

Common creativity at work

By [Paul Jacobson](#)

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A recent comment by a friend about the music industry's reluctance to publish and distribute music under Creative Commons licence because it can't exactly give the music away free, may not be entirely unexpected, but it does bother me somewhat because his comment typifies a perception of Creative Commons that is both inaccurate and hampers adoption of Creative Commons licences in the commercial world.



I'll pause for a moment and explain what I just wrote because you may not be too familiar with some of the terminology I just threw at you.

For starters, there is an organisation called Creative Commons (<http://creativecommons.org>) which formulated a set of content licences referred to as Creative Commons licenses. There are [six core Creative Commons licences](#). It isn't necessary to discuss the distinctions between these licences for the purposes of this article but I am happy to take you through if you would like me to (give me a shout, we'll do coffee). What is important to know is that these licences operate in the context of copyright law so they are not alternatives to copyright itself but rather tools that rely on copyright for their efficacy. The reason that this is important to know lies in the nature of copyright.

Form of protection

Copyright is a form of protection that was formulated to encourage innovation and creativity by protecting creators' rights to the works they created (in legalese, the creators are known as "Authors" and the stuff they create is known as "Works") and which ensures that their works may only be used in an authorised manner by people authorised by the creator to do so. Copyright protects forms of expression that may include written works (copyright vests in this article, as well as in the doodles on your note pad), sound recordings, sheet music and videos, to name just a few types of works.

To put it another way, copyright is a bundle of rights in works which vest in the authors of the works and which are intended to protect works by limiting who can exploit those rights to the works. These rights include the right to make copies, create adaptations of the original works, sell the works and publish those works.

Essentially, once you reduce your ideas to a tangible form, you generally enjoy protection through copyright. As a creator, you are more likely to create more stuff if your ability to exploit your creations is protected and you are able to guard against any form of unauthorised use of your creations - certainly uses that run contrary to your intended use of your creations.

While it may have been conceived to stimulate creativity, the use of copyright has changed over time to effectively become a bar to creativity and innovation because copyright holders have elected to rather use copyright to lock down their works, preventing the exploitation of those works - except in terms of licences they grant. These licences permit other people to make use of the works by granting them limited rights to the works concerned.

Misapprehension

Take a music CD as an example. Many people labour under the misapprehension that when they buy a CD from a music store, they become the "owner" of that CD and can do with it as they wish. If you take a look at the tiny print at the back of the CD on your shelf, you will notice that when you bought the CD you actually licensed the CD from the nebulous "music company" and you have very limited rights to the music which do not include the right to make copies of the music (whether onto another CD or by ripping the CD to your computer) or pass the music around.

You can pretty much listen to the CD and appreciate the fine album art in the company of your personal CD-playing devices. You can't play the music in public or make a remix of your favourite tune and share it online. If you do anything outside the very limited parameters of the licence granted to you when you handed over your hard-earned cash to the cashier, you are committing copyright infringement.

Set the parameters

That is what licences do; they set the parameters of your use of the content they are created for, and any use outside the parameters of the license is unauthorised and constitutes copyright infringement.

In the second part of this three-part series, I will explore some of the options available to someone who may want to make use of content protected by copyright. I also write about Creative Commons licences and what they are.

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