CREATe

2012-2016

CREATe 2012-2016:

Impact on society, industry and policy through research excellence and knowledge exchange

Edited by: Kerry Patterson & Sukhpreet Singh

With contributions from:

Alison Brimelow, Andrea Wallace, Andrew McHugh, Andrew Thompson, Barbara Townley, Bartolomeo Meletti, Burkhard Schafer, Daithí Mac Síthigh, Derek McAuley, Dinusha Mendis, Ealasaid Munro, Edina Harbinja, Elena Cooper, Emily Laidlaw, Emma Barraclough, Frédéric Dubois, Gian Marco Campagnolo, Gillian Doyle, Hung The Nguyen, Jeremy Silver, Jesús Rodríguez Pérez, John Street, Kerry Patterson, Kris Erickson, Lilian Edwards, Martin Kretschmer, Maurizio Borghi, Megan Rae Blakely, Melinda Grewar, Michael Brown, Nicola Searle, Pamela Samuelson, Philip Schlesinger, Piers Fleming, Richard Paterson, Robin Williams, Ronan Deazley, Sukhpreet Singh, Theo Koutmeridis, Victoria Stobo, Xiaobai Shen.
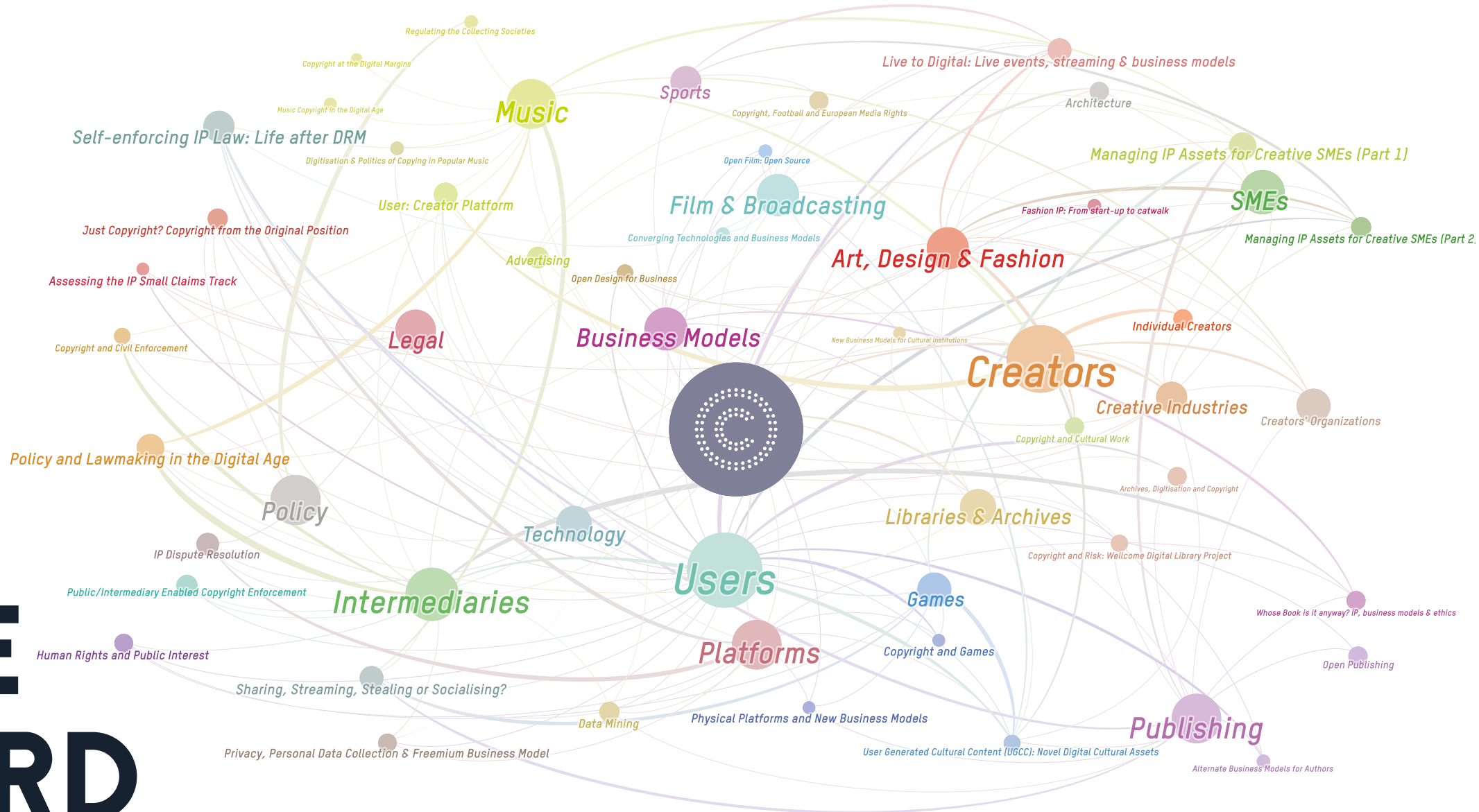
Consortium Members

Funders

Associates

Contents

FORE—WORD

Regulating the Collecting Societies

Copyright at the Digital Margins

Live to Digital: Live events, streaming & business models

Music Copyright in the Digital Age

Sports

Architecture

Copyright, Football and European Media Rights

Self-enforcing IP Law: Life after DRM

Managing IP Assets for Creative SMEs (Part 1)

Open Film: Open Source

Music

Digitisation & Politics of Copying in Popular Music

SMEs

Film & Broadcasting

User: Creator Platform

Managing IP Assets for Creative SMEs (Part 2)

Fashion IP: From start-up to catwalk

Just Copyright? Copyright from the Original Position

Converging Technologies and Business Models

Art, Design & Fashion

Advertising

Assessing the IP Small Claims Track

Open Design for Business

Individual Creators

Legal

Business Models

Creators

Copyright and Civil Enforcement

New Business Models for Cultural Institutions

Creative Industries

Creators' Organizations

Copyright and Cultural Work

Policy and Lawmaking in the Digital Age

Archives, Digitisation and Copyright

Policy

Libraries & Archives

IP Dispute Resolution

Technology

Copyright and Risk: Wellcome Digital Library Project

Public/Intermediary Enabled Copyright Enforcement

Users

Intermediaries

Games

Whose Book is it anyway? IP, business models & ethics

Copyright and Games

Human Rights and Public Interest

Platforms

Open Publishing

Sharing, Streaming, Stealing or Socialising?

Data Mining

Physical Platforms and New Business Models

Publishing

Privacy, Personal Data Collection & Freemium Business Model

User Generated Cultural Content (UGCC): Novel Digital Cultural Assets

Alternate Business Models for Authors

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by **Andrew Thompson**, Interim Chief Executive of AHRC

The CREATe Centre is a unique venture, focusing on social, cultural and economic innovation in relation to the UK's creative economy. It investigates in particular the role of copyright law in digital change, and how this may support the cultural and digital sectors, promote productivity and growth, and make for a better society.

CREATe is an expression of the ambition and determination of the UK Research Councils to address the big questions across traditional disciplinary boundaries. Jointly funded by the AHRC (arts and humanities), EPRSC (technology) and ESRC (social and economic research), CREATe has brought together perspectives from law, economics, management, computer science, sociology, psychology, ethnography and critical studies and over 80 industry, public sector and civil society partners.

CREATe has been particularly successful in developing engagement with the creative and cultural industries, for example through innovative Industry Fellowship schemes, joint position papers, and academic secondments. These initiatives have produced thought leading contributions and resources such as CopyrightUser.org which has become the UK's most used copyright guidance site.
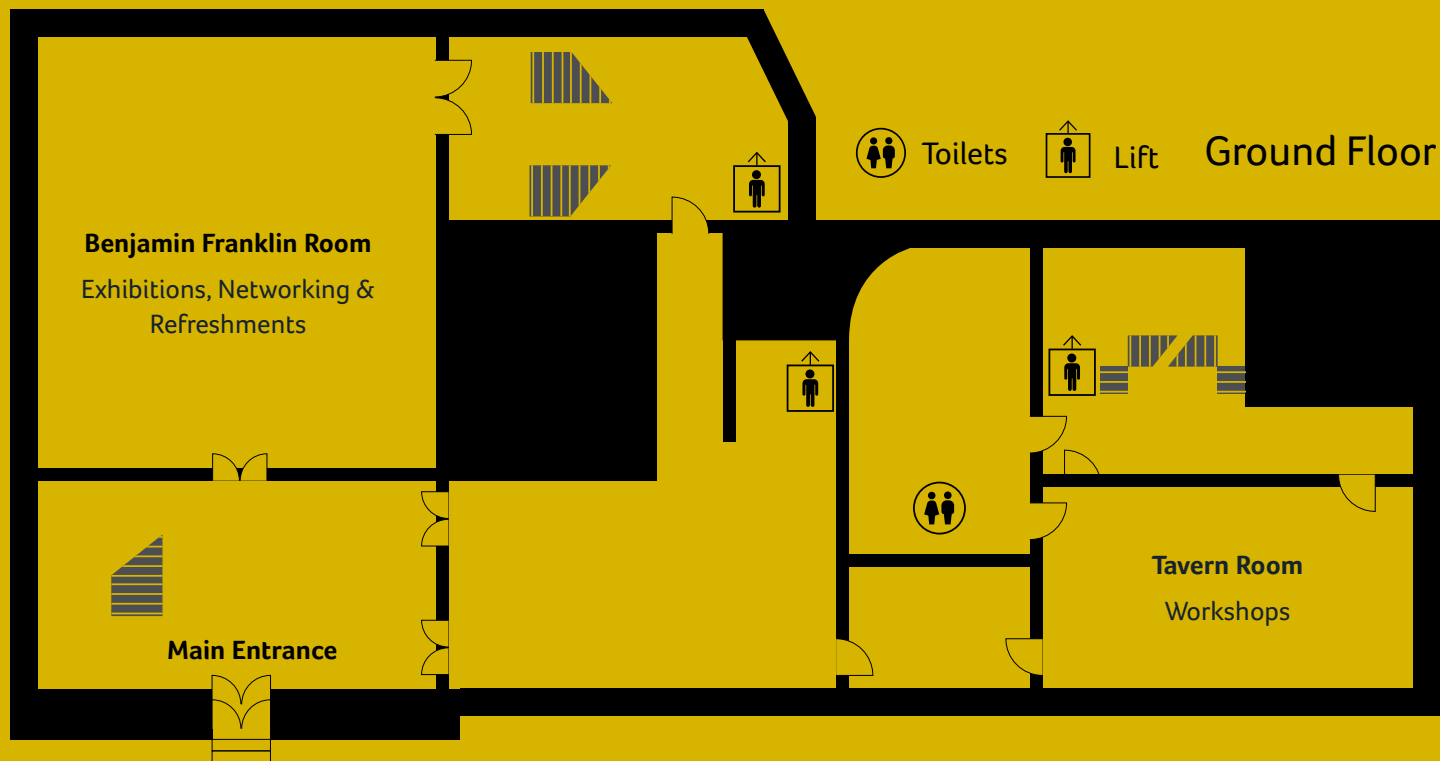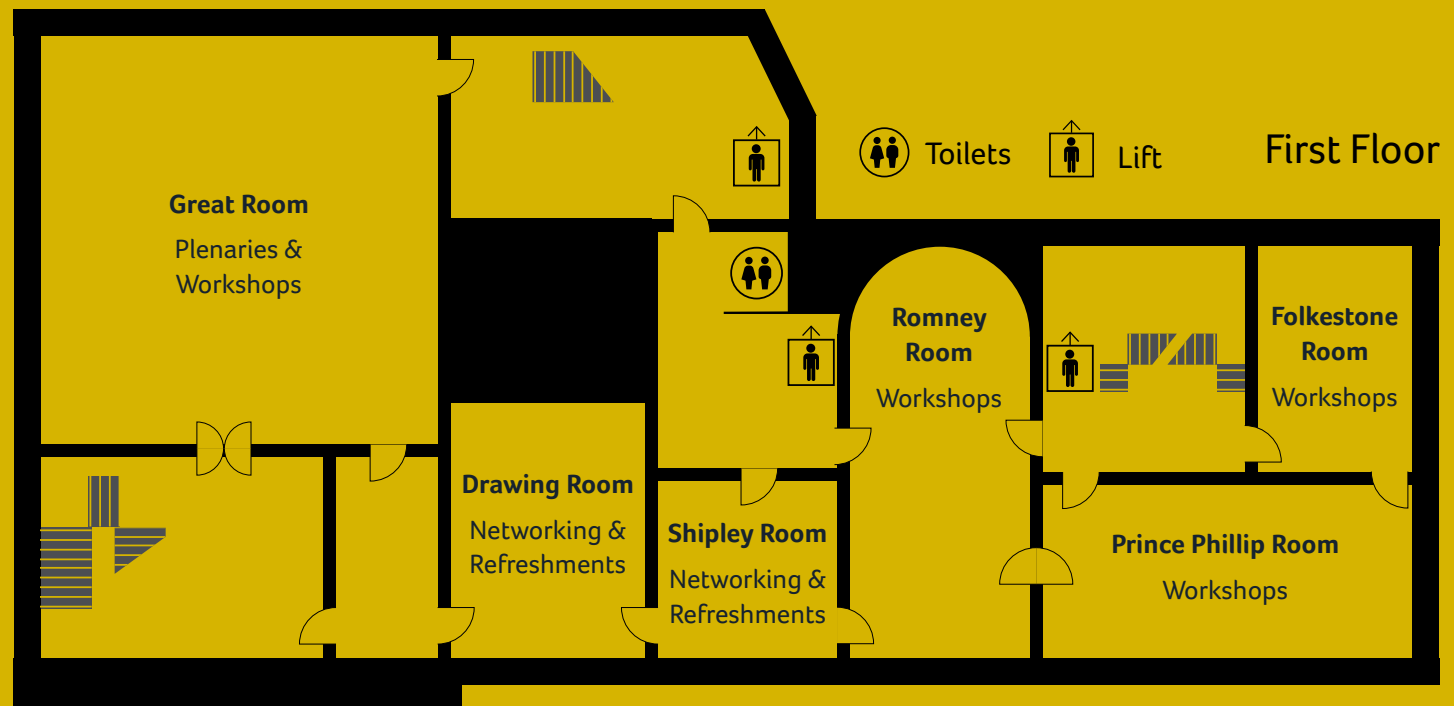
Copyright is a contested policy area where independent and credible research of the highest quality is vital. The 2011 Hargreaves Review recommended that 'Government should ensure the IP system is driven as far as possible by objective evidence. Policy should balance measurable economic objectives against social goals and potential benefits for rights holders against impacts on consumers and other interests. These concerns will be of particular importance in assessing future claims to extend rights or in determining desirable limits to rights.'

CREATe has responded to this demand, and has become an authoritative and influential voice in the policy world. It has produced empirically rich research, setting agendas for debate, and responding to consultations. CREATe's research has influenced the implementation of the Hargreaves Review, and plays a very visible part in policy developments in the EU, and in other international fora.

The CREATe Festival, taking place in the venerable surroundings of the Royal Society of Arts, part of London Technology Week, exemplifies CREATe's imaginative perspective, taking the long view. I wish you, creators, technologists, policy makers and academics a fruitful dialogue. May the day be the beginning of new partnerships.

PRO GRA MME

Great Room
Plenaries & Workshops

Toilets Lift First Floor

Drawing Room
Networking & Refreshments

Shipley Room
Networking & Refreshments

Romney Room
Workshops

Folkestone Room
Workshops

Prince Phillip Room
Workshops

Toilets Lift Ground Floor

Benjamin Franklin Room
Exhibitions, Networking & Refreshments

Main Entrance

Tavern Room
Workshops

CREATe Festival Programme

Royal Society of Arts, London, 24 June 2016

▸ **Exhibitions**

▸ **Plenaries**

▸ **Workshops**

Timetable

24 June 2016

Benjamin Franklin Room

All Day	Exhibitions	
	Going for Gold Dinusha Mendis, Nikoloas Maniatis	**Copyright & Cultural Memory - The GLAM Sector** Ronan Deazley, Andrea Wallace, Megan Rae Blakely, Victoria Stobo, Kerry Patterson
	CopyrightUser.org Bartolomeo Meletti , Dinusha Mendis, Kris Erickson	**Artcodes & My Social mApp** Dominic Price and Derek McAuley
	IP Watchr & OMeBa Jesús Rodríguez Pérez, Peter Bennett	**MSc@CREATe** Sukhpreet Singh & MSc@CREATe Tutors
	CREATe Tartan Display Megan Rae Blakely	

09:30 - 10:00	Arrival and seating. Tea and coffee available through the day.

Great Room

10:00 - 10:10	**Official Opening** Mark Llewellyn / Director of Research, AHRC

10:10 - 11:00	**The Future of Copyright** Martin Kretschmer (Introduction & Festival Chair), Keynote by Julia Reda MEP, Pirate Party/Greens, Lionel Bently	Launch of CREATe Tartan

	Great Room	Prince Philip Room	Romney Room	Tavern Room	Folkestone Room
11:10 - 11:50	**Saving news with copyright?** Richard Danbury (Chair), James Mackenzie, Andrew J Hughes, Eleonora Rosati, John Halton	**CREATe Litigation Stream** Georg von Graevenitz (Chair), Sheona Burrow, Marcella Favale, Jesús Rodríguez Pérez, Leslie Lansman	**Copyright and Art Forgery: The Painting that Challenged the Law** Elena Cooper *11:10- 11:30 repeated 11:30 to 11:50*	**Technology for creative practices: My Social mApp & Artcodes** Dominic Price and Derek McAuley	**Behavioural Experiment** Piers Fleming, Sven Fischer, Melanie Parravano, Daniel Zizzo *Please note this workshop starts at 11:05*

Great Room

12:00 - 12:50	**Business Models** Charlotte Waelde (Chair), Robin Williams, Janis Jefferies, Richard Paterson, Jeremy Silver, Charles Baden-Fuller

13:00 - 14:00	**Lunch & Networking**

Great Room

14:00 - 15:00	**How do online intermediaries control the way we speak, create and live online?** Lilian Edwards (Chair), Brianna Schofield, Jim Killock, Kris Erickson, Edina Harbinja	CREATe Hackathon Presentation

	Great Room	Prince Philip Room	Romney Room	Tavern Room	Folkestone Room
15:10 - 15:50	**Voices of CREATe** Philip Schlesinger (Chair), Ealasaid Munro, Christian v Borries, Kenny Barr, Anna Derrig, Liz Dowthwaite, John Street	**IP Infrastuctures, open or closed?** Gian Marco Campagnolo, Shen Xiaobai, Robin Williams, Morten Hviid, Sofia Sanchez, Sabine Jacques, Michael Collins	**Copyright Education & Awareness** Ruth Soetendorp, Nic Fearon-Low, Andrew Yeates	**Youtubers, streamers and online video creators meetup** Kris Erickson (Chair), Bartolomeo Meletti, Angela Esposito	**Behavioural Experiment** Piers Fleming, Sven Fischer, Melanie Parravano, Daniel Zizzo *Please note this workshop starts at 15:05*

15:50 - 16:10	**Movement between sessions**

	Great Room	Prince Philip Room	Romney Room		Folkestone Room
16:10 - 16:50	**RoboCop(y) - enforcing copyright in a world of computer co-creators** Burkhard Schafer and Simon Colton	**Fashion IP** Angela McRobbie (Chair), Tania Phipps-Rufus, Teija Eilola	**Orphan works & Right clearance: Endow project** Marcella Favale (Chair), Maurizio Borghi, Annabelle Shaw, Aura Bertoni		**Behavioural Experiment** Piers Fleming, Sven Fischer, Melanie Parravano, Daniel Zizzo *Please note this workshop starts at 16:05*

Great Room

17:00 - 18:00	**Digital Futures** Keynote by John Kay, visiting professor of economics LSE, Philip Schlesinger (Chair), Morten Hviid, Joost Poort

18:00 - 18:10	**Closing Note** Becky Hogge / Author 'Barefoot into Cyberspace'

@copyrightcentre | #createfest16   festival.create.ac.uk

Exhibitions →

24 June 2016

Going for Gold

Demonstration: 3D scanning & 3D printing of jewellery

Dinusha Mendis / Bournemouth University, Nikoloas Maniatis / Museotechniki Ltd

🕐 *Benjamin Franklin Room, All Day*

3D scanning, 3D printing and mass customisation of ancient and modern jewellery raise a number of intellectual property issues. With a particular focus on copyright, design and licensing, CREATe associate Dinusha Mendis and Nikoloas Maniatis will demonstrate the scanning of museum artefacts and the manufacture of printed jewellery.
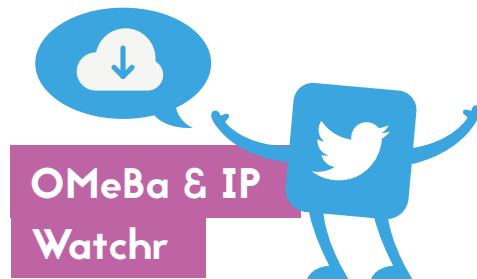
OMeBa & IP Watchr

Demo of copyright infringement data tools

Jesús Rodríguez Pérez, Peter Bennett / University of Glasgow

🕐 *Benjamin Franklin Room, All Day*

Come and see a demonstration of OMeBa and IP Watchr, two analytical and visualisation-based software programs made by CREATe's data developer Jesús Rodríguez Pérez. OMeBa (Online Media Behaviour analytics) is a user-friendly tool, which allows for investigation of the Ofcom/IPO survey data on online access and consumption behaviour in the UK. IP Watchr is a real-time social media copyright infringement

Copyright & Cultural Memory

Pop Up exhibition & presentations

Ronan Deazley / Queen's University Belfast; Megan Rae Blakely, Kerry Patterson, Victoria Stobo, Andrea Wallace / University of Glasgow

🕐 *Benjamin Franklin Room, All Day*

Exploring how intellectual property impacts the preservation, access and use of our shared cultural heritage has been a research priority for CREATe. Ronan Deazley, Megan Blakely, Kerry Patterson, Victoria Stobo, and Andrea Wallace address the challenges of digitisation, intangible cultural heritage, risk-based models of copyright compliance for archive collections, and surrogate intellectual property rights. Rolling presentations of their research will be on show, alongside a display of works from Display at Your Own Risk, a unique, open source exhibition project.

➜ displayatyourownrisk.org

MSc@CREATe

Come and meet the MSc@CREATe team!

Sukhpreet Singh & MSc@CREATe Tutors

🕐 *Benjamin Franklin Room, All Day*

There will be an MSc@CREATe stand through the day where you can drop in and meet the tutors. The MSc in IP, Innovation and the Creative Economy will also host an open house breakfast from 0830-0930, prior to The CREATe Festival.

