

GOWERS REVIEW OF INTELLECTUAL PROPERTY Submission of Sheldon Greenberg

In this short submission I intend to concentrate on principles and not details.

The 300th anniversary of copyright will soon be upon us, and it must be said that the original concept has been twisted out of all proportion. The idea was to promote creativity ... the Encouragement of Learned Men to Compose and Write useful Books². It was not to guarantee vast incomes falling into the hands of totally uncreative individuals and corporations.

The original copyright protection periods were based on the ability of a publisher to recoup an investment in 1710. Today, fortunes can be made in months, weeks, days, even minutes and yet copyright protection periods lengthen and lengthen to decades, centuries and, yes, to forever.

Every time the protection period is extended, a new group of individuals who sit further and further from the creative process line their pockets.

I have no idea who pockets the proceeds every time Gershwin is played on the

radio...it could be his publisher's great-great grandson's wife's cousin's solicitor. More likely it is a grey corporation filled with floors of accountants who 'ain't got no rhythm at all'.

Who pays for all these distant non-creators cashing in on moments of ancient and unrelated brilliance? Well, first of all it is those wonderful and deprived artists who are creating right now. They (those large corporate rights holders...you know who they are) spend fortunes trying to convince artists and artist's representatives that longer periods of protection are in their interest. "Life plus a thousand years...isn't that better for you than life plus 50 years?" No it is not!

Here is an example. My son is a British Hip Hop artist. He has composed and produced four albums and receives airplay on the BBC and elsewhere. His last

cheque from PRS was £8.75. PRS has a relatively finite amount to hand out, and much of it goes to the unproductive representatives of the publishers of the likes of Gershwin and others long dead. Just how paying the unproductive and uncreative at the expense of the productive and creative helps creativity, heaven knows.

I rather expect that most of the submissions you received argue for the extension of protection periods, for the bringing of even more non-creatives under the payment umbrella. They (remember they?) would extend the period so

long that Mozart could fall back into the fold. Then, instead of getting £8.75, my producing son would be lucky to get 75p.

Speaking of Mozart, I hope somebody has pointed out the very great benefits to our society and the world of Mozart, Shakespeare and the like being in the public domain. I will not bore you by repeating the argument, but, I must say that in my opinion the true objective of 'they' is to ensure that nothing ever again reaches the public domain. The extent that they have already succeeded must rank as one of the greatest swindles ever against not only the people of this country, but everyone in the world.

Legislatures, especially in democracies, have done little to stem the tide.

As large media organisations, 'they' have easy and highly influential access to legislative members in many countries. They have the power to control the agenda. They also have substantial budgets. The fact that there is no public debate at all makes it a 'no-brainer' for the average busy elected politician. As she or he receives absolutely no letters from Mr. and Mrs. Public complaining about extensions of copyright rights periods, the elected member can be the friend of the media organisations at no political cost. Although it is most probable that you will not, it is possible to go the other way. We can postulate a scenario where the protection period, instead of being life plus a gazillion years, is ten years from the date of publication. Of course there will be injustices, but nothing like the current state of injustice or the future when protection periods may reach over the horizon. In today's economic climate there are many many ways for an artist to benefit from a creative success, ways which were unimaginable in 1710 when copyright was created. Undoubtedly, currently creating artists will benefit greatly from such a performing rights system. Also, if artists want more, they would have to create more. There would be no more 101 year

old Irving Berlins lying in bed listening to the constant parade of Securitas vans loaded with mail sacks of royalty cheques. As said, it would also end the lawyers and accountants dancing cheek to cheek over the great man's massive payments. Alas.

I am 100 percent on the side of the artists, Mr. Berlin included. I also have sympathy for their widows and children (possibly more so than the man who commissioned your report). I have no sympathy for parasites who suck the

blood out of the world's cultural systems for the benefit of no one but themselves. And, they want more!

The point is...we do not always have to accommodate those who wish to co-opt

the world's great creative treasures to their own ends, forever. Copyright is not like the law of gravity. It does not come with the universe. It was created by human beings to solve a particular problem. It was to stop one person from stealing the creativity of another, and thereby protecting creativity itself. But now many use the system to ends exactly the opposite from the original intention. Let us go back to the roots and devise a system which both protects creators from theft and fosters originality and creativity.

And remember, the creator of Mickey Mouse is dead. Dead. During his lifetime

he was very well rewarded for his creation, as was his family. Please help ensure that some day, perhaps sooner than later, that Mickey and Superman and music and literature will join Hamlet and the Eroica Symphony in that pantheon of wonderful creations owned by and available for the benefit of all humanity. Not a single artist will be harmed.

Thank you,

Sheldon Greenberg