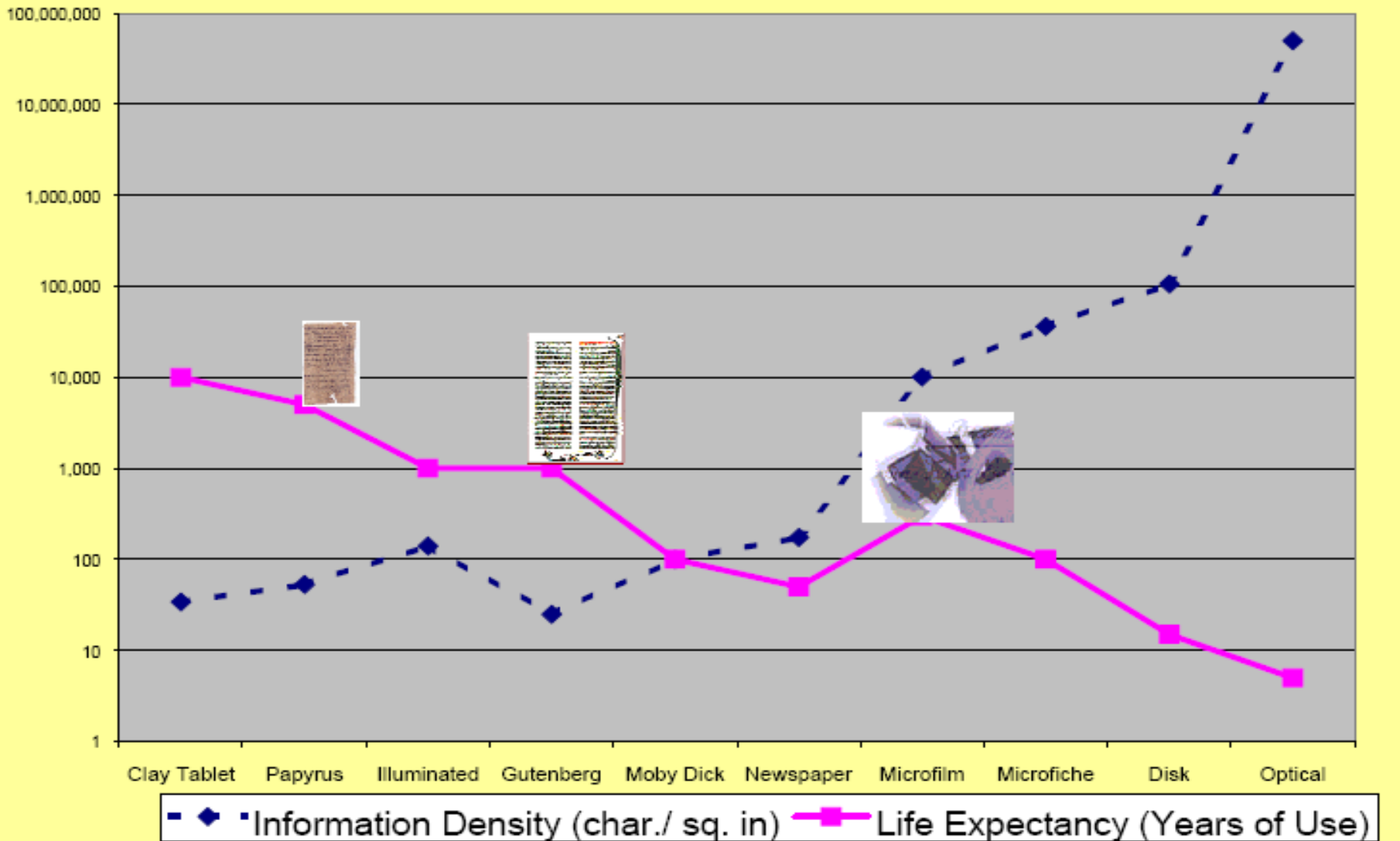
Source: Gathegi, 2010

# Legal Complexities of Multiple, Heterogeneous Content

- **Bookmarking**
- **Linking**
- **Collective works**
- **Digitization**
- **Authenticity**
- **Access and preservation**

Source: Gathegi, 2010

# The Dilemma of Modern Media



(Conway: Preservation in A Digital World: CPA 1996)

- ““Our capacity to record information has increased exponentially over time while the longevity of the media used to store the information has decreased equivalently.’<sup>2</sup> Archivists and librarians always had to contend with various frailties of the material in their care. Papyrus and paper, parchment and film, are all vulnerable to the ravages of time, and precious information can be lost to decay and destruction.”

Source: <http://www.historians.org/Perspectives/issues/1998/9804/9804FIL2.CFM>



# “Preservation through Neglect”

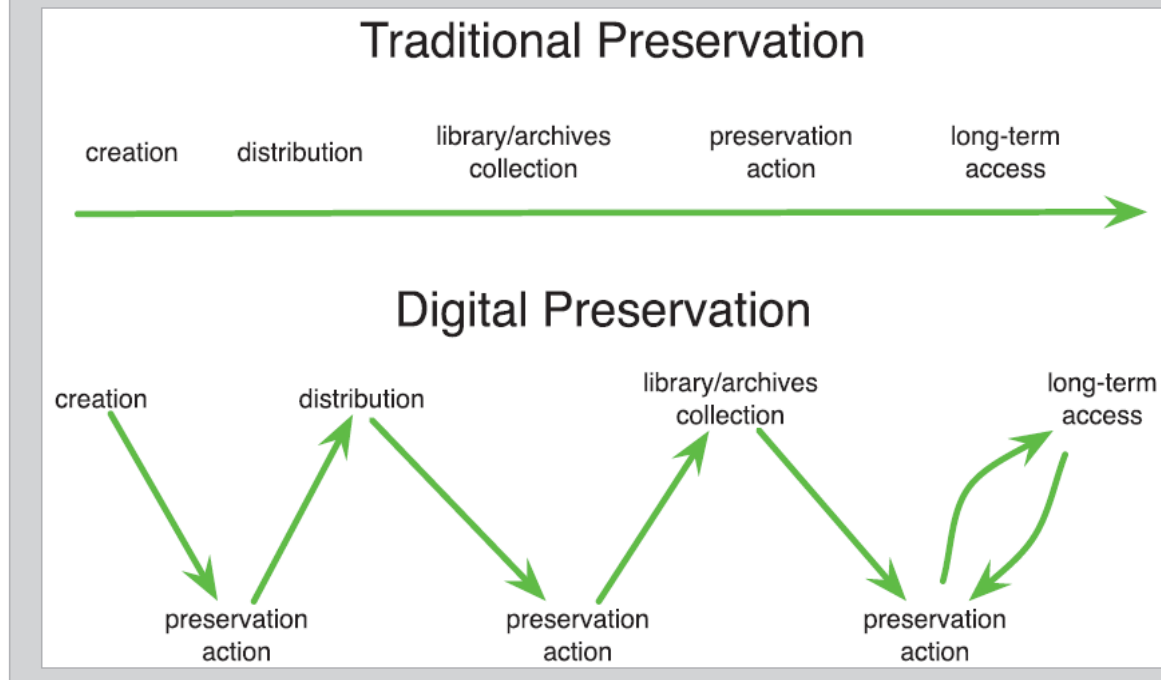
- “archivists have often operated on the principle of “preservation through neglect,” which has meant that materials that lasted fifty or one hundred years found their way into an archive, library, or museum. The difference with digital data is that it appears that if we wait twenty-five years, it may be too late--we could have nothing rather than, say, 10 percent of the data.”

