CREATIVE COMMON ละเมิดหรือไม่ ? บนโลกออนไลน์

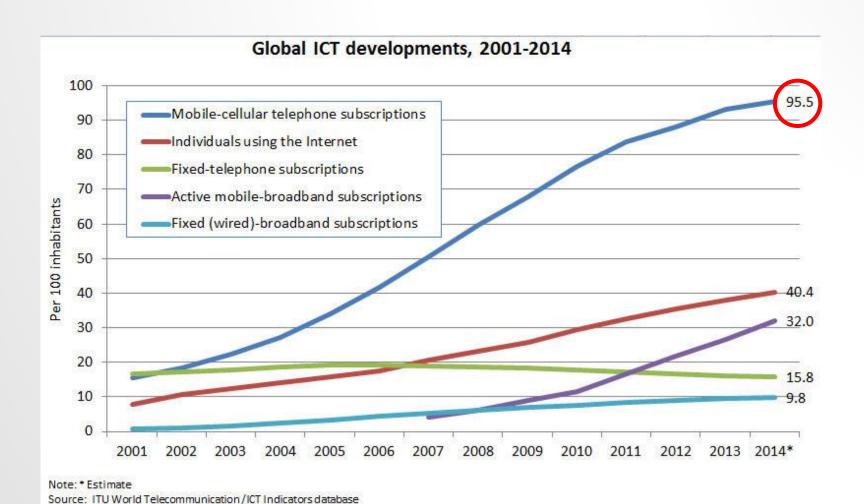
CREATIVE COMMONS โลกของลิขสิทธิ์จะเปิดกว้างหรือ จำกัดสิทธิ์มากขึ้นหรือน้อยลง ?





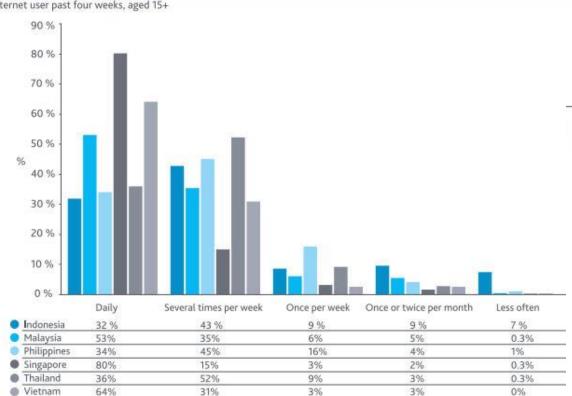


พัฒนาการของการใช้เทคโนโลยีสารสนเทศทั่วโลก

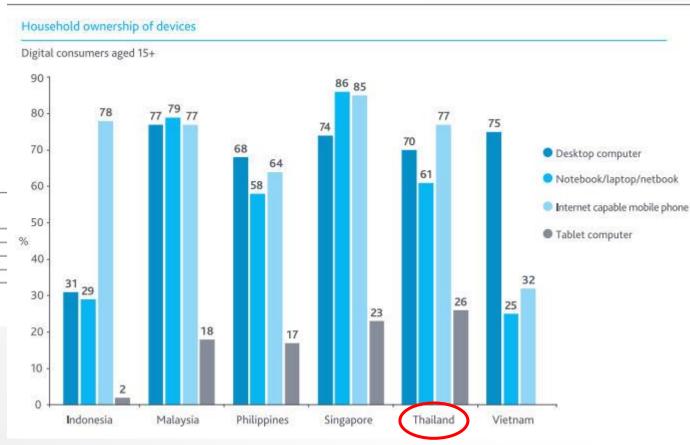


THE DIGITAL MEDIA HABITS AND ATTITUDES OF SOUTHEAST ASIAN CONSUMERS 2011 (NIELSEN)

Frequency of internet use Internet user past four weeks, aged 15+



Source: Nielsen Media Index (Vietnam source: Nielsen Southeast Asia Digital Consumer Report)



THE DIGITAL MEDIA HABITS AND ATTITUDES OF SOUTHEAST ASIAN CONSUMERS 2011 (NIELSEN)

Proportion of digital consumers with an active profile

All digital consumers aged 15+

Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam
f	f	f	f	f	Zing
90%	78%	81%	77%	56%	33%
You Tube	You Tube	You Tube	You Tube	4 Shared	f
23%	51%	51%	45%	43%	28%
	Blogger		msn	You Tube	You Tube
19%	31%	32%	31%	39%	24%

ประเภทของการคุ้มครองทรัพย์สินทางปัญญา

ลิขสิทธิ์



- เป็นสิทธิแต่เพียงผู้เดียวที่จะกระทำการใดๆ เกี่ยวกับงานที่ผู้สร้างสรรค์ได้สร้างขึ้น โดยผู้ สร้างสรรค์จะได้รับความคุ้มครองทันทีที่ สร้างสรรค์โดยไม่ต้องจดทะเบียน
- ตัวอย่างงานลิขสิทธิ์ ได้แก่ งานวรรณกรรม นาฏกรรม ศิลปกรรม ดนตรี ภาพยนตร์ ฯลฯ



ทรัพย์สินทางอุตสาหกรรม

- เป็นความคิดสร้างสรรค์เกี่ยวกับสินค้า อุตสาหกรรมต่างๆ ที่ได้พัฒนาหรือคิดค้นขึ้นใหม่ รวมถึงการออกแบบผลิตภัณฑ์ เครื่องหมาย การค้า ฯลฯ
- ตัวอย่างทรัพย์สินทางอุตสาหกรรม ได้แก่ สิทธิบัตร ความลับทางการค้า เครื่องหมาย การค้า ฯลฯ

ตัวอย่างของงานในสื่อเทคโนโลยีสารสนเทศ ที่ได้รับการคุ้มครองทรัพย์สินทางปัญญา



























เพย์สบายครบทุกความต้องการ









รายงานมาตรการพิเศษ 301 (SPECIAL 301 REPORT) ประจำปี 2014



2014 Special 301 Report

<u>Priority Watch List</u>: Algeria; Argentina; Chile; China; India; Indonesia; Pakistan; Russia; Thailand; and Venezuela; and

