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The Tragedy of Extreme Copyright

Copyright is a legal concept that gives authors of creative works such as: art, literature, or other media exclusive control over the sale and distribution of their creations for a limited period of time.  After the term of copyright expires, the creative work becomes part of the Public Domain.  The Public Domain is the nation’s store of creative works that are not covered by copyright, and are therefore freely accessible to the public.  The term of copyright protection started out short but is now longer than the lifespan of most human beings.  The term of copyright protection now lasts up to 120 years for copyrights registered in the United States. Tragically, this extreme length means that most creations of the last century are out of reach for most of the people in the U.S., and runs counter to the original intent of copyright.

The original purpose of copyright in the United States was to reward authors of creative works with a monetary incentive and short term exclusivity for the distribution and sale of their creations.  Copyright protection was originally a fixed term of 14 years with the option to extend it for a further 14.  Once in the Public Domain, creative works become freely available to the public to consume, distribute, or build upon without the need to obtain permission, or license the work. This ensures that the creator gets rewarded for the act of creation and that the nation as a whole benefits from the creation as well.  The concept of Public Domain is an integral part of copyright. It ensures that after the creator of a work has the chance to be rewarded for their contribution while society as a whole has access to the knowledge, information, and viewpoints contained within the creator’s work.

Length of copyright terms as well as the specific rights granted to creators and the public are covered under a number of different laws.  First, the U.S. Constitution laid out the groundwork for federal copyright law.  Then, the Copyright Act of 1790 specified the original length of copyright protections at a base term of 14 years and allowed for a 14 year extension at the end of the initial term.  Subsequently, copyright terms have been extended several times. The first extension increased the base term to 28 years but kept the 14 year extension.  Next, the optional 14 year extension was doubled to 28 years. Finally, today’s copyright no longer has a fixed duration, rather than extending copyright protection with ever longer fixed-length terms congress changed the structure of copyright terms.  As of the 1998 Sonny Bono Copyright Extension Act, copyright protection lasts for the life of the author plus 70 years and for 120 years for works-for-hire or corporate works.  In contrast the median lifespan of people in the U.S. is only 78 years, a striking difference.  The 1998 Act also retroactively extended protection for older works still under copyright protection.

Extreme copyright terms can have negative effects on society.  By limiting the amount of knowledge freely available to the public, excessive copyright results in a less informed and a populace less exposed to alternate points of view.  For example, if a book were published today in the United States and the author were to die tomorrow.  In this scenario the content contained in that book would not become part of the Public Domain until the year 2082 at the earliest, and if it were a work-for-hire not until well after the year 2100.  By which time the content of the book the ideas, opinions, and information could be completely irrelevant.  Until the copyright expires, the information contained within this or any copyrighted work is available only to those with the means of obtaining permission from the copyright owner to access or use the work.  Because of these long copyright terms the contribution of new works to the Public Domain is greatly limited.  This limitation of access to new knowledge and points of view does great harm to society, limiting its knowledge and making information much less accessible.  Citizens in a society without a robust Public Domain have far less content to base their ideas, creations, and inventions on.

In conclusion, it becomes clear that copyright terms, having been so extended past their original limits no longer serve their original purpose.  Instead, they are now used as a way of controlling the flow of, and limiting access to information. The results of this are tragic and disconcerting; the ignorance of an entire nation.  This issue needs to be addressed with serious, well thought out reform, with an eye towards balancing the need to reward the creator with the necessity of promoting access to the creation for the benefit of the entire nation.