

Every year I bring 25 or so students with me to Switzerland and Italy where we study human rights, social justice, international organizations, and also Romantic poetry as a means of promoting creative solutions to immeasurably complex problems. In Geneva and Rome we meet with most of the UN and NGO organizations, and a few years ago I received a letter from the World Intellectual Property Organization (WIPO), indicating that they knew of our visits to other organizations, and were feeling a tad left out. Given the wide array of their interests amongst our students, and a particular concern that MSF had raised about uneven resource allocation for drugs likely to cure certain kinds of ailments less common in wealthier countries, I made a rendezvous at WIPO. In the lobby we were met with a series of interactive displays, including one station where a laser printer was printing, as it were, a gorgeous red Valentino dress. When it was complete, the person in charge of the little station looked up at us and asked: So, to whom does this belong? And so began a series of investigations, via false teeth, spare parts and designer fashions and, more to the theme of the course, patents for drugs that might some day cure diseases such as sleeping sickness and malaria, for which the so-called first world has less cause for creative investigation. We have since visited WIPO regularly, and, in conversation with MSF, UNHCR and the WTO, we've discovered some very instructive insights about the ways in which patents can drive invention, inspire creativity and, alas, skew the market towards the creation of certain kinds of goods, to the detriment of those who are in urgent need of new approaches to problems deemed unprofitable.

If WIPO was instructive, then Gervais' new book is positively illuminating. From its demure law-like binding and meticulously researched pages emerge existential and ontological questions of the highest order focused, in particular, upon Gervais' concern for the stimulation, nurturing and protection of creation, talent and creativity by re-structuring copyright law to further those purposes against the complex legal background of what constitutes originality and fixation. With rhetorical flare and an infectious passion, Gervais sets out the history, and worries about the future of human progress with reference to the kinds of terra-à-terre issues we face in realms such as the MSF's entanglement with big pharma, by setting out the rather slipshod approach that has lurched forward in response to efforts of creators who have sought to protect the products of their genius. As such, this book contains a lot of comparative detail, from country-to-country and era-to-era, as well as some fascinating insights into the lives and works of Honoré de Balzac, Pierre-Augustin Caron de Beaumarchais, Paul Cézanne, Cicero, Eugène Delacroix, Erasmus, Galileo, Ernest Hemingway, Victor Hugo, John Milton, Alexander Pope, and Andy Warhol, to name but a few. But Gervais doesn't hold to the canon as the prime mover for future work or the prime motivation for protecting art and original works; on the contrary, he embraces how technological developments can lead to new creative works, while leaving open the possibility that copyright law will have to be both authoritative and flexible, retrospective and cutting-edge, if it is to achieve the

great aesthetic goals, including that of shifting our perspective and altering our attitude towards the world as we know it. Progress, says he, is achievable, but requires an approach sensitive to the anthropological, philosophical, political, legal and policy issues raised by efforts made to innovate and derive benefit therefrom.

The challenge is in the shifted and shifting relationship between producers, users and re-users, and a crucial source of this upheaval is online material and a moving target of optimal policy design. Gervais' answer is influenced by what he calls a dialogic relationship between producer and user, a reference, as I read it, to the insights of Mikhaïl Mikhailovitch Bakhtin. Dialogism demands negotiation and forefronts the importance of time and situatedness in regards to any interaction, while recognizing that there is no teleological end, no ideal system, no perfect copyright law that can account for every application, past, present and to come. This is what he refers to as equilibrium, an equilibrium that must not be rendered monologic, but must accommodate the trials and vicissitudes of specific examples. Here again Gervais derives both vocabulary and insight from linguistic models; the framework is indeed a structure that has specific characteristics, but its articulation is as parole to langue in the Saussurian sense, with the former accounting for, but not being bound by the latter, and, interestingly enough, becoming in each utterance, a potential agent of change.

We are in what Gervais calls a post post-modern era, which for me, with its double prefix, places us both in the past, because many of the basic issues of protecting creative expression for the creator could be applied at least as far back as the Stationer's Charter in 1556, and in the future, because the use, commentary, diffusion and reproduction of, say, Milton's *Paradise Lost* or letters by Alexander Pope, both important precedents for this realm, moves today at a pace as rapid as technology itself. What Gervais resists, though, is that each case in each country at each time be subjected to a patchwork of agreements and a litany of difficult-to-enforce laws, and what he calls "right fragments", and as such provides a broad array of concrete proposals that flow from his insights and approach.

The descriptions of how copyright law emerged and shifted with particular cases, and in regards to specific literary works, is fascinating, and Gervais has a vast cultural knowledge from multiple historical and linguistic traditions at his beck and call, which means that each of the so-called technical issues raised has a concomitant philosophical question to which it's overtly tied. At the same time, he draws from such a vast array of examples, from different genres, as to make even the general reader aware that there are indeed links between, for example, Raymond Carver, James Joyce and Lady Gaga via issues relating to crucial handmaidens to the creative process, such as editors in the literary realm and producers in the musical one. This is part of the joy of this book, that nothing about it is "dry"; from Gervais' reference to opening up a tin can with a scalpel to his point that copyright protectors force producers to attack

consumers in ways that are possibly inconsistent with what is taught in business schools, keep the arguments flowing, stimulating the very creativity that he deems so essential for real progress. It helps as well that many of the arguments herein are quite radical, such as abandoning the property paradigm and finding ways to productively share, in the interest of all parties to transactions, particularly in the realm of information.

At the same time, however, Gervais insists that his approaches, and the suggestions he makes for reform, are all in accord with major international norms. This is a changing world, rocked, as he says, by the remix phenomenon, mash-ups, collages and what he calls participatory cultural productions that for me recall modernist experiments by Blaise Cendrars, Marcel Duchamp, Man Ray, Georges Braque, Pablo Picasso and, as he notes, Walt Disney, Andy Warhol, Robert Rauschenberg and Jeff Koons, but with the added challenges posed by the online environment and by such categories as professional versus amateur content. Like Peggy Guggenheim early this century, with her Duchamp-assisted insights into the importance of dada and other modernist experiments, Gervais sees these developments as contributing to the artistic and aesthetic realms even if these transgressions might, in an ironic twist, become the norm. This creative destruction creates a new business model affecting financial flows, but defying André Gorz's assessment of cognitive capitalism, or Žižek's belief that such developments undermine capitalism itself, Gervais soberly assesses the lay of the land, seeing a structural problem in the not-so-distant horizon that can, and, with the deeply-rooted legal, historical and cultural approach for which he advocates, must be addressed. In so doing he stands up for authors, creators and innovators, and sets out a dialogic way forward for creating work in a post, post-modern era whose challenges demand insightful exploration of the complex historical, legal and artistic forces that created it. *(Re)Structuring Copyright: A Comprehensive Path to International Copyright Reform* provides the kind of detail necessary for navigating such a complex task.

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