

Royal Academy of Arts and Sciences



Royal Academic Colloquium
**Open Content: New Models for Accessing and
Licensing Knowledge**

27 and 28 April 2006,
Trippenhuis, Amsterdam

Organised by

Institute for Information Law
University of Amsterdam

In cooperation with



Programme

Royal Academic Colloquium
Open Content: New Models for Accessing and Licensing Knowledge
27 and 28 April 2006,
Royal Academy of Arts and Sciences (KNAW)
Trippenhuis, Amsterdam

April 27, 2006

Economic & Social Issues

09:30- 09:40 Opening of the KNAW Academic Colloquium by Prof. W. Frijhoff
of the Royal Academy of Arts and Sciences
09:40-10:00 Welcome word by Prof. Bernt Hugenholtz, Institute for
Information Law
10:00 – 10:30: KEYNOTE SPEECH: PROF. JAMES BOYLE

‘Social aspects of Open Content licences’

10:30 – 11:15 SOCIAL UNDERPINNINGS OF OPEN ACCESS
PANEL MEMBERS: V. GRASSMUCK, PROF. N. ELKIN-KOREN
11:15 – 11:30 Health break
11:30 – 12:30
12:30 – 14:00 Lunch

‘Economic aspects of Open Content licences’

14:00 – 15:15: THEME 1: VIABILITY OF THE OPEN CONTENT MODEL
PANEL MEMBERS: P.B. KAUFMAN, J. BIJ DE WEG
15:15 – 15:45 Health break
15:45- 17:00 THEME 2: IS OPEN CONTENT VICTIM OF ITS OWN SUCCESS?
PANEL MEMBERS: PROF. G. SPINDLER, PROF. E. MACKAAY
19:00 Cocktail & Dinner

April 28, 2006

Legal & Practical Issues

09:00 – 09:30

PRESENTATION: L. WAAIJERS (SURF)
'Case Study: Open Content in the Real World'

09:30 – 11:00:

'Open Content from the Author's Perspective'

THEME 1: (RE)INTRODUCING FORMALITIES?
PANEL MEMBERS: DR. DUSOLLIER, PROF. GINSBURG

11:00 – 11:15

Health break

11:15 – 12:30

THEME 2: COPYRIGHT OWNERSHIP ISSUES IN EDUCATIONAL
AND SCHOLARLY WORKS
PANEL MEMBERS: DR. GUIBAULT, PROF. STROWEL,

12:30 – 14:00

Lunch

14:00 – 15:15

'Open Content from the User's Perspective'

THEME 1: OPEN ACCESS AND USER OBLIGATIONS
PANEL MEMBERS: DR. T. KREUTZER, PROF. M.J. RADIN

15:15 – 15:45

Health break

15:45 – 16:45

WRAP-UP: THE FUTURE OF OPEN CONTENT
PRESENTATION: PROF. SAMUELSON

16:45 – 17:00

Closing
Prof. Hugenholtz

Abstracts

Royal Academic Colloquium
Open Content: New Models for Accessing and Licensing Knowledge

Information Freedom Rules

Volker Grassmuck

When means of production and distribution of informational goods become widely available, they trigger new forms of artistic and popular media practices. They change the relations between people and works on a philosophical as well as a social, cultural and economic level. This was true for audio tape-recorders in the 1950s when the Situationist International invented copyleft, and for photocopying machines in the 1970s when Brazilian Xerox artist Artur Matuck devised the free content license Semion.

The digital revolution again changes cultural practices fundamentally. The most powerful means of production and distribution of symbols, the PC and the Internet, come into the reach of virtually everyone, putting individuals, as users and producers, on equal terms with corporations and governments.

In the enthusiasm of discovering this power, contractual regulation of rights is the last thing people would think of. Not when HipHop or Techno Brega were invented. Not when we all did our first homepage on the web. Not when fans show their devotion to the phantasies offered to them by the entertainment industry.

Formalization of rules arises out of conflict. From the privatization of Unix that led to the creation of the GNU GPL to the current conflict over hacker Tron in Wikipedia. It's old conflicts in new digital clothes: What is mine, what is yours? What is the truth? Where need lines to be drawn?

Appropriate to a revolution, the documents that emerge are passionate declarations of freedom, self-commitments to do good, diatribes against the obsolete capitalist world order and manifestos on the founding of communities if not whole societies.

On a more practical level, two effects of the digital revolution might be good starting points for our discussion: 1) With the scarcity of pre-Internet distribution gone, exposure for and impact of works in the "long tail" of the market (Chris Anderson) become more important than direct payment. 2) We see the emergence of a new mode of production, i.e. "commons-based peer production" (Yochai Benkler).

In both cases something becomes evidently effective that from a standpoint of conventional copyright exploitation is rather counter-intuitive: not by strengthening but rather by abandoning most rights to your work will you gain the most. In enriching interaction, in reputation and possibly in fame and wealth.

The primary policy goals of Open Content licenses therefore, are to facilitate wide-scale circulation and collaboration. They do so first of all by removing obstacles like the permission requirements of copyright law or DRM. The bottom line of any Open Content license is that it grants the freedom to copy and redistribute at least to some people (e.g. only those in the UK or in developing countries) in order to facilitate 1). Licenses for 2) attempt the more complex task of regulating relations inside a community of peer producers, constituting a commons based on joint ownership, sustained maintenance and continuous development. Typically they introduce a normative requirement of reciprocity. The permission to share is subjected to the obligation to share alike. This is to facilitate the creation of an ever-growing pool of works that can be freely shared and build upon.

With the review of the GPL and the contestation over the Creative Commons license, 2006 is an important year for the establishment of, to paraphrase Shapiro/Varian, Information Freedom Rules. After the movement from new media-technologically enabled practices through conflicts to ethical principles and various sets of contractual provisions, the societal whole now comes into view. A multi-faceted 'we' is debating the social contract for the society we want to live in.