<http://www.historycooperative.org/phorum/read.php?14,373,388#msg-388>

# Traditional vs. Digital Preservation

Fig. 1. Traditional Preservation Versus Digital Preservation

Digital content requires active management throughout its entire period of use.



Source: Preserving our digital heritage. NDIIPP, 2010.

# “The Future is the Past”

- The future constantly becomes the present and the present constantly becomes the past. Hence, “the future is the past”. (Jackson Jackson)
- “Who controls the past controls the future. Who controls the present controls the past.” (George Orwell, *Nineteen Eighty-Four*, 1949)
- Securing the digital future of the past means securing the future.

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## Full-text Search

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- 2,600,958 volumes (~27% of total)
- in the public domain

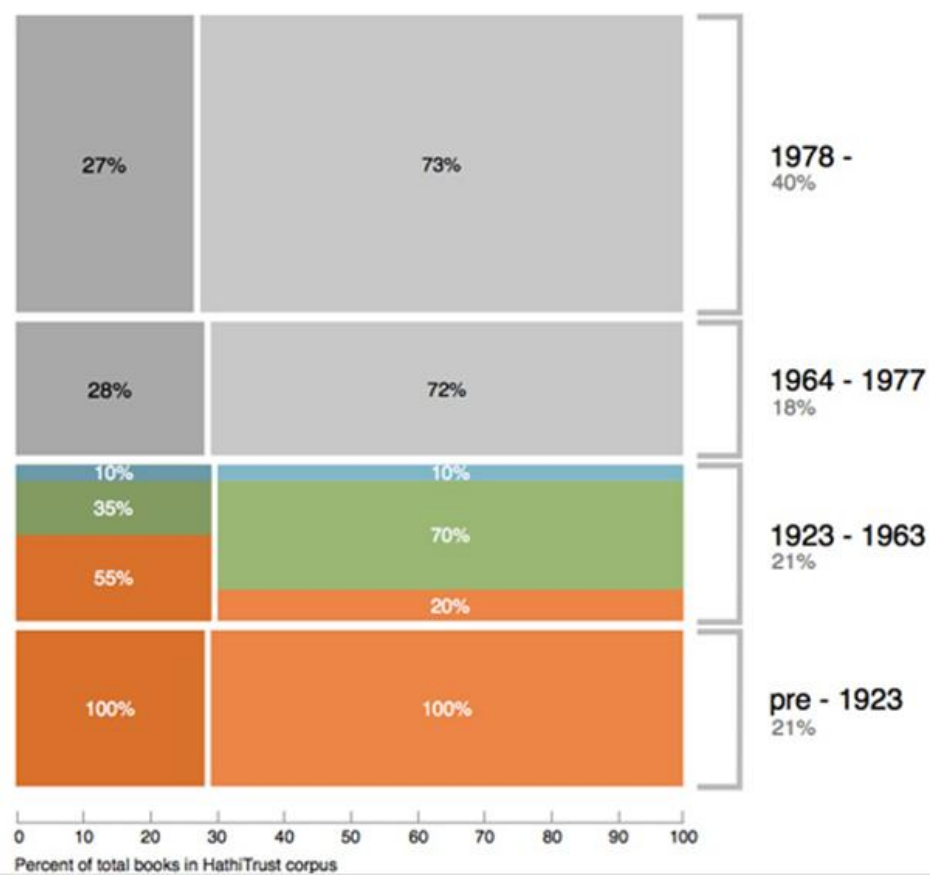
## Featured Collection



### Islamic Manuscripts (Michigan)

Newly digitized manuscripts from the Islamic Manuscripts Collection of the University of Michigan