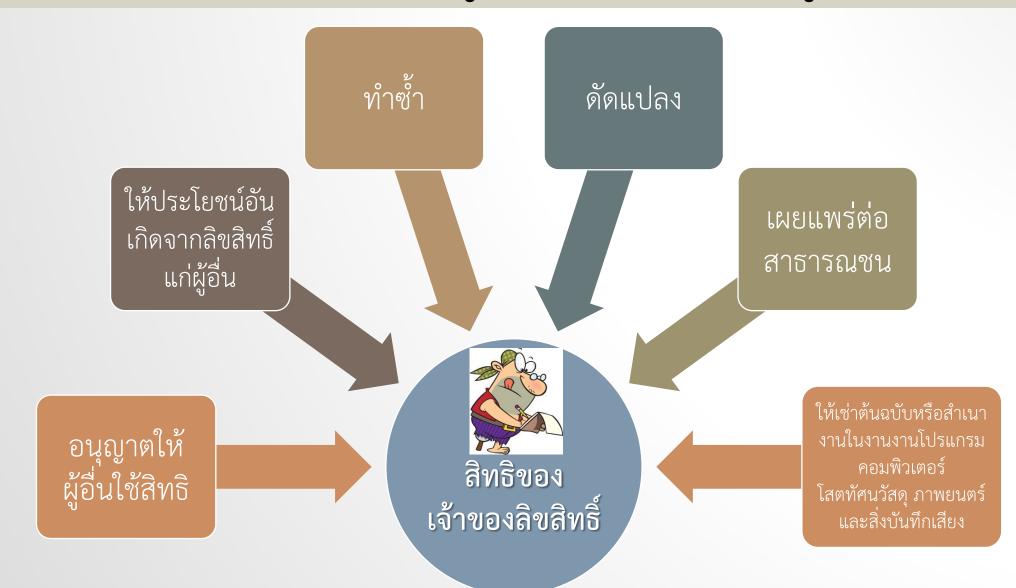
Watch List: Barbados; Belarus; Bolivia; Brazil; Bulgaria; Canada; Colombia; Costa Rica; Dominican Republic; Ecuador; Egypt; Finland; Greece; Guatemala; Jamaica; Kuwait; Lebanon; Mexico; Paraguay; Peru; Romania; Tajikistan; Trinidad and Tobago; Turkey; Turkmenistan; Uzbekistan; and Vietnam.

รายงานมาตรการพิเศษ 301 (SPECIAL 301 REPORT) ประจำปี 2014

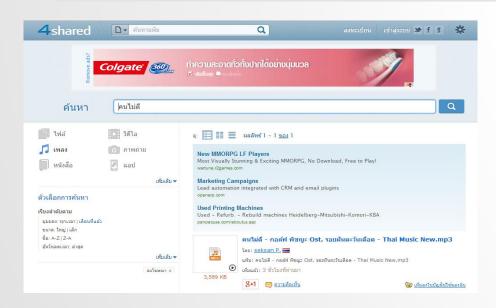
Thailand

Thailand remains on the Priority Watch List in 2014. The United States remains encouraged by Thailand's stated commitment to improving IPR protection and enforcement, and is hopeful that the National IPR Center of Enforcement, launched in March 2013, will help to improve coordination and allow for more effective enforcement actions among Thai enforcement agencies. The United States urges Thailand to complete many of the legislative initiatives begun in past years, including: legislation to address landlord liability and unauthorized camcording of motion pictures in theaters; to provide Thai Customs with ex officio authority; to fully implement the provisions of the WIPO Internet Treaties; to restructure the Trade Secret Committee and modify penalty provisions under the Trade Secrets Act; to accelerate patent examination and registration procedures and address issues such as partial designs; and to establish improved legal mechanisms to address the rapidly growing problem of copyright piracy and trademark counterfeiting on the Internet. The United States also urges Thailand to take enforcement action against widespread piracy and counterfeiting in the country; to impose deterrent-level sentences; and to address effectively its longstanding problem of piracy of cable and satellite signals. The United States continues to encourage Thailand to provide an effective system for protecting against the unfair commercial use, as well as unauthorized disclosure, of test or other data generated to obtain marketing approval for pharmaceutical and agricultural chemical products. The United States urges Thailand to engage in a meaningful and transparent manner with all relevant stakeholders, including IPR owners, as it considers ways to address Thailand's public health challenges, while maintaining a patent system that promotes innovation. The United States looks forward to continuing to work with Thailand to address these and other issues.

2. เทคโนโลยีสารสนเทศและทรัพย์สินทางปัญญา: อีกมิติหนึ่งที่ เจ้าของงานและผู้ขอใช้งานควรตระหนักรู้



2.1 ผู้ใช้ (User)



[ชนโรงเสียงโรงแจ่มชัดใส] Transformers 4 : Age of Extinction (2014) / ทรานส์ฟอร์เม อร์ส 4: มหาวิบัติยุคสูญพันธุ์ [พากย์ไทยโรง+อังกฤษ]



รวมดาวน์โหลด eBook, mp3, โปรแกรม ภาษาอังกฤษ ซึ่ง ใช้ในการฝึกภาษาอังกฤษ

Published on Monday, 02 September 2013 14:23 | Written by Super User | 🚔 | 🙀 | Hits: 22760

รวมดาวน์โหลด eBook, mp3, โปรแกรม *ภาษาอังกฤษ* ซึ่งใช้ในการฝึกภาษาอังกฤษ

แยกไว้เป็นหมวด ๆ ถ้ามีของใหม่ ก็จะเอามาต่อท้ายเรื่อย ๆ

ข้อแนะนำในการดาวน์โหลดไฟล์

- 1.คลิกขวาที่ลิงค์ดาวน์โหลด และคลิกซ้าย save link as....
- 2_ลิงค์ดาวน์โหลดของเว็บภายนอก เช่น 4shared.com ท่าน*อาจจะ* ต้อง Sign-up ก่อนเพื่อ log-in จึงจะมีสิทธิ์ ดาวน์โหลดจากเว็บนั้น
- 3.ไฟล์ที่แบ่งเป็นหลาย part ท่านจะต้องดาวน์โหลดให้ครบถ้วนทุก part เสียก่อน, จึงค่อย extract ไฟล์ แรก, และจึงเปิดไฟล์นั้นได้