Royal Academic Colloquium
Open Content: New Models for Accessing and Licensing Knowledge

“Study the Old, But Create the New”: Once and Future Plans for Public Media”

Peter Kaufman

This paper presents the business reasons for supporting open content in public broadcasting (and education more broadly) from the perspective of a television producer and publisher.

Inspired by the call to action of Russian futurist Kazimir Malevich (1878-1935), “Study the Old, But Create the New” (see: http://en.wikipedia.org/wiki/Kazimir_Malevich), the paper opens with a formal study of the old: to wit, the original intent of U.S. public broadcasting, examining the foundational documents of American public media and the connections that its founders sought to forge in the 1960s especially between broadcasting, private industry, and the academy.

The paper goes on to propose the creation of new—fundamentally new—business models for producing public media. These models, what the author calls “Open Production Initiatives,” draw on contemporary lessons in business and law presented by open content and social production progress in media industries such as software, courseware and publishing, as well as gaming, music, and film. These models look to commons-based rights regimes that have been advanced by digital initiatives such as Wikipedia and BitTorrent.

The paper concludes with an appreciation of the vision of public broadcasting’s founders, recognizing that the connections they sought to establish, though often ignored during the heyday of public broadcasting, are more important than ever for increasing public access to knowledge.

Royal Academic Colloquium
Open Content: New Models for Accessing and Licensing Knowledge

Is Open content victim of its own success?

Some economic thoughts on standardization of licenses

Gerald Spindler

I.

The success of Open Content (and of Open Source as its blue print) has long been a mystery to economists. In the last five year the signalling approach of Lerner/Tirole had been adopted by most economists as the best theory suited to explain the altruistic production modus of Open Content and Open Source. From the perspective of this approach secondary markets play a crucial role to explain the behaviour of (most) producers of intellectual property under a commons license such as the GPL. These secondary markets can best be characterised as disseminating reputation by means of immaterial goods such as software or works (intellectual property). The more quality the product (books, articles, software) reveals the more reputation is being rewarded to its producer, thus leading to a greater income.

This approach depends largely on signalling mechanisms and running markets reflecting the quality of work.

Markets, however, are different for each type of good, be it software or intellectual works; hence, Markets differ also widely concerning reputational factors such as academic or software engineering careers. Moreover, it is far from being sufficiently clarified how quality reputation signalling works in different markets.

In addition, there are good reasons to doubt the analytic framework depending just upon factor like signalling mechanisms. Altruistic incentives (such as “gift economics”) are seldom considered as possible factors propelling producers. However, some empirical studies suggest that incentives such as contributing to communities or simply playing and creating new works are more important rather than monetary incentives.

II.

There is no pure model of Open Content license model that is applied globally such as the GPL. We actually rather observe multiple licenses emerging like the different modifications of the Creative Commons License as well as some national licenses being developed for the specific needs of some countries such as the German DPPL. Given the traditional concept of territoriality in intellectual property rights it is no surprising that there are no real international licenses which can be applied globally. Even in Open Source markets which are characterized by a sheer domination of one license type – the GPL – we observe different approaches to cover the needs of business as well as of some communities.

On the other side, the GPL may serve as another example for network externalities: As the GPL provides a general setting for licenses it establishes a standard which could be

easily be adopted by producers. Hence, the GPL can be treated as a standard and analyzed in the same way as other (technical) standards. The same approach can be applied to Open Content Licenses such as the Creative Commons License.

Whereas the traditional economic approach to standards disapproves in general of (positive or negative) network externalities things may turn out different for Open Content and Open Source Licenses: Given the differences in production in relation to traditional value chains Open Source Models must rely on standard licenses which substitutes in fact labour contracts which normally would ensure the organization of the production with the firm as the nexus of all contracts. Thus, the negative effects of standardization such as ignorance of individual needs and lack of flexibility are outweighed by positive effects of organizing new ways of production.

Whereas this might be true for Open Source Software which is produced in a Bazaar-manner Open Content Licenses differ widely as in most cases works (books, articles, even music) would not be produced in a common effort of different authors rather than by one author alone or just some few authors. Hence, the need and the reason for a strong, standardized license is in economic terms far weaker for works of art, literature, music etc. than for software. Therefore, the pressure on licenses to be standardized is far less than in software markets, due to the different production and distribution properties of the good. On the other hand, it is not very probable that vertical production will be as important as for software so that the problem of mutual compatibility which play a crucial role for software crafting (e.g. GPL and BSD license software code embedded in the same subsequently build code) is largely eased.

III.

In consequence, it should be expected that for non-software products which are crafted just by a few or only one author there will be a wider variety of licenses. Roughly spoken, this will lead to higher transaction costs (compared to Open Source Software) as users can not rely on just one highly used license rather than being forced to respect different forms and types of licenses. To be sure, Open Source Software markets are also characterized by a wider range of licenses such as the BSD or Mozilla licenses differing essentially to the GPL. Nevertheless, the GPL dominates markets by more than 75%. Whether this statement is also true for Creative Commons Licenses still has to be verified by empirical investigations.

However, a statement which just compares transaction costs of Open Content Licenses to Open Source Licenses does not take into account other benchmarks such as “normal” proprietary licenses. Transaction cost in the sense of evaluating rights and obligations might be higher in case of traditional form of publishing as most intellectual property rights provide for legal privileges such as free use for educational objectives. Hence, a user has not to ponder about his right to take a book from the shelf in order to copy or use it as most jurisdictions grant him correspondent rights to make free use of the content. Thus, mandatory legal framework relieves user of scrutinizing their rights under a license. However, this situation changes rapidly if we move to the digital world as the usual legal mandatory privileges do not apply and may be bypassed by copy protection

means such as digital rights management systems. Therefore, transaction costs might even be higher for traditional licences in the digital world compared to Open Content licences in the absence of mandatory legal privileges. In sum, with regard to transaction cost Open Content licenses are situated in the middle between highly standardized Open Source Licences on one end of the scale and traditional licenses on the other end.