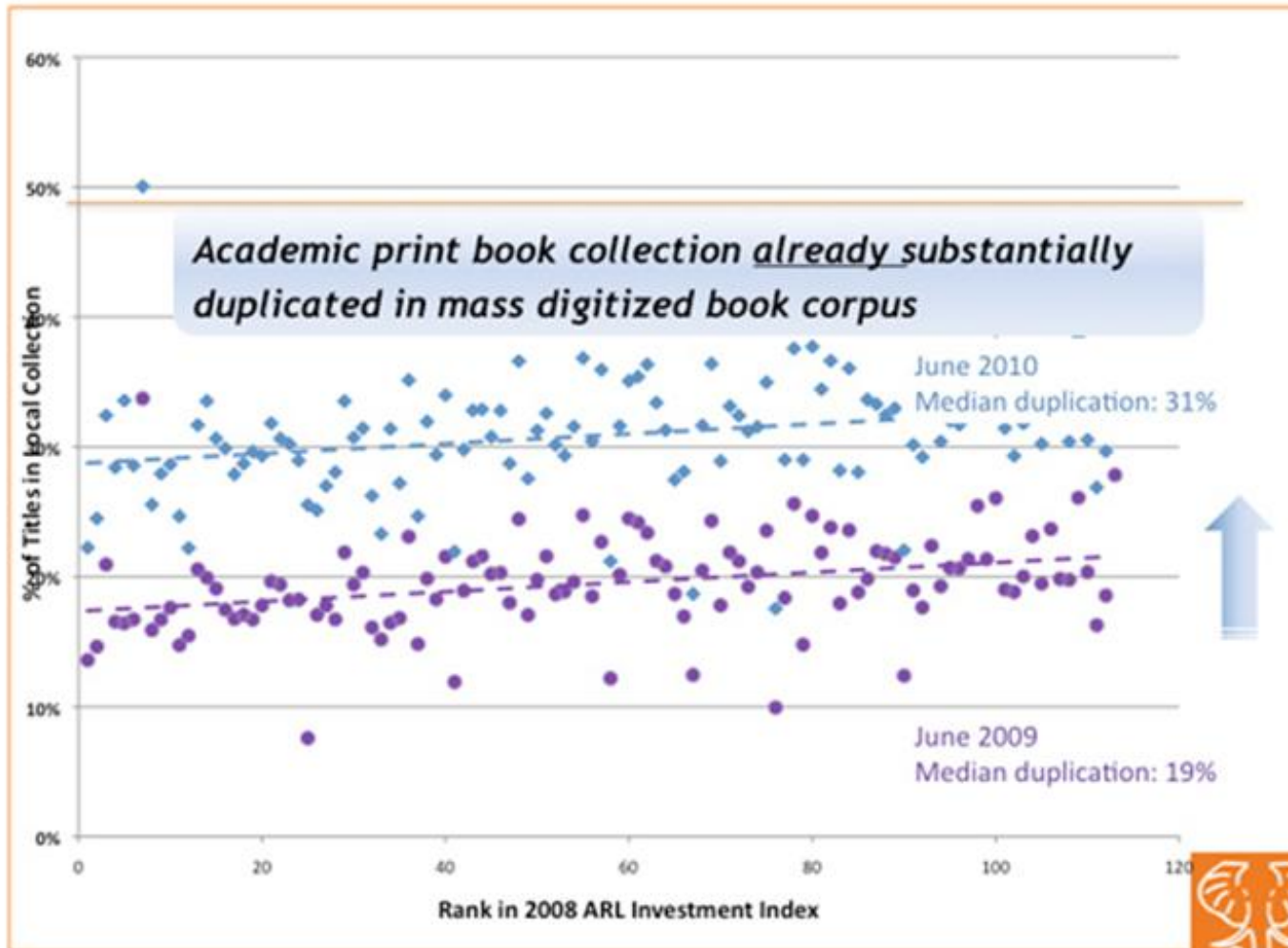
# HathiTrust book corpus: Breakdown by US/non-US and Rights Status for all Periods



<http://www.clir.org/pubs/ruminations/01wilkin/wilkin.html>

# Overlap between HathiTrust and ARL libraries

Fig. 1: Overlap between HathiTrust and ARL libraries



<http://www.clir.org/pubs/ruminations/01wilkin/wilkin.html>

**TRLN** 

TRIANGLE RESEARCH LIBRARIES NETWORK

## **The Triangle Research Libraries Network's Intellectual Property Rights Strategy for Digitization of Modern Manuscript Collections and Archival Record Groups**

January 2011

Laura Clark Brown, Judy Ruttenberg, and  
Kevin L. Smith, J.D.

Source: <http://www.trln.org/IPRights.pdf>

# IPR Strategy

- Recognize that some materials may already be in the public domain
- Obtain permissions and rights when and where practicable;
- Acknowledge the strength of a fair use argument; and finally,
- Putting in place a responsive policy to address issues brought by rights holders



# OCLC's Well-Intentioned Practice...

## Well-intentioned practice for putting digitized collections of unpublished materials online

The primary responsibilities of cultural materials repositories - stewardship and support for research and learning - require us to provide access to materials entrusted to our care. This document establishes a reasonable community of practice that increases and significantly improves access to collections of unpublished materials by placing them online for the purpose of furthering research and learning. Although it promotes a well-intentioned, practical approach to identifying and resolving rights issues that is in line with professional and ethical standards, note that this document does not concern itself with what individuals who access particular items may do with them. While the document was developed with US law in mind, it is hoped that the spirit of the document will resonate in non-US contexts.

If your institution has legal counsel, involve them in adopting this approach; after the approach has been adopted, only seek their advice on specific questions.

### Select collections wisely

- Keep your mission in mind and start with a collection of high research value or high user interest.
- Assess the advantages and risks of relying on fair use (in the US) to support public access.
- Some types of materials may warrant extra caution when considering rights issues, such as
  - Contemporary literary papers
  - Collections with sensitive information, such as social security numbers or medical data
  - Materials that are likely to have been created with commercial intent (because they are more likely to have economic value)
  - Very recent materials that were not intended to be made public
- If research value is high *and* risk is high, consider compromises, such as making a sensitive series accessible on-site only, until a suitable time has passed.

### Use archival approaches to make decisions

- Check donor files and accession records for permissions, rights, or restrictions.

- Assess rights and privacy issues at the appropriate level, most often at the collection- or series-level.
- Attempt to contact and get permission from the rights-holder, if there's an identifiable rights-holder at that level.
- Include what you know about the rights status in the description of the collection, including if the collection is in the public domain, if the institution holds the rights, or if the rights-holder has given the institution permission to place the digitized collection online.
- Document your processes, findings, and decisions and share them with your professional community.

### Provide take-down policy statements and disclaimers to users of online collections

- Adopt a liberal take-down policy, such as: *"These digitized collections are accessible for purposes of education and research. We've indicated what we know about copyright and rights of privacy, publicity, or trademark. Due to the nature of archival collections, we are not always able to identify this information. We are eager to hear from any rights owners, so that we may obtain accurate information. Upon request, we'll remove material from public view while we address a rights issue."*
- Use an appropriate disclaimer at the institutional level, such as *"[Institution] makes digital versions of collections accessible in the following situations:*
  - *They are in the public domain*
  - *The rights are owned by [institution]*
  - *[institution] has permission to make them accessible*
  - *We make them accessible for education and research purposes as a legal fair use, or*
  - *There are no known restrictions on use*

*To learn what your responsibilities are if you'd like to use the materials, go to [link]"*

### Prospectively, work with donors

- Identify possible intellectual property issues and get relevant contact information.
- Ask donors to state any privacy concerns and identify sensitive materials that may be in the collection.
- Suggest that donors transfer copyright to the institution or license their works under a Creative Commons CCO license.
- Include statements in your collecting policies and in your deeds of gift or transfer documents that:
  - ensure that no restrictions are placed on content that is already in the public domain,
  - grant license to digitize the materials for unrestricted access even when donors retain the rights,
  - and guard against limitations or restrictions on fair use rights.