My Social mApp & Artcodes

Demonstration of tech tools to assist creative businesses

Dominic Price and Derek McAuley / University of Nottingham

🕐 *Benjamin Franklin Room, All Day*

Social media platforms are an increasingly important tool for creative individuals and small businesses. My Social mApp is a free, open source tool to help with analytics of Twitter usage, tracking interactions and presenting them in a clear visualisation. Artcodes provide the functionality of QR codes but with a twist; instead of purely functional square graphic, Artcodes can also be beautiful. Come along to find out more about both free tools and learn how to design your own Artcodes.

CopyrightUser.org

Find out more & ask questions

Bartolomeo Meletti / CopyrightUser.org, Dinusha Mendis / Bournemouth University, Kris Erickson / University of Glasgow

🕐 *Benjamin Franklin Room, All Day*

CopyrightUser.org is an independent online resource designed to make UK copyright law accessible to everyone. The website has become a point of reference for copyright guidance within the creative industries, cultural heritage organisations, and the education sector. Meet the team behind CopyrightUser.org, and find out the exciting future plans for the project, or ask some of your own copyright questions.


CREATe Hackathon Presentation

Kris Erickson, Martin Kretschmer, Jesús Rodríguez Pérez / University of Glasgow

🕐 *Part of Plenary, The Great Room, 14:00 - 15:00*

A CREATe hackathon – an intensive software development session where teams competed to produce innovative mining and data visualization with an aim to provide evidence needed to push forward changes to copyright law – was organised on 13th and 14th May 2016. This session presents a short video showcasing the format and the winners' pitches.
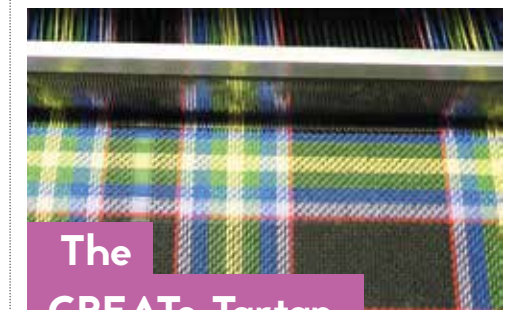
The CREATe Tartan

Display & launch

Megan Rae Blakely / University of Glasgow

🕐 *Part of Plenary, The Great Room, 10:10 - 11:00*

CREATe's own tartan will be officially launched at the Festival. Come and find out about the research behind the tartan and the process of its creation by CREATe researchers. You will also be able to see scarves made from the tartan and order one for yourself.

Plen -aries

The Future of Copyright

Keynote by Julia Reda MEP

Keynote and Policy debate addressing copyright reform, particularly in the context of the UK's uncertain role in the European Union; The Copyright Evidence Wiki web resource will be introduced.

Martin Kretschmer / University of Glasgow (Introduction & Festival Chair), Keynote by Julia Reda / European Parliament copyright rapporteur, Pirate Party/Greens; Response by Lionel Bently / University of Cambridge

Business Models

A panel presenting a range of CREATe projects investigating changing business models, including digital publishing, independent film/TV producers, and blockchain technology in music.

Charlotte Waelde / Coventry University & IPO Advisory Group (Chair), Robin Williams / University of Edinburgh, Janis Jefferies / Goldsmiths University of London, Richard Paterson / BFI, Jeremy Silver / Digital Catapult, Response by Charles Baden-Fuller / Cass Business School

The concept of Business Model has achieved wide currency in business and policy discourse. Every firm has to have one - particularly in the new economy. However there is little consensus in organisation studies and economics about how to define a business model. Indeed the concept conflates multiple contradictory elements. Is it a representation of external business practice or a guide for business practice. Does it describe the strategy of a firm for valorising certain resources, its infrastructure for delivering services or the insertion of a firm into a broader environment?
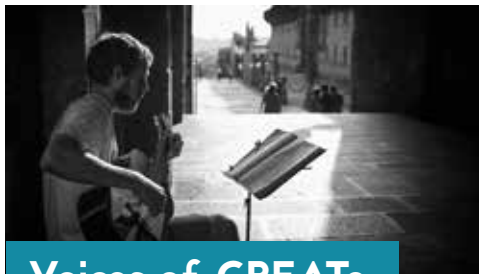
In the digital economy – especially the creative industries – we see a pattern of continued and arguably accelerating change in services, markets, technologies. The 'dominant' solutions of a few years ago are called into question by subsequent developments. Individual players confront profound uncertainties about the surrounding players in the ecosystem – and especially about the responses of 'customers'.

This turbulent context presents difficulties in achieving the kinds of calculation that might be presupposed in the idea of designing business model for the new economy, not least in terms of the lack of reliable information from which to extrapolate. How can researchers engage with these dynamic settings?

Role of Intermediaries

How do online intermediaries control the way we speak, create and live online?

Lilian Edwards / Strathclyde University (Chair), Brianna Schofield / UC Berkeley School of Law, Jim Killock / Open Rights Group, Kris Erickson / University of Glasgow, Edina Harbinja / Strathclyde University

Online intermediaries, including household names like Google, Facebook, Amazon and Twitter play an increasingly important role in in our lives. In this panel we discuss CREATe work interrogating how intermediaries control what we see and express online, police copyright infringement and determine our rights online. What is the impact of intermediary control on human rights? How do intermediaries regulate speech and cultural production in response to human and automated takedown requests? Should social media sites own the work we create via their platforms and who gets these works when the user dies? These questions and other issues, including take down of parody on You Tube and web blocking orders, will be addressed.

Digital Futures

Panel discussion following John Kay's keynote "Rent seeking in a digital economy".

John Kay / FT columnist, visiting professor of economics LSE (Keynote), Philip Schlesinger/ University of Glasgow (Chair), Morten Hviid / University of East Anglia, Joost Poort / University of Amsterdam

Media industries consist, and have always consisted, of three main elements: the creative activity, the publishing activity, and the activity of distribution and dissemination. Activities which have always involved distinct skills. Digitisation reduces, by orders of magnitude, the costs of dissemination. In a technologically related, but distinct development, superficial crowd-based peer review has developed as an alternative mechanism of assessment and selection to expert judgment. These factors change fundamentally the role of publisher as well as the channels of distribution. Potentially they represent a shift of economic power in favour of creators of content. However media incumbents have powerful incentives to use both existing legislation and their lobbying capabilities to resist changes which marginalise their existing business models. And the evolution of new business models may be subject to market power arising from pervasive network effects.

Workshops ➡️

Voices of CREATe

Philip Schlesinger / University of Glasgow (Chair), Ealasaid Munro / University of Glasgow, Christian v Borries / Berlin based Film maker & Musician, Kenny Barr / University of Glasgow, Anna Derrig / Goldsmiths, Liz Dowthwaite / University of Nottingham, John Street / University of East Anglia

In the cultural, creative and digital sectors, self-employed and freelance workers account for a large proportion of the labour force. 'Voices' explores the work of individual creators in the creative industries, looking at how they understand copyright and IP, and how technology has changed the way that they work.

Copyright and Art Forgery

The painting that challenged the law

Elena Cooper / University of Glasgow

The Royal Society of Arts holds a significant place in the history of artistic copyright in the nineteenth century. Elena Cooper unravels this story, drawing on research undertaken at the RSA archives to be published in her forthcoming book: 'Art and Modern Copyright: The Contested Image', (CUP 2017). She also links this to CREATe research on the place of criminal law in copyright history, focussing on a case heard by the Old Bailey in 1857 about whether the crime of forgery included the application of a false signature to a painting. This session will run twice within the 40 minute time slot, and attendees will be able to see a nineteenth century forgery of the painting at the centre of the case.

Saving News with Copyright?

Richard Danbury / University of Cambridge (Chair), James Mackenzie / Cutbot.net, Andrew J Hughes / NLA Media Access, Eleonora Rosati / University of Southampton, John Halton / FT

This workshop will be addressing the idea that there should be an amendment of European copyright and related law designed to benefit news, and possibly other content publishers. This is linked to the EU Commission's consultation published on the 23rd March 2016. Publishers have set out the reasons why they feel such a development is appropriate. Nonetheless, the proposals are controversial, evidenced not least by the fact that 80 MEPs wrote to the Commission in December 2015 expressing concern about the proposal that an ancillary right for the benefit of press publishers should be brought into EU law.

RoboCop(y)

**Enforcing copyright in a world of computer co-creators**

Burkhard Schafer / University of Edinburgh and Simon Colton / Goldsmiths University of London

Autonomous computer systems are now sharing our creative spaces as consumers and producers of art. In 2016 we saw the performance of the first computer generated musical in London. Increasingly, computer generated paintings are also being included in art exhibitions. Led by Burkhard Schafer, this workshop examines how copyright will function in a world where humans lose their status as the sole creators. How will we teach the machines that we develop to respect the rights of others?

Fashion IP

Angela McRobbie / Goldsmiths University of London (Chair), Tania Phipps-Rufus / Bristol University, Teija Eilola / London based Fashion Designer

Intellectual property holds a complex place in the fashion industry. Angela McRobbie presents key findings from her research into fashion start-up activities in an urban context, in London, Berlin and Milan, addressing IP in the everyday practices of fashion designers. The session will also include an 'In Conversation' with London based designer Teija Eilola.
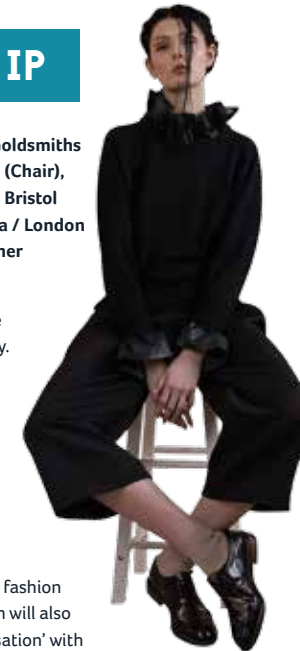
YouTubers and other Online Video Creators Meet-Up

Kris Erickson / University of Glasgow (Chair), Bartolomeo Meletti / Copyright User, Angela Esposito / University of Glasgow, Dinusha Mendis / Bournemouth University, Marco Bagni / Lost Conversation, Mary Wild / Film Researcher

Come and meet other UK-based online video creators for an informal roundtable chat. The theme of this meetup is copyright and creativity in online video. Recent developments on YouTube and other platforms have raised questions and worries: How can small creators protect themselves against larger companies that take and embed content? What are some good ways to obtain licence-free music? Is it possible to parody clips from broadcast TV or film? What is the most effective way of dealing with an erroneous takedown request? The roundtable is an opportunity for UK video makers to meet face-to-face and talk about issues of importance in a growing industry. Come and get to know other online video entrepreneurs, share stories, and learn new strategies for dealing with copyright issues.

Copyright Education & Awareness

Ruth Soetendorp / IPAN, Nic Fearon-Low / IPO, Andrew Yeates / ERA

Workshop to explore current initiatives in copyright education and awareness including from the IPO/CREATe supported Copyright Education & Awareness (CEA) symposium on 24 May 2016; IPAN & NUS research into perception and practice of HEI IP Policies (forthcoming 2016), and IPO IP learning resources.
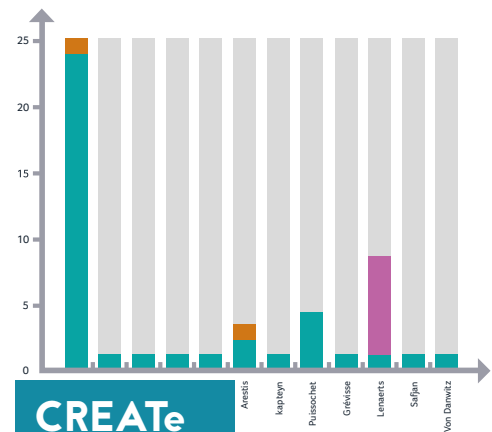
CREATe Litigation Stream

Georg von Graevenitz / Queen Mary University of London (Chair), Sheona Burrow / University of Glasgow, Marcella Favale / Bournemouth University, Jesus Rodriguez Perez / University of Glasgow, Leslie Lansman/ Queen Mary University of London

CREATe researchers have focused significant efforts to further an understanding of how the courts shape the effects of copyright protection. The session will provide an overview of this work ranging from analysis of decisions by the Court of Justice of the European Union to the IPEC Small Claims Track. At the session we will launch the Litigation Data Portal, a website providing access to summary data of IPEC and High Court Judgements and Cases that are copyright related. This is a free resource for the use of practitioners and academics interested in analysis of these cases.

Orphan works & Rights clearance: EnDOW project

Marcella Favale/ Bournemouth University (Chair), Maurizio Borghi/ Bournemouth University, Annabelle Shaw/ British Film Institute, Aura Bertoni/ Bocconi University

EnDOW (Enhancing access to 20th Century cultural heritage through Distributed Orphan Works clearance)

is a European-funded project led by the CIPPM/ Bournemouth University, in partnership with CREATe and leading cultural institutions across Europe. Its aim is to unlock the potential for mass digitisation and online publication of European cultural heritage, by helping museums, archives and libraries to digitize and share their collections with the public. The workshop will focus on the orphan works legislation, addressing the main hurdles that cultural institution have to face when carrying out a diligent search of rightholders. The workshop will engage the public in practical "diligent search exercises", the outcomes of which will be subject to panel discussion.

Behavioural Experiment

Use your smartphone or tablet to get hands-on insights into what affects consumption of copyrighted media such as film and music.

Piers Fleming / UEA, Sven Fischer, Melanie Parravano, Daniel Zizzo / Newcastle University
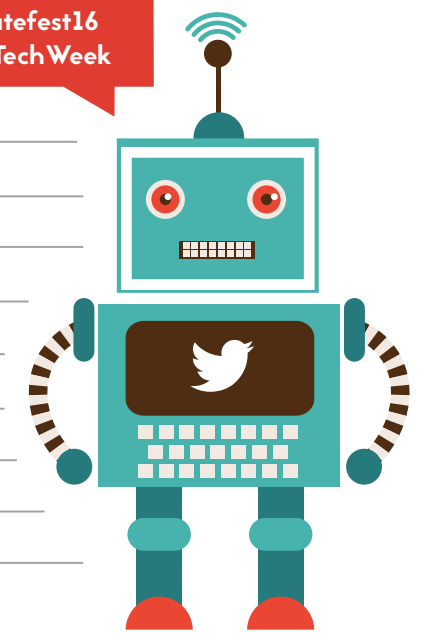
Experience how decision-making experiments work, and learn how your own decisions and beliefs about how other people would behave, matches the research. The session is based on research by Piers Fleming, Daniel Zizzo, Melanie Parravano, and Sven Fischer.

Notes

Don't Forget to tweet us!
#createfest16
#LDNTechWeek

CREATe LEGACY

CREATe's Director **Martin Kretschmer** reflects: Do we need a research centre at the intersection of law, technology and social science?

Research matters. And it matters most where there are fault lines in society. Fault lines may appear unbridgeable, and (to stay in the metaphor) they are places where quakes and social separation can occur.

CREATe's core concern is the future of creative production, and in particular the relationship between law and digital innovation. What is the role of copyright, among alternative modes of identification, appropriation and finance?

As we come to the end of the first phase of the CREATe project, it is becoming clear that the creative economy needs to be understood in the context of the radical challenge to industrial structures posed by the digital revolution: creative industries are becoming a subset of data intensive industries. All online behaviour is potentially observable, and whoever controls this data infrastructure will have a stake in the creative economy that is very different from the role of earlier cultural intermediaries. This change particularly affects firms with a long tradition of exploiting back catalogues of rights but also opens opportunities for new digital entrants and for cultural memory organisations (such as archives and museums).

Findings for creative economy and policy makers:

- CREATe's research demonstrates that sectors of the creative economy face very different challenges. 'Born digital' firms behave very differently than the owners of back catalogues that are being challenged by new 'platform' intermediaries. The labour market for some primary creators has become more difficult, for example for journalists and photographers, but commercial success has always been the exception. There are continuities in the dynamics of cultural production and consumption, and the supply of creative content overall has increased.

- There is considerable tension between the emerging empirical evidence and entrenched beliefs. Even perfectly enforced copyright law is not a safeguard against technological change, and it can be a serious obstacle to innovation.

Findings for academe:

- Engagement with key stakeholders is not a burden but an opportunity (as long as the independence of academic enquiry is acknowl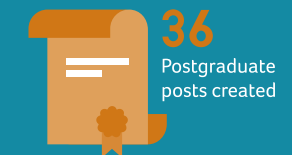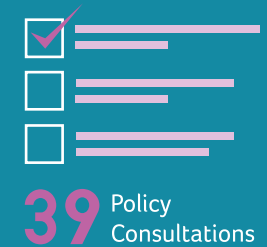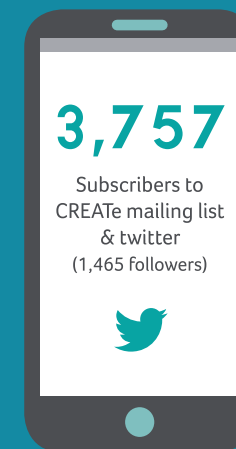edged and protected). CREATe takes great care to expose our methods and research designs to scrutiny by academic peers, by industry and policy users of research, and to make copyright law and empirical evidence accessible to the wider society.

- What skills are needed to investigate the digital creative economy? The capacity to conduct innovative, multi-disciplinary research remains fragile. Embedding of skills needs a sustained effort and career opportunities, for example, for microeconomists focussing on innovation and the details of legal intervention; data developers for creative industries and social media analysis; lawyers at ease with empirical methods such as interviewing, ethnography and computer assisted content analysis.

In my view, our main achievements to date include –

- CREATe has become a key player in a change of policy perspective. The role of copyright law in promoting creativity and innovation is now seen as open to empirical investigation, and CREATe has supplied credible and widely cited evidence, becoming recognised as a global leader in the field within a very short time. The CREATe brand is distinct and internationally acknowledged. For example the Annual Conference of the European Policy for Intellectual Property (EPIP) Association meeting hosted at the University of Glasgow in 2015 focussed for the first time on copyright, and received a wide echo.

- Our digital resources define a new field of enquiry, and have been used by hundreds of thousands of people from 161 countries. We developed and co-produced CopyrightEvidence.org, CopyrightUser.org (with Bournemouth University & Queen's University Belfast) and CopyrightHistory.org (with University of Cambridge).

- Peer production of public resources can create an open knowledge environment that is particularly suitable for interdisciplinary fields. CREATe has demonstrated that it is possible to involve users in research design and the development of open access platforms. The exhibitions and data explorer tools available during the CREATe Festival give a flavour of these efforts.

Copyright law does not cause famine or war, but the laws that regulate the infrastructure of the digital world affect every aspect of our lives, our cultural, social and economic development. The overlap of copyright law with data-driven policy interventions needs to be taken seriously. We are only at the beginning of an epochal change.

62 Peer reviewed academic publications

46 CREATe working papers published

196 Presentations at conferences and workshops

441 Industry Engagements

SIXTEEN PhDs Trained

3,757 Subscribers to CREATe mailing list & twitter (1,465 followers)

39 Policy Consultations

36 Postgraduate posts created

£1 MILLION+
New research funding generated
(exactly, £1,006,000)

211,578
Unique visitors of CREATe's web resources (incl. CopyrightUser.org)

Past ⟶ Events

Symposium 'What Constitutes Evidence for Copyright Policy?'

ESRC Festival of Social Science, Bournemouth / November 2012

CREATe's first event, co-produced with the Centre for IP Policy and Management at Bournemouth University as part of the ESRC Festival of Social Science, investigated 'evidence-based' copyright reform. An innovative digital resource was developed that became the template for future CREATe events, containing transcripts and short videos of the discussions, an introductory essay, a bibliography, and a downloadable publication of the full proceedings (published as CREATe Working Paper No. 1). Organised by Martin Kretschmer and Ruth Towse, the Symposium took the form of four panels with specific professional and disciplinary groups: policy-makers, stakeholders, social scientists and law professors with an open session to enable wider audience participation. Each panel speaker gave a short opening statement, setting out what constitutes evidence from their disciplinary perspective, using UK Intellectual Property Office (UK IPO) guidance on standards of evidence ('clear, verifiable and able to be peer-reviewed') as a starting point for their contribution.

→ **copyrightevidence.org/create/esrc-evidence-symposium/**

Archives & Copyright Symposium

The Wellcome Trust, London / September 2013

The symposium was set against the background of the legislative changes affecting copyright exceptions for libraries and archives (which subsequently took effect in 2014), and as the UK IPO was consulting on ways to tackle the problem of 'orphan works'. The event was supported by the Wellcome Trust, the Archives & Records Association UK and CREATe.

Co-organised by Ronan Deazley (Queen's University Belfast) and Victoria Stobo (University of Glasgow), the symposium consisted of four panels followed by an open discussion. The first panel introduced the Wellcome Library Digitisation Programme and its pilot project, Codebreakers: Makers of Modern Genetics. The second panel discussed the results from a six-month study of the Codebreakers initiative, the results of which are available in a CREATe Working Paper (bit.ly/1wdfBL1) The focus of the third panel shifted to the current proposals for copyright reform within the UK as they affect the archive sector. Nick Munn and Robin Stout of the UK IPO addressed the proposed changes to the Copyright Designs and Patents Act 1988, with a response from Tim Padfield. In the final panel, the opportunity and scope for mass digitising archive material was considered from the perspective of US copyright law. A resource, featuring videos and other materials from the day, including an interactive transcript of the event, is available on:

→ **create.ac.uk/archivesandcopyright**

Launch Conference of CREATe

Glasgow / January 2013

CREATe formally launched on January 31st 2013 with a public event at the Hunterian Museum, University of Glasgow, attended by over 200 delegates. Speakers included UK Minister Jo Swinson from the Department for Business, Innovation & Skills (BIS), Scottish Cabinet Secretary for Education Michael Russell, social entrepreneur and publisher Frances Pinter, and the Chief Executive of the Arts & Humanities Research Council Rick Rylance. This was followed by a one-day working conference on February 1st 2013 for academics and stakeholders at The Lighthouse, Scotland's Centre for Design and Architecture in Glasgow. The conference examined case studies of transition from analogue to digital (such as music and publishing) in contrast with cases in 'born digital' sectors (such as games or social media)

→ **create.ac.uk/context**

Copyright and the Regulation of Orphan works

Law Society, London / July 2013

This was the launch of a report commissioned by the UK IPO from CREATe academics and Bournemouth University. The event, organized jointly by the Technology Strategy Board (TSB) and CREATe, generated considerable debate. Speakers included The Hon. Mr. Justice Arnold; Richard Boulderstone of the British Library; Matthew Cope of the UK IPO; David Hoffman of Editorial Photographers UK; Derek McAuley of the University of Nottingham; Ros Lynch of the Copyright Hub UK and Jeremy Silver, representing the Bridgeman Art Library. The discussion covered the results of the empirical study; the use of voluntary rights registries; the role of technology; and the role of the UK IPO to protect image creators. In order to avoid the creation of new orphan works, solutions such as the use of technology for metadata propagation were considered. All panellists recognised the complexity of the orphan works problem, particularly when attempting to clear historical rights.