In sum, there is no reason to believe that Open Content (and Open Access) should be a victim of its own success as long as traditional licences will differ widely and legal privileges will not be extended to the digital world. However, we have to admit that the pressure on a more standardized license is much lesser than for goods that are build by multiple authors such as software.

Royal Academic Colloquium
Open Content: New Models for Accessing and Licensing Knowledge

(Re)introducing formalities in copyright: Towards more open content ?

Séverine Dusollier

The Berne Convention states that the enjoyment and the exercise of the rights granted by copyright shall not be subject to any formality. Formalities that used to exist in many countries (e.g., deposit, registration, copyright notice) as a condition to enjoy or enforce copyright has thus gradually disappeared along their adhesion to the Berne Convention. Yet, in the increasing body of criticism against copyright (namely in the open content initiatives that have flourished here and there), proposals have been voiced to introduce or reintroduce some formalities so as to limit the automatic granting of copyright, to shorten its duration or to make its enforcement less easy. Such formalities would ultimately aim either to put more works into the public domain or to make protected works more easily available and usable.

Formalities could occur in different places in the copyright field. First the birth and grant of the right can be subject to some formal requirements, such as a deposit or registration. This formality, whose reintroduction has been proposed by some scholars, such as L. Lessig, would affect the very existence of the copyright and its enjoyment by the author. Another formal requisite as to the enjoyment of copyright would be to limit the duration of copyright to a period of some years that could be renewed several times. In the absence of such a renewal, the copyright would expire and the work would fall into the public domain, thereby making more content open and available to the public.

The exercise of copyright could also be conditioned, yet it has been less often proposed. A first idea would be to impose a publicity formality to any copyright waiver or license. For lack of ensuring such publicity, author's successors in title would not be able to enforce their right against third parties who could legitimately presume that the creator or the person lastly indicated in a public register as being the current right owner, owns the copyright. Another way to formalize the exercise of copyright as to enhance access to and use of some content, would be to subject such exercise to a collective management scheme. Some have proposed to avail to such a (formal) limitation of the exclusivity normally conferred by copyright to authorise more broadly the downloading of protected material in peer-to-peer networks, or even, the making available of copyrighted works in such networks. Others have considered subjecting the use of unregistered and undeposited works to a default license for a minimal sum.

Other formalities that would not normally touch upon the enjoyment or exercise of copyright could also be envisaged in order to advance access to cultural and informational content. Rather than being part of the copyright regime, such formalities are belonging to cultural policy legislations for they purport to create repositories of creative content. Information technologies have been enabled to extend the existing deposit schemes to new types of works.

The validity of all these possible formalities, namely as to the article 5(2) of the Berne Convention, will be assessed. More importantly, the relevance of such proposals and their effect upon the promotion and availability of more open content (or of content that would be more open) will be considered in order to underline the pro's and con's of the (re)introduction of formal requirements, whether as a condition for existence or exercise of copyright or as a public policy formally outside of the copyright legislation. All formalities that have been proposed so far might not be as successful in that purpose as their proponents claim them to be.

Royal Academic Colloquium
Open Content: New Models for Accessing and Licensing Knowledge

Copyright Ownership Issues in Educational and Scholarly Works

Lucie Guibault

Under a conventional scholarly publishing model, universities commonly have to pay thrice for the material they produce: first, by offering academics the infrastructure to publish their articles; second, by purchasing from the publishers the publications in which their researchers' articles appear for use in their libraries; and third, by paying remuneration for the right to photocopy these articles for research purposes or to include them in a student course pack. In a world where public funding for university research constantly decreases and the number of subscription publications continually increases, the widest availability possible of high quality peer reviewed scientific and scholarly material at low cost is a principle to strive for. In view of this reality, the emergence of the Open Access movement landed in particularly fertile ground both with academic institutions, as with individual researchers. The Open Access movement aims to improve access to the results of scientific research by making them freely accessible over the Internet.

To qualify as an Open access contribution, an article must satisfy two conditions: First, the author and right holder of such a contribution must grant to all users a free, irrevocable, worldwide, right of access to, and a license to copy, use, distribute, transmit and display the work publicly and to make and distribute derivative works, in any digital medium for any responsible purpose, subject to proper attribution of authorship, as well as the right to make small numbers of printed copies for their personal use. Second, a complete version of the work and all supplemental materials, in an appropriate standard electronic format must be deposited in at least one online repository using suitable technical standards that is supported and maintained by an academic institution, scholarly society, government agency, or other well-established organization that seeks to enable open access, unrestricted distribution, interoperability, and long-term archiving. In order to achieve this, researchers should deposit a copy of all their published articles in an open access repository and publish their research articles in open access journals where a suitable journal exists.

Whether the researchers themselves, rather than the institution they work for, are at all in a position to implement the Open Access principles actually depends on the initial allocation of rights on their works. Whereas in most European Member States the legislation provides that the copyright owner is the natural person who created the work, the copyright law of a number European countries, establishes a presumption according to which copyright in works made in the course of employment belongs initially to the employer, which in this case would be the university. Furthermore, researchers may be prevented from making their works available under an Open Access licence as a result of a transfer of rights in favour of the publisher.

This paper explores the different implications of the initial ownership rules and of a subsequent transfer of rights to the publisher for the distribution of works under an Open Access model.

