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Reimagining Intellectual Property

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Introduction

Intellectual property, in its current conception, has been a topic of discussion ever since the dawn of internet, and especially so since the explosion of “platform provider” type sites, the likes of YouTube and Facebook. There is a persistent and constant moan coming from the creators on these platform sites, who get their income semi-randomly cut off due to breaking some arcane rules that YouTube doesn’t event talk about. Sometimes the annoyance grows into straight outrage and then subsides, only to reemerge again in a few months or years. Such state of anarchic tyranny suggests some structural problems with Intellectual Property itself.

History

What is intellectual property? It is a combination of legally protected exclusive rights to intellectual creations. The current practice of IP protection dates back to the 15th century, to royal grants of industrial monopolies, with the sovereign prohibiting anyone except the industrialist to participate in production of certain goods. The concept, however, was formalized much later, in the 17th century with passing of “The Statute of Monopolies”, that included the term “manner” of an object, referring to the abstract idea of a product. This purpose of IP has remained unchanged: to give monopoly-type rights to a company or a person who created a certain product, as a reward for invention, which is desirable. This approach has worked for centuries, but has started to break down, when it comes to internet matters. Piracy is rampant, what has changed? To see the weakness of the system, you can just break the system and see where the crack appeared, so let’s take a closer look at the ways IP was infringed upon.

Infringement

Let’s imagine a 15th century industrialist, call him Willy Wonder (all similarities to real-world literature and movies are completely coincidental). He is struck by inspiration, a muse has bestowed upon him a vision of a way to create chocolate in a way, never before seen. So he sits in his house, planning and reading, and drafting, and scheming, trying to work out a way to bring his vision to reality. He eventually does, and a chocolate factory plan is born. He builds a factory, starts production, but in a year, disaster strikes: some other guy has built a factory of his own, based on the same recipe that Willy has, but undercuts him on prices! How did that happen? The problem is, that Willy is in a huge amount of debt, because, while he was in his house, busy with inventing, he was still human, he needed to eat, drink, sleep, and don’t forget about all the paper, metal and instruments he needed in the process! All this money, let’s call it “development debt”, then comes from a higher price of a chocolate bar.

Now, imagine a company that created a game – ROOM (again, similarities are coincidental), and in a few weeks, there is some person who spreads a pirate copy of the game. But there is a clear difference between the chocolate factory and a videogame, that is, a pirate spent no time or money on development of a game, and, as a result, a pirate copy is completely free.

A quick note on the Production/Development binary

When it comes to IP, it is important to differentiate between the abstract idea of a thing and the thing itself. Real world materials can be shaped into an image of this idea of a thing and become units of a thing. In the industrial world these concepts are exemplified by The BIC pen, and A BIC pen. I refer to the creation of the idea as development, and the creation of a unit as production. Development happens once, and the product is an idea, a form. Production can (and usually does) happen in series, and its product is a single unit. The purpose of IP is to guarantee to Willy Wonder that his development debt will be repaid on the merits of his product alone.

Breakpoint

Why would a person choose a copy of Willy Wonder chocolate bar? Reasons are sparse, except for a marginally lower cost, and even that is coupled with a quality difference. Natural incentives for bootlegging are low in the case of industrial goods. Now, why would a person choose a pirate copy over the legitimate game? Well, it’s actually the same game, but for free! The zero price tag is a result of the intrinsic qualities of information products, that is, that they can be copied and pasted for virtually zero cost. Now, if this is the case, why doesn’t the company do the same thing? Well, once again, the company has to pay its employees to develop the game. And there it is, we have found the problem.

Programming is a part of development, not a part of production.

This is a common assumption found in the culture, that programming is production. Now, sure, if I were to question someone explicitly, “Is programming a part of production or development?” the person would probably answer correctly, development, but tell me, how often do you think about the creation process of a product? Most often, people think in categories of consumption, that is, to see “videogame” as the abstract, and ROOM as a unit. What do you do with a unit? You produce it. Who created ROOM? Programmers. Therefore, the unconscious mind of the masses goes, programming is a part of production.

The close examination of piracy has uncovered this mismatch conclusively.

Conclusion

In the realm of information, development takes virtually infinitely more resources than production. It is apparent, that the problem is not exactly lax laws, but the high efficiency of the means of production. Formulation is important, because now we can see how this problem can expand outside internet economy. Wherever the relative cost of production becomes too small, the issue of piracy will necessarily arise. One such area I predict to be the 3D printing scene, as it shares some similarities with information economy. Both consume a universal resource, that is plastic filament, in the printer’s case, and only need an instruction to create highly customizable products. One should also remember that the productivity has been rising for half a century at least, and shows no signs of stopping.

**Literature:**

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