→ **create.ac.uk/orphans8images**

Open Access Publishing Stakeholders Event

University of Nottingham / February 2014

Organised by Giancarlo Frosio and Estelle Derclaye, at the University of Nottingham's School of Law, this workshop gathered stakeholders in the field of open access academic publishing. It presented the research gaps identified in Open Access Publishing: A Literature Review, eliciting reactions, comments, criticisms, in addition to finding new research questions and areas to explore both theoretically and empirically. Presentations were given by a range of academics and industry representatives including Tony Clayton (UK IPO), Ruth Towse (Bournemouth University), Giancarlo Frosio (Stanford University), John Willinsky (Stanford University), Jerome Reichman (Duke University), David Sweeney (HEFCE), Alma Swan (SPARC Europe), Eva Hoogland (Science Europe), Frances Pinter (Knowledge Unlatched) and Stevan Harnad (University of Southampton). The event identified fruitful areas for learning, reflection and additional research gaps.

→ **bit.ly/1txl4Q6**

Unlawful File Sharing Report Launch

Stationers' Hall, London / April 2014

A report on the human motivations underpinning unlawful filesharing was launched to a large gathering of creative industry representatives, policy makers, creators and academics. Using systematic reviewing techniques from the medical sciences, CREATe's team of behavioural economists and psychologists from the University of East Anglia (Steven Watson, Daniel John Zizzo and Piers Fleming) undertook a scoping review of all evidence published between 2003-2013 into the welfare implications and determinants of unlawful file sharing. Studies dealing with music, film, television, video games, software and books were methodically searched; non-academic literature was sought from key stakeholders and research centres. A total of 54,441 sources were initially found with a wide search, and this was narrowed down to 206 articles which examined human behavior, intentions or attitudes. Whether unlawful file sharing confers a net societal cost or benefit to welfare remains unclear based on the available evidence.

→ bit.ly/1xV4gAz

CREATe All Hands Conference

House for An Art Lover, Glasgow / September 2014

Principally aimed at CREATe's seven Universities consortium members and associated fellows, the event was an opportunity to take stock of our collective efforts, map linkages between the multidisciplinary projects, reflect on progress, and look to the future. First, talks by Dominic Young (Copyright Hub), Kieron O'Hara (University of Southampton) and Joe Karaganis (American Assembly, Columbia University) identified areas where cutting-edge empirical research from CREATe was beginning to address pressing economic and social questions. Secondly, presentations by Jeanette Hofmann (Social Science Research Center, Berlin) and Philip Schlesinger (University of Glasgow) highlighted the way in which CREATe was breaking new ground in terms of our relationship with society, industry and academia. The closing session underlined two areas where CREATe activities were beginning have an impact.

→ bit.ly/1u9i1l6

Sectoral Working Group

Videos Games Workshop/ House for an Art Lover Glasgow / September 2014

Organized by Alison Brimelow, Daithi Mac Sithigh & Sukhpreet Singh, this sectoral working group was an industry focussed brainstorming session where games industry representatives from across UK answered key questions of interest to the sector concerning copyright & regulatory policy. The working group also shared copyright & regulation policy lessons from games that can inform other creative industries sectors.

Valuing the Public Domain

A Workshop for UK Creative Firms/ The Digital Catapult, London/ December 2014

'Valuing the Public Domain' was a 12-month research and knowledge exchange project carried out by Kris Erickson (University of Glasgow), Paul Heald (University of Illinois), Fabian Homberg (Bournemouth University), Martin Kretschmer (University of Glasgow) and Dinusha Mendis (Bournemouth University). The project 1) mapped the size of the public domain and frequency of its use; 2) analysed the role of public domain works in value creation for UK business and society; and 3) assisted UK media companies to identify business models that generate value from materials in the public domain. The study included analysis of over 2,500 media projects on the Kickstarter crowdfunding platform, usage statistics of photographs in over 1,700 biographical pages on the Wikipedia platform, and interviews with UK media businesses and independent creators.

→ bit.ly/1txkTUO
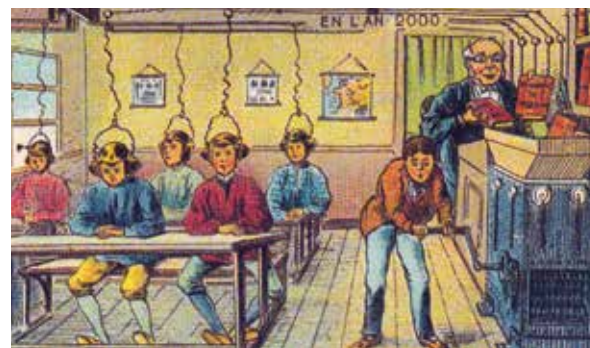
The Economics of Creativity and Competition

New Markets, New Challenges. University of East Anglia, Norwich / February 2015

This capacity building event, hosted by the Centre for Competition Policy at the University of East Anglia, explored the role of copyright and new business models in the creative industries, from an economics point of view. This two-day event was a forum to debate the relationship between competition and creativity; to consider how experimental economics can increase our understanding of consumers and producers and to examine the particular issues and problems that face new markets in the digital creative economy. The event allowed legal researchers to engage with economists, and to see how work in the field can supplement and develop their own research. As part of the event, brief presentations were given by new researchers working on new projects in this area of research. A keynote was given by Joel Waldfogel (University of Minnesota) on Creative Activity and Product 'Quality' in Music, Movies and Books since Napster/ Digitization.

→ bit.ly/1qF9L1J

Copyright History and Policy Symposium

University of Glasgow / March 2015

Copyright history has long been a subject of intense and contested enquiry. Two landmark copyright decisions of the eighteenth century during the so-called Battle of the Booksellers between Scottish and London publishers – Millar v. Taylor (1769) and Donaldson v. Becket (1774) – continue to provoke debate today. Taking Gomez-Arostegui's work in this area as a point of departure, CREATe organised an international symposium on the interplay between copyright history and contemporary copyright policy. What justificatory goals are served by historical investigation? Does the study of copyright history still have any currency within an evidence-based policy context that is increasingly preoccupied with economic impact analysis? Speakers included Hector MacQueen (Edinburgh Law School), Howard Abrams, (University of Detroit Mercy), Lionel Bently, (University of Cambridge), Oren Bracha, (University of Texas), Mark Rose,

(University of California, Santa Barbara), Charlotte Waelde, (University of Exeter). As part of the Symposium, the Dutch section of the Digital Archive: Primary Sources on Copyright (1450-1900) was introduced by Stef van Gompel, (IViR, University of Amsterdam).

→ create.ac.uk/event/copyright-history-and-policy
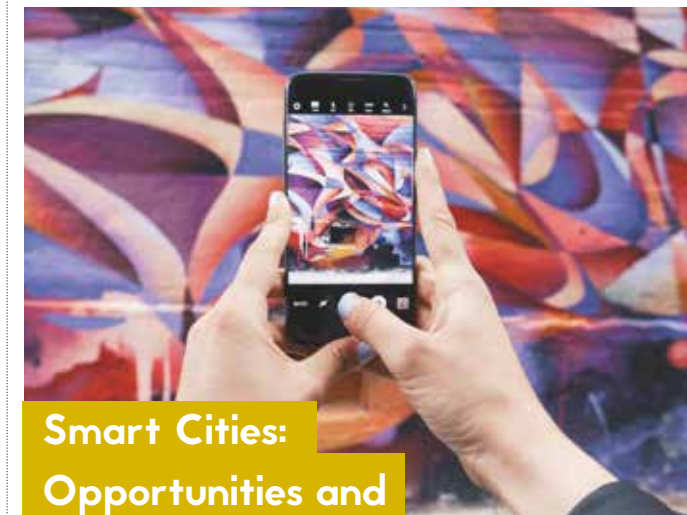
Smart Cities: Opportunities and Regulatory Challenges

University of Strathclyde, Glasgow / 31 March - 1 April 2015

Like many other cities around the world, Glasgow - where the CREATe Centre is based - is part of the new phenomenon of 'smart cities,' with innovative services, applications and delivery platforms created by integrating public and private data sets at a citywide level. The city was awarded £24m in 2012 to run a prototype project based around smart transport, energy, policing and health to demonstrate how ubiquitous computing might enhance societal, economic and environmental well-being.

This conference, chaired by Lilian Edwards, focused on how contemporary urban life is increasingly marked and shaped by technology, and critically assessed what this means for existing societal norms and regulatory structures. While the engineering and architecture worlds are already excited by smart cities, attention from a societal perspective is newer. CREATe is interested in the possibilities of "smart" urban environments for new creative opportunities, including digital walls & graffiti, audience awareness and UGC engagement with sport.

→ bit.ly/1AK4HE2

University of Montreal and CIRANO. US Copyright Royalty Judge David Strickler spoke on Royalty Rate Setting for Sound Recordings by the U.S. Copyright Royalty Board: The Judicial Need for Independent Scholarly Economic Analysis.

→ serci.org

GikII / WZB

Social Science Centre Berlin / September 2015

The annual Gikii – a conference for geek lawyers, techies interested in law or just geeks generally - was held in Berlin in September 2015. CREATe researchers Lilian Edwards, Burkhard Schafer, Derek McAuley, Smita Kheria, Judith Rauhofer and Edina Harbinja were active in presenting and chairing sessions. Following Gikii style, the event included presentations aiming to combine areas hardly imaginable for traditional legal researchers, i.e. science fiction and law, legal implications of popular culture, robots, cyborgs, artificial intelligence, holograms, neuroscience, superheroes and law. Gikii papers are meant to be experimental and fictional while tackling serious legal issues that futuristic technology cause.

Understanding UK Copyright Law

Workshops Series / Digital Catapult / London / 2014-15

Organised by CREATe and the Digital Catapult, the goal of these workshops was to better understand the real-world concerns and questions about copyright faced by the creative and cultural sectors, and develop sector-specific guidance that responds to their needs. In 2014/2015, the first three workshops were aimed at: photographers and illustrators (3rd December 2014); music writers and composers (19th March 2015); archives and libraries (29th September 2015). The involvement of leading copyright experts as well as industry and government representatives provided primary creators, media entrepreneurs and cultural heritage practitioners with an opportunity to discuss and explore how copyright affects their everyday decisions and practice. Photographers and illustrators were particularly concerned over the unauthorised use of their digital images and interested to know about enforcement options, such as the IPEC Small Claims Court. Songwriters and composers wanted to better understand ownership of rights in cases of joint authorship, and the relationship between copyright law and contracts. Archivists, curators and librarians explored the new orphan works legislation in detail, through a series of case studies showing how a range of institutions have used the copyright exception and licensing scheme to digitise and make collections available online.

The Copyright Education Symposium

BPI, London / May 2016

The Symposium was sponsored by CREATe, Authors' Licensing and Collecting Society (ALCS), Copyright Licensing Agency (CLA), Educational Recording Agency (ERA), PRS for Music, the Industry Trust for IP Awareness and supported by the UK IPO. The aim of the symposium was to review the work of industry, academia and government in raising awareness of copyright law, and to explore how evaluation of data collection, research and education initiatives in this area might take shape. Attendees included policymakers, academics, creative industry representatives, independent consultants and information professionals. The event was opened by IP Minister Baroness Neville-Rolfe who suggested a roadmap to adequately assess the challenges and effectiveness of industry and academic interventions in copyright education. The day included presentations of different copyright awareness initiatives, and a series of workshops, which considered evaluation strategies for copyright education, potential collaboration between industry and academia, and future research questions. One of the key takeaways from the event was that education and awareness initiatives should be impartial, independent, authoritative and empowering for users..

→ bit.ly/1VvBvZv

Copyright & Cultural Memory Symposium

The Lighthouse Glasgow / June 2016

How does copyright impact the access to and use of our shared cultural heritage across borders? This essential question unites the work of CREATe's four postgraduate researchers; Megan Rae Blakely, Kerry Patterson, Victoria Stobo and Andrea Wallace who presented findings from their respective projects at the symposium. Their work addresses the challenges and practicalities of digitising unique and distinctive artistic collections, the relevance of risk-based models of copyright compliance when enabling access to archive collections, and surrogate intellectual property rights in the cultural sector. The day included a keynote by Simon Tanner, internationally-renowned expert in digital cultural heritage based at King's College London. The closing panel featured respondents from the UK IPO, the British Library, the Libraries and Archives Copyright Alliance. Kicking off the symposium was a pop-up exhibition that focussed on copies of public domain artefacts (surrogacy) and digital access policies of cultural institutions.

→ bit.ly/1V1uEaX
→ displayatyourownrisk.org

10th Annual Conference of the EPIP Association

The University of Glasgow / September 2015

Delegates interested in the economic, legal and political aspects of intellectual property rights explored the role of IP in the Creative Economy, with a focus on copyright, data and the changing economics of the digital world. Organised in cooperation with the European Commission, the opening keynote was delivered by Ian Hargreaves (Cardiff University, author of Digital Opportunity: A Review of IP and Growth) on Copyright Wars: Frozen Conflict?, with a response from MEP Julia Reda (Greens/EFA, Pirate Party). The conference closed with Pamela Samuelson's keynote (University of California, Berkeley) in which she commended CREATe's leadership of this key policy area and stressed that EPIP 2015 enabled a new evidence led approach towards copyright policy. She added, "I wish there was something like this in the United States."

→ epip2015.org

SERCI Annual Congress

University of Glasgow / September 2015

Organised in conjunction with Richard Watt (University of Canterbury, New Zealand), SERCI was hosted alongside EPIP. SERCI's plenary keynote session on copyright collectives and contracts was chaired by Ruth Towse, who provided an economic theory perspective on contracts and copyright collecting societies. The plenary panel session on compensating creators was chaired by Marcel Boyer of the

Copyright Hackathon ——————

Hackathons are short, intensive software development sessions where teams compete to produce innovative solutions to challenges. CREATe researchers **Kris Erickson** (University of Glasgow) and **Jesús Rodríguez Pérez** (University of Glasgow) organised a 24-hour hackathon in May 2016 in Glasgow. The theme of this hackathon was data mining and visualisation to understand copyright's effects. Copyright law is of intense interest to digital innovators and policy makers, particularly in software development where alternative licenses and innovations have emerged.

The event was open to everybody, and participants included students, data visualisation experts, creators, software developers, web designers, open data advocates and lawyers. Participants formed teams and selected one of the following hackathon challenges: 1) mine and visualise evidence from a corpus of academic studies contained on the Copyright Evidence Wiki; 2) develop understanding about what motivates creativity in online markets; or 3) investigate whether providing legal streaming alternatives might reduce piracy.

The winning team was XPMGLA, consisting of members Maribel Hidalgo-Urbaneja, Elina Koristashevskaya, Irina Preda, Stuart Purcell and Swagatam Sinha. The winners earned the top prize of £1000 for their pitch on visualising the relationship between open licensing and user-led creative production in the market for computer games. The runner-up prize was awarded to Simone Farrer and David Jones for their pitch on improving the accessibility and searchability of the Copyright Evidence Wiki.

➔ **create.ac.uk/hacks**

The CREATe Tartan ——————

Tartan, bound within the history and culture of Scotland, has been documented from the 15th century, made with locally available dyes and worn for both fashion and function in the Highlands. Wearing "Highland dress," including kilts and tartan, was made a criminal offence with the Dress Act of 1746, but following its repeal in 1782, tartan regained popularity in Scotland and abroad. It is now well known to be associated with clans, the Highland games, and heritage. Based on an idea germinated from CREATe researcher **Megan Rae Blakely's** (University of Glasgow) study of intangible cultural heritage, IP, and cultural branding in Celtic-derived cultures, it was only fitting that CREATe, a consortium with 4 Scottish University members, should have an official tartan.

Since a tartan symbolises a group, a family, or even a brand, with communities around the world having created tartans to be worn by their members, the CREATe tartan is based on our academic and professional community, tied together by a shared culture of interdisciplinary research and learning. The CREATe tartan colours were chosen with regard to existing colour psychology symbolising specific aspects: black for CREATe's monochrome logo; red for the UK's partner universities; light purple for creativity and diversity of research themes; dark blue for regulation and law; green for enterprise and inventiveness; and; light yellow for technology and intellect. The CREATe tartan is duly registered with the Scottish Register of Tartans, administered by the National Records of Scotland. The first batch of tartan scarves was woven by Bute Fabrics on the Isle of Bute in the West of Scotland.

➔ **create.ac.uk/tartan**

Opening Access and Widening the Academic Terrain ——

Top 5 Most Downloaded Papers (as of June 2016)

1 Frosio & Derclaye (2014) Open Access Publishing: A Literature Review

2 Watson et al. (2014) Determinants and Welfare Implications of Unlawful File Sharing

3 Stobo et al. (2013) Copyright and Risk: Scoping the Wellcome Digital Library Project

4 Favale et al. (2013) Copyright and the Regulation of Orphan Works

5 Edwards & Harbinja (2013) What Happens to my Facebook Profile When I Die? Legal Issues Around Transmission of Digital Assets on Death

The CREATe Working Paper series is an open access resource designed to rapidly disseminate leading research by CREATe researchers and associated scholars to the wider community. In addition to ensuring that new research becomes immediately available to the public in a rapidly-changing and innovative field of study, the series captures digital outputs which are not traditionally suited to the academic format but which nevertheless serve as anchor points for discussion, debate and advancement of understanding. CREATe researcher **Kris Erickson** (University of Glasgow) gives an insight into the workings of the CREATe working paper series.

When the Working Paper series was conceived in 2012, CREATe anticipated an evolution of academic publishing practice towards open access, transparency and accountability to funders. A commitment to open access publishing is now a requirement for RCUK funded projects as well as those receiving Horizon 2020 funds. In a speech to the European Commission on Open Science and Open Innovation in 2015, Commissioner Carlos Moedas observed that 'every part of the scientific method is becoming an open, collaborative and participative process'. Of course, an important aspect of this transformation is intellectual property, and the working paper series is both a tool for disseminating research about IP and a practical source of new knowledge in itself.

In deciding how papers would be archived and disseminated, the CREATe Centre weighed several options, including hosting them on the project website or using the privately-funded Social Science Research Network SSRN (acquired by Elsevier in May 2016). After careful deliberation, the Centre decided to make papers available directly from the CREATe website, and to archive them on Zenodo, a European Commission funded online repository, run as a collaboration between CERN and OpenAIRE, with the mission to 'preserve and showcase multidisciplinary research results (data and publications)' which are not part of existing institutional repositories.

There are currently 46 papers in the series (as of June 2016), with new additions made constantly throughout the year.

Types of papers published include 1) specially commissioned pieces on topical issues, such as a 2014 piece by Monica Horton on the Aereo case and copyright in the cloud; 2) scoping reviews of relevant literature and methodologies, such as a 2014 paper by Ruth Towse on the purpose of academic literature reviews; 3) digital transcripts of live conferences and workshops, such as proceedings of an ESRC event on the role of evidence in copyright policy published in 2013; and 4) research outputs which may include pre-prints of articles or papers under development by CREATe associated researchers.

The Editorial Board of the CREATe Working Paper series is headed by Philip Schlesinger and consists of a group of 15 researchers who make selection decisions about research to feature in the series and evaluate unsolicited submissions for external review.

→ **create.ac.uk/publications**
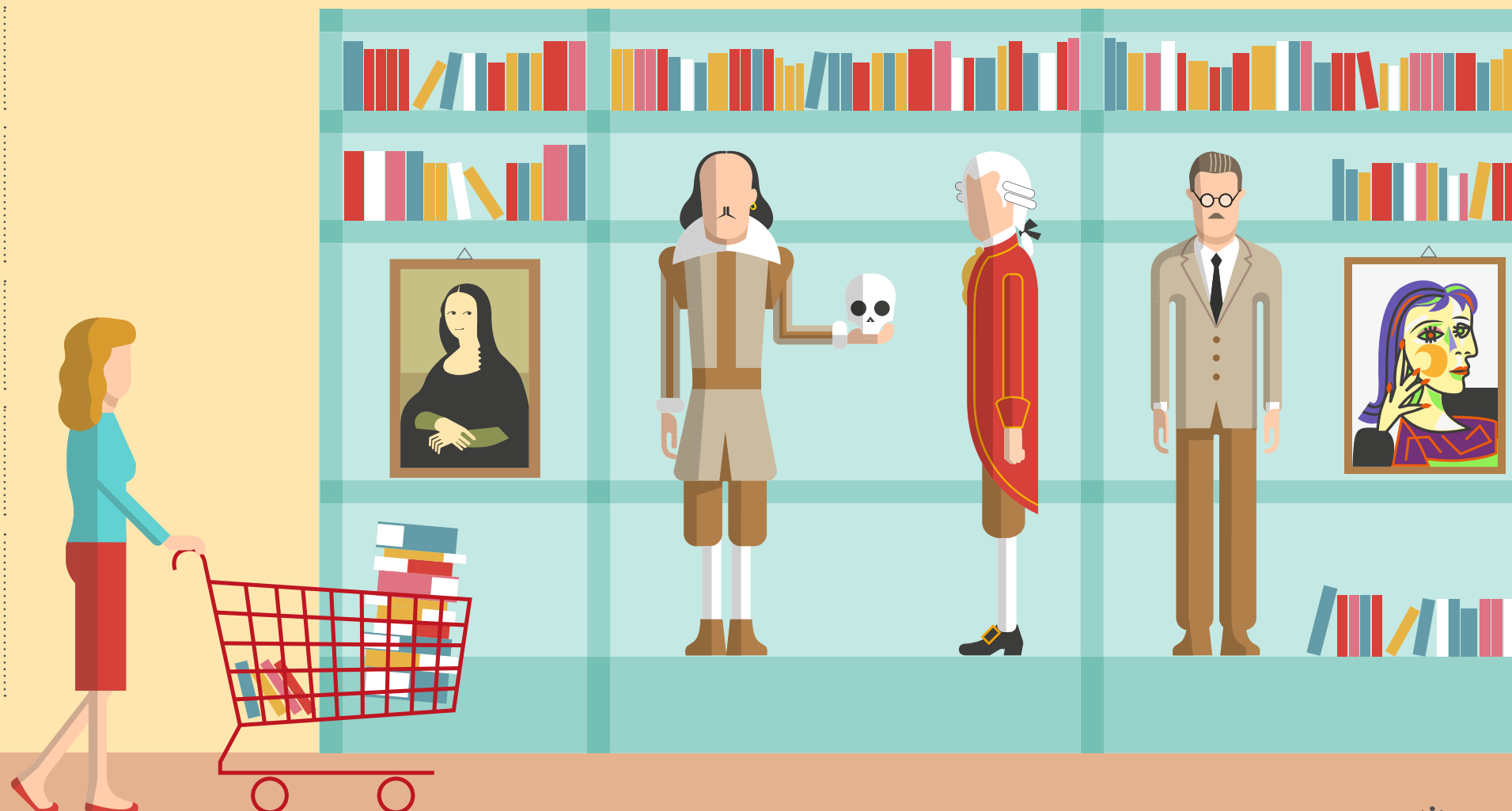
CREATe Resources

CREATe's digital resources translate complex research findings, borne out of an equally complex legal context, into a more accessible format, enabling public discourse and wider debate. We make primary research materials available, both data and historical sources, in resources that reflect our interdisciplinary field. Our resources fall under three current themes: copyright evidence, copyright user and copyright history.