Royal Academic Colloquium
Open Content: New Models for Accessing and Licensing Knowledge

Open Content from the User's perspective: Open Access and User obligations

Till Kreutzer

While digital technology revolutionises the production and distribution of copyright protected content from a technical perspective, Open Access models revolutionise its distribution and use from the legal point of view. Indeed, when comparing the intentions behind the two phenomena, substantial similarities are showing up. Digital technology allows distributing intangible goods unhamperedly, fast and effectively. The same applies to open licensing. Digital technology allows sharing content, deriving and modifying works and using them in a technology-neutral way. The same applies to open licensing.

This parallelism may lead one to conclude that Open Access and the use of digital technology go together perfectly, that open licensing embodies the logical legal basis for tapping the full potential of the digital technology, and that it is the perfect regime for governing the usage of digital content in an information society.

Whether these arguments are convincing depends on the point of view. And it depends on the design of the respective licenses. The task for a developer of an open license is to harmonise the interests of both the licensor and the licensee. To find this balance for a contract that is designed for a multitude of individual cases is exceedingly complex. It requires - strongly simplified - limiting the users' obligations to those that are indispensable for the author and simultaneously acceptable for the user.

The first challenge is to identify the affected interests. Regarding the users' perspective this problem is not as simple as it seems. The assumption that "the user" only asks for free use without the corresponding obligations at no charge seems oversimplified. Before it is possible to form an opinion about the users' needs it is essential to specify the term "user." In copyright terms a user is a person who uses copyright protected works. Traditionally this group has no influence on the licence terms. Regarding conventional End User Licence Agreements it becomes obvious that the interests of the users are widely neglected. But public licensing requires more attention in this regard.

Users of Open Content are in many cases creators themselves. To stimulate e.g. collaborative work, an Open Content Licence has to consider the interests of the original author, the creators of the derivative works and the end users. That requires balancing the necessary extent of freedom with reasonable obligations. It seems that authors and users are living in a community of destiny.

Creative Commons manages this difficult balancing act quite successfully. In order to serve different interests, different versions of the licence are offered. The author can choose from a spectrum of more or less limited licence options. He has to make a prediction on what level of restrictions and - accordingly - obligations his target group will accept. But even more important is to take into consideration what kind of use his

permission shall cover (for example commercial or only non-commercial use) and what obligations are suitable to satisfy his own requirements.

Many authors may think that all these provisions are in vain because they are neither factually nor legally enforceable. German courts are of another opinion. Beginning with a precedent in 2004, many court rulings argued that the main obligations arising from the General Public Licence (GPL) are binding and enforceable. The lawsuits were initiated by the project “gpl-violations.org” to raise public awareness about infringing use of free software. Like the GPL, the CC licenses ensure their enforceability through a clause according to which all rights granted by the licence terminate automatically upon any breach of a licence term. This is only fair. To express it in the words of the German court: „The licensee is merely obliged to distribute the software that was made available to him free of charge in a way that third persons can use the software as well.”

This shows that the licensor has and maintains the legal options to execute his rights and to protect his interests. Open Content Licensing accordingly does not constitute a “virtual public domain.” It involves no waiving of rights. The users should be aware of that.

The bottom-line is that Open Content Licensing has made life easier for users because it shields them from the complexities of copyright law ‘in the raw’ and provides them with comparably easy to understand options. At the same time it creates new complexities: The proliferation of licensing variants makes composite works a tricky undertaking; the share-alike clause brings up the question under which circumstances a derivative or collective work is bound to the licence applying to the original work; musicians (might) need a permission to licence a song under CC from their performance or music rights society. The users have to learn about Open Content; however, studying this subject matter is much easier than studying copyright law.

Biographies

Jan Bij de Weg

Jan Bij de Weg was named Deputy General Counsel of Elsevier in July 2003 and oversees the team of attorneys responsible for all aspects of Elsevier's legal affairs in Europe. Previously, as of February 2000, Mr. Bij de Weg was Associate General Counsel for Elsevier Inc. based in New York. Mr. Bij de Weg is a member of the copyright committees of Elsevier and the Dutch Publisher Association and a board member of IPRO. Mr. Bij de Weg is involved in the major Science Direct license negotiations and guided Elsevier through the legal negotiations of the UKB consortium agreement in The Netherlands.

Prior to joining Elsevier in 1997, for a period of three years, Mr. Bij de Weg was a legal advisor commercial affairs Europe at the pharmaceutical division business unit Organon BV of Akzo Nobel.

Jan Bij de Weg

Elsevier

Deputy General Counsel

Radarweg 29

1043NX Amsterdam

The Netherlands

Phone +31 (20) 485 2741

Fax + 31 (20) 485 2757

E-mail: j.bijdeweg@elsevier.com

James Boyle

James Boyle is William Neal Reynolds Professor of Law at Duke Law School and co-founder of the Center for the Study of the Public Domain. He is the author of *Shamans, Software and Spleens*, and the editor of *Critical Legal Studies*, and *Papers on the Public Domain*. In 2003 he won the World Technology Network award for law, for his work on the public domain and "the second enclosure movement" that threatens it. Professor Boyle is a Board Member of Creative Commons, and of Science Commons. He is also a member of the academic advisory boards of the Electronic Privacy and Information Center, the Connexions open-source courseware project, and of Public Knowledge. He writes as a columnist for the Financial Times' New Economy Policy Forum. His most recent work is a co-authored "graphic novel" (a.k.a comic book) about intellectual property and documentary film.

James Boyle

William Neal Reynolds Professor of Law

Room 3026

Box 90360

Durham, NC 27708-0360

Phone: 919-613-7287

Phone: 919-668-0995

E-mail: boyle@law.duke.edu

Séverine Dusollier

Séverine Dusollier is Doctor in Law and is teaching intellectual property, copyright, art law and IT law at the University of Namur (Belgium) and at the University of Marne-la-Vallée (France). She is the Head of the IPR Department at the CRID (Research Centre for Computer Law) since 1998. She carried out research in several European and national projects and drafted reports for the WIPO, the Council of Europe, UNESCO and the European Commission. Her PhD, published in 2005, dealt with Digital Rights Management and anti-circumvention provisions in Copyright Law.

