the other side of ip: informational commons

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distributors vs. creators

- IPR discussion dominated by distributors
  - record labels, publishing houses, movie studios, etc
  - their interest: controlling the product in the market for maximum revenues
  - expansion of IP claims creates many negative side effects, particularly for creators
  - distributors against creators in the informational economy
material production

- **characteristics:**
  - linear, one way
  - material difference between input and output
  - separation between production and consumption
  - distributors try to apply this model to digital goods
informational production

- characteristics:
  - feedback, two-way
  - contextual difference between input and output
  - production and consumption overlap
  - new model necessary
information management by creators

• creators:
  – interested in being able to create
    • access to the means of creation
    • economic rewards for creation

• means of creation:
  – raw material: other people's works
information management by creators: science

- process organized by scientists, to suit their needs
- goal: progress of the field, innovation
- means: free sharing of products of work within community
  - publication of results and methodology
  - critical examination of innovation
  - learning within community
  - innovative environment, rich with ideas sparking new ideas
information management by creators: science

• long-term process
  – first journal published in 1665
  – tremendous innovation, progress
  – not directly commercial
  – creation of large, secondary markets
  • molecular biology -> bio tech industry
information management by creators: science

- ownership of work plays limited role
  - claim of authorship
  - reputation and indirect rewards

- informational resource managed by scientific community
  - scientists (producers, reviewers, users)
  - administrative infrastructure (environment for producers)
alternative to IP regime: commons

• science is a not a market but a commons
  – commons: "resource used and managed by community rather than by individual owners."

• traditional physical commons:
  – air, oceans: free to use, managed by community
  – common pasture. all members can use it within bounds of community rules

• informational commons
  – community based development and management of information resource
commons on the internet

• software
  – source code: written and read by programmers
  – binary code: read and executed by computers

• proprietary software:
  – only binary code is distributed
  – use but don't understand

• open source software
  – binary and source code are distributed
  – changing and redistribution allowed
open source software

- like science
  - organized by producers
  - focus on progress of the field, innovation
  - peer review to examine new information
  - free access to raw material of production, i.e. other people's work
  - not directly commercial
  - creation of secondary markets (services)
internet as commons

• internet: created by and for programmers
  – created in the early 1970s, commercial since mid 1990s

• ease of sharing information central

• too large a task for anyone to do it alone

• community centered development

• free/inexpensive means of communication makes it easier to share information

• creates new needs to manage information
internet as commons

• many central technologies of the internet are open source software
  – email (sendmail)
  – web servers (apache)
  – web pages ('view source')
  – operating systems (linux)

• internet both enabling condition and effect of open source
  – feedback, two-way production process
informational commons beyond software

- growth of oss serves as an example/inspiration for further social innovation
  - open content
    • free encyclopedia: http://www.wikipedia.org
  - open law
    • free database with legal arguments compiled by faculty and students in the US
  - open science
    • genetic code: published on the internet
    • open access journals
commons

- strength of commons
  - open to talent, low barrier of entry
  - decentralized, sensitive to local needs
    - OSS interfaces translated in many languages
  - focus on innovation
    - no "me-too" products
  - free access to products
  - low overhead
    - less need for lawyers
  - creation of secondary markets (Red Hat, IBM)
commons

• weaknesses of commons
  – no primary markets
    • funding?
  – low degree of organization
    • no legal entity
    • no lobbying
    • temporal?
  – relatively unknown concept
    • we don't know what we destroy
policy areas relevant to informational commons, 1/3

- communication
  - means of communication must be uncensored and inexpensive
  - bridging of digital divide
  - free access to internet
  - preservation of communication space for non-commercial use (spectrum).
policy areas relevant to informational commons, 2/3

• content
  - content must be available with as little restrictions as possible
  - limitation of IPR claims (direct conflict with distributors)
  - publication of content under open licenses
policy areas relevant to informational commons, 3/3

- community
  - internet literacy
  - encouragement of local communities, via universities, contracts and other means
  - interconnection of communities
practical steps 1/2

- demand government to seriously consider open source software solutions
  - often cheaper or cost neutral
  - vendor independent: more flexibility
  - better interoperability thanks to open standards
  - support of a local IT industry
practical steps 2/2

• pressure government to publish information under open licenses
  – ensure that access remains open
  – facilitates development of secondary services
  – example: GPS (global positioning system) data is freely available, entire industries develop technology and services based on this data.
central argument

- all creation needs access to raw material, it never happens in thin air
- informational creation: raw material often other people's products
- the flipside of expansion of IP is a reduction in raw material available creators
  - particularly for those outside large corporations
  - excessive IP creates barriers for market entry
  - historically, developing nations always had limited IP protection
central argument

- without a robust informational commons -- which is being destroyed by an excessive ip regime -- our only role in the information society is that of consumers with "choice" but no rights.