

## Copyright Reform

Raanan Sarid-Segal

There are many pieces of copyright law that are in dire need of reform; from expansion of fair use to protections for archival, preservative, and restorative purposes, to protections for users; Section 302 would be the most simple to roll back to the bare minimum of what is required by the Berne Convention. This would mean reducing the term of copyright protection to life plus fifty years. While this is only twenty years fewer than the current model, it would be an enormous help to people involved in archival work and would only have a small effect on creators.

However, there is a significant argument to be made against the length required by the Berne Convention. A key idea of extending Copyright protections is the notion that people are living longer. This is not strictly true. While average life expectancies have been rising, the biggest reason for this is the incredible drop in infant and child mortality rates. When every person had ten children and each one had a good chance of dying during birth or their first five years of life than the average life expectancy will be very low. But people still lived into old age at that time, as they do now.

(<https://gcanyon.wordpress.com/2009/06/25/life-expectancy-in-the-1800s-not-as-bad-as-reported/>)

The Berne convention was created at a time when art and creator rights were being touted in a way they hadn't before. There was a significant push to

make the international community protect an author's work, even after the author was unable to.

I would question the effectiveness of many of the requirements of the Berne Convention at actually protecting works. It would seem that what it allows is a select few to become commercially immortalized while forcing many others to languish in inaccessible obscurity until such a time as they become public domain, if they have even survived that long. But even if I were unable to negotiate the Berne Convention protections down to life, at a maximum, then at least that 20-year reduction would be beneficial for archival purposes.

Archivists would surely be on my side for this, but other groups that would possibly support this change would be the new crop of artists springing up in the wake of the Internet. The Internet, and digital technology as a whole, has massively changed the way young artists approach preexisting content. Some in ways I find indefensible, and others in exciting and boundary pushing directions. These mashup, appropriation, or repurposing artists are a huge body of people being poorly served by the current legal system.

Other groups would possibly be traditionally ignored groups of artists. For instance, Queer and trans artists would surely love to be able to make money on their work in the same way that cis and hetero artists do. So if there were an equal distribution between these communities in the rates at which works are published, and kept in print/circulation, these communities may want equally strong protection. However, in a world in which the works of ignored populations are at best only occasionally mentioned, there must be significant overhauls to

copyright law to allow works to be saved. When the artist is dead, as is too frequently the case with many important yet ignored queer artists, archives, libraries and other such bodies should be empowered to preserve these items earlier than they have been in the past.

(<http://www.queergeektheory.org/tag/copyright/>)

The copyright office itself argued about Orphan works in their report on priorities and special projects (<http://www.copyright.gov/docs/priorities.pdf>).

This would also mean expanding protections under Section 108, but even without those expanded protections and exemptions, the reduction in copyright protection time would be a boon.

([http://www.copyright.gov/docs/next\\_great\\_copyright\\_act.pdf](http://www.copyright.gov/docs/next_great_copyright_act.pdf))

Opponents to this shift would almost certainly be big copyright holders, bodies that had the rights to many works, and planned to continue profiting off of them for many more years. Even beyond Mickey Mouse, there is Superman, Jaws, Star Wars, and many other icons of modern pop culture that copyright holders would be opposed to any reduction in the length of time they would be able to be sole arbiters of all distribution of the item.

([http://www.salon.com/2002/04/15/copyright\\_defense/](http://www.salon.com/2002/04/15/copyright_defense/))

They would probably argue that copyright protection encourages further creativity; because creators can be assured that their work will benefit not only them but their family for many years. That with the length of time their work will be protected they can amass quite a fortune. And possibly that with these assurances they can imagine their work, unchanged, lasting as long as

Shakespeare, or Murasaki Shikibu, or any number of artists who have lasted the ages. While this is an appealing thought, it ignores very real problems we face in the modern world with the volume of art constantly being created. As such these arguments encourage us to think of the best possible future for ourselves, but are unrealistic.