She is a member of the Belgian Council of Intellectual Property. She was a research associate at the University of California, Berkeley in 2001 and is currently a Jean Monnet fellow at the European University Institute of Florence (Italy) where she is carrying out a post-doctoral research on the public domain in intellectual property. She has published extensively in copyright, IPR and IT law matters. She is one of the directors of the Belgian law review, *Revue du Droit des Technologies de l'Information* and is a member and administrator of the ALAI-Belgium.

Séverine Dusollier

CRID (Centre de Recherche Informatique et Droit)

Facultés Universitaires Notre-Dame de la Paix de Namur

Rempart de la Vierge 5

5000 NAMUR

BELGIUM

<http://www.crid.be>

Phone: +32 81 72 47 60

Fax: +32 81 72 52 02

severine.dusollier@fundp.ac.be

In 2005-2006 :

Jean Monnet Fellow - European University Institute

Department of Law

Badia Fiesolana

Via dei Roccettini, 9

I-50016 San Domenico di Fiesole (FI)

ITALY

severine.dusollier@fundp.ac.be

Severine.Dusollier@iue.it

Phone: + 39 055 4685 560

Mobile : +39 338 41 28 739

Fax: +39 055 4685 200

Niva Elkin-Koren

Professor Niva Elkin-Koren is a professor of law at the University of Haifa School of Law, where she teaches Contract Law, Intellectual Property, Information Law, and related courses and seminars. She is the founder and co-director of the Haifa Center of Law & Technology. She received her LL.B from Tel-Aviv University School of Law in 1989, her LL.M from Harvard Law School in 1991, and her S.J.D from Stanford Law School in 1995. Her research focuses on the legal institutions that facilitate private and public control over the production of information. She has written and spoken extensively

about the privatization of information policy, copyright law and democratic theory, the effects of cyberspace on the economic analysis of law, the regulation of search engines, liability of information intermediaries, creative commons and the significance of the public domain. She was a visiting professor at NYU School of Law in 2004-2005, George Washington University Law School 2001 and Villanova University School of Law 1997.

Niva Elkin-Koren

University of Haifa School of Law
Mount Carmel, Haifa 31905 Israel
Room: 353x

Phone: 04 - 8240638
E-mail: elkiniva@law.haifa.ac.il
Website:
<http://law.haifa.ac.il/faculty/eng/elkin.htm>

Jane C. Ginsburg

Jane C. Ginsburg is the Morton L. Janklow Professor of Literary and Artistic Property Law at Columbia University School of Law, and Co-Director of its Kernochan Center for Law, Media and the Arts. She teaches Legal Methods, Copyright Law, and Trademarks Law, and is the author or co-author of casebooks in all three subjects. With Professor Sam Ricketson, she is the co-author of INTERNATIONAL COPYRIGHT AND NEIGHBOURING RIGHTS: THE BERNE CONVENTION AND BEYOND (Oxford University Press 2006). Other books include FOUNDATIONS OF INTELLECTUAL PROPERTY (Foundation press 2004), with Professor Robert P. Merges, and INTELLECTUAL PROPERTY STORIES (Foundation Press 2005), with Professor Rochelle Dreyfuss. With Professor Dreyfuss and Professor François Dessemontet, she is also a Co-Reporter for the American Law Institute project on INTELLECTUAL PROPERTY: PRINCIPLES GOVERNING JURISDICTION, CHOICE OF LAW AND JUDGMENTS IN TRANSNATIONAL DISPUTES.

Professor Ginsburg has taught French and U.S. copyright law and U.S. legal methods and contracts law at the University of Paris and other French universities. In 2004-05 she held the Arthur L. Goodhart Visiting Chair of Legal Science at the law faculty of the University of Cambridge, UK. A graduate of the University of Chicago (BA 1976, MA 1977), she received a JD in 1980 from Harvard, and a Diplôme d'études approfondies in 1985 and a Doctorate of Law in 1995 from the University of Paris II.

Jane C. Ginsburg

Columbia University School of Law
435 West 116th Street
New York, New York 10027
UNITED STATES

Phone: 212-854-3325
Fax: 212-854-7946
Email: ginsburg@law.columbia.edu

Lucie Guibault

Lucie Guibault is assistant professor of copyright law at the Institute for Information Law (IViR) of the University of Amsterdam (UvA). Born and raised in Montréal, Canada, she studied law at the Université de Montréal [LL.B. (1988) and LL.M. (1995)] and received in January 2002 her doctorate from the University of Amsterdam, where she defended her thesis on *Copyright Limitations and Contracts: An Analysis of the Contractual Overridability of Limitations on Copyright*. Before joining the Institute for Information Law in 1997, Ms Guibault worked in private practice in Montreal, in the intellectual property section of one of the major Canadian law firms. Prior to that, she also gained experience as a policy analyst for the Canadian Government at the Intellectual Property Policy Directorate of the Department of Industry in Ottawa. Ms. Guibault specializes in international and comparative copyright and intellectual property law, and takes part in national and international conferences. Her interests further include database protection, computer software and Internet issues, as well as contractual matters relating to information.