400 MB / PART

PART 1

PART 2

PART 3

PART 4

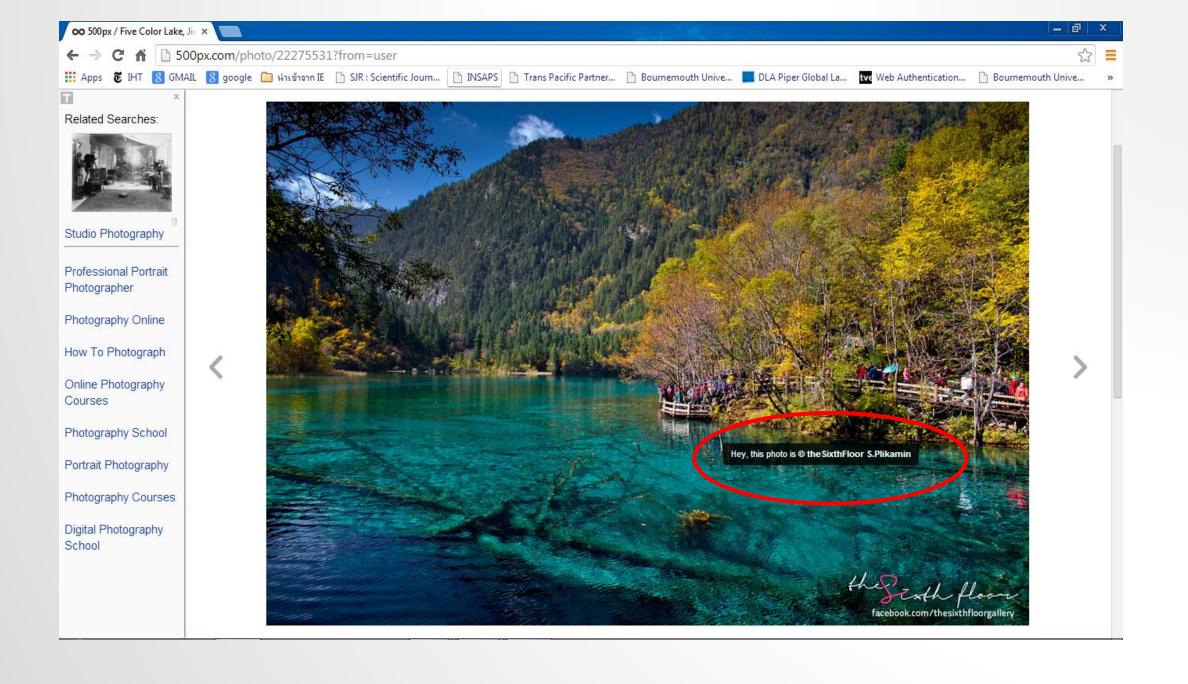
PART 5

PART 6

โหลดแบบสิ้งสำหรับคนพิเศษ แค่เริ่มต้น ธอ บาท

ลิ๊งเดียวจบ





กรณีศึกษา

Embedding copyrightinfringing video is not a crime, court rules

Appeals judge Richard Posner says MyVidster, a social video bookmarking site sued by Flava Works, doesn't encourage swapping and thus doesn't embolden infringement.

by Zack Whittaker y @zackwhittaker / August 3, 2012 2:45 AM PDT

Embedding a copyright-infringing video on another Web site is not illegal, a court ruled yesterday.

Judge Richard Posner ruled at the U.S. Seventh Circuit Court of Appeals that MyVidster, a social video bookmarking site, did not infringe the copyright of Flava Works, a porn production company, when it embedded copyright-infringing versions of Flava Works content from third-party Web sites.

The decision overturned a preliminary injunction from 2011, imposed by a lower court after Flava Works filed suit against MyVidster in 2010.

According to the Appeals Court ruling, MyVidster "doesn't touch the data stream" and therefore doesn't host the infringing video, but links to versions hosted elsewhere on the Web.

MyVidster was "not encouraging swapping, which in turn encourages infringement," the ruling said:

MyVidster is giving web surfers addresses where they can find entertainment. By listing plays and giving the name and address of the theaters where they are being performed, the New Yorker is not performing them. It is not "transmitting or communicating" them.

Is myVidster doing anything different? To call the provision of contact information transmission or communication and thus make myVidster a direct infringer would blur the distinction between direct and contributory infringement and by doing so make the provider of such information an infringer even if he didn't know that the work to which he was directing a visitor to his website was copyrighted.



Supreme court rules web browsing does not infringe newspapers' copyright

Dispute over copyright was between Meltwater, which alerts PR agencies to articles, and the Newspaper Licensing Agency

Lisa O'Carroll

theguardian.com, Wednesday 17 April 2013 16.40 BST

Jump to comments (2)



The supreme court has ruled that opening newspaper articles via a website link is not a breach of copyright. Photograph: Iain Masterton/Alamy

The UK supreme court has ruled that readers who open articles via a website link are not breaking the law, overturning the high court's ruling that browsing was a breach of newspaper owners' copyright.

But the supreme court has decided that the copyright issues surrounding web browsing are so important that it has referred the case it was examining to the European Court of Justice to ensure that the ruling applies uniformly across the EU.

The ruling comes after a three-year legal between the Newspaper Licensing Agency and a media monitoring company, Meltwater, which charges PR companies thousands of pounds a year for alerts about their clients.

After a dispute over fees that has already been through the high court and court of appeal, the supreme court was asked to look at the narrow question of whether the copyright of newspapers was infringed when a user browses content online.

Five supreme court judges led by the president, Lord Neuberger, found against the NLA's arguments that browsing would constitute a breach of copyright because the newspaper article would be temporarily stored in the users' computer and generate what is known as a cached page.

The supreme court said it could not be a breach of copyright as it was a temporary page and the European Court of Justice had already ruled this would be an exception to copyright law, because it was a necessary part of the technical process supporting the internet experience.

The page was "the automatic result of browsing on the internet" and would be overwritten as the reader continued to browse or the cache timed out and was different to downloading or printing out an article, which would be seen as breach of copyright.

The supreme court said if it had found otherwise, it would have been "an unacceptable result, which would make infringers of many millions of ordinary users of the internet across the EU who use browsers and search engines for private as well as commercial purposes".

"The supreme court has ruled sensibly that merely viewing material on websites does not infringe copyright," said Tony Ballard, partner and head of broadcasting at law firm Harbottle & Lewis.

PRINCE IS SUING FACEBOOK USERS AND BLOGGERS FOR \$22 MILLION FOR COPYRIGHT INFRINGEMENT

THIS IS WHAT IT SOUNDS LIKE WHEN BLOGS CRY.

BY CHRIS GAYOMALI

Prince, the world-famous recording artist and selfie-connoisseur who protects his intellectual property like a mama grizzly circling her cubs, is serving up another batch of pancakes to would-be infringers in the form of a massive lawsuit worth \$22 million.

Yes, the purple one is suing 22 internet users a cool million each for allegedly sharing links to bootleg copies of his concerts on assorted web properties, including fan sites hosted on Google's Blogger and various Facebook pages. The document, filed in San Francisco, lists Prince Rogers Nelson as the official plaintiff versus two individuals—Dan Chodera and Karina Jindrova—and 20 other anonymous users behind websites like "The Ultimate Bootleg Experience" and "PSP Music Blog." One blog was said to contain 363 infringing links.

"The Defendants in this case engage in massive infringement and bootlegging of Prince's material," reads the lawsuit. "Prince has suffered and is continuing to suffer damages in an amount according to proof, but no less than \$1 million per Defendant."



