

IP in Review

'A book may be good for nothing; or there may be only one thing in it worth knowing; are we to read it all through?' (Samuel Johnson)

This section is dedicated to the review of ideas, articles, books, films and other media. It will include replies (and rejoinders) to articles, the evaluation of new ideas or proposals, and reviews of books and articles both directly and indirectly related to intellectual property law.

Rethinking creativity and value

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Creating Selves: Intellectual Property and the Narration of Culture

Johanna Gibson

Ashgate, 2006

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In *Creating Selves*, Johanna Gibson provides us with a nuanced and occasionally lyrical interdisciplinary essay on the significance of human creativity in the making of culture and the ways in which doctrines, norms, and practices of IP have distorted this recognition, legitimating some forms of innovation while denying the significance of others. Despite the repeated use of the 'self' and 'selves' in the chapter and book titles, the author is not particularly concerned, except in her conclusion, with issues of subjectivity or identity. The work is certainly more philosophical than phenomenological or psychological in orientation. The argument is largely declarative; very little empirical evidence is marshalled, although a good range of secondary material is synthesized and an interesting range of linguistic philosophy, hermeneutics, poststructuralist, and actor network theory is selectively drawn upon.

The idea that IP is the only means to ensure creativity and a robust cultural life has come under much critical scrutiny in recent years. Various social and technological movements have emerged from within civil society to challenge the hegemony and exclusivity of a legal model that primarily benefits the corporate holders of commercial properties who seem more concerned with protecting business models and revenue streams than with inciting creativity as such. As the collaborative and/or networked nature of creative work becomes more evident and new technologies enable and reveal the creative work of users

and the productive work of consumers, the legitimating narrative, or myth of creative individual authorship that protects corporate investment as cultural work and thus cultural property becomes ever more apparent. Nonetheless, the production of IP itself becomes a measure of innovation and creativity across an increasingly broader range of institutions that use the system's moral narratives of progress and development to buttress a wider and wider range of economic activity and, concurrently, an amount of privileged 'works'.

Gibson suggests that the dominant IP narrative has become so entrenched that any opposition to it renders its proponents suspect as potential 'thieves'—and unproductive and uncreative ones, at that. Distinctions are in danger of becoming entrenched social divisions, as industrial authorial cultures based on monologic models resist the dialogic activities of networked collaborators in new publics, ironically using the reification of innovation and valorization of creativity to deny their actual social practice. Gibson delineates several sites of productive and creative 'use' in knowledge economies that challenge not only copyright, but also trademark and publicity rights as systems that deny the social and cultural labour of those who enable their production of value. This is the core of the argument, although there are many other fascinating but often speculative tangential inquiries, particularly with respect to the plural nature of publics, the ideology of the public domain, the devalued work of networks and cultural flows that are pursued to argue that the IP system and its legitimating narratives operate to primarily to contain and constrain value and dispossess us of the enjoyment and the fruits of our inherent and inherently social creativity. This essay, with its clear prose, will be read with interest by graduate students and new scholars who will find within it key conceptual resources for the critical study of IP.

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