Lucie Guibault

Institute for Information Law
University of Amsterdam
Rokin 84
1012 KX Amsterdam
THE NETHERLANDS

Phone : +31 20 525 3947
Fax : +31 20 525 3033
Email : L.Guibault@uva.nl
Website : www.ivir.nl

Volker Grassmuck

Volker Grassmuck is a sociologist and media researcher at the Helmholtz Center for Cultural Technology of Humboldt University Berlin. His main area of interest is the digital revolution, intellectual property and free knowledge. Previous areas of research include artificial intelligence, garbage, the history of media and identity discourses in Japan, and the knowledge order of digital media. He is the project lead of the copyright information portal iRights.info and of the conference series "Wizards of OS", a freelance writer and an activist. As co-initiator of privatkopie.net he is campaigning to promote user rights and freedoms in the ongoing copyright law reforms.

Volker Grassmuck

Phone: an der HGB: 0341 / 213-212
priv.: 030 / 313 2795
E-mail: vgrass@rz.hu-berlin.de
Website: <http://waste.informatik.hu-berlin.de/Grassmuck/>

Bernt Hugenholtz

Bernt Hugenholtz is Professor of Law and Director of the Institute for Information Law (IViR) at the University of Amsterdam, where he teaches courses in copyright law, industrial property law and international copyright law. He also teaches at the Munich Intellectual Property Law Center (Munich) and at Monash University Law School (Melbourne). He is General Editor of the Information Law Series, published by Kluwer Law International.

In 1989 Dr. Hugenholtz received his doctorate *cum laude* from the University of Amsterdam, where he defended his thesis on copyright protection of works of information. He was a member of the Amsterdam Bar and partner of Stibbe Simont Monahan Duhot from 1990 to 1998. He has been on several international missions representing the World Intellectual Property Organization, and has consulted extensively with the European Commission, the Ministry of Justice of the Netherlands and various private firms.

Professor Hugenholtz has written numerous books, studies and articles on topics involving copyright and information technology, notably on the protection of computer software and databases, on copyright problems relating to the digital networked environment and on copyright contract law.

Bernt Hugenholtz

Institute for Information Law (IViR)

University of Amsterdam

Rokin 84

1012 KX Amsterdam

The Netherlands

Phone: +31 20 525 39 25

Fax: +31 20 525 30 33

E-mail: p.b.hugenholtz@uva.nl

Website: www.ivir.nl

Peter B. Kaufman

Peter B. Kaufman is the president and founder of Intelligent Television (www.intelligenttelevision.com), a new company that produces nonfiction programming in close association with libraries, museums, universities, and archives. The company is currently producing a history of the American South in the 20th Century in association with the University of Virginia, Alexandria Productions, and Maryland Public Television; a history of American comedy in association with Brillstein-Grey Entertainment, Insignia Films, and WETA Public Television; a history of the Korean War in association with journalist David Halberstam and Jigsaw Productions; a new history of Harlem in association with Columbia University; and other projects.

Mr. Kaufman previously worked as director of strategic initiatives at Innodata Isogen, where he oversaw the company's relationships with museums and libraries, and as president and publisher of TV Books, a publishing company that he founded and sold to producer Lorne Michaels and Mr. Michaels's film and television company Broadway Video. A Senior Fellow of the World Policy Institute at the New School (www.worldpolicy.org), he has written on publishing and media for *The New York Times*, *The Nation*, *Publishers Weekly*, *Scholarly Publishing*, *The Times Literary Supplement*,

and *International Book Publishing: An Encyclopedia*. Educated at Cornell and Columbia universities, Mr. Kaufman is a member of the national Commission on Cyberinfrastructure for the Humanities and Social Sciences, supported by the Andrew W. Mellon Foundation and sponsored by the American Council of Learned Societies, and a member of the Social Science Research Council's Digital Cultural Institutions Project, supported by the Rockefeller Foundation.

Peter B. Kaufman

Intelligent Television

www.intelligenttelevision.com

E-mail: pbk@intelligenttv.com

Direct: (212) 316-5494

Library of Congress: (202) 707-0306

Till Kreutzer

Till Kreutzer is a lawyer and partner at the “Office for Information Law Expertise” in Hamburg, Germany. As an attorney he advises media enterprises of different branches and public institutions (e.g. universities) on IPR issues. He is also a member of the Institute for Legal Issues on Free and Open Source Software, lecturer on Copyright-, Trademark- and Competition Law at the Hamburg Media School, lecturer on copyright law and e-Learning at the University of Frankfurt/Main, associated Member of the Hans-Bredow-Institute for Media Research at the University of Hamburg and editorial journalist with iRights.info, the Internet portal for consumer information on copyright issues. He participated as an expert attending the process of drafting the German “Act to regulate the Copyright in the Information Society” by taking part in hearings and by being a member of a working group convoked by the German Government. In his doctor thesis (to be published 2006) he examines alternatives to the present copyright regimes. He is the author of various articles concerning information law issues that were published in different journals, periodicals and newspapers. Jointly with other ifrOSS members he published the book: “The GPL commented and explained” (in German, O’Reilly 2005) in 2005. Recently he finished a detailed study on consumer protection and copyright law on behalf of the German Consumers’ Organisation (VZBV).

Till Kreutzer

- i.e. - Büro für informationsrechtliche Expertise

Böhmersweg 24

20148 Hamburg

www.ie-online.de

www.ifross.de

www.irights.info

Phone: +49 40 22 94 85 60

Fax: +49 40 22 94 85 63

Mobile: +49 178 66 54 034

E-mail: till.kreutzer@ie-online.de

till.kreutzer@ifross.de

Ejan Mackaay

Ejan Mackaay, LL.M. (Toronto), LL.D. (Amsterdam), is Professor of Law at the University of Montreal since 1972. From June 1999 till May 2003 he has been Director of the Public Law Research Centre, the largest legal research institution in Canada. From 1 January 2001 till 30 September 2001, he has been the interim holder of the Jean Monnet Chair on European Integration. As from June 2005 he is Director of the Centre for the Law of Business and International Trade. In 1986 he was invited to become correspondent of the Royal Netherlands Academy of Sciences. He has taught special contracts, intellectual property law, the law of new technology, patent and trade marks, and law and economics, at the undergraduate as well as graduate level in law. Over the past years he has been invited to lecture at the Comparative Law Institute of the University of Paris I and at the yearly International and Comparative Intellectual Property Law Programme, alternatively held at the University of Victoria, BC and the University of Oxford.

