Does Copyright Help Creation?

David K. Levine
The Question

- Not: is it fair for authors and creators
- But: does it get the job done?
- Do we have more books, music, movies because of copyright?
- U.S. Constitution: “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”
Copyright in the 18th and 19th Century: Music

- Copyright to music around the end of 18th century
- Large proportion of classical music produced without copyright protection
- England among the first countries to introduce copyright for music
- Statute of Anne did not originally cover printed music
- In 1777 a case filed by Johann Christian Bach (the youngest son of the more famous Johann Sebastian) led to court ruling extending copyright to the realm of music
- Took until 1850s for copyright to spread to rest of Europe
- An natural experiment
What Did Copyright Do?

- United Kingdom not a top music producer
- None of top composers every worked in U.K.
- After 1780 no substantial increase in quality and quantity of music produced in U.K.
- Bear in mind England was the most economically advanced country in Europe at that time with the highest general and musical literacy
*Frederic Scherer’s Study*

- honoraria received by Beethoven without copyright to those of Schumann with copyright
- little evidence that copyright made a difference to income
- in the case of Verdi who wrote both with and without copyright, copyright lowered his productivity as a composer
Statistical Analysis by Scherer

- composers per million population per decade
- precopyright period in UK 1700-1752
- post copyright period in UK 1767-1849.
- Germany, Austria and Italy no change in copyright during period

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<th>Post</th>
<th>Ratio</th>
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<td><strong>UK</strong></td>
<td>0.348</td>
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<td><strong>Austria</strong></td>
<td>0.713</td>
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German versus France

- France the precopyright period 1700-1768
- post copyright period 1783-1849

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only evidence we know of supporting copyright enhancing output
Copyright in the 19th Century: Literature

- mid-19th Century England, Germany, United States of similar size, development and literacy
- England has a modest edge in these dimensions
- England had strong copyright
- Germany had no effective copyright
- United States had no copyright for foreign works (in particular not for English authors)
Eckhard Hoffner’s Study
Plant’s 1934 Study

- Reviews evidence from 1876-8 Commission examining whether United States should grant foreign copyright
- English authors were paid by American publishers, often more from their U.S. sales without copyright than from English sales with copyright
- Huge price differential: Dickens' *A Christmas Carol* sold for six cents in US and roughly two dollars and fifty cents in England
Copyright in the 20th Century: Music

- the advent of cheap illegal music sharing over the internet starting with Napster in 1999 effectively ended copyright in music
- another powerful natural experiment
- did quantity and quality of new music suffer in decade following the advent of Napster?
- studied by Waldfogel [2011] who assembled a dataset on number of high quality works released annually from 1960 to 2009
Waldfogel’s Study
Copyright in the 20th Century: Literature

- U.S. Federal Government documents by law may not be copyrighted
- Usually boring stuff like tax forms
- a U.S. Government document but a best-seller published commercially
- released to public at noon on Thursday July 22, 2004
- immediately and freely available for downloading from a government website at that time
- commercial printed version published by W.W. Norton simultaneously on sale in bookstores
- anyone else could join in
The 9/11 Commission Report

- besides the estimated 6.9 million copies freely downloaded
- St. Martin's Press in collaboration with New York Times released own version two weeks after Norton version
- Norton version sold about 1.1 million copies; St. Martin's sold about 900,000.
- Norton charged between a dollar and a dollar fifty more than St. Martin's
- Other publishers also estimated Norton made on the order of a dollar of profit on each copy
- suggests Norton made on the order of a million dollars
- contract with the government called on them to donate their profits to charity – they donated $600,000
How Big is Big?

- about 8 million copies of report including downloads
- initial print run for *Harry Potter and the Half-Blood Prince* about 10.8 million hardcover copies
- suggests if J. K. Rowling were forced to publish her book without copyright she might reasonably expect several million dollars
- much less than the billion she gets with copyright
- her previous occupation was as a part-time French teacher
- so probably enough to induce her to write
The Big Picture

- Many studies of the effect of patents on innovation
- We’ve talked about the copyright studies
- General conclusion: intellectual property doesn’t work
**Patents, Copyright and Free/Open Source Software**

- How many people here used Linux today?
- All of you
- Google, Android phones
- Huge commercial enterprise – runs the internet
- Voluntarily renounces use of copyright and patents
- Anyone is free to imitate and many do
- The producers are cheerfully collecting the money