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For more about this document, see <http://www.oclc.org/research/activities/rights>

Revised 05/28/2010

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Source: OCLC Research (2010, May 28). "Well-intentioned practice for putting digitized collections of unpublished materials online." Retrieved September 12, 2011, from <http://www.oclc.org/research/activities/rights/practice.pdf>

# Orphan Works Project

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## Orphan Works Project to Scan Library Books for Online Database

by *George H. Pike*  
Posted On September 12, 2011


The **University of Michigan Library** and several other major academic libraries are partnering with the **HathiTrust Digital Library** to try and do what Google cannot: develop a searchable library of scanned books, including so-called "orphan works," from the resources in the libraries' existing print collections. This Orphan Works Project could result in digital access to millions of out-of-print books, but it also runs a risk of violating federal copyright laws.

Joining Michigan and the HathiTrust in the Orphan Works Project are the libraries at Cornell, Duke, Emory, Johns Hopkins, and the Universities of Florida, Wisconsin, and California. Each of the libraries will identify and then scan materials from their collections that are no longer in print and for which the copyright owner cannot be identified or located. These materials have taken on the name "orphan works" because they remain copyrighted under U.S. law, but have no identifiable copyright owner to contact for permission to digitize, reprint, or otherwise use. Consequently, they sit languishing on library shelves and are essentially lost to the digital revolution.

Because these works are protected by copyright, the act of digitizing and posting the books to a database could be considered copyright infringement with penalties of up to \$30,000 per book. The **Google Books** project was (and remains) an attempt by Google to partner with many of the same libraries to scan books and make them available through Google Books. Google was sued by several authors and publishers for copyright infringement but reached a settlement that would have allowed the creation of a subscription database, payment of royalties to copyright owners when identified, creation of a registry for orphan works, and a provision that owners could "opt out." However, the court has so far rejected the settlement as going too far by allowing digitization without the owners' permission in advance as required by law. The court was also concerned that the project gives Google too much of a monopoly power over the subscription database.

The Orphan Works Project hopes to avoid similar copyright problems by relying on copyright's fair use doctrine, which permits some uses of copyright works without permission for scholarly, research, teaching, and other beneficial purposes. Because all of the participants are nonprofit universities, they hope to avoid the commercial use problems that Google faces. In addition, the use of orphan works scanned under the project will initially be restricted to on-campus users only. Students/faculty and staff will be able to access the resources through campus networks, and walk-in users can access the works from library computers, however, the resources will not be available through the internet. However, as the HathiTrust Digital Library already makes books in the public domain available, they would have the capability to add these "orphan works" resources similarly available in the future.

Copyright experts are torn over the legality of the Orphan Works Project. Fair use is a limited exemption to copyright infringement with specific requirements. The works must be used for research, scholarship, teaching, or similar purposes, and then are evaluated based on several specific factors. These factors include the nature of the use, such as whether it is "transformative" or mere duplication, how much of the work is being used, what is the nature of the original work, and is there an impact on the market for the work.



Other ITI Websites

- American Library Directory
- Boardwalk Empire
- Database Trends and Applications
- DestinationCRM
- EContentMag
- EMediaLive
- Enterprise Search Center

Internet | Korumali Mod: Kapali

# Price Cap...



The Authors Guild

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## Authors Guild, Australian Society of Authors, Quebec Writers Union Sue Five U.S. Universities

*Posted September 12, 2011*

### Suit seeks impoundment of unauthorized scans of 7 million books

This afternoon, we filed suit against HathiTrust, the University of Michigan and four other universities over their storage and use of millions of copyright-protected books. The press release follows.

**AUTHORS AND AUTHORS' GROUPS FROM AUSTRALIA, QUEBEC, THE U.K., AND U.S. SUE HATHITRUST, THE UNIVERSITY OF MICHIGAN, AND FOUR OTHER U.S. UNIVERSITIES FOR COPYRIGHT INFRINGEMENT**

Digital Files Provided by Google at Issue, As Plaintiffs Seek to Impound Unauthorized Scans of 7 Million Copyright-Protected Books, Pending Congressional Action

NEW YORK – The Authors Guild, the Australian Society of Authors, the Union Des Écrivaines et des Écrivains Québécois (UNEQ), and eight individual authors have filed a copyright infringement lawsuit in federal court against HathiTrust, the University of Michigan, the University of California, the University of Wisconsin, Indiana University, and Cornell University. Plaintiff authors include children's book author and illustrator

Source: <http://blog.authorsguild.org/2011/09/12/authors-guild-australian-society-of-authors-quebec-writers-union-sue-five-u-s-universities/#.Tm6pGQoG-BQ.facebook>

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# Digital Rights and TPMs

- The context of intellectual property law
- the context of technological controls (e.g., spoiling tactics, levies, watermarks, smart cards)
- the context of licenses and contracts (business models and revenue collection)
- The WIPO Copyright Treaty added agreements about digital resources:
  - (1) a ban on circumventing technological protection measures (TPMs) on file, such as encryption and password protection;
  - (2) a ban on removing any Rights Management Information from a digital resource such as terms of conditions of use, but also including information that identifies the work such as the author or title;
  - (3) a declaration that a compilation of data, such as a database, can be considered an intellectual creation and thus receive copyright protection.