He is a member of the editorial committees of *Cahiers de propriété intellectuelle*, and *European Journal of Law and Economics*.

Ejan Mackaay

3101, Chemin de la Tour
Bureau 7440
C.P. 6128, succ. Centre-Ville
MONTRÉAL – Qué.
H3C 3J7
ejan.mackaay@umontreal.ca

Margaret Jane Radin

Margaret Jane Radin is the William Benjamin Scott and Luna M. Scott Professor of Law at Stanford University. During 2004-05 she was a visiting professor at the University of Michigan and during 2005-06 she is visiting UC Berkeley (fall semester) and NYU (spring semester). Prof. Radin received her A.B. from Stanford, where she was elected to Phi Beta Kappa, and her J.D. from the University of Southern California, where she was elected to Order of the Coif. She also holds an honorary LL.D. from Illinois Institute of Technology/Chicago-Kent School of Law, as well as an M.F.A. in music history from Brandeis University. A noted property theorist, Professor Radin is the author of *Reinterpreting Property* (1993) and *Contested Commodities* (1996). She is also a co-author of *Internet Commerce: The Emerging Legal Framework* (2d ed 2006), the first traditional-format casebook on e-commerce. Professor Radin's current research involves intellectual property, information technology, electronic commerce and the jurisprudence of cyberspace. Most recently, she has investigated the role of contract in the online world. As a teacher, she has pioneered courses in Legal Issues in Cyberspace, Electronic Commerce, and Intellectual Property in Cyberspace. In 2002 she founded Stanford's Center for E-Commerce. Professor Radin is a member of the State Bar of California.

Margaret Jane Radin

Crown Quadrangle
Stanford University
Stanford, California 94305

Phone: (415) 725-3803
Fax: (415) 725-XXXX
E-mail: mradin@stanford.edu

Pamela Samuelson

Pamela Samuelson is the Richard M. Sherman '74 Distinguished Professor of Law and Information at the University of California at Berkeley, as well as a Director of the Berkeley Center for Law & Technology and an advisor to the Samuelson High Technology Law & Public Policy Clinic at Boalt Hall. Samuelson teaches courses on intellectual property, cyberlaw, and information privacy. She has written and spoken extensively about the challenges that new information technologies pose for traditional legal regimes, especially for intellectual property law. She is a Fellow of the Association for Computing Machinery (ACM), a Contributing Editor of Communications of the ACM, a past Fellow of the John D. & Catherine T. MacArthur Foundation, and an Honorary Professor of the University of Amsterdam. She is a member of the Board of Directors of the Electronic Frontier Foundation and of the Open Source Application Foundation, as well as a member of the Advisory Board for the Electronic Privacy Information Center.

A 1971 graduate of the University of Hawaii and a 1976 graduate of Yale Law School, Samuelson practiced law as a litigation associate with the New York law firm Willkie Farr & Gallagher before turning to academic pursuits. From 1981 through June 1996 she was a member of the faculty at the University of Pittsburgh Law School, from which she visited at Columbia, Cornell, and Emory Law Schools. She has been a member of the Berkeley faculty since 1996.

Pamela Samuelson

School of Information Management and Systems
University of California at Berkeley
102 South Hall
Berkeley, CA 94720-4600

Phone: (510) 642-6775
Fax: (510) 642-5814
Email: pam@sims.berkeley.edu

Gerald Spindler

Prof. Dr. Gerald Spindler, born 1960, studied Law and Economics in Frankfurt a.M., Hagen, Genf and Lausanne. He passed both State Exams in Law as well as the Master in Business Administration.

After a period as research fellow at the Institute for International and Foreign Law of Economy in Frankfurt and teaching as an associate professor in Bielefeld and Dresden he became a full tenured Professor for Civil Law, Commercial and Economic Law, Comparative Law, Multimedia- and Telecommunication Law at the University of

Goettingen/Germany where he, among other topics, is mainly occupied with legal issues regarding E-commerce, i.e., Internet and Telecommunication Law. He has been elected as a full tenured Member of the German Academy of Sciences, Goettingen, 2004 and acted for several years as a Vice-Chairman of the German Society of Law and Information Science. Apart from teaching, various books, more than 100 articles in law reviews, as well as expert legal opinions are published by Professor Spindler. He is editor of one of the most renowned German law reviews covering the whole area of cyberspace law and telecommunication law. Prof. Spindler was the national and European reporter for E-Commerce during the XVIth International Conference of the International Academy of Comparative Law in Brisbane/Australia, 2002. He also acted as a speaker at various EU-conferences, such as the IST-Conference on new developments in Information Society in Nice, 2000, legal barriers to eCommerce in Dublin, 2005, and in Cambridge, 2005. He also advises the German, as well as the European legislator regarding various questions concerning the information society and corporate law, such as the E-Commerce-Directive. He has been visiting professor at the Universities of Madrid (Autonoma), Valencia, Dublin (Trinity College), ELTE Budapest/Hungary, the EU university at Florence/Italy, Doshesha (Kyoto Japan), Kansai (Osaka, Japan), Waseda (Tokio Japan) and York Law School (Toronto Canada).

Gerald Spindler

University of Göttingen, Germany
Platz der Göttinger Sieben 6
37073 Göttingen
GERMANY

Phone: +49/5 51/39 - 73 74
Fax: +49/5 51/39 - 46 33
E-mail: lehrstuhl.sprindler@jura.uni-goettingen.de

Alain Strowel

Alain serves as a professor at the Saint-Louis University (Brussels), the University of Liège and the Catholic University of Brussels-Leuven, where he mainly teaches copyright and design law.