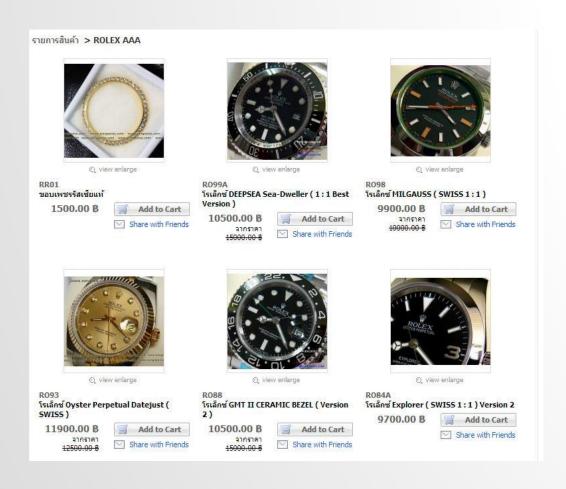
2.2 ผู้ประกอบธุรกิจ (MERCHANT)

(1) เว็บไซต์ลอกเลียนแบบ





(2) จำหน่ายสินค้าลอกเลียนแบบ



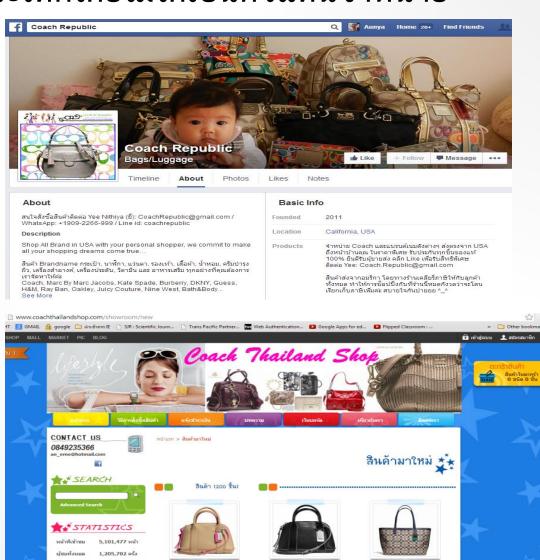
หูฟัง iPhone5/5s เกรด AAA

- หูฟัง Apple เหมือนหูฟังแถม iPhone5 งาน OEM เกรด AAA
- ให้เสียงคุณภาพดี ลายละเอียดครบถ้วน
- สามารถใช้ฟังเพลง หรือ คุยเป็น Smalltalk ได้
- มีรีโมทสำหรับใช้ปรับลด เพิ่มเสียง หรือกดรับสายวางสาย หรือ เปลี่ยนเพลงได้
- ใช้ได้กับ iPhone iPod iPad ทุกรุ่น โทรศัพท์ MP3 คอมพิวเตอร์โน้ตบุ๊ค ที่ช่องหูฟังขนาด 3.5 มม.
- สำหรับ ใช้กับ Samsung Android ได้ แต่จะไม่สามารถกดปุ่มปรับเสียงได้ แต่กดปุ่มรับสายได้



(3) นำเข้าและจำหน่ายสินค้าจากต่างประเทศโดยไม่ได้เป็นตัวแทนจำหน่าย





COACH BLEECKER MINI BLACK

26 W.H. 54

COACH BLEECKER MINI BLACK





Q view enlarge

GOLD001

พร้อมส่งส่งฟรีEMS** Gold Set by Freshy Face การันติจากยอดขายกลุ่ม ถลาย ชุดครีมที่ใช้แล้วได้ผลจริงจากรีวิววมา กกมายปรับสภาพผิวคุณให้เป็นคนใหม่ HOT



1390.00 B add to cart

Share with Friends



Q view enlarge

sk4106

Pre-Order Skinfood My Short Cake Setting Mascara มาสดาร่า สีดา ทำให้ขนตาหนางอน **และ**

106.00 B



add to cart Share with Friends



Q view enlarge

p2513

Pre-Order Etude House Princess Happy Ending Lips ลิปสติ๊กส์สันสดสวย ติดทนนาน เพิ่มความชุ่มชื้นให้แก่ปาก

282.00 B



add to cart



กรณีศึกษา



Video Sparks Legal Battle Over Copyright Infringement [UPDATE]

The Huffington Post | By Sara Gates 🔰 🖒
Posted: 11/24/2013 3:18 pm EST | Updated: 11/25/2013 12:56 pm EST





FOLLOW: Video, Beastie Boys, GoldieBlox Copyright Infringement, GoldieBlox Girls, GoldieBlox Lawsuit Beastie Boys, Beastie Boys Copyright Infringement, Beastie Boys Girls, Beastie Boys Girls Copyright Infringement, Beastie Boys Vs. GoldieBlox, Goldieblox, Parents News

Millions of viewers around the world may love the GoldieBlox commercial that soared to Internet fame last week, but apparently the Beastie Boys aren't happy with one aspect of the girl-empowerment music video.

YouTube star sued for copyright infringement over music in her videos

By Chris Welch on July 21, 2014 06:57 pm Email @chriswelch

DON'T MISS STORIES FOLLOW THE VERGE

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Subscribe





YouTube sensation Michelle Phan, whose beauty and style videos have earned her 6.7 million subscribers, is being sued for copyright infringement over the music in some of those clips. Ultra Records — which has been home to popular EDM acts like Kaskade, Deadmau5, and Calvin Harris — says Phan has regularly used (and profited from) music performed by its DJs without permission. Ultra hit Phan with a lawsuit last week, claiming that the YouTube star has repeatedly been told she doesn't possess the necessary rights to use tracks like Kaskade's "4 AM" in her videos, but apparently those warnings have fallen on deaf ears.

The YouTube star "continues to willfully infringe in blatant disregard of plaintiff's rights of ownership," the suit claims. So far the company's lawyers have found "over 50 examples of blatant copyright infringement." Now Ultra wants a court to step in and grant an injunction prohibiting Phan from using its music. It's also seeking "either maximum statutory damages of \$150,000 for each infringed work or unspecified damages to be determined," according to Reuters.

WHEN YOU'RE THAT BIG, COPYRIGHT INFRINGEMENT DOESN'T GO UNNOTICED

EA v Zynga: is there a case?

Electronic Arts announced on Friday that it is suing Zynga for copyright infringement, alleging that The Ville is an 'unmistakble copy' of Sims Social. But is there a case and what does it mean for the industry?



EA is suing Zynga over similarities between The Sims Social and The Ville

On Friday afternoon, Lucy Bradshaw, the general manager of games studio Maxis, posted a message on the site of her publisher, Electronic Arts. The company would be filing a lawsuit against social gaming giant Zynga for copyright infringement, alleging that Zynga's Facebook game The Ville is a direct copy of EA's own Sims Social. The blog post was angry, passionate and determined, ending with the following declaration:



As a longstanding game developer, I know what it feels like to pour your heart and soul into creating something unique and special for your fans to enjoy. Today, we hope to be taking a stand that helps the industry protect the value of

Apple sues Amazon over 'App Store' trademark

Apple is taking legal aim at Amazon over its use of the term App Store, and is seeking to bar the company from using it.

by Josh Lowensohn y @Josh / March 21, 2011 4:14 PM PDT















Apple is once again protecting its trademark turf, this time with a suit against Amazon.com that takes aim at the Web retail giant's use of the term "App Store."

The suit which was filed last week and first reported by **Bloomberg** this afternoon, goes after Amazon's use of the "App Store" name, which Apple filed a trademark for following the release of the iPhone 3G.



The suit seeks to prevent Amazon from using the phrase on its site or in marketing materials, according to Bloomberg. Apple is also seeking damages.

Amazon spokesperson Mary Osako said the company had no comment. In a phone call with CNET, Apple spokesperson Kristin Huguet said the move was to keep people from getting confused.