Source: Coyle, 2006

# The Newer Trend . . .

*"What is not mobile, does not exist !"*

# Mobile Technologies and IPR

- Capture of data and events such as games on video
- Teams have exclusive rights to broadcast games
- Use of cellphones and social media (ie, Twitter)

Source: Gathegi, 2010

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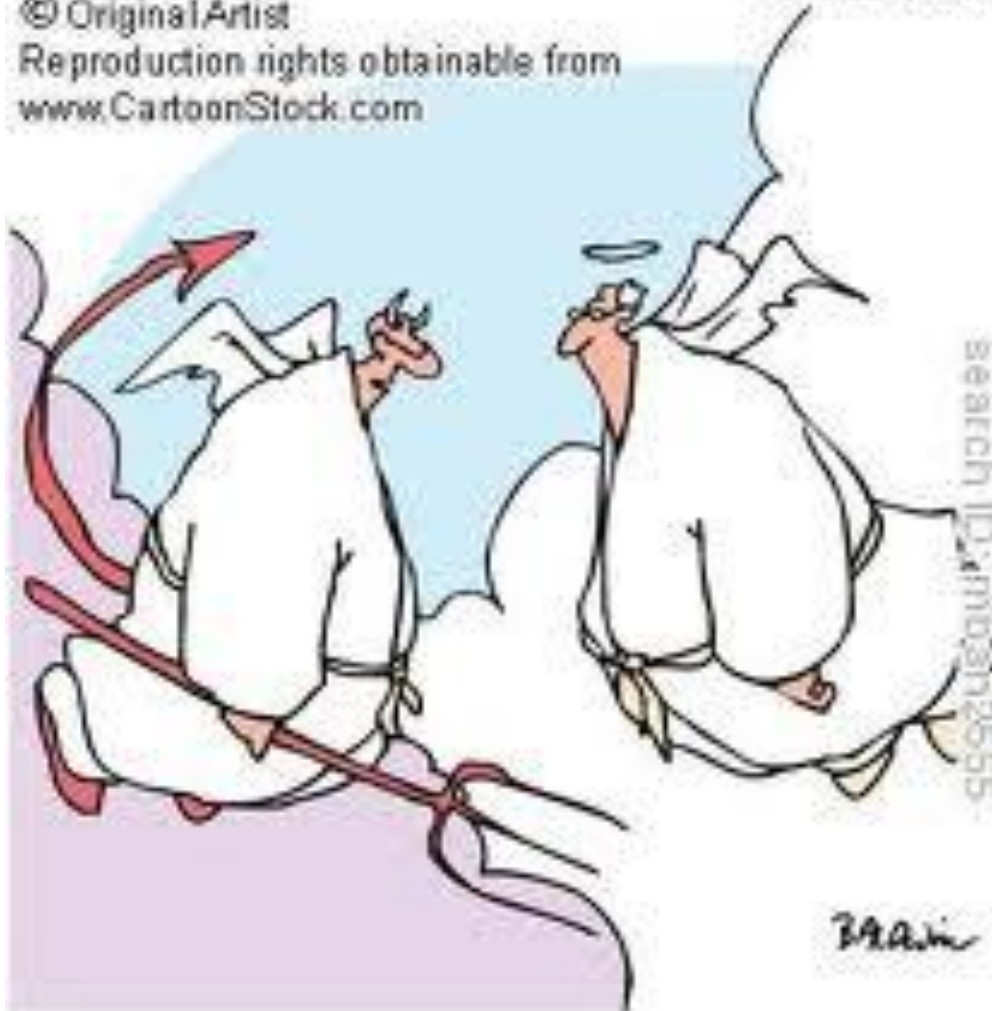
search ID: hsc5645

# Digital Rights Payments

- Digital rights in contractual form
- Similar to paying by credit cards (“I’ll pay you this amount of money etc.”) But what if the item is in e-form and can be downloaded immediately?
- How would you make it actionable?
- Functional metadata to impose digital rights