Copyright Evidence

OMeBa (Online Media Behaviour analytics): Exploring Online Behaviour with Data

Online media are changing continuously due to technological progress. The legal framework, copyright policy, digital innovation and business models are shifting too, transforming online behaviour. In order to understand the perplexing patterns of online behaviour, and thus to build robust evidence-based policy interventions, the investigation of appropriate data, assisted by visualisations, is not only timely but crucial. CREATe researcher **Theo Koutmeridis** (University of Glasgow) introduces the OMeBa project from this strand of research.

In 2012, the UK's communications regulator (Ofcom) and the Intellectual Property Office (IPO) with the market research company Kantar designed a unique survey that has been repeated in six waves (last in spring 2016). While conceived as an "infringement tracker", the surveys in fact offer a rich tapestry of data connected with online access and consumption behaviour in the UK. Policy makers and academic researchers have just started to explore this outstanding database and the lessons it can provide. Identifying a need in the academic, policy and industry communities for direct access and easy readability of data in this area, CREATe developed a user-friendly tool, OMeBa (Online Media Behaviour analytics), which not only allows users to further investigate the database but also perform some interesting cross tabulations. The results are richly visualised.

The questionnaire survey involves 5000+ respondents each time. The original Ofcom design is very extensive and contains 520+ possible different questions with 5000+ data points each. Each of the questions in the raw dataset is expressed as a code, and a separate file connects those codes to the questions in natural language. OMeBa helps to simplify the process of browsing the survey data by linking these variable codes with questions in plain English taken from each of the surveys and allows easy extraction of the entire dataset or of selected variables in a popular format. For example, the data reveal that youngsters are the top spenders, top infringers and top legal consumers, at the same time! Specifically, in 2013 individuals of age 12-15 form the largest fraction (28.97%) of top spenders (spending more than £100 in past 3 months). Individuals of age 12-15 form the largest fraction of infringers (no legal download in past 3 months) - this fraction decreased from 27.59% in 2013 to 25% in 2015. Surprisingly, individuals of age 12-15 also form the largest fraction of totally legal consumers too (100% legal downloads in past 3 months) - this fraction decreased slightly from 26.6% in 2013 to 25.43% in 2015. This is just an illustrative example of the possibilities this interface is offering.

➜ **create.ac.uk/omeba**

The Copyright Evidence Wiki: Empirical Evidence for Copyright Policy

A body of evidence allows better navigation in any contested policy field. The 'CREATe wiki' at CopyrightEvidence.org does exactly that, says **Theo Koutmeridis.** This open, online platform builds on an innovative research philosophy and examines copyright from an interdisciplinary perspective, bringing evidence from studies in fields that were previously overlooked. Based on wiki technology, it fully categorises more than 500 empirical studies on copyright, while users are able to propose and define studies. Competing research and policy claims can be assessed transparently, as the underlying data and methods are revealed. The transition to a global digital economy is associated with new challenges. Imaginative use of the increasing volume of data is crucial for the design of informed copyright policies at the national and international level. This project offers a form of dynamic literature review in a rapidly changing landscape.

➜ **copyrightevidence.org/evidence-wik**i

IP Watchr

Tracking IP infringement on Social Media

IP Watchr and OMeBa (see above) are two analytical and visualisation-based software programs created by CREATe data developer **Jesús Rodríguez Pérez** (University of Glasgow). As social media becomes more integral to our lives, users are increasingly using it to share links for downloading multimedia files containing predominantly movies, television series and computer software. IP Watchr is a web based platform with an underlying software for real-time tracking of illegal downloads on social media and p2p networks. The design was derived from the question; "Is there a connection between Facebook 'likes' for a multimedia product and the number of downloads on torrent platforms for the same product?". The tool is flexible enough to accommodate other questions pertaining to this area of research. For example, it will be extended to track the behaviour of users and their social network towards downloading files, as well as to visualise the real-time data generated by these accounts and its derivatives.

➜ **create.ac.uk/ipwatchr**

Notes

CREATe Resources Continued

Copyright History

Primary Sources on Copyright is a digital archive of primary sources on copyright from the invention of the printing press around 1450 to the Berne Convention of 1886, and beyond. The Arts and Humanities Research Council (AHRC) funded the initial phase from 2005 to 2008, focusing on key materials from Renaissance Italy, France, the German speaking countries, Britain and the United States. CREATe now hosts the archive (still edited by Lionel Bently from Cambridge University and CREATe director Martin Kretschmer), and has devoted a work package to support expansion of the resource (which now includes Dutch, Spanish and soon Jewish Law materials). For each of the geographical zones/jurisdictions represented within the resource, a national editor has taken responsibility for selecting, sourcing, transcribing, translating and commenting on documents. These include privileges, statutes, judicial decisions, contracts and materials relating to legislative history, but also contemporary letters, essays, treatises and artefacts. **Elena Cooper's** (University of Glasgow) recent research on 19th century UK copyright, and its continuing policy relevance, can be sampled in the Festival workshop 'Copyright and Art Forgery: The Painting that Challenged the Law'.

➜**copyrighthistory.org**

Copyright User

CopyrightUser.org is an independent online resource designed to make UK copyright law accessible to everyone. A collaboration between CREATe and Bournemouth University, CopyrightUser.org offers authoritative guidance produced by leading copyright experts as well as videos, illustrations and interactive tools. The resources respond to the everyday questions and concerns faced by all copyright users: creators, media professionals, entrepreneurs, cultural heritage practitioners, teachers and students, and members of the public. CopyrightUser.org's Lead Producer **Bartolomeo Meletti** gives the background to the resource.

Launched in March 2014, CopyrightUser.org has attracted over 100,000 unique users per year. By offering user-friendly guidance that is balanced, comprehensive, up-to-date, and responsive to users' needs, the resource has established itself as the 'most visited UK copyright information website', as recognised by the Authors' Licensing and Collecting Society. The website has become a point of reference for copyright guidance within the creative industries, cultural heritage organisations, and the education sector. Through the education portal Cracking Ideas, The UK Intellectual Property Office direct users to CopyrightUser.org. A wide spectrum of cultural and academic organisations advise their members or students to refer to CopyrightUser.org as useful guidance for copyright queries; including the British Library, the Chartered Institute of Library & Information Professionals, JISC, The Publishers Association and a number of UK Universities. The initiative has also had an impact on policy and was featured in Copyright Education and Awareness, the report to the Prime Minister produced by IP Adviser Mike Weatherley MP in October 2014.

➜**copyrightuser.org**

From Anecdote to Evidence in Copyright Litigation

Cases by Reporting Judge and Subject Matter (CJEU 1993 - 2014)

Legend: Copyright, Database, Software

Y-axis: Number of Cases (0–25)
X-axis: Name of Judge — Malenovský, Prechal, Schieman, Silva de Lapuerta, Lõhmus, Arestis, kapteyn, Puissochet, Grévisse, Lenaerts, Safjan, Von Danwitz
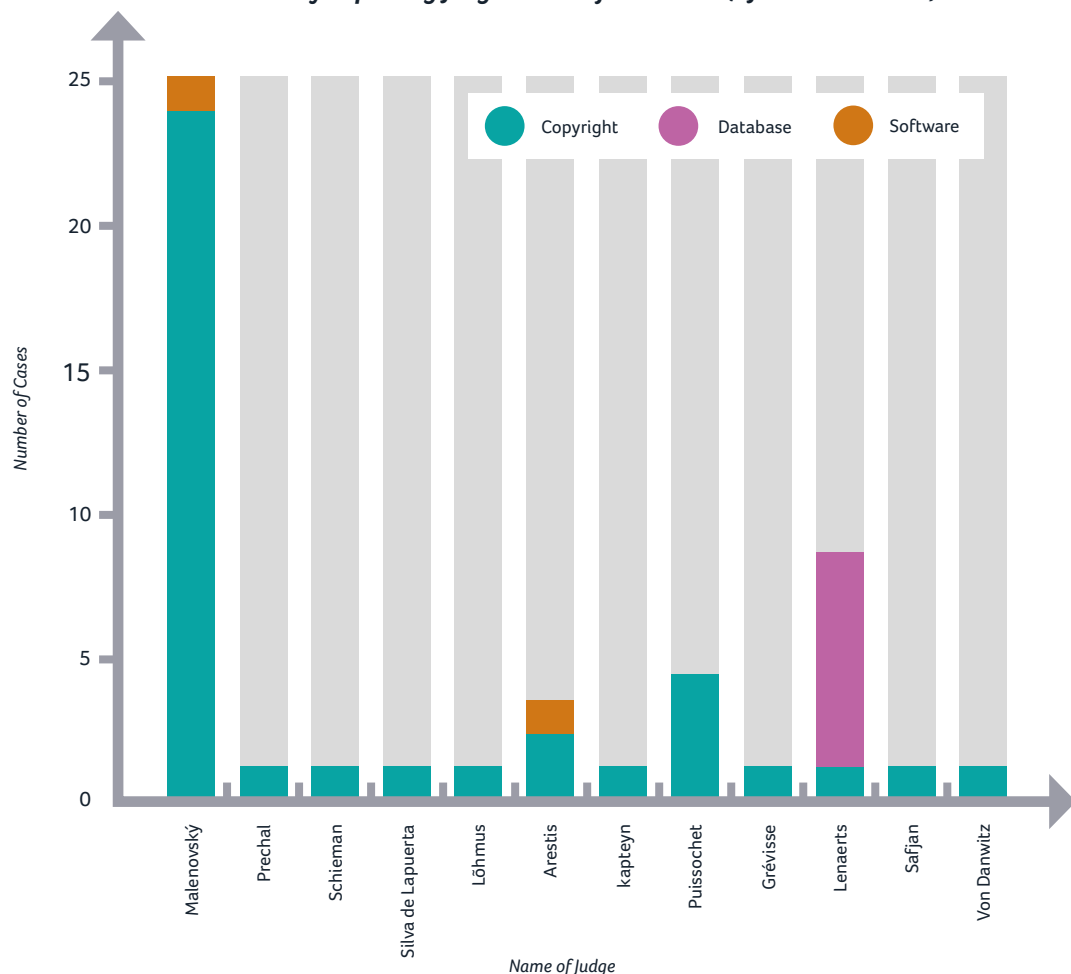
What are the judicial trends in copyright law decisions from the UK courts and how good is the quality of legal decisions? Do judges at Europe's highest court have prior experience of copyright law? Who sues in the small claims track in London's IPEC and what is their chance of winning? These are some of the questions being considered by researchers from CREATe's copyright litigation stream. Project teams collect and analyse data from cases brought before the national courts and the Court of Justice of the EU (CJEU) in projects designed to offer an empirical picture of copyright litigation at all levels

in the UK. CREATe Industry fellow **Emma Barraclough,** an experienced trade press journalist with a particular interest in IP, reports on CREATe's findings in this area.

CREATe researchers Marcella Favale (Bournemouth University), Martin Kretschmer (University of Glasgow) and Paul Torremans (University of Nottingham) have studied copyright and database cases brought before the CJEU, and analysed the allocation of cases to chambers within the courts, the composition of those chambers, and the judgments themselves. They concluded that no judge in the

CJEU had any specialism in copyright law before joining the Court. To compensate for a lack of prior expertise, the Court appears to allocate copyright cases to particular chambers and judges. One judge, Jiří Malenovský, served as rapporteur on 24 out of the 40 copyright cases the researchers studied. Malenovský is less likely than his fellow judges to broaden the rights of copyright owners because he is more likely to interpret copyright narrowly and copyright law exceptions broadly. The study, published in Modern Law Review, was launched in London on April 13th 2016 in an event co-organized with the British Literary & Artistic Copyright Association (BLACA).

Steering Judicial Policy

Now the researchers are turning their attention to the way in which member states try to reverse or shape copyright law by filing written submissions in cases referred to the CJEU by national courts. By looking at documents in more than 70 copyright and database law cases, they have established that some countries, including Italy, France, the UK, Spain, Poland and Germany, file far more written observations than others. The researchers are trying to assess the importance of submissions from member states and the European Commission. So far, they have found the greatest correlation between arguments submitted by the Commission and the decision issued by the Court.

UK Focus

CREATe researcher Georg von Graevenitz (Queen Mary University of London) and his team are gathering information about copyright cases brought before the High Court. The researchers are drawing out trends in litigation as well as analyzing the quality of legal decisions by assessing the probability of a decision being reversed depending on a judge's experience and the complexity or novelty of the dispute.
➜ **bit.ly/1UUKCzA**

Sheona Burrow (University of Glasgow) focuses on copyright litigation brought before the Intellectual Property Enterprise Court using its small claims track: a procedure designed to be relatively quick and informal. Claims are limited to £10,000 and the costs the successful party can claim are limited. Claimants, many of whom are unrepresented, are often uncertain about the detail of the law applicable to their case, requiring researchers who want to classify them to digest the details of the dispute rather than relying on the claim forms submitted in the case. Nearly 80% of claims specify copyright law, although the small claims track can also be used for trade mark, passing off and unregistered design cases. Burrow's data suggests that photographers are heavy users of the small claims track, representing almost half of claimants and nearly three-quarters of repeat claimants. Although photographers whose copyright is infringed often face a more straightforward evidentiary hurdle than other IP owners, there is still scope for those in other parts of the creative industries to make better use of the small claims track to enforce their rights.
➜ **bit.ly/1wqkXoh**

Jane Cornwell (University of Edinburgh) works on copyright litigation in Scotland, based on a survey of IP practitioners and a review of Court of Session IP litigation files from 2008-2014. The data reveals that a relatively large number of copyright cases heard in the Scottish courts are brought by parties outside the creative industries. It is a reminder to policymakers that businesses in the oil and gas and the professional services sectors are just as likely to have rights in copyright material as textile producers in the Highlands or musicians in Edinburgh.
➜ **bit.ly/ZGbDQw**

The findings of CREATe's data-heavy research is of value to policy makers who want to implement evidence-based policies, for court administrators, and for businesses and individuals involved in copyright disputes – and the lawyers who advise them.
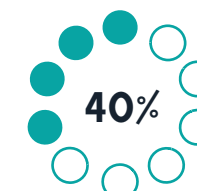
Progress of Cases in IPEC Small Claims Track (%) (2012-2014)

70% Judgement

50% Case Managment

40% Defence Lodged

90% Service on Defendant

100% Claim Form

Blockchain or Chain Gang? —

The relationship between the music industry and blockchain

Bitcoin took the world by storm, offering a radical new method of paying for transactions, which was underground and alternative. Blockchain emerged as a more respectable enabling technology, providing a chronological public record of all Bitcoin transactions that have ever been made. Artists and entrepreneurs in the music industry understood the media friendly attraction of something with such powerful technological potential and such a shady past, with origins in the darknet and notorious Silk Road website. In his role as a CREATe Industry Fellow, **Jeremy Silver** undertook a study of the application of blockchain to the music industry, interviewing a variety of executives in the field, from recording artists and technology startups to the heads of collecting societies. Could it be a means to produce a publicly accessible and regularly updated global database of publishing and recording rights data? Could it allow a new means of music discovery, where consumers navigated music creatively and intuitively?

Investigations began just as a series of public events took place in London that heralded an almost unprecedented wave of interest in a new technology. The atmosphere at these events had something of the heady days of the first internet bubble. There was a strong sense of the possibilities and importance of blockchain but without a great deal of widespread understanding of what it could actually do, let alone how it worked. Forward-thinking label executives, eager CEOs of start-ups, recording artists and experienced entrepreneurs all had enough understanding to realize that blockchain was significant and world-changing. It might be the thing they craved to start building a new digital architecture for a music industry whose current infrastructure felt, to them, very broken. There were a number of areas of

possible benefit. Firstly, the incremental process of loading each new work as it was created onto blockchain could potentially enable the assembly of a meta-data database with more authority and wider range of data contained in it, than had previously been achieved.

Secondly, the reduction of the need for intermediaries, which blockchain enables on individual transactions, theoretically reduced a price barrier to entry and could enable a larger number of artists to release content commercially. Thirdly, it looked as if bigger commercial players, like the major labels, could potentially use the blockchain to build much more efficient networks for their own transactions and business needs, such as secure media distribution or licensing. The theoretical value of the technology is undoubtedly huge, the real question is how far its implementation can be carried. Will existing incumbent players act as blockages to progress? Will the level of investment coming from pure technology companies be justified and can the music industry take advantage of the technology just as the investors seek to take advantage of them? Time alone will tell how rapidly or slowly progress with blockchain will be made. There are a number of reasons to be optimistic, and the more the process is accelerated, the more likely the benefits are to be gained. The questions above are some that Jeremy has sought to answer in his paper which can be found at ➔ **bit.ly/1XIqYjY**

Jeremy Silver is an investor, author, digital media entrepreneur and CEO of the Digital Catapult. His research explored whether the technology presents an opportunity to solve several of the music industry's challenges, offering a new business model that is better than subscription.

Is Competition all we Want?—

The landscape of UK drama production has been greatly affected by changes to the regulatory structure, with a competition-based model being favoured. In his role as CREATe Industry fellow, **Richard Paterson** has researched the effects of these changes and the current fitness of UK companies engaged in drama production.

Until the early 1980s, the BBC and ITV companies had a global reputation for producing quality programmes, particularly in drama. The foundation of Channel 4 led to the emergence of numerous new (dependent) 'independent' production companies competing for commissions. The weakness of the new model was soon identified by the Peacock Report, which proposed quotas to open up the BBC and ITV to independent production to allow these companies to grow. Still it was ineffective, and in 2002 the regulators viewed the ownership of rights in productions through a competition law prism and changed the terms of trade in favour of the producers. IP ownership became the key factor for independent production companies. Firms which hadn't been able to access investment because their business models lacked sustainability suddenly became valuable assets - or their key staff did. Those who had built successful companies were progressively acquired by larger groups, so that now we are faced with major overseas players owning multiple labels alongside a series of small, and therefore potentially vulnerable, firms.

In business terms the sector has moved from a captive relationship for nearly all companies reliant on Channel 4, to one where the transactions are business-like and determined as much by market as by social and cultural concerns. Moreover, the successive legislated disruptions are now being

added to by platform evolution. While technology has stripped away all arguments about spectrum scarcity, it has created a situation where content, previously available relatively easily for viewing locally, is being supplanted by globally powerful, subscription-based services where the platforms seek exclusivity and global rights. Now the producer might again be cut out of the secondary markets for their programmes. Independents are in danger of becoming dependent again, but this time on global players, and recent evidence shows that their preferred suppliers are subsidiaries of existing studios. This will affect national broadcasters too, who will be unable to compete on cost unless they enter into partnerships.

If we examine how these changes are affecting the firms producing TV drama in the UK, we find Sherlock-producer Hartswood and Hat Trick remain independent, while ITV has been actively acquiring companies. While there are a number of start-ups, all of these need upfront investment to enable programme development so they remain susceptible to acquisitive firms. It is claimed that markets and competition act as the 'mother of invention' but is it an acceptable outcome where the market power of global corporations might increasingly override any concern that broadcasting should be in the public interest and content should reflect local identities?

Richard Paterson is Head of Research and Scholarship at the BFI and is responsible for developing the BFI's research collaborations with universities as well as the development of the organisation's policy work in relation to IPR, broadcasting and new media. His CREATe Industry Fellowship is carried out in a personal capacity and his research does not necessarily reflect the views of the BFI.

Voices of CREATe:
Understanding the Cultural, Creative and Digital Industries

In the cultural, creative and digital sectors, self-employed and freelance workers account for a large proportion of the labour force. One of CREATe's objectives has been to investigate the activities of these 'individual creators', and to better understand the conditions under which they work. **Ealasaid Munro** (University of Glasgow) conducted this project to form a picture of CREATe's work across sectors such as music, fashion, publishing, games, comics, and film.

The findings of Voices of CREATe can be organised into three main themes: how individual creators build a career in the creative industries; how technology is changing the way that they work, and how they understand copyright and IP. Even after 20 years of targeted government intervention in the cultural, creative and digital industries, individual creators are mostly extremely low-paid, precarious, and ultimately, marginal. Building a career in the creative industries is a long-term commitment, with no guarantee of financial stability. Creatives must build a 'portfolio' career in order to survive. The way that creators compile their portfolio is, of course, affected by what work is available at any one time. But it is important to recognise creators' agency, and the way that they seek to balance work that is commercially viable with work that is enjoyable and creatively satisfying. Creators working within certain creative sectors have seen fundamental and rapid changes in recent years. Those disrupted by the advent, and increasing acceptance, of peer-to-peer file-sharing and, later, streaming services.

Of these industries, music and book publishing emerged as two particularly important test beds for researchers seeking to understand the disruptive influence of technology on creators. It is notable that technology did not emerge as a particularly important theme within other sectors, such as fashion and product design, dance, or theatre.

Another of CREATe's key concerns is the role played by IP in the day to day practice of individual creators. The project studied both the actual and perceived value of IP, what meanings individual creators ascribed to IP, and the mechanisms by which IP could be protected. There was a tension between the legal definitions of IP and the common-sense understanding of IP that prevailed amongst individual creators, who tended to see their IP as "the legal embodiment of their creative identity". Creators, particularly those with more experience, demonstrated a sound awareness of basic IP issues. Copyright infringement and IP disputes were common, but because of the time and expense involved in pursuing copyright infringement and IP disputes, only the most established businesses with the highest turnover were able to pursue compensation. Individual creators and microbusinesses often felt powerless to act if they found out their work had been copied, raising serious questions about whether the current copyright framework offers adequate protection for individual creators, and to what extent it functions as an incentive to create.