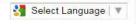


Technology | 12 February 2010 Last updated at 13:23 CET



Google Threatens China 'Sister' Site Goojje

By Skynews









Google has threatened the operators of a remarkably similarlooking Chinese search engine with legal action unless it changes its appearance.

Goojje has a Google-style logo and a homepage that is laid out just like the Western original's.

A Google spokeswoman said the company has officially asked Goojje to stop copying its trademark-protected logo.

The search engine's name is a play on words: "jje" sounds like the Chinese word "older sister", while "gle" is pronounced like the Chinese word for "older brother."

It was established in January at the same time as Google threatened to pull out of China over censorship and hacking concerns.

Goojje provides search and social networking services, but its results are censored to comply with Chinese law

2.3 ผู้ให้บริการ

เว็บไซต์ตลาดกลาง (e-Marketplace)







Digital Millennium Copyright Act Policy

Copyright Policy

Pursuant to the Terms of Use, users may not store, change, distribute, perform or display works of original authorship. Users are responsible for assuring that they have proper authorization to use copyrighted content. Upon receipt of a valid notice that a user's account contains infringing material, 4shared.com will immediately disable all access to the material, including the user's access. In addition, we will deactivate the sharing function for the account. We will notify the user via email of the actions taken by 4shared in response to the take-down notice.

4 shared will take immediate action to stop and further prevent copyright infringement upon acquiring knowledge of a copyright violation. 4 shared will not tolerate copyright infringement. Accounts involved in copyright violations may be terminated and no refund will be issued for the remaining membership.

Notice to Owners of Copyrighted Works

If you are the copyright owner of content which appears on 4shared website and you did not authorize the use of the content you must notify 4shared in writing in order for us to identify the allegedly infringing content and take action.

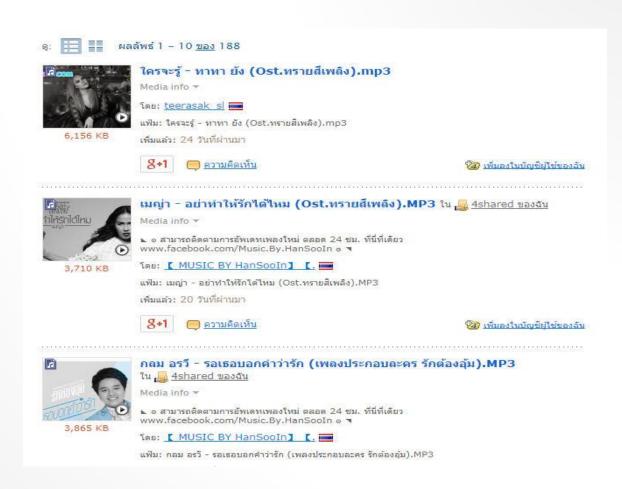
Your written notice must include the following:

- A physical or electronic signature of the copyright owner or authorized person acting on behalf of the owner which expressly claims an executive right that is allegedly being infringed.
- Specific identification of the copyrighted work which you are alleging to have been infringed. If you are alleging infringement of multiple copyrighted works with a single notification you must submit a representative list which specifically identifies each of the works that you allege are being infringed.
- Specific identification of the location and description of material that is claimed to be infringing or to be subject of infringing activity with enough detailed information to permit 4shared to locate the material. You should include the specific URL or URLs of the webpages where the allegedly infringing material is located.
- Information reasonably sufficient to allow 4shared to contact the complaining party which may include a name, address, telephone number and electronic mail address at which the complaining party may be contacted.
- A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by copyright owner, its
 agent or the law.
- agent or the law.

 A statement that the information in the notification is accurate, and under penalty of perjury that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

If you are a copyright holder located in the United States, you should submit a written notice describing the particulars of your copyright infringement claim to 4shared's Digital Millennium Copyright Act Designated Agent Ganka Hadjipetrova via electronic mail to: dmca_agent@4shared.com

เว็บไซต์ที่ให้บริการเก็บรักษาและแลกเปลี่ยนไฟล์



ผู้ให้บริการแหล่งรวมแอพพลิเคชั่น

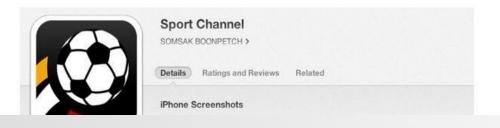
CTH ฟ้องแอปเปิ้ล 100 ล้านบาท เหตุปล่อยให้มีแอพฯลักลอบดูบอลพรีเมียร์ ลี∩อยู่ใน App Store (อัพเดท)

12 September 2013 12:52 pm - No Comments

วันนี้เวลาประมาณ 11.00 น. ทาง CTH ผู้ใต้รับลิขสิทธิ์ถ่ายทอดสดฟุตบอลพรีเมียร์ลีกได้ให้ที่ปรึกษาทางกฎหมายส่งเรื่องฟ้องเรียกค่า เสียหายจากแอปเปิ้ลทั้งไทยและอเมริกามูลค่าร่วม 100 ล้านบาท โทษฐานละเมิดลิขสิทธิ์ปล่อยให้มีแอพฯลักลอบดูบอลพรีเมียร์ลีกขาย ใน App Store พร้อมกันนี้ยังฟ้องอาญาผู้พัฒนาแอพฯดังกล่าวด้วย

อย่างที่เราเห็นกันดีว่าแอพฯขายดีติดอันดับใน App Store บางแอพฯเป็นแอพฯเถือนลักลอบดูซีรีย์บ้าง, ภาพยนตร์บ้าง ซึ่งล่าสุดก็มีแอพ ชื่อ Sport Channel ราคาเต็ม \$29.99 ตอนนี้ขาย \$19.99 เป็นแอพฯสำหรับชมฟุตบอลพรีเมียร์ลีก แน่นอนว่าเป็นการดึงสัญญาณ ถ่ายทอดสดมาจากที่อื่นไม่ได้ผ่านทาง CTH ผู้ได้รับลิขสิทธิ์ถ่ายทอดสดฟุตบอลพรีเมียร์ลีกในประเทศไทย ซึ่งวันนี้ทาง CTH ได้ส่งที่ ปรึกษาทางกฎหมายส่งเรื่องฟ้องศาลกับแอปเปิ้ลสาขาในไทยและแอปเปิ้ลในอเมริกาฐานละเมิดลิขสิทธิ์ปล่อยให้มีแอพฯลักลอบดู ฟุตบอลพรีเมียร์ลีก โดยทาง CTH ได้แจ้งไป 2 ครั้งแล้วแต่ไม่มีฟิดแบคใด ๆ กลับมาและปล่อยให้แอพฯ Sport Channel ขายอยู่แบบนั้น มาพักใหญ่ ทำให้ทาง CTH สูญเสียรายได้ จึงตัดสินใจฟ้องร้องทั้งแอปเปิ้ลสาขาในไทยและแอปเปิ้ลในอเมริกาทั้งอาญาและแพ่ง โดย เรียกค่าเสียหาย 100 ล้านบาท พร้อมกันนี้ทาง CTH ยังยืนฟ้องอาญากับผู้พัฒนาแอพฯ Sport Channel ด้วย โดยศาลได้นัดไต่สวนในวัน ที่ 18 พ.ย. 2556

สำหรับแอพฯ Sport Channel ปัจจุบันยังคงขายอย่บน App Store ในราคา \$19.99 (iPhone) และ \$29.99 (iPad)



Thai broadcaster sues Apple for \$3 million over unlicensed app

The company argues, according to a report out of Thailand, that Apple approved an unlicensed application for access in its App Store.

by Don Reisinger ¥ @donreisinger / September 12, 2013 6:13 AM PDT



Apple has been hit with a lawsuit in Thailand, according to a report out of the country.

