

Here's a sharper tool

African control over intellectual property is critical, says Heather Ford.

Copyright used to be a sharp tool – a tool for awarding and incentivising creators, and creating balance between private rights and the public's rights of access to human knowledge and creativity.

Lawmakers who designed the Statute of Anne, one of the world's first copyright laws, only agreed to allow copyright-holders a monopoly over copies of their work because that monopoly was limited. The Statute of Anne established limited terms and clear fair use rights for both non-commercial and commercial purposes – limitations that gave people like Walt Disney a fair shot in the industry by enabling him to discover and publish new stories based on the raw materials of history.

Over the years, copyright has become a blunt tool. Worn down by the lobbying might of the multinational publishing industry, copyright has become a tool for the advancement of corporations rather than creators; a tool for growing the outrageous wealth of a few established creators, rather than giving platform to the many, skilled creators that populate local culture in every corner of the globe.

Culture and the media, today, have less and less to do with the ability of an artist or creator to connect with an audience, and more to do with how much money and power can be garnered from the sale of consumable products. Nowadays, the media and popular culture are owned by only a few powerful players – a few players who continue to gobble up more of our public space, our public domain, our information commons, and our rights to free expression and a free culture.

And the arrival of the Internet and the revolution in information and communication technologies has seen a rapid decline in fair use rights. As digital rights management (DRM) tools bludgeon our right to copy and share information for fair purposes, the "old guard" has effectively declared war on the public domain and legitimate non-commercial interests.

Intellectual property is facing a crisis around the world. Thousands of people have been sued by the Recording Industry Association of America as the RIAA attempts to "crack down" on Internet music "piracy". Computer patents are strangling entrants to the software market and pharmaceutical companies are using their hold over the market to sit by while millions die of curable diseases.

Although powerful, the backlash against these attacks has been tremendous. The free and open source software movement has grown rapidly so that Floss (Free/Libre Open Source Software) is now being seriously considered for "affirmative action" by developing country governments around the world.



Paul Greenway

Sixty-five million pages on the Internet link back to Creative Commons licences – all fuelled by the work of hundreds of volunteers around the world. The World Intellectual Property Association (WIPO) is under duress as high profile institutions call for the reform of an intellectual property system that has failed in fulfilling its mandate. And indigenous communities are demanding a greater stake in deciding how intellectual property rights can finally work for their own development instead of being appropriated by outsiders.

Journalists and new media practitioners are in a particularly unique situation in relation to copyright reform. Not only do they have a role in actively reporting on the rapid and massive changes occurring in the intellectual property industries, but as intellectual property "owners" they also have a vested interest in the outcome of this debate.

Will a subscription-based media company, for example, report on research that finds that the paid-

for content model on the Internet is a restriction on fair use and that open access is a more sustainable business model? Does the media's stake in this debate mean that it will report fairly on the progress of open access initiatives? And will the media implement open content policies in its own strategic planning?

These are questions that will have an important role in determining who will win this war and what Africa's place in the Information Society will be. Every media organisation needs to determine its position in this debate. The way that the value of intellectual property is distributed is critical to our future.

For the first time in history, Africa has the opportunity to write its own success story. Understanding the possibilities, when one frees intellectual property from the burdens that has weighed it down over the past century, is perhaps our most critical key. ■

Published under the Creative Commons Attribution South Africa 2.0 licence

"Journalists and new media practitioners are in a particularly unique situation in relation to copyright reform."