CREATe research portfolio consulted:

Townley, B. & Berthold, H. (St. Andrews)	Managing Intellectual Property Assets for Creative SMEs	bit.ly/1txz3FA
Sithigh D. M. (Newcastle) & Phillips, T. (UEA)	Copyright and Games	bit.ly/1omDlNY
Dowthwaite, L. (Nottingham)	Open User and Creator Platform: Web comics project	bit.ly/1DfnuDW
Kheria, S. (Edinburgh)	Individual creators	bit.ly/1vAmzgu
Barr, K. (Glasgow)	Music Copyright in the Digital Age	bit.ly/1pgYYdn
Street J. & Phillips, T. (UEA)	Copyright at the Digital Margins	bit.ly/1qIIzPl
Negus, K. (Goldsmiths), Street J. (UEA) & Behr, A. (Newcastle)	Digitisation and the Politics of Copying in Popular Music Culture	bit.ly/1qI4wOn
Kember, S. & Jeffries, J. (Goldsmiths)	Whose Book is it anyway? Digital publishing project	bit.ly/1wcWcvG
McRobbie, A., (Goldsmiths)	Fashion IP: From start-up to catwalk: A Four City Investigation	bit.ly/103LplE
Erickson, K. (Glasgow)	Value of the Public Domain: Crowdfunding project	bit.ly/1DepkGp

Business Models —
Buzzword or Constructive Tool?

CREATe carries the business model question in its byline, and every firm appears to have one. Business models are changing rapidly in the digital economy, and are often seen as a complement or even alternative to copyright enforcement. Critics argue the term remains ill-defined and unproven. Proponents point to its enduring popularity and strategic use. Whether buzzword or constructive tool, business models continue to influence the business strategies of the creative industries. **Nicola Searle** (Goldsmiths) explores how the CREATe research portfolio investigates the business model, and how creators and industry adapt to technological and market changes.

The definition of business models is ambiguous; both in practice and research its definition varies across CREATe projects. One interpretation is the business model as value chain, as described in Jeremy Silver's work on music. This is supported by those interviewed in Tales from the Drawing Board (Grewer et al), however the phrase 'business model' was equally found to be vague, and used as a catch-all phrase to describe the narrative creators tell themselves and others about their activities and purpose. Reflecting the portfolio's diverse sectors and disciplines, the CREATe research confirms existing findings identifying inconsistencies in business models as a concept and a methodology, and acknowledges its use in conveying meaning.

Change?

A surprising finding is the resilience of some traditional business models. "Whose Book is it Anyway?" notes the print copy remains a robust publishing model. Likewise, Silver argues the advent of music streaming is not a major industry and licensing change, but a minor variation in the retailer-consumer value chain. However, participants in Doyle's research claim 'heritage' models, based on advertising and audiences, are giving way to marketing-focused digital models. Collaboration with Baden-Fuller argues ideal business models have yet to be identified.

CREATe participants and scholars note that declining remuneration is an increasing problem for individual creators. However, this reflects long-standing concerns of the persistently weak bargaining power of creators, the relative strength of intermediaries, and changes in market structure, rather than a localised business model issue.
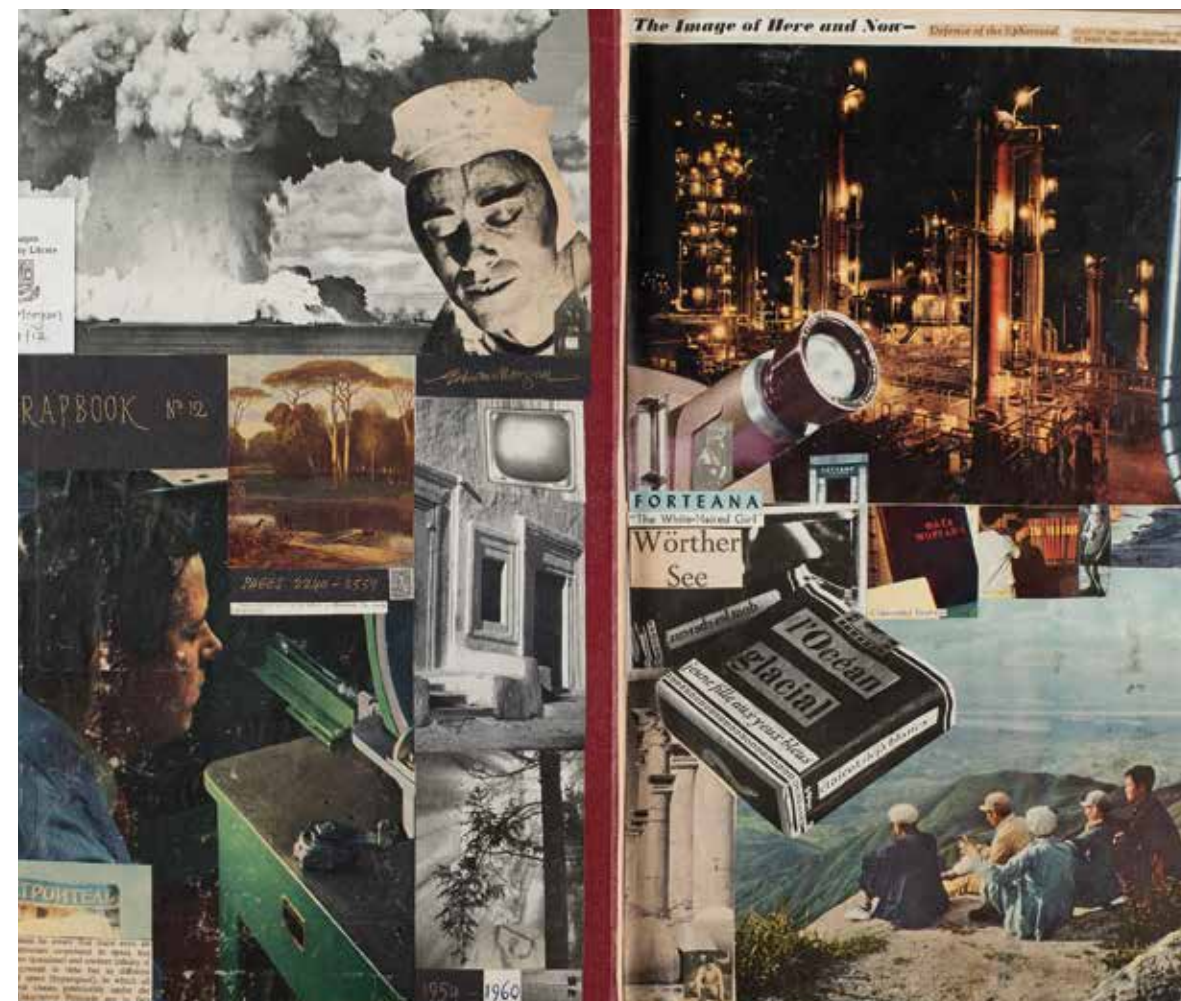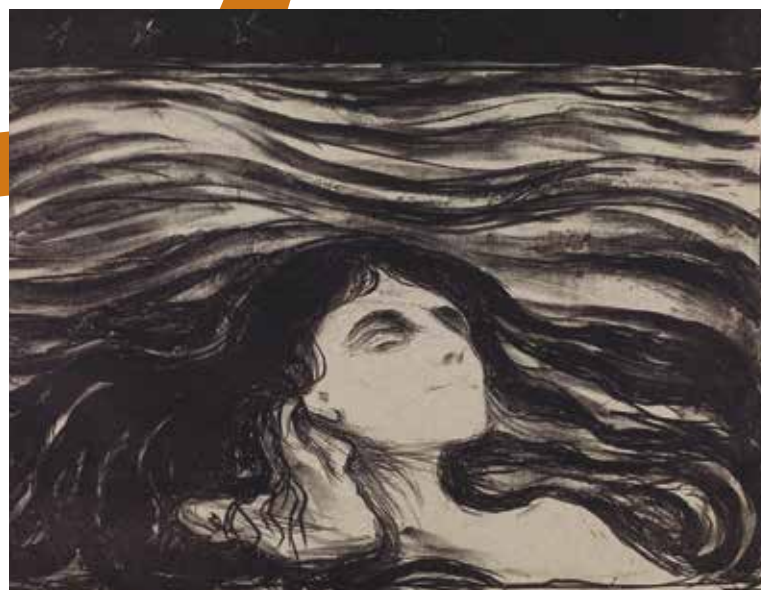
Business models & copyright

The heterogeneity of business models makes it difficult to establish clear links with copyright. Position papers by industry experts Kaye and Mollet argue copyright is platform neutral. If copyright is agnostic, then its role in business models, which are purported as a means to adapt to new technologies and platforms, is diminished. Yet Doyle's work finds copyright infringement (piracy) of digital formats has changed television distribution and pricing strategies, but piracy's business model impact is secondary to the impact of fees and profitability. CREATe research does not find copyright is a key driver of business model innovation.

Where next?

CREATe research findings demonstrate the diverse use of business models and do not point to a coherent set of business model 'solutions' for changing markets in the creative industries. This heterogeneity suggests business models should only be one part of a wider innovation and creative economy policy.

Despite the general scepticism of scholars, the enduring popularity of business models leaves unanswered questions. For example, we know little about business models in innovation support and quantitative investigation is scarce. The key to business models may not lie in their application, but in their ability to focus and articulate business aspirations, and enact practices of innovation.

CREATe research portfolio consulted:

Baden-Fuller, C. (2016)	EPSRC Building Better Business Models	bit.ly/1xV0DKO
D'Adderio L. et al. (2016)	The Practice of Business Models	bit.ly/213EpVD
Doyle, G. (2016)	Digitisation and Changing Windowing Strategies in the Television Industry	bit.ly/1tBgwIt
Grewar, M., Townley, B., & Young, E. (2015)	Tales from the Drawing Board	bit.ly/1kKqaoK
Kember, S. and J. Jeffries (2015)	Friction and Fiction event, Whose Book is it Anyway?	bit.ly/1wcWcvG
Kaye, L. (2015) and Mollet, R. (2015)	Position Papers: Whose Book is it Anyway?	bit.ly/1wcWcvG
Paterson, R. (2016)	Modelling the Evolution of the TV Drama production sector in the UK	bit.ly/1ZALLO8
Silver, J. (2016)	Blockchain or the Chaingang?	bit.ly/1XIqYjY
Towse, R. (2015)	Copyright and Business Models in UK Music Publishing	bit.ly/1RoYMcS
Williams, R. et al. (2016)	Social Learning and Emerging Business Models in the Digital Economy	bit.ly/1FMitFb

Intellectual Property and Cultural Heritage

Exploring how copyright and other intellectual property norms impact the preservation, access and use of our shared cultural heritage, online and across borders, has been a core part of research programme since the centre was established. Led by **Ronan Deazley** (Queen's University, Belfast) the research team at the University of Glasgow has contributed to other CREATe initiatives, such as the Copyright Evidence Wiki. This body of work is much more than contracted 'deliverables': it is intellectually, and often, aesthetically compelling, and it is having real world impact.

Intangible Cultural Heritage and Intellectual Property: **Megan Rae Blakely's** research focuses on the effects of domestic government intervention relating to Celtic-derived intangible cultural heritage (ICH), tracing the relationship between intellectual property rights, commodification and cultural branding. Emphasising the unifying power of ICH as opposed to furthering the gap between cultures perceived to be 'knowledge producing' or 'culture producing,' her work highlights the challenges of reconciling the domestic regulation of diverse ICH in countries typically less geared toward ICH safeguarding. Harmonised global ICH recognition and protection, rather than geopolitically divided approaches and interests, would benefit both creative intellectual production as well as shared cultural practices.

Unique Collections, Orphan Works and Diligent Search: The prevalence, management and use of orphan works – works for which a copyright owner cannot be found or is unknown – is a widely recognised challenge for the cultural heritage sector. In 2014, the European Orphan Works Directive and UK Orphan Works Licensing Scheme were implemented to address this issue. But do these schemes really offer solutions which are practical or desirable? **Kerry Patterson's** research makes use of the poet Edwin Morgan's unpublished scrapbooks as a platform for interrogating European and UK copyright policy in this area. Compiled between 1931 and 1966, the scrapbooks contain tens of thousands of orphan works, typically newspaper and magazine clippings. Project outcomes include an annotated, online sample of scrapbook pages, along with critical commentary, analysis and guidance for other heritage institutions with unique collections of a similar nature.

Managing Copyright, Digitisation and Risk: **Victoria Stobo's** research explores the challenges and risks associated with making archive collections digitally accessible. Building upon the first UK sector-wide survey addressing these issues, as well as a series of in-depth case studies concerning attitudes to and the implications of risk-informed digitisation initiatives, her research offers a timely review of how the law affects 2D digitisation activities within the cultural heritage sector. Victoria's work also seeks to improve the understanding and application of copyright law for archivists through postgraduate education initiatives and professional training, and provides cultural heritage practitioners with the necessary tools for managing the risks associated with making copyright-protected archive material online.

Digital Surrogates and Surrogate IP Rights: Working closely with the National Library of Scotland, **Andrea Wallace's** research explores two related issues. First, it considers how cultural heritage institutions have responded to the increasing need to engage in commercialisation activities during a time of economic cutbacks. Second, it examines the impact of technology on the public domain and the obstacles and opportunities generated by the digital realm. Drawing upon both of these research threads, her work provides important insights on the legal, cultural and ethical issues that continue to challenge cultural institutions, while communicating the complexity of these issues to the general public in an effort to increase public understanding.

Going for Gold with 3D Printing

The growth of 3D technologies impacts on intellectual property (IP) law with implications for copyright, design and licensing issues. CREATe associate **Dinusha Mendis** (Bournemouth University) investigates these issues in the project *Going for Gold: A Legal and Empirical Case Study into 3D Scanning, 3D Printing and Mass Customisation of Ancient and Modern Jewellery.*

The project's aim is to explore the copyright and design issues surrounding 3D scanning, 3D printing and mass customisation of ancient and modern jewellery, in the cultural and business sectors. The project, led by the Centre for Intellectual Property Policy Management (CIPPM) at Bournemouth University, is carried out in collaboration with two SMEs – Museotechniki Ltd and Applied Shapes Limited. Museotechniki Ltd is an open innovation and knowledge management company, which works to scale up cultural impact on society by merging cultural management standards with emerging technologies such as 3D printing. Applied Shapes Limited is a jewellery designer and producer, specialising in the mass customisation of jewellery for purposes of 3D printing.

The researchers are engaging with museums to explore the state-of-the-art and common practices in relation to the copyright, licensing and contractual issues of 3D digital archives generated during digitisation projects. This part of the project is being carried out in collaboration with Museotechniki Ltd. The true potential of 3D printing lies in mass customisation, which enables a consumer to customise a product before it is 3D printed. Together with mass customisation, it is anticipated that the near future will see a proliferation of scanning capabilities, leading to real-time photogrammetric and cloud-based data processing to eclipse more traditional laser scanning solutions. Whilst such developments will have an effect on design, it will equally have an impact of IP laws. In responding to these issues, this part of the research provides an insight and understanding into the process of producing, manufacturing and mass customising modern 3D printed jewellery.

Creative Businesses:
New ways to use and understand IP

Intellectual Property is a vitally important asset for creative businesses. Companies in the cultural and creative sector are typically micro to medium-sized, with limited resources for effective IP management, despite its central role as an income source. CREATe researchers **Barbara Townley, Henning Berthold, Melinda Grewar** and **Eilidh Young** (all at the University of St Andrews) investigated how SMEs manage IP assets, and the role IP plays in business start-ups, and found that these organisations are devising their own solutions to protecting and enforcing IP. Their research based on interviews in Scotland from diverse sectors of fashion, product design, film, TV, music, publishing, dance, theatre and computer games, provided rich insights into the challenges of creative design and production in globally connected markets, and showed remarkable details of this sector's methods - many successful, some less so - for exploiting IP.

The studies concluded that typically the strategies sidestep legal means of IP protection in favour of more emergent methods, such as social media documentation asserting creatives' identity as producers of products. Cultivation of producer networks helps to support property claims and to alert colleagues to instances of possible infringement, while novel approaches to generating ideas and products also count as successful IP management. This may include collaboration with games users, sharing designs via Creative Commons licenses or other arrangements, and delivering goods to market before competitors. Conducted in partnership with Creative Scotland, findings from this project (e.g. Tales from the Drawing Board, 2015) can be downloaded from ➜ **bit.ly/1kKqaoK.**

A second project asked how and when business start-ups in the creative industries consider IP. Is it as they nurture their ventures from the product design, or ideation, stage or much later, during efforts to monetise its value? In the earliest stages of new venture formation, how is IP understood, and what role do these understandings play in start-up development? The team traced 17 developing pipeline companies, engaging with potential entrepreneurs through start-up initiatives focussing on using design to address issues within wellbeing, food, sport, ICT and rural economies sectors. The research was carried out in partnership with AHRC Knowledge Exchange Hub Design in Action (University

Shibori Pleats Woven textile by Angharad McLaren, from Tales from the Drawing Board: IP wisdom and woes from Scotland's creative industries (2015, University of St Andrews).

Canyon Chair and AVC Handset by One Foot Taller, from Tales from the Drawing Board: IP wisdom and woes from Scotland's creative industries (2015, University of St Andrews).

of Dundee). Analysis of the SMEs' practices found that IP is not a prevalent concern of these developing businesses until their projects are considerably advanced. Typically, there is very limited understanding of IP, with the entrepreneurs misinterpreting it as their knowledge, skills, relationships and strategies, rather than its being the representation of ideas. IP tends not to enter discussions until they turn to securing control of rights in websites or product design, or to accessing finance, when trademarks and other legal means convert IP into equity which the companies can barter with investors. The research suggests that economic understandings considering IP as motivation for entrepreneurial ventures is misplaced, with the challenges being how to understand economic value, and how it is created and delivered.

Why Unlawful Downloading ?

"It may be that people learn to avoid the legal barriers introduced by new legislation, at least with time"

"Being aware that a seller is being damaged reduced unlawful downloading"

The simple answer to the question of why some people engage in unlawful downloading is that, it is free. Undoubtedly there may be legal risks involved, but the evidence emerging is that the choice to engage in unlawful downloading is not as straightforward as it seems. This subject has been investigated by a team of CREATe behavioural economists and psychologists **Steven James Watson** (Lancaster University), **Daniel John Zizzo** (University of Newcastle), **Piers Fleming** and **Melanie Parravano** (University of East Anglia).

Existing evidence on why some people may download illegally is pretty patchy, and hence determining causality is problematic. The researchers ran an economic experiment trying to get at least a preliminary causal understanding of the role of three possible candidates of unlawful downloading: financial and legal concerns, moral concerns and social norms. The consumers had three choices – not to buy, to buy or to obtain without paying. In this case, buying represented a gain to the consumer, because if you choose to buy something, it is assumed to be worth more to you than the monetary cost. If you choose to buy, then some of the money you pay goes to the seller. The choice to

obtain without paying has a higher benefit to the consumer, because you are getting something you would be prepared to pay money for, for free. However, in this study this choice carried a financial risk to reflect the possibility of being caught.

The work was informed by the work of Nobel prize-winning economist Gary Becker. Becker said it could be rational to commit a crime if the benefits outweigh the risks involved. If this is true, the likelihood and severity of punishment should reduce crime as it tips the balance against the possible benefits. The results support Becker's work, because obtaining without paying was reduced as the penalty became more likely and severe. This suggests that in the real world people do not ignore risks and punishment, when these are high enough. However, it may be that people learn to avoid the legal barriers introduced by new legislation, at least with time.

In a large-scale survey it was found that people's judgments of the benefit (cost, flexibility and quality) but not judgements of risk predicted the amount of unlawful downloading they did in the following two months. Currently,

the risks of file-sharing are theoretically relevant but have only a limited observable impact in practice. People usually don't weigh up the consequences, they mostly rely on gut instinct to judge the pros and cons of unlawful downloading – the exceptions being if they believe they are anonymous on the internet and if they don't trust the legal framework regulators and industry.

The economic experiment revealed that moral concerns matter. Being aware that a seller is being damaged reduced unlawful downloading, and even more so – by around 5% – if consumers were aware that sellers made an effort. Social norms, also mattered, we found that when unlawful downloading was rated as socially inappropriate, it was hugely reduced.

The study demonstrates that to reduce unlawful downloading, industry should increase the benefits of lawful options (e.g. flexibility, convenience and value) and raise awareness of the seller and their effort required to produce goods. They should also consider socially-focussed marketing messages which could raise awareness of social norms not to file share unlawfully.

➔ bit.ly/1xV4gAz
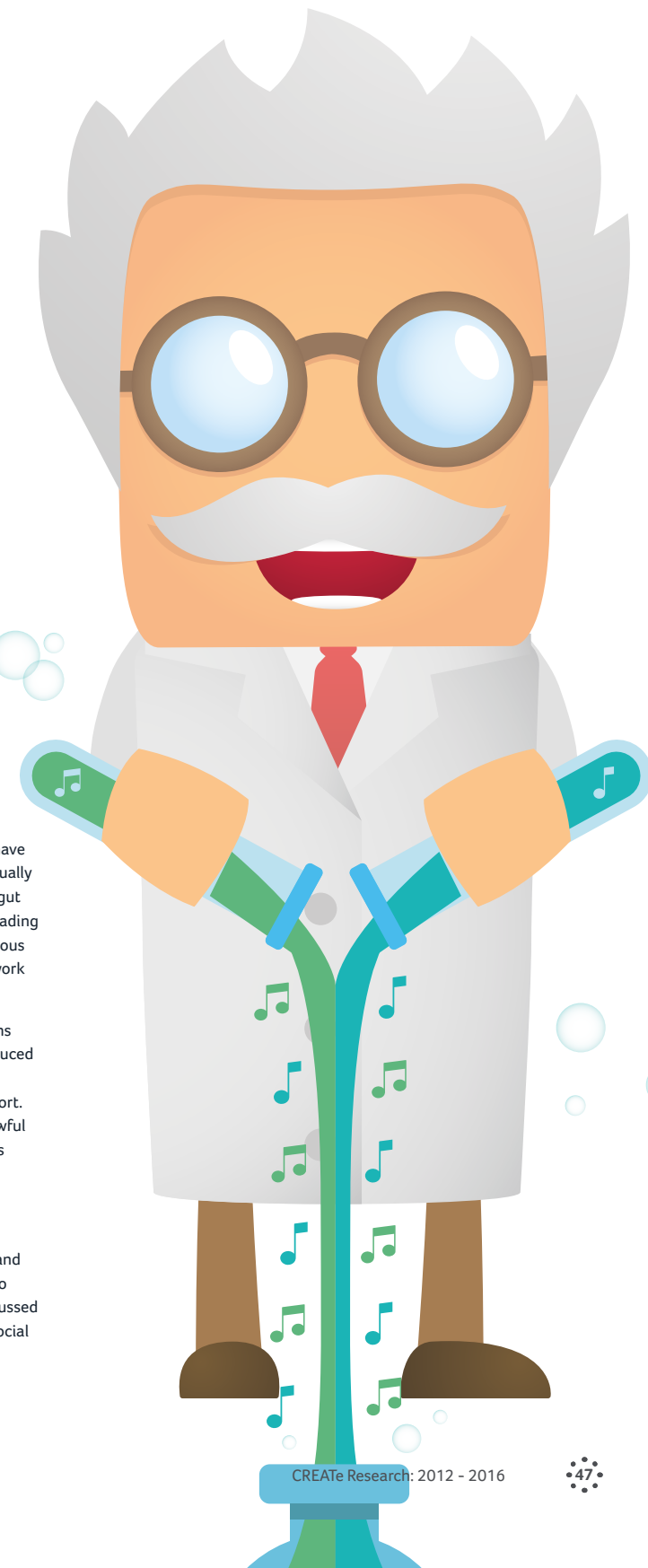
Emergent Infrastructures for IP Trading

Intermediaries are becoming significant in negotiating copyright permissions. Led by **Robin Williams** and G**ian Marco Campagnolo,** CREATe researcher **Hung The Nguyen** (all at the University of Edinburgh) investigated the role of intermediaries and found the emergence of a new regime, in which IP does not have to be negotiated on a traditional bilateral basis, but increasingly through various kinds of novel intermediaries that offer a higher speed of transaction and a lowering of costs.