The Bangkok Post on Thursday **reported** that broadcaster Cable Thai Holding (CTH) has filed a lawsuit against Apple for allowing an application in its App Store that let people watch English Premier League (EPL) soccer on their mobile devices. The company is asking for \$3 million in damages.

According to the Post, CTH owns the rights to EPL. At some point, an app known as Sport Channel was approved by Apple for entry into its App Store in Thailand. The application, which sets customers back \$30, allows them to watch soccer games from an iOS device.



Lush Battles Amazon over Search Terms and 'Piracy Capitalism'

December 1, 2013 12:29 BST





โฆษณาโดยใช้เครื่องหมายการค้าเป็นคำสำคัญ

A small British beauty company is taking internet retail behemoth Amazon court for breach of copyright.

Cosmetics manufacturer and retailer Lush is suing Amazon for infringement of copyright, and when the case reaches court next year it might set a precedent that could transform online retail.

Husband and wife team Mark and Mo Constantine, founders and majority owners of Lush, have not granted the online retailer permission to sell its products on their site. So Amazon customers who search for Lush products on Amazon's website are directed to 'items related to Lush' - which are often similar products made by Lush's competitors. This, the Constantines argue, constitutes an infringement of the Lush copyright, according to the High Court documents filed by the company.

According to the Observer, the court papers state: "Lush brought trademark infringement proceedings against Amazon on the basis that when the term 'Lush' was searched for on Amazon's website, the results returned were for goods which, although they featured the word 'lush' in a number of contexts, were not in fact made by Lush."

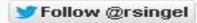
The documents reveal Lush has also challenged Amazon's attempt to direct shoppers searching online for Lush products, as "Amazon had also bid on the Google AdWord 'Lush Bath Products' but did not, in fact, sell any Lush products."

Google has faced challenges from retailers for selling AdWords for well-known retail brands to competitors before. In 2010 by the luxury brand Louis Vuitton challenged Google for selling 'Louis Vuitton' AdWords to other online retailers. The EU Court of Justice ruled in Google's favour, but said the search engine could be held responsible if it directed customers to sites selling counterfeit products.

The EU Court of Justice also ruled that similar cases should be judged by national courts in future. Earlier this year a judge found that Marks & Spencer's use of 'Interflora' in Google AdWords to direct customers to its own products did infringe trademarks.

Amazon, Dropbox, Google and You Win in Cloud-Music Copyright Decision

BY RYAN SINGEL 08.22.11 6:47 PM



The disk drives powering Dropbox, Amazon's Cloud Drive, and Google Music likely issued a small sigh of relief Monday, after a federal court judge found that the MP3tunes cloud music service didn't violate copyright laws when it used only a single copy of a MP3 on its servers, rather than storing 50 copies for 50 users.

For Amazon and Google's nascent cloud music services, the decision clears the way for them to make it easier and faster for customers to use their





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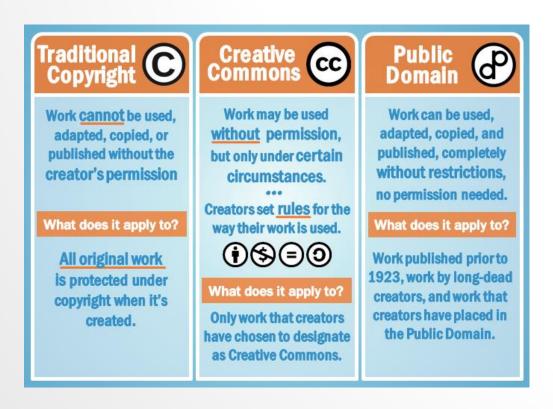


music services; gives them legal cover to reduce the amount of disk space needed per user; makes it less likely that new customers of their music services will bust through their ISPs data caps when signing up; and clears the way for the companies to let users add songs found on webpages and through search to their lockers with a single-click — all without either being sued by record labels for doing so.

Monday's decision centers on MP3tunes, a cloud-based online music locker service, that allows a customer to upload the music from their hard drives to a "locker" on the web, where they can play back the songs from any connected device.

3. Creative Commons คืออะไร? เหมาะกับใคร ?

เรารู้จัก Creative Commons และได้ใช้ประโยชน์เต็มที่หรือยัง?



MONKEY'S SELFIE



MONKEY'S SELFIE



- David J. Slater
- "That trip cost me about £2,000 for that monkey shot. Not to mention the £5,000 of equipment I carried, the insurance, the computer stuff I used to process the images. Photography is an expensive profession that's being encroached upon. They're taking our livelihoods away,"
- Wikimedia Commons

MONKEY'S SELFIE

- Compendium II ofCopyright Office Practices
 - Copyrightable Authorship:What can be Registered

306 The Human Authorship Requirement

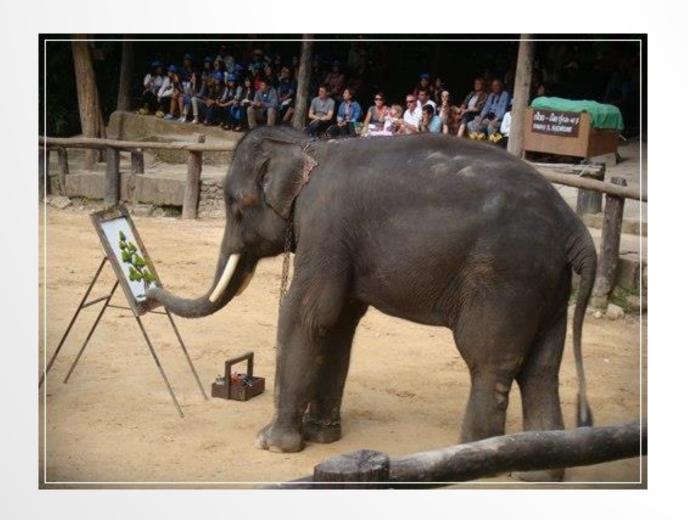
The U.S. Copyright Office will register an original work of authorship, provided that the work was created by a human being.

The copyright law only protects "the fruits of intellectual labor" that "are founded in the creative powers of the mind." *Trade-Mark Cases*, 100 U.S. 82, 94 (1879). Because copyright law is limited to "original intellectual conceptions of the author," the Office will refuse to register a claim if it determines that a human being did not create the work. *Burrow-Giles Lithographic Co. v. Sarony*, 111 U.S. 53, 58 (1884).