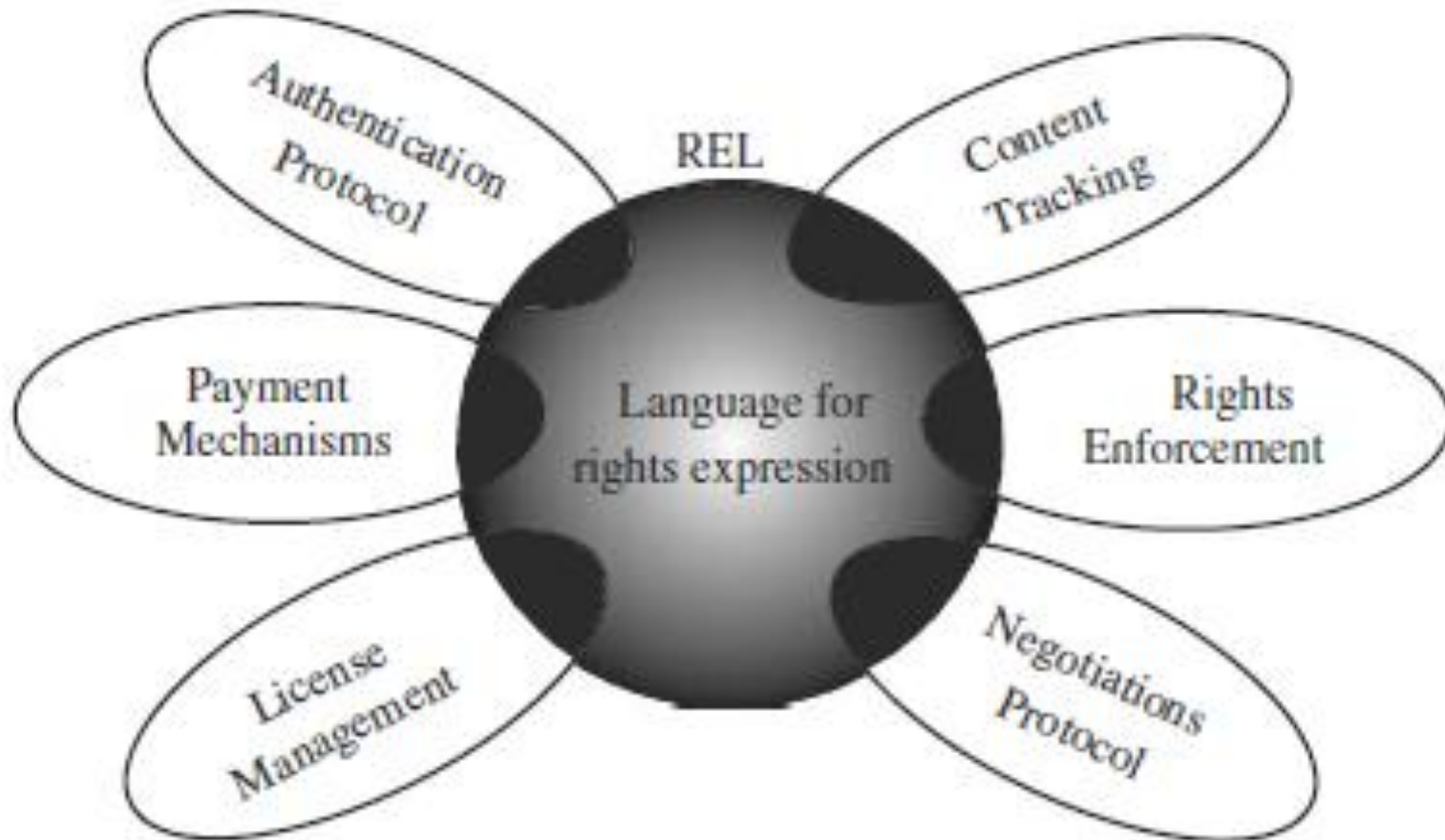


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"Sold my soul to the devil, but held on  
to the intellectual property rights."

# DRM Architectures



**Fig. 7.** DRM services implemented using existing RELs.

# OpenSDRM

C. Serrão et al. / Computer Communications 34 (2011) 129–139

131

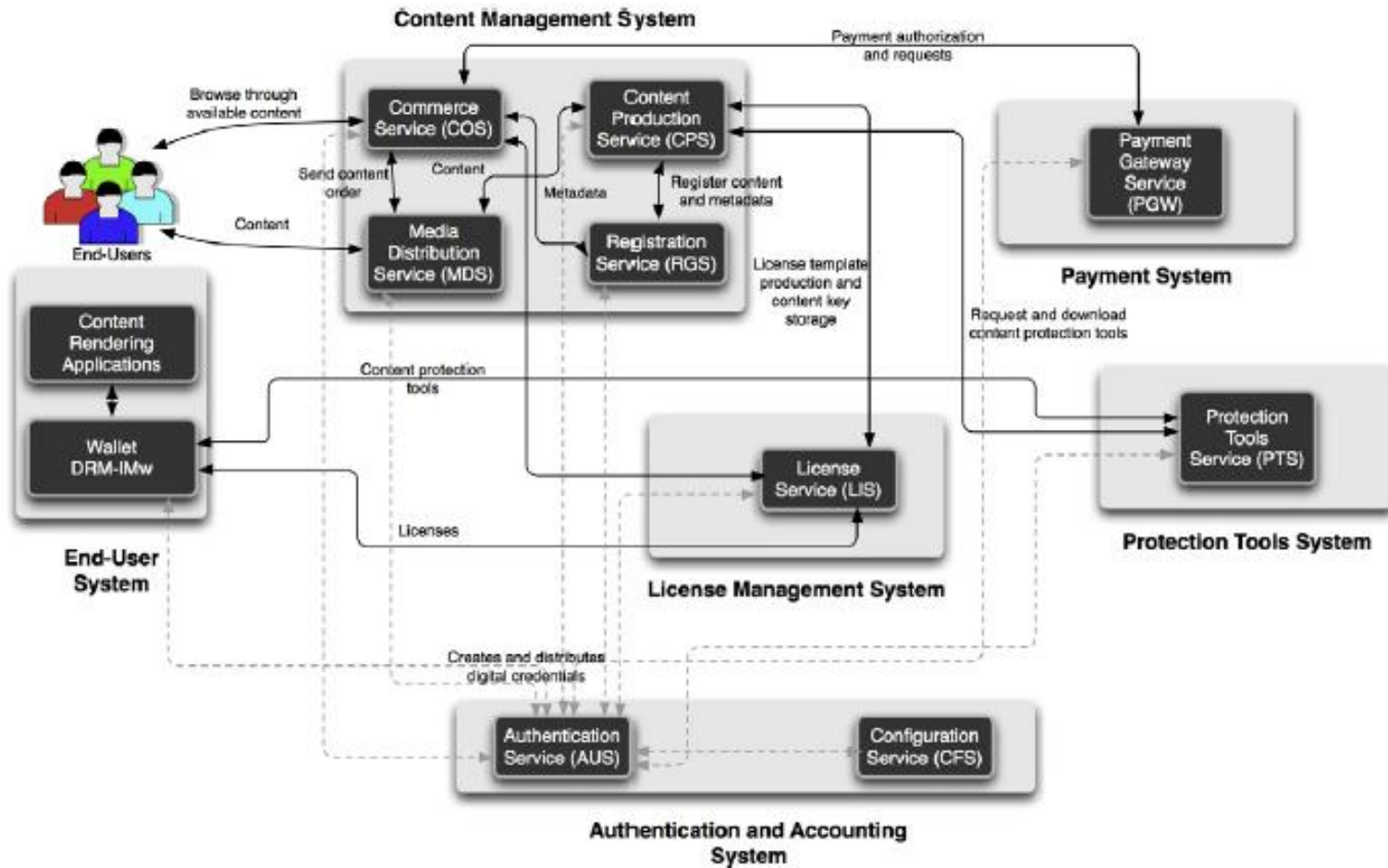


Fig. 1. The OpenSDRM rights management system.

