

IP and creative industries

Creative industries are increasingly at the intersection of art and technology. Innovation in creative industries is often a collective process that involves many heterogeneous actors whose objectives and needs differ. It also involves informal knowledge communities that have very specific IP needs. Those actors often combine different types of IP rights, including copyright, patents and trademarks. Infringement of IP in the creative industries is a challenge, particularly since copying is easy and cheap in the digital era. Firms in creative industries also use more traditional IP strategies, open source and other creative commons types of licenses. Several factors challenge innovation activities of firms in these sectors, including enforcement of copyright on the Internet and also the provision of adequate contexts to enable the innovative process in creative industries.

What are creative industries?

Creative industries typically include sectors that focus substantially on creating and exploiting intellectual property products, such as music, books, film and games, but also sectors that focus on providing business-to-business creative services, including advertising, public relations and direct marketing.

Creative industries can make substantial contributions towards economic growth and their role is important for the knowledge-based economy (Florida, 2002). However, their importance differs substantially across countries. To give one example, according to DMCS estimates (DMCS, 2011), creative sectors in the UK represented a total of 106,700 enterprises in 2009, which accounted for 2.89% of the UK's 2009 growth in value added (publishing had the highest contribution), 10.6% of UK's export, and 5.14% of UK's employment force (1.5 million people employed) (see Tables 1, 2 and 3 for detailed estimates).

How does innovation proceed in creative industries?

The relevance of various actors and their interactions for innovation in creative industries

In creative industries, more than in any other sectors, the process of creation is a collective effort of different contributors: programmers, engineers, scriptwriters, musicians, game designers, etc.

The process of creation in creative industries is not solely restricted to the role of talented individuals (some rare geniuses) or to the control of the strategic vision of institutions (such as firms or labs in standard industries). Basically, stakeholders in the creative process can be divided into three categories - creative communities, talented individuals and firms (Bach et al., 2010). Of course, in the domains of filmmaking, videogames and music performance, some major companies have emerged and tend to concentrate market power (as in traditional industries). However, the revolution in information technologies has challenged traditional modes of creative production and existing relationships between the various actors.

Creative communities, i.e. informal groups of individuals who voluntarily exchange information on a regular basis in order to create knowledge in a given field (Cohendet and Simon, 2007), are important, as they absorb significant parts of the sunk costs associated with the generation and accumulation of specialized knowledge. Creative communities generate innovative micro-ideas, which may be potential sources for future creativity. They are the main constituents of the "underground" from which creative industries extract their innovative efforts.

Use of different types of IP by creative industries

Acting in the innovation process in creative industries rely on a multiplicity of instruments to protect their knowledge and know-how. On the technological side, they need to rely on patents to protect their knowledge and know-how. However,

The relevance of IP for creative industries and their growth

~~As creative industries produce mainly information and knowledge, imitation and copying are often the creative process and thus invested money must ensure creative production. Who participates in the~~

It is important to note that copyright in creative industries can also be used in an open source way, in order to prevent appropriation. A significant percentage of creative sectors involve the use of software and open source can be a powerful mode of development in software production (see [Open source](#) [1]).

Since innovation in creative sectors often needs to combine prior pieces of art in order to create, it is important to ensure that the scope and length of IP rights do not create obstacles. As mentioned by Lessig, creators from the past must not control creators of the present (Lessig, 2004). If, on the one hand, firms need to rely on strong IP rights, they also need to extract creative potential from knowledge communities. And those communities can only flourish under weak IP rights. Creative projects entail integrating, cutting and pasting. They require the assembling of creative elements dispersed among a vast array of technical and cultural activities, and carried out by diverse and distinct actors. Thus, in order to foster the production of novelty, firms, individuals and communities must rely on some kinds of open spaces. IP rights used in a copyleft style can preserve open access to a piece of art and also prevent its appropriation. This has the advantage of controlling the use of the released work and thereby ensuring the freedom not only of the piece of art itself but of all its improvements, variants, etc. By doing a “legal jujitsu” (Benkler, 2006), authors can use copyrights or patents to ensure that nobody can appropriate their work and its subsequent modifications.

What policies issues are relevant to support innovation in creative industries and IP?

Ensuring IP enforcement. It is important that investors be protected in order to provide them with incentives to invest in innovative activities. However, illegal circulation of creative content on the web may undermine those incentives. Measures that limit illegal copying, mostly on the Internet, are thus particularly important (see [IP enforcement and litigation](#) [2]).

Ensuring access to creations and information. When innovation proceeds cumulatively, creators need to rely on past creations. It is therefore fundamental to facilitate access to existing knowledge and creation in order to foster future creativity. The reuse of public sector information is also valuable, since corporate actors may use a substantial amount of that content. Yet, in absence of adequate policy regarding copyright, this type of information may not be accessible for re-use.

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