The research began with a study of the construction of the Copyright Hub, a UK-based initiative for streamlining permission licensing (i.e. getting permissions to legally reuse copyright work). Following the stakeholders of the Copyright Hub from early stages provided a detailed account of how an IP infrastructure is nurtured socially and technically, as well as invaluable lessons into the trajectory of similar projects. This longitudinal study is being supplemented with a series of shorter studies across private sector initiatives, which focus upon the 'trial and error' processes of developing and sustaining these services; the often invisible organisational and technical work that makes disintermediation possible and the complex interactions between different stakeholders involved.

This is a crucial period in which many countries and territories are beginning to define, or are looking to establish, long-term strategic frameworks for an emerging digital economy which generates increasing pressure for IP reform and regulation around the world. In the US, no major legislation on copyright has been introduced since 1976 and hence, a number of exceptions have been imposed upon copyright with courts intervening in many cases, and where the court approaches and outcomes have neither been consistent nor desirable. In Europe, a number of calls have been made for the establishment of a single digital market. Eighty billion euros has been made available through Horizon 2020 – the biggest-ever EU Research and Innovation programme spanning the period of seven years (2014 – 2020) – which aims at "breaking down barriers to create a genuine single market for knowledge, research and innovation."

Similar national efforts can be observed in Singapore, Korea, China and other countries on the both sides of the Pacific Ocean. In this context, this research acts as a medium to convey critical thinking and scientific findings to policy makers, copyright practitioners, legal scholars as well as the wider public.

CREATe-organised event for independent film directors at the Barcelona Creative Commons Film Festival (BccN) in June 2014 to advance the study of new business models in the creative industries.

Understanding the Emergence of Open Film

Openness is easy to promote in theory but more complicated to adhere to in practice. How do advocates and subscribers act upon their commitment to openness? Is their commitment sustainable? CREATe researchers **Robin Williams** and **Gian Marco Campagnolo** (both at the University of Edinburgh) explored the shaping of openness in the digital age through a study of open content film-makers (OCFs).

OCFs are creators of audio-visual content using non-proprietary means of production, distribution, exhibition or licensing. The project assessed OCF through multiple timeframes: the unfolding of an individual career (at what stage of a film-maker career is commitment to openness sustainable?); the lifecycle of a project (when openness comes into play in a film project); and as part of the development of the film-making industry as a whole (including tensions between mainstream industry and open content film making).

On the surface, the most common form of career move seems use of OCF as a 'calling card' to legitimate participation of new entrants in mainstream film industry. However more sophisticated types of move have emerged, including paths that see people from mainstream industry move to OCF at later stages in their career. Established stakeholders (e.g. producers wanting to try film-making) rely upon this economy to trade their prestige within a more independent, experimental domain. Through single-handedly managing direction as well as production and distribution - as it is customary in OCF – OC film-makers develop expertise relevant in other domains, such as higher education and research institutions, where there is increasing pressure to use open content.

Although dual career/occupation tracks are commonplace in the film industry regardless of use of OCF, shared commitment to open formats in film and academic professions represent an interesting subset of this group, which demonstrates how open content does not always represent an entry point to regular distribution. Furthermore, when looking at how OC film-makers take licensing decisions, reports are divided. Those who provide ideological justifications have often not tried regular commercial formats. A more acute sense of strategy is apparent in responses by film-makers whose business seems to switch seamlessly across different licensing formats. It transpires that licensing decisions derive from a rather asymmetrical perception of the horizon of opportunities in the film industry. Concerned with protecting the value of self-expression, OCF informants do not always manage to fully articulate the range of opportunities that a mixed model can offer. Given the opportunistic nature of the OCF economic model, this asymmetry is particularly damaging. Limitation in the ability to articulate the full spectrum of opportunities, including the developing field of trans-media advertising, is particularly apparent in early entrants, who complain about training received at University. Of a different tone are accounts from film-makers whose productions can switch across different licensing formats. They talk about the Creative Commons license as a 'brand' that helps increase the reach of their production and gain credits to attract further funding. They also describe 'crowdfunding' as a tool to garner credibility and independence.

→ **bit.ly/1FMitFb**
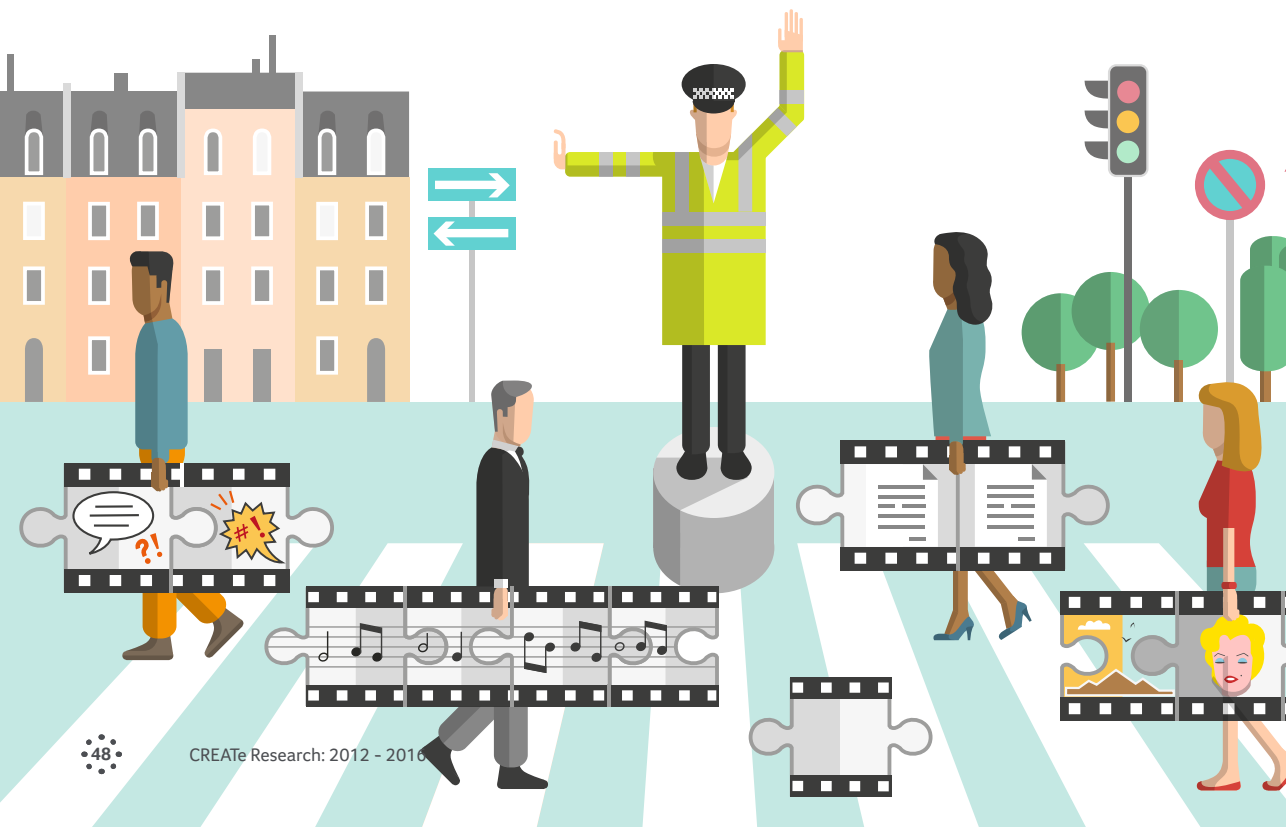
Supporting Creative Practice through Technology

Research by the Horizon Digital Economy team at the University of Nottingham, consisting of **Derek McAuley, Michael Brown, Dominic Price, Liz Dowthwaite** and **Dialechti-Christina Emmanouil,** has focused on the development of new technologies to help support creative practice and explore novel digital creativity case studies, some of which are presented here.

My Social mApp

My Social mApp is a platform for visualising Twitter interactions and helping creative practitioners to understand how their Twitter engagement is received by the public. Despite the seeming simplicity of Twitter – sending short messages of 140 characters– there are a large number of ways to engage with the platform: retweets, retweets of retweets, replies and mentions are the most common.

The default Twitter interface of a vertical timeline doesn't bring out the relationships between these interactions but My Social mApp displays interactions as a linked network in time order, allowing you to explore the effects of a Tweet.

For example, you might see a time when you gained a large number of new followers and by back-tracking the network, you can discover that this was because someone with a large number of followers re-tweeted one of your tweets. Realising this may lead to you modifying your tweeting behavior to take advantage of that link, for instance by cultivating a direct relationship with the 'middle-man'.

The platform is intended to be of use to small creative businesses who use Twitter as a tool for promotion but don't have the resources to spend a great deal of time analyzing their Twitter interactions.

→ **create-www.cloudapp.net**

Artcodes

Artcodes is a new technology that allows users to interact with a range of decorative imagery and patterns. It is triggered using a smartphone with our app. Users point the app at an image and the app triggers whatever interaction has been allocated to the code embedded in the image.

This new interaction technology relies upon drawing and creativity to drive it; a paradigm shift in visual recognition technology. The Artcode has all of the interactive properties of a QR code but with an aesthetic quality. Images are programmed by observing some simple drawing rules, which enable the designer to create interactive imagery. The Artcode points to a future, where interactive devices are triggered by the artwork, patterns, motifs and tags that adorn our built environment, our public spaces, our homes, our clothes and our objects. Further details at

→ **artcodes.co.uk**

Authors and Identity in Social Media

Social networking sites are among the digital channels that assist creators in interacting with their audience. This project investigates how book authors engage in self-presentation using social networking sites. It explores authors' attempts to keep the incompatible contexts of their lives apart and reveals the identity-threatening situations they experience in social networking sites. By interpreting what these behaviours and experiences mean in practice and their consequences, new design recommendations emerge. These recommendations include the introduction of new features in social networking sites as well as an updated structural approach of the way that these platforms manage authors' online identities and data.

Studies have revealed that despite the lack of features to guard authors' self-presentation, the creativity that characterises this social group allowed them to use these platforms in ways that partially fulfill their needs, yet remain challenging. Authors use multiple strategies to protect other aspects of their lives online, such as using selective self-presentation, where they create hybrids of real and fictional representations of themselves to establish the personas they crafted to publish their books. One of the findings of this study is that providing authors with the recommended features to facilitate their self-presentation practices could be of benefit to the data collection practices of social networking sites; despite the belief that these platforms' commercial purposes usually do not align with users' requirements.

Copyright and online artists

Online copyright law is a major issue for many in the creative industries. Independent artists often rely on sharing their work across social media and content-sharing sites, leaving them open to having their work stolen or misused. This research examined attitudes towards copyright and attribution amongst webcomic artists, in relation to current copyright laws across the EU and internationally. Whilst artists are generally aware of the cover provided by copyright, they feel that it is not necessarily relevant or effective within their creative working space. There is very little support and few resources available to help them fight for control of their work. Whilst artists do get angry about actual theft and removal of attribution, they accept that they have to put up with certain violations if they wish to continue to publish comics for free on the Internet.

Crowdfunding and online artists

Crowdfunding – the collection of small amounts of money from a large number of people for the purposes of a specific project, has become a major factor in the business models of webcomic artists. This research looks at how such artists create and maintain communities through social media, and then capitalise on this through crowdfunding. The first study found that a large amount of time and effort across a huge number of websites is involved, leading to extremely dedicated networks of readers. Although the webcomics content is provided for free, they are then able to sell merchandise, particularly books, clothes, and artwork. Many readers are also willing to support creators by donating money through crowdfunding.

Further research has shown that enabling creators to continue to provide free content, showing gratitude, and receiving rewards are amongst the most common reasons given. Further studies have been carried out to determine the patterns of backing behaviour on crowdfunding sites, and the roles of reciprocity and altruism in the different motivations of readers to give, across two different models of crowdfunding, typified by Kickstarter (rewards, project based) and Patreon (subscription, creator based).

Sophie is an author who publishes children's books with a small publishing house. She is married and has two small children. Her primary source of income is her job as an accountant. She took a day off to travel to the countryside with her family.

She took a picture of the landscape to share it on her author Facebook page along with a story about their activites over the day.

When they returned home Sophie logged into her Facebook page and shared the story. However, she did not log into the correct page. She uses a pen name to secretly self publish erotica and she accidentally shared the picture and story on her Facebook page with a pen name.

She deleted the post immediately but now she and her husband are concerned about the management of her online identities.

Notes

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Artificial Intelligence and Copyright ——

In 2014, the claims of tech company Qentis caused considerable excitement in the technology world. Qentis claimed to have built an algorithm that created all the potential pieces of text in the English language of up to 400 words, meaning that they held the copyright in everything that can be said in English, and were willing to sell the rights. Never again would anyone be allowed to write without Qentis receiving a royalty payment. Copyright and technology experts pointed out the serious flaws in their business model, as neither law nor technology allowed the creation of the ultimate copyright troll – for now. Indeed, Qentis was revealed to be the Austrian performance and technology artist Michael Marcovici, who regularly criticizes the commodification and commercial exploitation of creative works.

There is a serious message in Qentis'work: our intellectual property law was conceived at a time when humanity and creativity were synonymous. In particular, the copyright philosophy of continental Europe can be seen as the glorification of the human genius and its spirit of inventiveness. In the 21st century, these old certainties are increasingly under pressure, and copyright may have to undergo a radical restructuring to accommodate non-human forms of creativity.

Burkhard Schafer (University of Edinburgh) and team address the issues raised by a world where humans and machines co-produce and co-consume artistic works and legal documents. How can we adjust our copyright regime for computer generated art to prevent a future Qentis, yet encourage investment in creative AIs? Can software developers and robot engineers ensure that their creations observe the relevant legal parameters, and respect other people's copyright? Is there scope for something like Asimov's law of robotics, extended to copyright and the creative machine?

AI co-creation is not just an issue for artists; copyright lawyers increasingly work with or compete against AI. The second strand of research explored how AI could potentially transform the landscape for copyright lawyers and the practice of litigation. How can we harness AIs to reduce the costs of litigation, by more effective handling of e-discovery? How can licensing and license management be automated? Are there dark applications of AI in copyright law – such as speculative invoicing, algorithm-driven new business models for some firms in the grey area of professional ethics?

Building on the lessons made with Digital Rights Management technology, the team investigated whether we can teach robots copyrights from copywrongs. Research indicates that real benefits can be found when combining existing DRM with an AI that is more explicit and legal, removing it from its traditional antagonistic setting to applications where all parties want and need automatic legal compliance. Petri networks emerged as tools that can help roboticists to build machines that comply with both the copyright and privacy interests of third parties. They could be a way to help digital publishing houses or algorithmic news services make their products accessible to citizens with disabilities, or assist lawyers in more efficient handling of copyright issues.

Increasing Access to Cultural Heritage using the Crowd ——

The Internet promises access to culture from everywhere in the world. Much of this cultural material is held in the collections of museums and libraries; institutions who are keen to digitise their collections and offer access to cultural heritage, for individual study, curiosity or research. However, this process must overcome a powerful hurdle: copyright and related rights. Many of these works have unknown or untraceable creators, hence are 'orphan works,' but still need to undergo a rights clearance process in order to be used. Legislation on orphan works requires that a diligent search of potential rightholders is carried out in good faith by consulting appropriate sources. However, the conditions stated in law to comply with this requirement pose a significant burden to would-be users of orphan works.

EnDOW ("Enhancing access to 20th Century cultural heritage through Distributed Orphan Works clearance") is a collaborative project funded under Heritage Plus and led by CREATe associate **Maurizio Borghi** (Bournemouth University). The project is a partnership of four leading European research centres: CIPPM, (Bournemouth University); CREATe (University of Glasgow); IViR (University of Amsterdam) and ASK (Bocconi University, Milan).

The analysis conducted so far by researchers from all centres, reveals that carrying out a diligent search may require consultation of a vast quantity of diverse sources of information. A total of over 350 different information sources have been identified in Italy; over 200 in the UK and almost 90 in the Netherlands. A diligent search on published books may require consulting up to 32 different databases in the Netherlands, up to 80 in the UK, and up to 131 in Italy. Moreover, a sizeable share of these sources are not easily accessible, or even not accessible at all. Of all the sources to be consulted to conduct a diligent search, 70% are freely accessible online in the UK, 56% in Italy and 54% in the Netherlands.

While legislative or soft-law action is required to address the problem of accessibility of sources, enormous costs are faced by cultural institutions to consult the sources that are accessible. Under such conditions, the undertaking of clearing rights on large collections of works is not viable for cultural heritage institutions. This where EnDOW steps in, by building an online platform to allow users from all over to the world to carry out diligent searches and help cultural institutions (at virtually no cost) to clear the rights for their collections. EnDOW is a visionary project based on the belief that cultural capital should benefit everyone, and therefore everyone can help make it available.

→ diligentsearch.eu

Finding Value in the Public Domain for UK Creative Businesses ——

The public domain consists of a vast reservoir of creative works and ideas that are available for uptake and consumption by all. It includes works for which the copyright term has expired as well as stories and artworks pre-dating modern copyright law. It also includes materials freely gifted to the public domain by their creators via free and open licenses. But what role does the public domain play in fostering new innovation and creativity? CREATe researcher **Kris Erickson** (University of Glasgow) investigated this as part of his research into the value of the public domain for consumers and innovators.

To address the question of how public domain inputs might be a source of value for commercial users, Kris interviewed UK-based creative firms such as Inkle, developers of a mobile app based on the work of Jules Verne, and Onilo, a technology company that offers animated children's story books to schools, some of which are adapted from public domain folk tales. The research was based on the theory that creative firms face a "make or buy" decision when deciding whether to engage in work-for-hire or develop their own original content. Designing original content may be more satisfying to creative firms, but it can be risky; and it may take years of trial and error before generating a hit product. The public domain offers firms another option; that of adapting or building upon a well-known work with a pre-existing audience, while also gaining the ability to commercially exploit the resultant IP in a variety of ways unencumbered by third-party rights holders.

Creative firms exploit public domain inputs for many of the same reasons that innovators engage in private-collective innovation. They bundle their public domain products with other complementary goods in order to appropriate the value associated with their own innovation practice. There are lower costs associated with using public domain materials as an incentive. Incorporating free and open-source inputs early in a new product helps some developers to "fulfil the credible promise" of a prototype, stimulating further contributions and investment. Some creative firms actively engage with communities of users, for example, fans of Sherlock Holmes or H.P. Lovecraft, to develop new adaptations of those public domain works. The openness of such works to collective remixing lead to more innovative and radically collaborative products.

Not everyone had positive experiences in working with public domain materials. Some firms reported significant costs in locating and incorporating appropriate sources of public domain materials. Some of these search costs relate to technical issues such as metadata and availability of digital reproductions. Other costs involved the time and effort needed to ascertain the legal status of a work. Beyond specific initiatives such as Wikimedia Commons and the British Library's Mechanical Curator project, there are no central national databases of works available in the public domain. This means that only those firms with pre-existing knowledge of IP and rights clearance are better placed to locate and exploit such materials.

→ bit.ly/1txkTUO

Musicians & Copyright —

A Matter of Pragmatics Rather than Principle

Copyright and intellectual property is typically seen as either the province of economics and economists (it's about making money!) or of that of law and lawyers (it's about who owns what!). And while both may be the case, copyright is also a matter of culture and politics, something that emerges clearly when musicians, and those who work with them, talk about the law and economics of intellectual property. **John Street** (University of East Anglia) says that this becomes apparent whether dealing with established musicians or with those who sit on the margins of the new digital industry. Based on research conducted by John along with Keith Negus (Goldsmiths, University of London), Adam Behr (University of Newcastle) and Tom Phillips (University of East Anglia), it emerged that copyright was often a matter of pragmatics rather than principle. It became a matter of interest or concern when music became a matter of money, rather than of creative inspiration or desire; or when relations between band members broke down; or when it was your sample that got used. At other times, copyright was less important than, say, the email addresses of those people who made up your online audience.

This is not to say that copyright was unimportant - it could matter a great deal. But distinctions can be drawn between where, when and to whom it mattered. To a session musician delivering an accompaniment to order, it was of no consequence. However, if that session musician was expected to compose, rather than reproduce, the score, then copyright loomed large. Copyright's importance was in part a product of how 'copying' was viewed. The musicians studied for this project acknowledged that they learnt from copying others, and that their songs often began life as a version of something someone else had written. They also made distinctions between the creative sampling and other uses, as they did with other forms of copying. In making these distinctions, they were not acting simply for reasons of self-interest or convenience. There were principles involved – political principles about property and ownership, about freedom and trust. Understanding copyright as both a product of the creative process and of political principle is key to understanding copyright's relationship to the music business and the laws that regulate it.

A 'Window' to Exploit TV Content —

While the internet and digital convergence have engendered greater competition between television outlets and increased risks of piracy, they have also extended and enriched the availability of delivery platforms for television content, introducing new opportunities for IP owners to develop overseas markets and to exploit their assets. CREATe researcher **Gillian Doyle** (CCPR/University of Glasgow) investigated how distribution strategies in the television industry are adjusting to the spread of digital platforms and devices and how the transition to a digital multi-platform distribution environment is affecting 'windowing' strategies for television content?