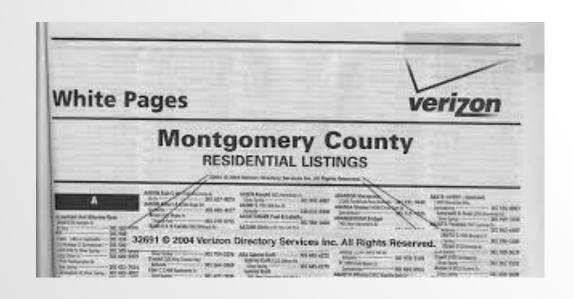
The Office will not register works produced by nature, animals, or plants. Likewise, the Office cannot register a work purportedly created by divine or supernatural beings, although the Office may register a work where the application or the deposit copy(ies) state that the work was inspired by a divine spirit.

Examples:

- A photograph taken by a monkey.
- A mural painted by an elephant.
- A claim based on the appearance of actual animal skin.
- A claim based on driftwood that has been shaped and smoothed by the ocean.
- A claim based on cut marks, defects, and other qualities found in natural stone.



FEIST PUBLICATIONS, INC., V. RURAL TELEPHONE SERVICE CO., 499 U.S. 340 (1991)





Justice Sandra Day O'Connor (in office: 1981 – 2006)

FEIST PUBLICATIONS, INC., V. RURAL TELEPHONE SERVICE CO., 499 U.S. 340 (1991)

■ "Many compilations consist of nothing but raw data — i.e. wholly factual information not accompanied by any original expression. On what basis may one claim a copyright upon such work? Common sense tells us that 100 uncopyrightable facts do not magically change their status when gathered together in one place. ... The key to resolving the tension lies in understanding why facts are not copyrightable: The sine qua non of copyright is originality."

FEIST PUBLICATIONS, INC., V. RURAL TELEPHONE SERVICE CO., 499 U.S. 340 (1991)

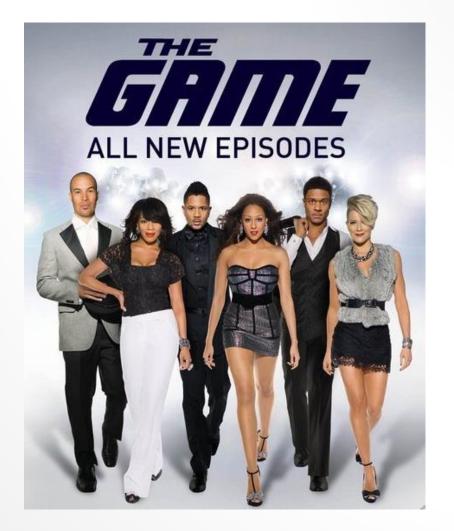
- The court clarified that the intent of copyright law was not, as claimed by Rural and some lower courts, to reward the efforts of persons collecting information the so-called "sweat of the brow" or "industrious collection" doctrine but rather "to promote the Progress of Science and useful Arts" (U.S. Const. 1.8.8). That is, to encourage creative expression.
- In regard to collections of facts, O'Connor stated that copyright can only apply to the creative aspects of collection: the creative choice of what data to include or exclude, the order and style in which the information is presented, etc., but not on the information itself.

FEIST PUBLICATIONS, INC., V. RURAL TELEPHONE SERVICE CO., 499 U.S. 340 (1991)

■ The court ruled that Rural's directory was nothing more than an alphabetic list of all subscribers to its service, which it was required to compile under law, and that no creative expression was involved. The fact that Rural spent considerable time and money collecting the data was irrelevant to copyright law, and Rural's copyright claim was dismissed.

WHO OWNS "LIKES"





WHO OWNS "LIKES"

Mattocks v. Black Entertainment Television LLC,

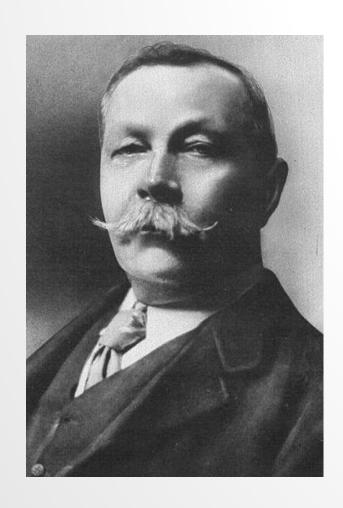
No. 13-61582 (S.D. Fla. Aug. 20, 2014)

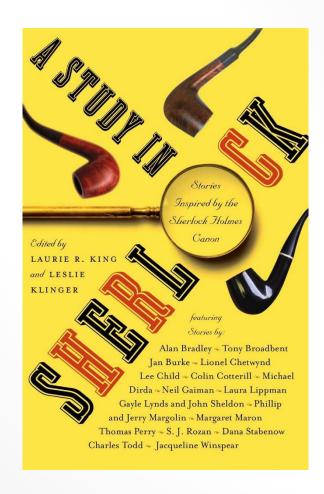
- Television series "The Game" (2006-)
- Stacey Mattocks (2008) created Facebook Fan Page
- Oct 2010 Black Entertainment Television, LLC. offered part-time work for Stacey
- 2 mils "likes" to 6 mils "likes"
- Feb 2011 letter Agreement granted BET administrative access
- June 2012 Stacey informed "restrict BET"
- BET asked Facebook to "migrate" fans of Stacey Page to another official Series Page

WHO OWNS "LIKES"

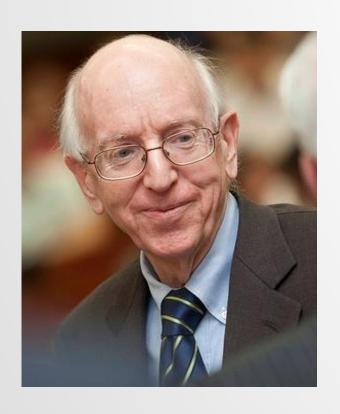
Based on the record, Mattocks cannot establish that she owns a property interest in the "likes" on the FB Page. As explained in Part I.A, "liking" a Facebook Page simply means that the user is expressing his or her enjoyment or approval of the content. At any time, moreover, the user is free to revoke the "like" by clicking an "unlike" button. So if anyone can be deemed to own the "likes" on a Page, it is the individual users responsible for them. Cf. Bland, 730 F.3d at 385-86 (holding that public employee's "like" of political-campaign page was a protected form of free speech and expression). Given the tenuous relationship between "likes" on a Facebook Page and the creator of the Page, the "likes" cannot be converted in the same manner as goodwill or other intangible business interests. See, e.g., Freeman v. Corbin (In re Estate of Corbin), 391 So. 2d 731, 732-33 (Fla. 3d DCA 1980).