# MIPAMS Architecture

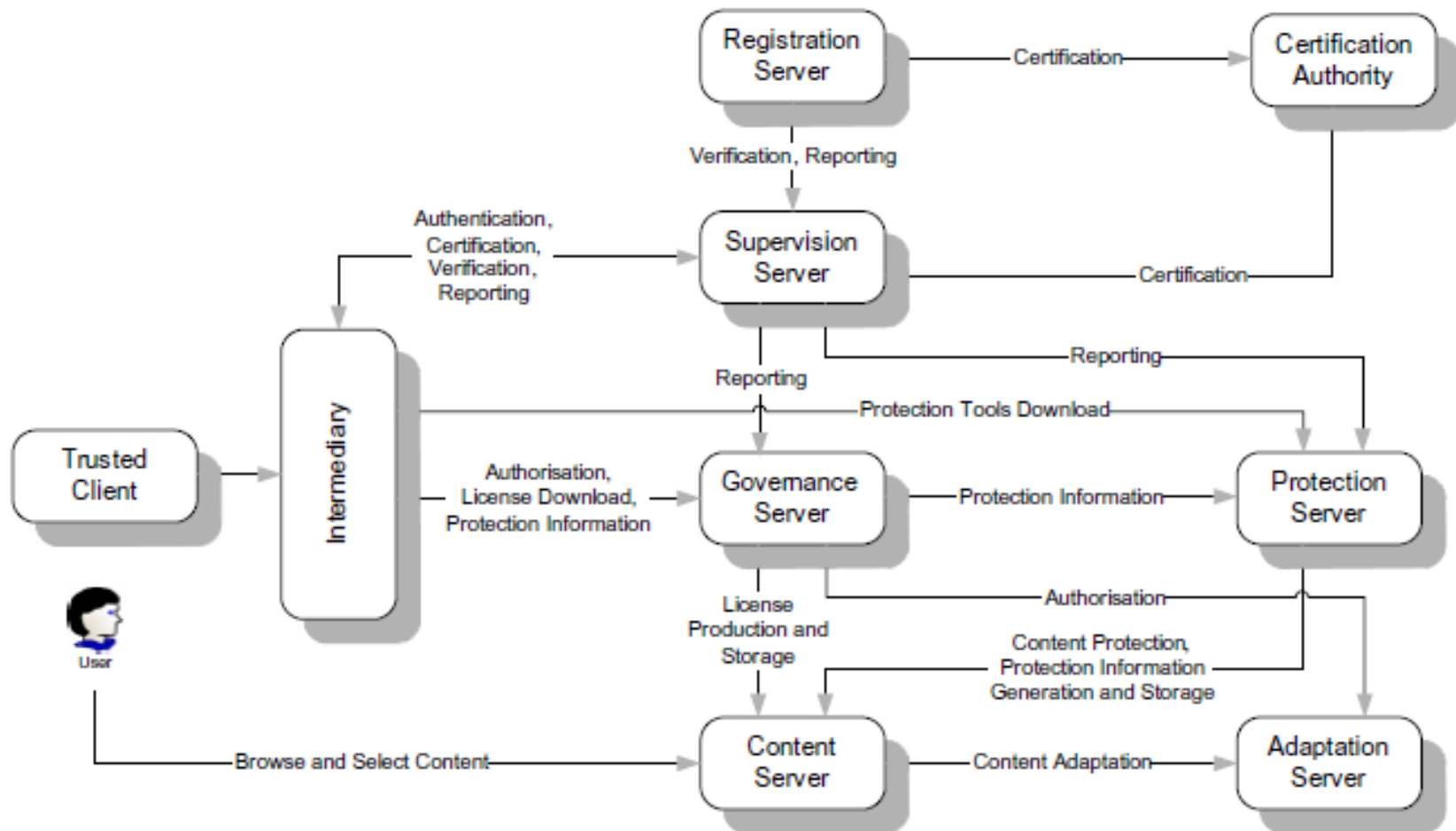


Fig. 2. The MIPAMS architecture.