The project analysed how strategies for distributing television content via a series of exploitation windows are being re-shaped by the current transition to a more complex, multi-layered, competitive and globalized digital distribution environment. Findings show how the rise of digital platforms and outlets whose footprints are diffuse and boundaries porous is disrupting traditional windowing models. This has necessitated new thinking about how best to organize the sequential roll-out of content so as to build audience demand, avoid overlaps and maximize returns. Changes in the dynamics of television distribution have altered not just processes for exploiting the value in IPRs but also content and content production, with implications for audiences as well as industry.

How Cultural Policy works —

How do cultural bodies tasked by the government to intervene in the creative economy actually work? This and other cognate questions were looked into by CREATe Deputy Director **Philip Schlesinger** along with CREATe researchers **Melanie Selfe** and **Ealasaid Munro** (all at CCPR/University of Glasgow). Working in partnership with a Glasgow-based creative intermediary - Cultural Enterprise Office (CEO) - the team investigated the workings of specialised cultural intermediaries and studied the way in which top-down government policy initiatives are processed with the aim of shaping the activities of micro-businesses and individual creators.

Ideas about how best to support the creative economy – minted in London some 20 years ago – have been uncritically adopted in Scotland. While government attaches great importance to the work of intermediaries such as CEO, such bodies are under-funded, precarious, and often compete with their clients for funding. The research, which concluded that cultural intermediaries need stability and autonomy to fully exploit knowledge of the sectors they assist, has been presented to the Scottish Government's Culture Secretary and discussed with international representatives of similar intermediary bodies.
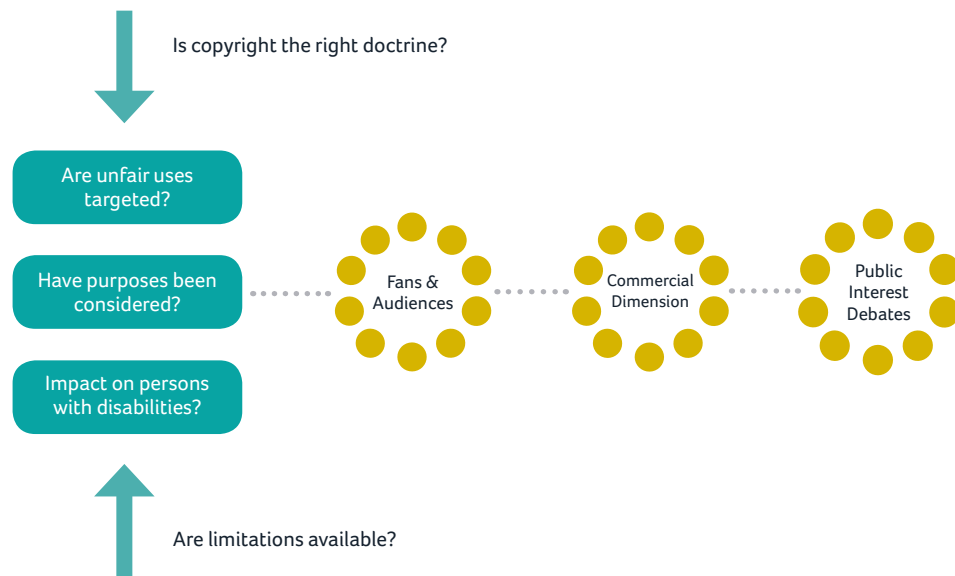
Assessing restriction of copyright in light of the right to freedom of expression

Is copyright the right doctrine?

Are unfair uses targeted?

Have purposes been considered?

Fans & Audiences

Commercial Dimension

Public Interest Debates

Impact on persons with disabilities?

Are limitations available?

Helping Copyright and Human Rights

What does freedom of expression mean in the context of copyright, and how does this inform the understanding of other human rights in the context of copyright?

These questions have been explored in a project led by **Emily Laidlaw** (University of Calgary) with **Daithí Mac Síthigh** (Newcastle University). The goal is to identify what role freedom of expression should have in facilitating new business models, and whether there is a need for a public interest exception rooted in human rights principles. The team have produced a set of guidelines for copyright owners for respecting the right to freedom of expression as it relates to copyrighted works.

These guidelines seek to distil, from the literature review and from cases and statutes, principles of good practice for copyright owners to identify when a free expression right is implicated in the design, use, or enforcement of copyright. It is hoped that these guidelines can be used to clarify the contours of a copyright owner's rights, and to internalise and harmonise the impact of decisions regarding the use of works on the exercise of speech rights. This is a particularly appropriate time to adopt such guidelines. The United Nations Guiding Principles on Business and Human Rights entrenched a framework for business and human rights.

In Europe, the Court of Justice of the European Union has confirmed the applicability of freedom of expression, which is protected in the Charter of Fundamental Rights, in copyright cases. However, it is unclear how narrowly drawn such a right is in this context, and how informed it should be of the wider human rights case law under, for example, the European Convention on Human Rights. These guidelines seek to identify ways that industry can meet their obligations under the Charter and the duty to respect in the Guiding Principles.

As with the Guiding Principles, there is no magic solution to the balance between copyright and free speech. However, it is hoped that good practice guidelines can flesh-out points of contact, as a basis for further reflection. This flowchart is a companion to the more detailed industry guidelines. These guidelines are aimed broadly at creative industries and should be useful for copyright owners, intermediaries, policy makers and consumers. They revolve around three themes: (1) assessing restrictions of copyright in light of the right to freedom of expression; (2) enforcement; (3) the practice of respect for human rights.

➔ **create.ac.uk/publications**

Assessing enforcement of copyright in light of the right to freedom of expression

Restrictions

Intermediaries
Limitations e.g. necessity and proportionality
General communication of policies
Explain specific reasons for restrictions
Monitor and report on enforcement
Have a grievance mechanism

Rule of Law
Prescribed by law
Proportionate to aim and necessary in ademocratic society
Due process e.g. right to be heard

Disconnection is disproportionate
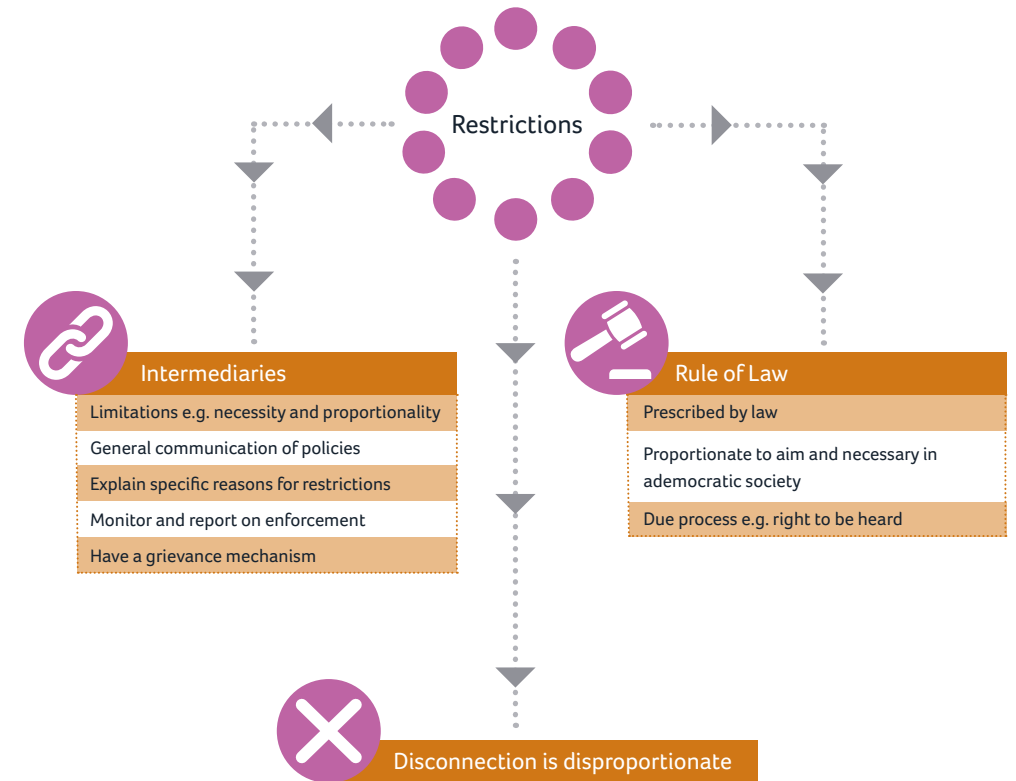
Know and show respect for human rights

The practice of respect for human rights

Due diligence: develop policies to manage human rights impact

Accountability: risk assessment, training, tracking, grievance, communication

Feedback: information on processes, participation in law reform

Respecting free speech is about more than reuse; it includes e.g.culture and public interest
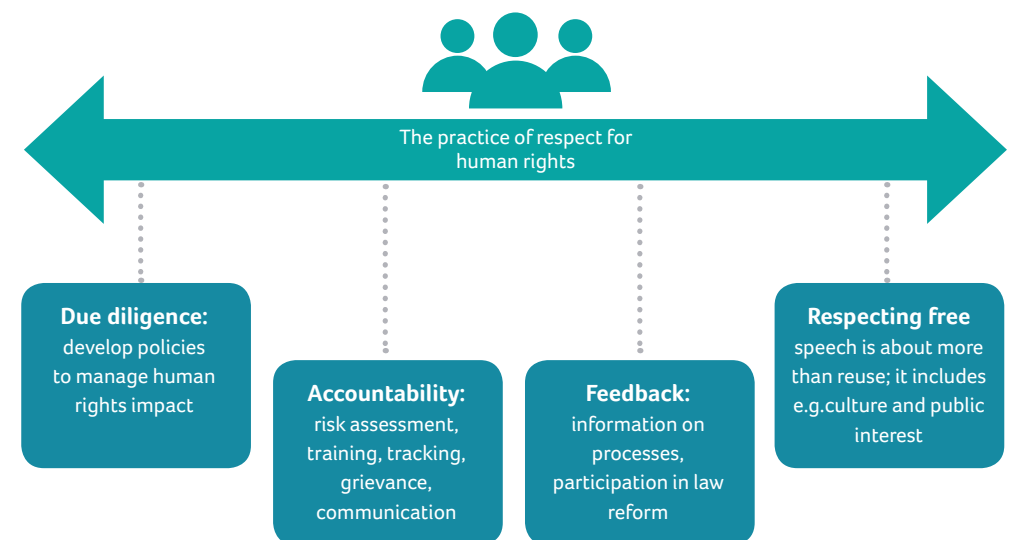
Death and Digital Assets:
What Happens to My Facebook Account when I Die?

The above question is one commonly asked in an era when some two billion of us have active Facebook accounts and our everyday lives are inextricably intermingled with our digital ones. Our virtual lives acquire belongings just as our "real" lives do, and we want to know what happens to them when they die. Does ownership stay with the creator of a social media profile, or pass to the platform where the work is created or hosted? Is the matter regulated by copyright, by contract or by other laws such as data protection or breach of confidence? What is the authority of the terms and conditions imposed by the platform as the price of access? Who should have preferred rights of ownership, the user or the platform, given the romantic notion of authorship as against the work and expense the platform puts into providing a place where users can play or converse? Do the business models of social networks and virtual worlds have to be based on owning everything in a user account? Can data even be owned at all?

This multifaceted enquiry comes to a useful crux when we consider what happens to our data after death: who owns it before death, who inherits it (if anyone), and who controls access to our pictures, posts, videos, avatars, and other digital footprints after we die. If an asset is considered the property of a person, then in almost all countries it forms part of that person's estate on death and transmits to their heirs, either by will or by rules of intestate succession. The same is true for intellectual property (primarily copyright for the purpose of this research). If an asset cannot and should not be considered property, or protected by copyright, then arguably it simply cannot transmit on death.

This issue thus became the focus of the Death and Digital Assets project, led by CREATe's Deputy Director **Lilian Edwards** (University of Strathclyde) with PhD researcher **Edina Harbinja.**

The first question the project team examined was the legal nature of digital assets, which we defined as including any online asset of personal or economic value which was potentially capable of post-mortem transmission. After surveying the value and ubiquity of digital assets in modern life, we selected three of the most typical categories of digital assets to examine in depth: property in virtual worlds; emails; and profiles and other assets in social networks. The project first examined what constitutes property, and how those rules are justified, in a number of significant legal systems including the UK, US, France and Germany.

The team found first, that, somewhat contrary to popular belief, email contents, virtual world assets and social network profiles often do not fit well into the category of "property". This was primarily because the law does not propertise or commodify (with some outstanding exceptions, such as EU database right and US "fresh news") mere facts and information, which need to be available in the public domain to further expression, invention and creativity. Some systems also struggled with recognising intangibles as property except in limited classes of intellectual property. However creative content may be protected by copyright, and thus be transmissible on death. This category will cover much digital content eg many emails, blogs, photos online etc, with the normal rules applying as to thresholds of originality (low), types of creative works protected, terms of protection, etc.

This however raises a further question: should digital assets that do not fall within copyright or IP still be capable of being regarded as property in the special circumstances of digital assets and death? Is this necessary to meet significant user interests and expectations? For example, in case law we examined, heirs often expected access to the deceased's emails after death, or to be able to either take control of, or delete, social network profiles after death. Media stories spoke of the pain relatives suffered at seeing invitations to Friend, or celebrate the birthday of, users they knew to have died. If these are compelling needs, our project concludes that legislative action may be required of some kind, as the ordinary law of succession and executry will not operate successfully in this environment and the online platform contracts (see below) also tend not to respect user rights. Such laws are already emerging in various U.S. States and other countries, primarily in relation to administration of estates and powers to access email accounts after death, but on a patchwork and haphazard basis, when we would prefer to see a coordinated international solution, especially given the global and transnational reach of online platforms.

Secondly, the project team found, when we turned to rights other than property, the dead also do not generally benefit from rights of data protection, privacy as a human right, breach of confidence or against libel – these all typically terminate on death. This leaves the reputations of the dead and their privacy, which may be uniquely exposed in social media and emails, in jeopardy. In response, the project team posited a novel right of post-mortem privacy: the protection of the privacy interests of the deceased. We argue that this concept would foster and protect user autonomy and control over their persona and deserves legal and policymaker consideration.

Thirdly, the project team examined the allocation of ownership of assets through service providers' contracts (e.g. the terms of service, acceptable use policies and privacy policies of Google, Facebook, Twitter etc) and found that the approaches of service providers regarding ownership and transmission of digital asset were not at all uniform. Platforms most typically assumed control and ownership over all user assets created online even when they were of considerable value (e.g. in-game assets). Some exceptions existed, eg in the game Second Life which awarded ownership of assets created online to its users, and there was a trend towards less one-sided contracts. However even sites which disclaimed any ownership of IP - notably Google and its family of apps – still typically left it at platform discretion how access to accounts and their contents could be exercised on death. Facebook were a market leader in providing clear forms by which heirs, friends and family could seek to close down or alternately "memorialise" sites of deceased users after death, but these solutions remained at the discretion of the site in frustratingly vague ways, which were also not aligned with local succession or administration laws. We argued that user autonomy and control over online assets both in life and post-mortem was thus often not respected, nor was transmission to, or access by, legal heirs predictable.

Against this negative pattern of denial of user autonomy and unpredictable platform discretion, however, the team identified a newer trend, led by Google, and more recently, Facebook, towards allowing users to exercise control over their online assets by indicating preferences in advance as to how they wanted their accounts, and the content they contained, to be dealt with on death. A kind of "post-mortem literary executor" can be appointed on both sites to oversee the handling of such after death. These technological solutions, such as Google Inactive Account Manager and Facebook Legacy Account, in some way mimic the privacy preference tools that users can already use to shape their sites during life. These tools are not however a magic solution – for example, conflicts with traditional wills may arise and most users are probably still unaware of these options - and the project evaluated them and proposed some improvements. These include amendments to the Copyright, Designs and Patents Act 1988 to enable transmission of unpublished content protected by copyright, and changes to service providers' terms of service, so to achieve a more coherent post-mortem policy. On the whole though the team were positive about these in-platform solutions as a useful way to further and support user autonomy.

Recognition and Awards

CopyrightUser.org's animated film The Adventure of the Girl with the Light Blue Hair (by Ronan Deazley and Bartolomeo Meletti) won the AHRC Award for Innovation in Film.

2014

Philip Schlesinger appointed to the Content Board of Ofcom (2014-17), to represent the interests of the people of Scotland.

2015

Derek McAuley appointed special advisor to House of Lords EU committee inquiry into Online Platforms.

Lilian Edwards appointed as Researcher in Residence at the Digital Catapult, and acting manager of the Digital Catapult's Personal Data and Trust Network.

Daithi Mac Sithigh appointed by the Irish Government as a member of its Open Data Governance Board.

Martin Kretschmer elected President of the European Policy for Intellectual Property (EPIP) Association.

2016

Gillian Doyle appointed by the European Commission as Member of European Expert Network on Culture and Audiovisual (EENCA) to provide advice on development of policy (2016 - 2018).

Victoria Stobo appointed as Copyright Policy Advisor to the Scottish Council on Archives (following Deazley's appointment in 2014) paving the way for CREATe to offer tailored copyright training to the Scottish archive sector and for representation at international bodies such as WIPO Standing Committee.

This is an edited excerpt from Berkeley professor Pamela Samuelson's closing keynote at the European Policy for Intellectual Property conference (EPIP) hosted by CREATe at the University of Glasgow in September 2015.

Providing a Forum for Evidence based IP Policy

Pamela Samuelson at EPIP 2015

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It's not a surprise to many of us, perhaps all of us, that, generally speaking, intellectual property policy making and copyright in particular tends to be driven by whatever major industry groups bring forward as proposals, and a lot of times that results from negotiation among the players.

I think that one thing that we can say pretty clearly is that the copyright industries used to be a pretty backwater, small segment of economies. They have gotten a lot bigger. IP intensive industries are now critically important to the ongoing innovation environment and so we want to be able to promote innovation. Rapid technological change and disrupted markets make copyright policy making awfully difficult.

Evidence based intellectual property policy making is not as unfamiliar to folks at this conference as it is to many other people, but it's certainly the case that empirical work tells you something about the world. Understanding the world a little better is a good idea if you want to regulate it well. Part of what I noticed in attending some sessions and reading about some of the papers that I wasn't able to actually go to, was how many different types of empirical methods that people are using: surveys, statistical analyses of data sets, qualitative interviews with human subjects, comparative studies and analyses, case studies, lab experiments [are] the types of empirical work that people are doing. I'm especially encouraged to see young scholars and even graduate students doing some really outstanding and interesting work.

For at least some of the people who are here, copyright is not just about the economic rights. It has a kind of cultural and personal value. That means that evidence based approaches,

which often tend to be focused on economic issues, are not things that are going to surface those values.

Most of us who do intellectual property work are speaking to each other. That's actually a good thing. But if you think that your work has policy relevance—"I collected this evidence because I want to support this particular policy"—just writing articles to your colleagues is not going to do the work. So part of what you need to do is begin to think about how else to reach the policy making community. One thing you can do is publish things in venues where they will read your work. Another is to learn how to do what in the United States we call "two-pagers", which is distill everything down to the crispest form and say why the data that you have support it.

Evidence-based IP policy is a theme worth pursuing. It's not always going to win but it gives this community something useful to debate and to offer to policy makers. Reform is possible but it's not going to be easy, and generational change will probably make more of a difference than anything we write today.

This conference is a great forum for exchange of ideas. The fact that you've been able to attract a couple hundred people from different sectors—lawyers, economists, other social scientists and researchers, some industry people and some policy makers - that's really unusual and so it is a really special, special thing. I wish there was something like this in the United States. There really isn't. So keep up the good work.

A video with full text transcript is available at:
→ bit.ly/1KumOwx

"

Engagements with Industry——

Technology **4%**
Creative Agency **5%**
Photography **6%**
Government **8%**
Legal **9%**
Publishing **11%**
Other sectors **22%**
Music **19%**
Cultural Memory **16%**
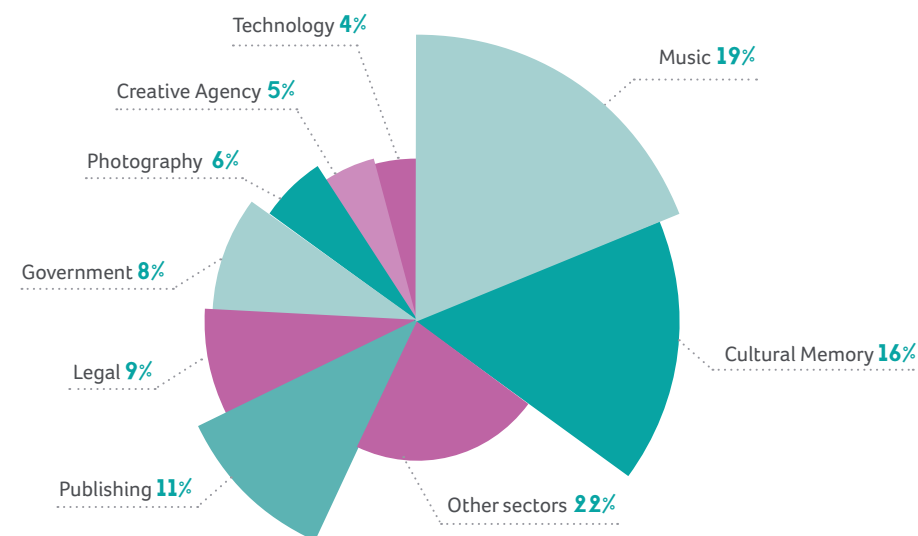
Developing links with the cultural and creative industries is an integral part of CREATe's research. A wide range of stakeholders have worked with CREATe through a variety of channels including knowledge exchange seminars, trade fairs and secondments. **Sukhpreet Singh** (University of Glasgow) contextualizes this engagement.

CREATe understands industry partnerships as more than being a delegate at a CREATe or industry event. In order to be reported, engagements need to include an element of sustained interaction. Examples include ° writing as a co-author or contributing to a working paper or a position paper, ° speaking at or organizing a CREATe event or panel, ° contributing to a CREATe industry diplomatic mission, ° being formally appointed as an industry fellowship with defined outputs.

As the chart above indicates CREATe has worked with certain sectors more than others. Within the creative industries, it is not by chance that the music and publishing sectors are more prominent than, for example, video games or fashion. This reflects the stresses that copyright regulation faces in these sectors, and that there may be different needs for research and evidence to assist in transforming business models. The high level of engagement with the cultural memory sector (which includes archives, libraries and museums) reflects the impact that CREATe research has had on practices in these sectors, for example with respect to risk managed approaches to rights clearance.

There has been a sharp rise in engagement with the technology sector – in response to emerging cutting edge research topics such as 'smart cities', '3D printing' and 'block chains'. Photography has been particularly affected

by ubiquitous digital cameras and user generated content. Projects such as CopyrightUser.org and the evaluation of the new Small Claims track at the IP Enterprise Court, as well as CREATe's collaborations with the Digital Catapult, have heightened engagement with this sector.