SHERLOCK HOLMES





- Sir Arthur Conan Doyle (กองมรดกของ Sir Arthur Conan Doyle เป็นจำเลย ในคดีนี้) เป็นผู้ให้กำเนิด "เชอร์ล็อก โฮล์มส์" ใน ค.ศ. 1887
- โฮล์มส์เป็นนักสืบอยู่ในกรุงลอนดอนที่มีชื่อเสียงด้านการใช้เหตุผลทางตรรกะวิทยา บวกกับไหวพริบเฉพาะตัว และสามารถคลี่คลายคดีสุดหินได้มากมาย โฮล์มส์มีเพื่อน รักชื่อ Dr. John H. Watson ซึ่งเป็นคนเล่าเรื่องที่เกิดขึ้นทั้งหมด
- เชอร์ล็อก โฮล์มส์ตีพิมพ์ครั้งแรกปี 1887 และเล่มสุดท้ายปี 1927 แบ่งออกเป็นงานใน รูปของเรื่องสั้นทั้งหมด 56 เรื่อง บวกกับหนังสือนิยาย 4 เล่ม
- กลุ่มที่ยังโต้แย้งกันอยู่คือ เรื่องสั้น 10 เล่มสุดท้าย (จาก 56 เรื่อง) ซึ่งตีพิมพ์ครั้งแรก ไปในช่วงปี 1923 ถึง 1927 ซึ่งยังมีระยะเวลาคุ้มครองไปถึงปี 2018 ถึง 2022 ตามปีที่ตีพิมพ์ครั้งแรกของแต่ละเล่ม



Judge Richard Posner

- Judge Posner:
- "...Once the copyright on a work expires, the work becomes a part of the public domain and can be copied and sold without need to obtain a license from the holder of the expired copyright."
- Klinger v. Conan Doyle Estate, Ltd., Case No. 14-1128 (7th Cir., Jun. 16, 2014)

Judge Posner:

• "...More important, extending copyright protection is a two-edges sword from the standpoint of inducing creativity, as it would reduce the incentive of subsequent authors to create derivative works (such as new versions of popular fictional characters like Holmes and Watson) by shrinking the public domain material there will be and so the greater will be the cost of authorship, because authors will have to obtain licenses from copyright holders for more material—as illustrated by the estate's demand in this case for a license fee from Pegasus.

Most copyrighted works include some, and often a great deal of, public domain material—words, phrases, data, entire sentences, quoted material, and so forth. The smaller the public domain, the more work is involved in the creation of a new work. The defendant's proposed rule would also encourage authors to continue to write stories involving old characters in an effort to prolong copyright protection, rather than encouraging them to create stories with entirely new character. The effect would be to discourage creativity."

- "...The resulting [of adding additional features to their portrayals] somewhat altered characters were derivative works, the additional features of which that were added in the ten late stories being protected by the copyrights on those stories. The alterations do not revive the expired copyrights on the original characters."
- "...With the net effect on creativity of extending the copyright protection of literary characters to the extraordinary lengths urges by the estate so uncertain, and no legal grounds suggested for extending copyright protection beyond the limits fixed by Congress, the estate's appeal borders on the quixotic. The spectre of perpetual, or at least nearly perpetual, copyright (perpetual copyright would violate the copyright clause of the Constitution, Art. I, Sec. 8, cl.8, which authorizes copyright protection only for "Limited Times") looms, once one realizes that the Doyle estate is seeking 135 years (1887-2022) of copyright protection for the character of Sherlock Holmes as depicted in the first Sherlock Holmes story.

AFFIRMED"

■ Judge Posner วินิจฉัยว่าเมื่องานนิยาย "เชอร์ล็อก โฮล์มส์" หมดอายุคุ้มครองไป แล้ว ก็ต้องถือว่าเป็นงานที่เป็นสาธารณะ ผลคือทุกคนมีสิทธิใช้ประโยชน์จากเนื้อหาได้ ทั้งส่วนที่เป็นเรื่องราว บุคลิกของตัวละคร รวมทั้งรายละเอียดของเรื่องทุกอย่าง โดย ไม่เป็นการละเมิดลิขสิทธิ์ ส่วนถ้าหากมีงานเพิ่มเติมขึ้นมา (ในคดีนี้คืองาน 10 เล่มที่ยัง ไม่หมดลิขสิทธิ์) ก็ต้องคุ้มครองเฉพาะส่วนที่เพิ่มเติมขึ้นมาเท่านั้น เช่น รายละเอียด เกี่ยวกับทัศนคติของโฮล์มส์ที่เปลี่ยนมาชอบสุนัข หรือข้อเท็จจริงการแต่งงานของหมอ วัตสัน เป็นต้น



creativity



ประเภทการใช้งานอันมีลิขสิทธิ์

- การขออนุญาตใช้สิทธิ
- การใช้งานลิขสิทธิ์อย่างเป็นธรรม
 - "fair use," "fair dealing"
 - กฎหมายลิขสิทธิ์ของไทยกำหนดเกณฑ์ทั่วไปว่า



Candice Breitz

- การใช้งานอย่างเป็นธรรมต้องไม่ขัดต่อการแสวงหาประโยชน์จากงานอันมีลิขสิทธิ์
 ตามปกติของเจ้าของลิขสิทธิ์ และ
- ต้องไม่กระทบกระเทือนถึงสิทธิอันชอบด้วยกฎหมายของเจ้าของลิขสิทธิ์เกิน สมควร

ประเภทการใช้งานอันมีลิขสิทธิ์

- การขออนุญาตใช้สิทธิ
- การใช้งานลิขสิทธิ์อย่างเป็นธรรม
- การใช้งานที่เป็น public domain
 - (1) สิ่งที่ไม่เป็นงานลิขสิทธิ์
 - (2) งานที่เจ้าของลิขสิทธิ์สละลิขสิทธิ์
 - (3) งานที่สิ้นอายุการคุ้มครองลิขสิทธิ์แล้ว



- แนวคิดของ Creative Commons
- ลักษณะของลิขสิทธิ์ ลักษณะของกฎหมายลิขสิทธิ์
- ลักษณะของการใช้งานบนอินเตอร์เน็ต
 - การทำซ้ำ (copy, paste, post to the Web) และการ ดัดแปลง (edit source) (ขัดกฎหมายลิขสิทธิ์??)
- สัญญาอนุญาตให้ใช้สิทธิของครีเอทีฟคอมมอนส์



(cc) creative commons

- "เวอร์ชั่น 4.0"
- สัญลักษณ์สากล 4 สัญลักษณ์
 - กำกับด้วยตัวอักษร "BY" "ND" "SA" และ "NC"
- แบบของสัญญาอนุญาตให้ใช้ลิขสิทธิ์ 6 แบบสัญญาหลัก

LICENSES















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แนวทางป้องกันการละเมิดทรัพย์สินทางปัญญา

- (1) ทำความเข้าใจทรัพย์สินทางปัญญาที่เกี่ยวข้อง
- (2) อย่าคิดว่าทุกอย่างฟรี โดยเฉพาะบนอินเตอร์เน็ต
- (3) การใช้อย่างเป็นธรรมมีความเสี่ยง
- (4) ใช้ "public domain"
- (5) สร้างสรรค์งานเองดีกว่า