Source: Cerrao et al, 2011

# DRM in Practice

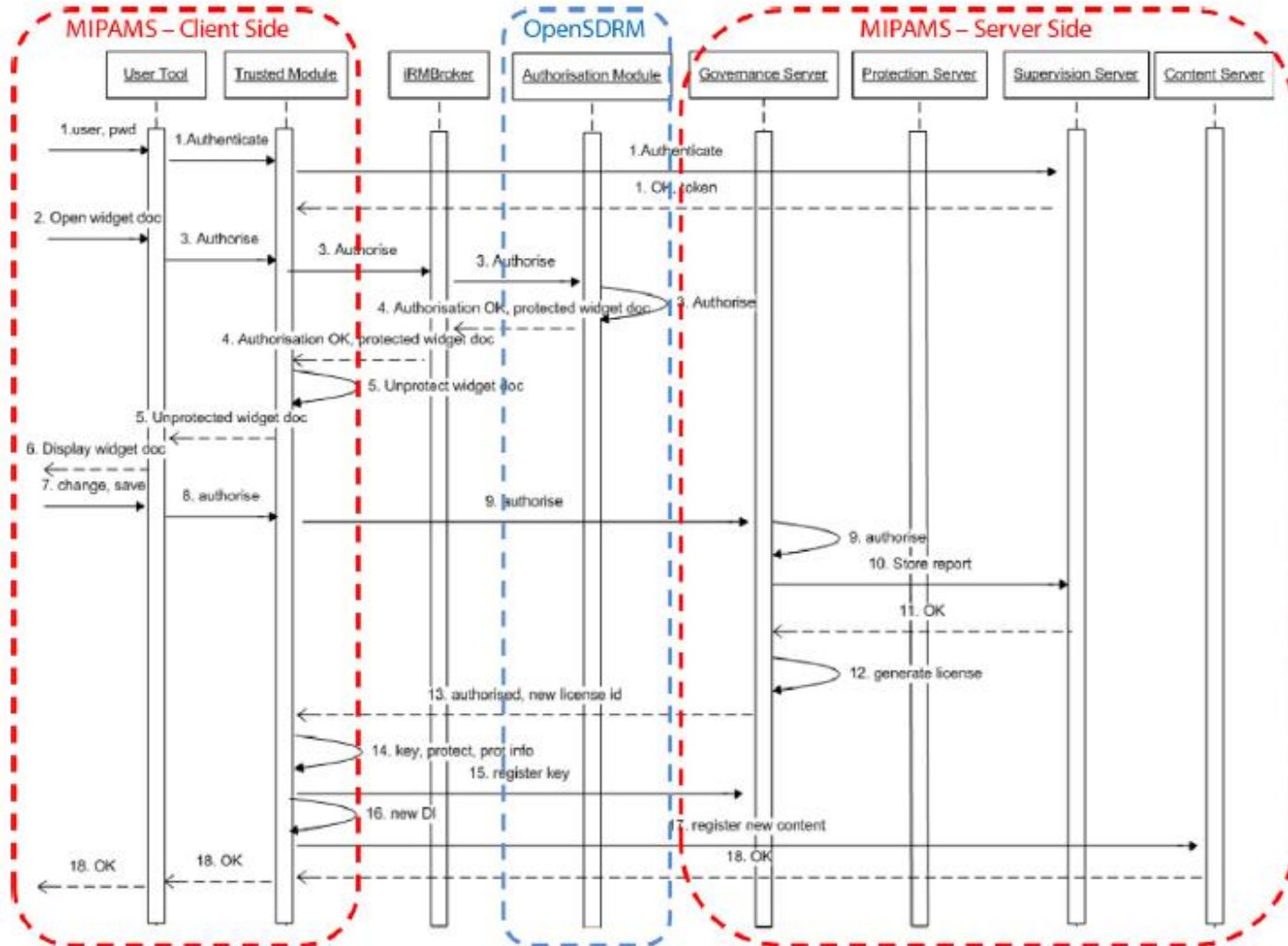


Fig. 10. Design phase use-case – positive authorisation.

Source: Cerrao et al, 2011

# DRM in Practice (cont'd)

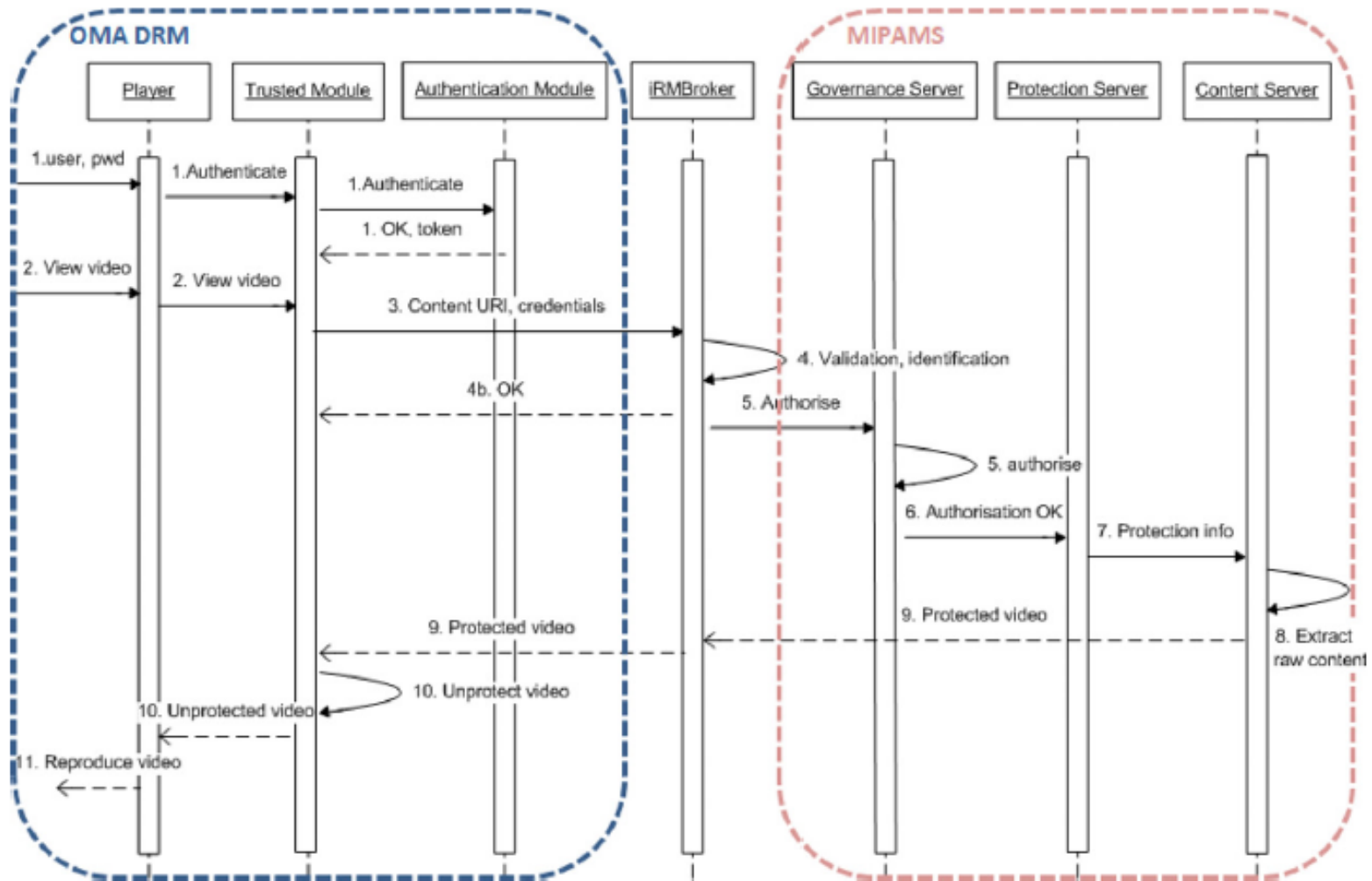


Fig. 12. Video visualisation use-case – positive authorization.

Source: Cerrao et al, 2011

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search ID: cwlh878

**"I'll participate in Show & Tell only if  
I retain movie and book rights."**

# Show and Tell, and Write Up Assignment

- Devise a conceptual copyright scheme that would be helpful in solving at least some of the current IPR problems (e.g., copying, digitization, orphan works, preservation and access, and so on)
- It does not necessarily have to be an original or never thought out scheme
- Discuss the problem your scheme would address and support your arguments as to how it would help solve the problem(s) (using figures, if needed)
- Turn in your assignment electronically to me at [tonta@hacettepe.edu.tr](mailto:tonta@hacettepe.edu.tr) by Sep 22, 2011, 12 noon
- Length: No more than 1000 words.



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"According to Legal, just THINKING  
about this project is an infringement  
of someone's copyright!"

# Summary

- What is IPR?
- IPR in the digital age
- Copyright infringement
- Digitization, digital preservation and access
- Mobile technologies and IPR
- DRM systems

# Intellectual Property Rights in the Digital Age

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