Following the organisation of a stakeholder summit in December 2014 (hosted by UK Music) to coordinate research initiatives between the UK IP Office, CREATe and Industry Research, the chair of CREATe's programme advisory council Alison Brimelow led a formal set of 'diplomatic missions'. A strategic dialogue took place at board level with the IP Federation (representing a cross-section of industry reliant on intellectual property rights), the Intellectual Property Awareness Network (IPAN) and Tech UK (representing the technology and enabling sectors). An Industry Fellowship initiative was established as an innovative mechanism that enabled senior industry figures to develop projects with CREATe. The first Fellows were appointed in 2015: Emma Barraclough (former editor of Managing IP), Richard Paterson (BFI) and Jeremy Silver (CEO Digital Catapult). All three have contributed articles to this publication.

In response to a growing need for copyright and IP education, from both industry and government, CREATe supported a number of interventions. CREATe part-funded a survey of National Union of Students by the IP Awareness Network in 2015. In May 2016, CREATe co-sponsored an agenda setting symposium with PRS for Music, ALCS (Authors' Licensing and Collecting Society), CLA (Copyright Licensing Agency), ERA (Educational Recording Agency) and Industry Trust for IP Awareness, attended by the IP Minister Baroness Neville-Rolfe. CREATe also has three current members on the UK IPO's Unregistered Rights Research Advisory Group.

The CREATe IMPACT ────

The research councils took a risk when they launched the call for a Centre for Copyright and New Business Models in the Creative Economy (that became CREATe), and invited a group of interdisciplinary researchers to plough a contested field. Yet within less than four years, the UK was seen as a pioneer for the analysis of copyright law from an innovation perspective. **Alison Brimelow,** Chair of CREATe's Programme Advisory Council, a body independent of the researchers and their funders, offers thoughts on the impact of CREATe's research.

Alison writes: The Programme Advisory Council (PAC), which I chair, must have a view on the effect CREATe is having if it is to be of any use to CREATe's governing body and funders.

One approach is to offer a catalogue of output and citations (of which there are lots and they are impressively diverse). But that seems to me to be rather tough going for a document like this, and better suited to an annual report (or annex thereto). The facts matter, but they are the underpinning of an assessment, not the assessment itself.

So I shall start anecdotally. In May I took part in a Symposium in Munich, marking the 50th anniversary of the Max Planck Institute for Competition and Innovation. The Institute is rightly celebrated for its long tradition of rigorous work on Intellectual Property Rights, and I found myself in a large and distinguished company. I was very pleased to find that CREATe was well known and my modest connection with it prompted a lot of admiring comments on the scope of the venture and the quality of work it is producing. Given the reputation of the Institute, and the spread of academic talent from across Europe, and indeed further afield, taking part in the event, that is to my mind a reaction which it is worth recording with satisfaction. The admiration was both for the cross disciplinary nature of the work CREATe undertakes and for the vigour (and rigour) of its output. This is echoed in some of the comments offered by PAC members last year after the European Policy for IP (EPIP 2015) conference in Glasgow.

But impressing other academics (however distinguished), while comforting, is not CREATe's key objective. It was called into being to provide evidence which could help to shape policy.

After a fairly tranquil second half of the twentieth century, where the working of the system and its utility was widely understood, Intellectual Property policy suddenly found itself wrestling with innovation, the pace and nature of which sometimes left the legislative framework flat footed (or irrelevant) and citizens minded to break the law.

But looking at the case for change is not necessarily welcome. As Roger Burt (a distinguished patent attorney and PAC member who served on the Advisory Panel for the 2011 Hargreaves Review) commented on CREATe's performance last year: 'The field of IP is of huge value to companies and commercial organisations; this value means that CREATe will inevitably be dealing with organisations that may have a lot to lose if there are changes in the law or suggestions that they may not be operating in the best interest of society as a whole.' The hazards of working in this territory were nicely illustrated by what happened to the UK copyright exception for personal copies for private use (which was quashed in July 2015 by the High Court following a judicial review against the government brought by three music industry trade bodies). But I would be much more worried about whether CREATe was doing its job effectively if nobody complained.

The development of policy is not a binary process. There are many interests and behaviours to assess, particularly where the pace of innovation is fast, and the multidisciplinary approach CREATe can bring to bear is very useful, though it brings some 'learning opportunities' as one discipline discovers that its 'normal approach' is completely foreign to colleagues from another background. But the new way of working does bear fruit, for example in the way CREATe has pioneered a method of combining legal analysis and innovative digital empirical techniques, and the way this work is seen as having 'changed copyright law', not least by helping parody to make money.

So far, so good. But as several PAC colleagues have commented, there is a lot more for CREATe to do in building on what it has done and learned so far. It seems to me that there is no reason at all to say 'that is quite enough of that', but rather to say: 'and next we need...'.

Chair:

Alison Brimelow (former chief executive and Comptroller General of the UK Patent Office, now known as the Intellectual Property Office, and fifth President of the European Patent Office 2007-2010)

Members:

Robert Ashcroft (CEO PRS for Music)

Hasan Bakhshi (Nesta)

Frank Boyd (KTN UK)

Roger Burt (Council Member at Chartered Institute of Patent Attorneys, Chair Registered Rights Advisory Group IPO, Member Advisory Panel Hargreaves Review 2011)

Tony Clayton (Visiting Research Fellow at Imperial College London and former Chief Economist at UK IPO -2015)

Pippa Hall (Chief Economist at UK IPO)

Laurence Kaye (Shoosmiths LLP)

Jim Killock (Executive Director of the Open Rights Group)

Jerome Ma (Engineering and Physical Sciences Research Council)

Hector MacQueen (Scottish Law Commission)

Robin Smith (National Library of Scotland)

Eloise Meller (Economic and Social Research Council)

Richard Paterson (Head of Research and Scholarship at the British Film Institute)

Jeremy Silver (member of the UK Creative Industries Council, Chairman of MusicGlue and SupaPass and advisor to InnovateUK, Bridgeman Art Library and Growth Intelligence, CEO Digital Catapult)

Heather Williams (Arts and Humanities Research Council)

International

Reto Hilty (Director, Max-Planck-Institute for IP & Competition Law, Munich)

Jeanette Hofmann (Director, Humboldt Centre for Internet & Society, Berlin)

Bernt Hugenholtz (Professor of Intellectual Property Law and Director of the Institute for Information Law of the University of Amsterdam IViR)

Joe Karaganis (The American Assembly, Columbia University)

Andrew Kenyon (University of Melbourne)

Zorina Khan (Bowdoin College Maine, USA)

Helge Rønning (University of Oslo, Professor Emeritus in the Department of Media and Communications at the University of Oslo)

Pamela Samuelson (Richard M. Sherman Distinguished Professor of Law; Professor of School Information; Co-Director, Berkeley Center for Law & Technology at the University of California)

Sacha Wunsch-Vincent (World Intellectual Property Organization)

Building the Capacity for Interdisciplinary Research

Doing interdisciplinary research is difficult. We sometimes use the word loosely to describe cross-disciplinary encounters or trans-disciplinary borrowing. In fact, interdisciplinarity involves committed, shared collaboration to develop novel approaches that might evade a single field of study. This type of work is challenging not only because academics speak different languages and use different methods of inquiry but also because knowledge production in universities continues to be siloed: cultural divisions between disciplines have a strong organizing influence. Capacity building in this context means training a new generation of scholars in the skills, methods and perspectives needed to succeed in this academic landscape.

CREATe researchers **Elena Cooper & Kris Erickson** (both University of Glasgow) discuss three types of capacity building that have been applied effectively in the first phase of CREATe. These are i) translational, bringing academics up to speed in key methods and approaches, ii) integrative, creating linkages between researchers to generate new knowledge and iii) practical, providing researchers and stakeholders tools to apply knowledge in practical settings.

Translational Capacity Building

CREATe Studio is a postgraduate reading discussion workshop which occurs monthly throughout the year. The purpose is to provide PhD students and postdocs an opportunity to discuss working papers and research from outside of CREATe. The group attracts colleagues from law, economics, cultural studies, media management, languages and computer science. Postdocs are invited to lead the group on a rotating basis.

In June 2013 CREATe hosted a conference in Edinburgh, where researchers from seven UK universities discussed empirical research methods. Researchers presented projects to each other in rapid Pecha-Kucha style. Keynote presentations by established scholars discussed ways to conduct longitudinal studies, comparative studies and meta-analysis.

Integrative Capacity Building

Two events, the Technology Capacity Building event in Nottingham and the Economics of Creativity and Competition event at UEA occurred mid way through CREATe's first phase. Converging around topical issues, these initiatives helped early career researchers identify challenges of the future for the digital economy. Attendees included Giancarlo Frosio (Stanford University), Jerome Reichman (Duke University), Alma Swan (SPARC Europe) and Joel Waldfogel (University of Minnesota).

A series of workshops on Openness, IP and Innovation organised in March 2016 provided the opportunity for academics to converge around the concept of 'openness'. Participants included Stefan Haefliger (Cass Business School, London), Natacha Estèves (Sciences Po, Paris) and Rufus Pollock (Open Knowledge).

Practical Capacity Building

CREATe hosted a public stakeholder event on Valuing the Public Domain in December 2014, and a similar public event on Copyright and Orphan Works in September 2015. These meetings were intended to promote transparency and usability of empirical results obtained from CREATe research. Attendees from policy, cultural institutions, creative SMEs and academe discussed and debated research, helping strengthen relationships and also improve research via open communication.

In May 2016 CREATe hosted a hackathon. One of the challenges for researchers and PhD students was interacting with the software development paradigm. One of the outcomes (other than software tools) was a shared understanding of technical, legal, and academic perspectives on copyright.

Capacity building has been an ambition from the inception of CREATe. In 2012 the CREATe Governance Board noted that "A key stumbling block to effective research on innovation and the creative industries has been a lack of legal, business, technology and creative researchers trained to 'speak each others' languages". A legacy of the Centre will be a new generation of interdisciplinary researchers, including 16 PhDs (4 funded by CREATe, 12 as institutional contributions) and 36 Postdoctoral Researchers working across the CREATe consortium. CREATe has nurtured new PhD, LLM and MSc programmes across the consortium. This will be the first major UK effort to systematically build such capacity.

An Open Access Journal for Internet Policy in Europe —

We face urgent questions about how best to govern communication networks in the information society. How should European societies balance openness and digital innovation with a need to preserve privacy, democratic sovereignty and cultural values? How can academics engage with these issues in a way that is accessible to policy makers, timely, and rigorous? **Frédéric Dubois** (HIIG Berlin) and **Kris Erickson** (University of Glasgow) introduce Internet Policy Review; a journal established in 2013 that seeks to address these challenges through an innovative editorial workflow and a commitment to transparency and open access. The journal tracks public regulatory changes as well as private policy developments that are anticipated to have long-lasting impacts on European societies.

The first thing that is different about Internet Policy Review is its fast-track peer review process. Unlike traditional social science journals, IntPolRev employs a transparent system by which authors and reviewers can see each others' comments on a shared draft document. Editors and reviewers comment directly on the text as well as provide substantive feedback. We believe that this approach leads to more accurate and more civil engagement with ideas and leads to more substantial improvement of submitted work. The typical time from first submission to publication is currently three months.

A second difference is that Internet Policy Review is aimed at policymakers, civil society and practitioners alongside the academic community. In order to communicate more effectively in these domains, IntPolRev encourages shorter submissions of 6000-8000 words, free from jargon and with clear policy-relevant recommendations. The journal is fully open access and free to read. To encourage information sharing, all individual articles are issued under an open creative commons license.

Internet Policy Review is published on a quarterly rolling basis by the Alexander von Humboldt Institute for Internet and Society, in cooperation with CREATe and the Institut des sciences de la communication at Paris-Sorbonne (CNRS-ISCC), the online journal offers readers a clear and independent analysis of developments in European digital policy. For further details and submission guidelines see:

➜ **policyreview.info**

INTERNET POLICY REVIEW
Journal on internet regulation

Equipping Digital Innovators and Creative Leaders —

Intellectual property rights are devised to encourage innovation in culture, business, and technology. Laws give protection to different types of creations, turning culture into goods that can be bought and sold in the 'Creative Economy'. However, things change rapidly at the interface of rights, data, and information in the digital world, and these changes affect society in general and the work of creative businesses, digital innovators, cultural heritage organisations, and policy-makers, in particular. **Sukhpreet Singh,** CREATe Programme Leader and Director of the MSc in IP, Innovation and Creative Economy, shares the story of developing and launching an industry facing online Masters programme. Developed at the University of Glasgow, the MSc@CREATe offers professional development and the validation of executive expertise, to develop creative industry leaders.

A common challenge for research centres is how to usefully disseminate research based knowledge to society, business and other interested parties in order to effect the skills base of the digital economy. To satisfy this goal, and to create a sustainable legacy of research, CREATe's bid to its funders included a commitment to a new degree programme. The attendee profile of research dissemination events included mid and senior level industry executives who expressed a need for formal learning about digital rights and obligations, and concepts of regulation and innovation, but were unable to take a year off their working lives to develop their careers. We therefore responded with an online Masters programme pitched towards a working executive profile.

The core of the programme crosses disciplines. The executive learners gain detailed knowledge of how copyright, trade mark, data legislation and judicial decisions regulate creative production, and what legal tools can be used to protect content and brands. They learn about economics, acquiring a critical understanding of the fundamental determinants of economic performance and innovation, as well as analytical and applied skills, such as data analysis. Tools from social science are employed to teach about user behaviour and approaches to investigating online communities. Management plays a part, applying the insights from strategic management scholarship to lead creative firms. Vitally, connections are made across these specialist disciplines, by investigating the key concepts needed to understand the digital creative economy.

Cutting-edge online learning tools, populated with real-world research and case studies, guide learners through the challenges of today's creative industries. Interactive forums and the option to attend live or recorded master classes give access to peers and industry and policy leaders. On successful completion of the programme, learners will have a detailed understanding of digital rights and obligations, enabling them to apply authoritative knowledge to their professional context.

➜ **create.ac.uk/msc**

"What drives innovation? Why do some create, while others copy?"

"How does the law protect the investment made in brands that surround us and the functions they perform?"

"How do online communities form? How do they manage common resources? How do digital creative businesses interact with users and online communities?"

'Who is in control'? Lawmakers? Computer code? Culture? Are we led by culture? Or is culture itself a result of technology and law, of the conditions of the digital world?"

"Who shapes copyright policy - is it big business, start-ups, users, legislators or the courts? Or is it the nation states, Europe, US or the world? Is copyright policy fit for the digital world?"

MSc@CREATe
MASTER OF SCIENCE IN INTELLECTUAL PROPERTY, INNOVATION AND THE CREATIVE ECONOMY

The UK government is increasingly interested in developing initiatives that strengthen capacity for research and innovation within both the UK and developing countries and promote long-term sustainable growth. A prime example is the Research Councils' new Global Challenges Research Fund for high level cross-council interventions. CREATe Programme Leader, **Sukhpreet Singh** (University of Glasgow) highlights a number of strategic international partnerships spearheaded by the CREATe Centre.

Internationalisation

Paving paths far away and close to home
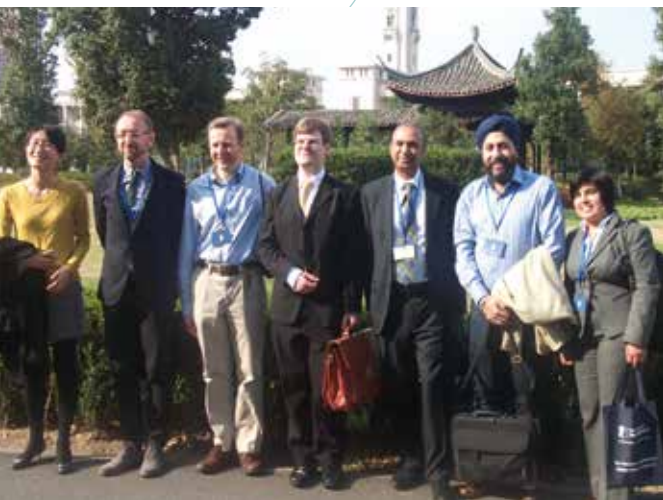
Sukhpreet Singh (CREATe Programme Leader, second from right) attending the scoping workshop for the launch of the AHRC Centre for Digital Copyright and IP Research in China (Nov 2014)

China

Western copyright holders have historically considered China to be a place with no respect for IP rights. Yet, China is one of the world's biggest content industries, which consumes huge amounts of content created both internationally and domestically.

The increasing role of IP in business and the need to examine the global dimension of modern copyright in the digital age, led the AHRC to team up with the Ningbo Science and Technology Bureau to establish the AHRC Centre for Digital Copyright and IP Research in China. With the University of Nottingham's campus in China acting as a hub, the spokes are rooted in research activities in larger cities such as Beijing and Shanghai. CREATe was invited to contribute to the establishment of this Centre in November 2014, culminating in a high level scoping workshop in Ningbo, attended by delegates from Chinese & UK universities, the National Copyright Agency of China, the UK Foreign and Commonwealth Office in Beijing, the British Council, and international law firms from across China and Hong Kong.

> *"The business models being developed by Chinese companies to distribute films and audio-visual content online have turned China into something of a copyright laboratory, and are being watched closely by industry executives and researchers."*
>
> *Emma Barraclough, The Rise of China's Film Industry from CREATe Blog/WIPO Magazine* **bit.ly/1VExNNE**

Engagement with China has continued as a research priority, supported by recommendations of CREATe's Programme Advisory Council (PAC). CREATe's projects in 2015-16 include 'Convergence or differentiation in IP protection? A case study of new models for digital film, music and e-fiction production and distribution in China', led by Xiaobai Shen (University of Edinburgh) with contributions by Martina Gerst (based in China), Yinliang Liu (Peking University) and Xudong Gao (Tsinghua University).

EU

CREATe's European partnerships include the Humboldt Institute for Internet and Society (HIIG) in Berlin and the University of Amsterdam's Institute for Information Law (IViR). CREATe and HIIG have collaborated on research staff exchanges and joint organization of academic and industry workshops. CREATe co-publishes the 'Internet Policy Review', an innovative open access journal that aims to combine academic rigour with policy relevance with HIIG and the French Institut des sciences de la communication at Paris-Sorbonne (CNRS-ISCC). Collaboration with IViR University of Amsterdam has seen the award of EU funding (awarded in the UK by the AHRC under the Heritage Plus Joint EC Call) to explore the potential role of crowdsourcing in rights clearance, and a joint project Reconstructing Copyright's Economic Rights, funded by a Microsoft grant.

Korea

The Korean government has an ambitious goal to have more than 10 million pieces of shared copyright works by 2017. This is expected to allow cost savings to the tune of 3.6 trillion won (approx 2.5bn GBP) by bringing down the cost of production (mainly licensing costs) of cultural goods, and spurring innovation and creativity.

CREATe's engagement with Korea emerged from Martin Kretschmer's invited keynote on copyright law reform in Europe at the Seoul Copyright Forum 2014, where other speakers included Michele Woods (WIPO), Kevin R. Amer (U.S. Copyright Office), Masabumi Suzuki (Nagoya University, Japan) and Ping Zhang (Peking University, China). In October 2014, a delegation led by the Director of Industrial Research Yong Jeong Lee visited CREATe Glasgow to explore approaches to economic research on copyright law and to evolve an approach to sharing policy information on copyright between Asia and Europe. Yong Jeong Lee said, "CREATe has a unique approach, and is widely seen as a pioneer in empirical research in the area of digital copyright." In October 2015, another delegation led by Dae-Oh Kang, Director of the Copyright Deliberation & Research Team, visited CREATe to share creative industry research and policy initiatives from Korea.

India

The Indian media industry has grown at a rate of 10-15% annually over the last 10 years, with expectations to grow to US $28 billion by 2019. India also has developed a distinct approach to IP questions, for example relating to compulsory licences, geographical indications, and net neutrality, emphasizing a development agenda. CREATe curated a panel in 2015 at the Global Congress on Intellectual Property and the Public Interest, hosted by the National Law University in New Delhi (chair: Smita Kheria, with Lilian Edwards, Sarah Kember, Daithí Mac Síthigh). The congress saw the participation of activist and campaign groups alongside academics and international bodies such as WIPO. CREATe is planning to extend its research interests with Indian partners.

Jeanette Hofmann, a Director of Berlin based HIIG, speaking at a joint CREATe-HIIG workshop in Dec 2013 titled 'Reforming Formats'

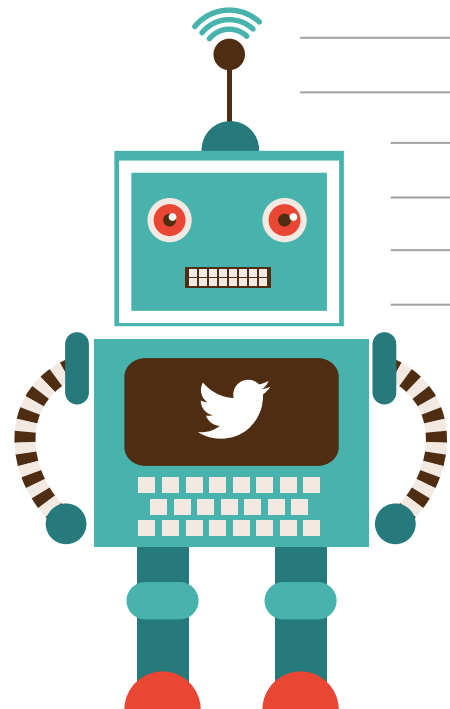## Learning from China's Creative Cultural Industries

Upon the successful adoption in China of Western notions of intellectual property protection, international firms have safely started offering their product and services in the market. At the same time, there is unexpected surge in the market for film and other cultural products by home spun Chinese companies. Internet giants (Baidu, AliBaba and TenCent - also known as the 'BAT' group) are making significant investments in content and are experimenting with a wide range of new business and service models. Various free and near-free services are being offered and tested in the Chinese market, many of which differ significantly from what is seen in Western markets.

Supported by CREATe and the Ningbo based *AHRC Centre for Digital Copyright and IP Research in China*, **Xiaobai Shen** (University of Edinburgh) is leading a project that explores the emergence of new business and service models for digital film, music and e-fiction production and distribution in China. Project findings, subsequent to the currently ongoing intensive round of interviews with key players in China, will be shared on:

➜ **bit.ly/1ROHjdQ**

Notes

CREATe

RCUK Centre for Copyright and New
Business Models in the Creative Economy

School of Law, University of Glasgow, 10
The Square, Glasgow G12 8QQ

→ **create.ac.uk**

Create Festival
London, 24 June 2016
Royal Society of Arts