A member of the Brussels Bar since 1988, Alain graduated in law (1983) and obtained a Ph. D. in law (1992) from the University of Louvain-la-Neuve. In addition, he obtained graduate degrees in economics (1984) and philosophy (1985).

Prior to joining the US firm Covington & Burling in 2001, where he concentrates on the IP issues in relation to IT, he worked in the Brussels IP section of the Dutch firm NautaDutilh.

He has authored numerous articles and a few books, including "Droit d'auteur et copyright" (LGDJ and Bruylant, 1993) and "Droit d'auteur et numérique: logiciels, bases de données, multimédia" (Bruylant, 2001). He has edited various books among which: "Of Authors and Origins" (with Brad Sherman, Clarendon Press, 1994) and "Prévention et réparation des dommages causés par les médias" (with Fr. Tulkens, Larcier, 1998).

Alain Strowel

Facultés universitaires Saint-Louis (FUSL)
43, Boulevard du Jardin botanique
B-1000 Brussels

Phone: 32 (0)2 549 5269
Fax: 32 (0)2 211 7997
E-mail: astrowel@fusl.ac.be

Leo Waaijers

Leo Waaijers (1938) studied Mathematics and Theoretical Physics in Leiden. In 1964 an almost lifelong career followed at TU Delft where he started as a scientist, including a Ph.D. in mathematics in 1968. In 1977 he switched to management, at first as the personal manager of his department, to become member of the University Executive Board from 1984 to 1988. Following discontinuation of this position he was appointed University Librarian. In this function he realized a. o. the new library building, the merger with the university press and the transfer to the new library system Aleph. In 2001 he accepted a corresponding post at Wageningen University & Research Centre. From January 1st, 2004, he is manager of the SURF Platform ICT and Research.

Leo Waaijers

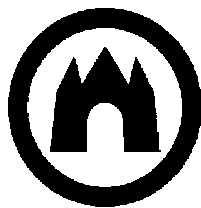
Stichting SURF
Leidseveer 35
Postbus 2290
3500 GG Utrecht
THE NETHERLANDS

Phone: +31 30 234 66 00
Fax: +31 30 233 29 60
E-mail: waaijers@surf.nl

List of participants

Name	Institution	E-mail address
Christiane Asschenfeld	Creative Commons	christiane@creativecommons.com
Jan Bij de Weg	Elsevier	j.bijdeweg@elsevier.com
Lionel Bently	Cambridge University UK	lb329@cam.ac.uk
James Boyle	Duke University/Creative Commons	boyle@law.duke.edu
Darius Cuplinskas	Open Society Institute	dcuplinskas@osieurope.org
Egbert Dommering	IViR	dommering@ivir.nl
M. Dulong de Rosnay	Centre d'études et de recherche de science administrative	melanie.ddr@wanadoo.fr
Séverine Dusollier	CRID – België	severine.dusollier@fundp.ac.be
Niva Elkin-Koren	Haifa Center for Law and Technology - Haifa University	elkiniva@research.haifa.ac.il
Vera Franz	Open Society Institute	vfranz@osieurope.org
Michel Frequin	NUV	m.frequin@nuv.nl
Syb Groeneveld	Kennisland Nederland	sgroeneveld@kennisland.nl
Jane Ginsburg	Columbia University	ginsburg@law.columbia.edu
Volker Grassmuck	Humboldt Universität, Berlin	vgrass@rz.hu-berlin.de
Willem Grosheide	CIER, University of Utrecht	F.Grosheide@law.uu.nl
Lucie Guibault	IViR	L.Guibault@uva.nl
Thomas Hoeren	Münster Universität	hoeren@uni-muenster.de
Esther Hoorn	Universiteit Groningen	e.hoorn@rug.nl
P.Bernt Hugenholtz	IViR	P.B.Hugenholtz@uva.nl
Dan Hunter	Wharton University of Pennsylvania	hunterd@wharton.upenn.edu
Pater B. Kaufman	IntelligentTV	intelligenttv@aol.com
Paul Keller	Waag Society	paul@waag.org
Kamiel Koelman	VU Amsterdam	koelman@myrealbox.com
Till Kreutzer	IfROSS – Duitsland	till.kreutzer@ifross.de
Ejan Mackaay	University of Montreal	ejan.mackaay@umontreal.ca
Wilma Mossink	SURF – Netherlands	mossink@surf.nl
Edgar du Perron	UvA	duperron@uva.nl
Antoon Quaedvlieg	Radboud Universiteit Nijmegen	a.quaedvlieg@jur.ru.nl
Margaret-Jane Radin	Stanford University	mjradin@stanford.edu
Cees van Rij	BUMA	cees.vanrij@bumastemra.nl
Pamela Samuelson	UC Berkeley	pam@sims.berkeley.edu
Jacqueline Seignette	Vogel & Ruitenbergh	seignette@theoffice.nl
Gerald Spindler	University of Göttingen	info@gerald-spindler.de
Alain Strowel	Covington & Burling, Brussel	astrowel@cov.com
Dirk Visser	University of Leiden	dirk.visser@kmvs.nl
Leo Waaijers	TU Delft	waaijers@surf.nl
Raquel Xalabarder	Universitat Oberta de Catalunya	rxalabarder@uoc.edu

Creative Commons Nederland is a collaboration between Stichting Nederland Kennisland, Waag Society and the Instituut voor Informatierecht



Postadres: postbus 2960 - 1000 CZ Amsterdam - tel: +31(20)5756724 - fax: +31(20)5756721
info@creativecommons.nl - www.creativecommons.nl