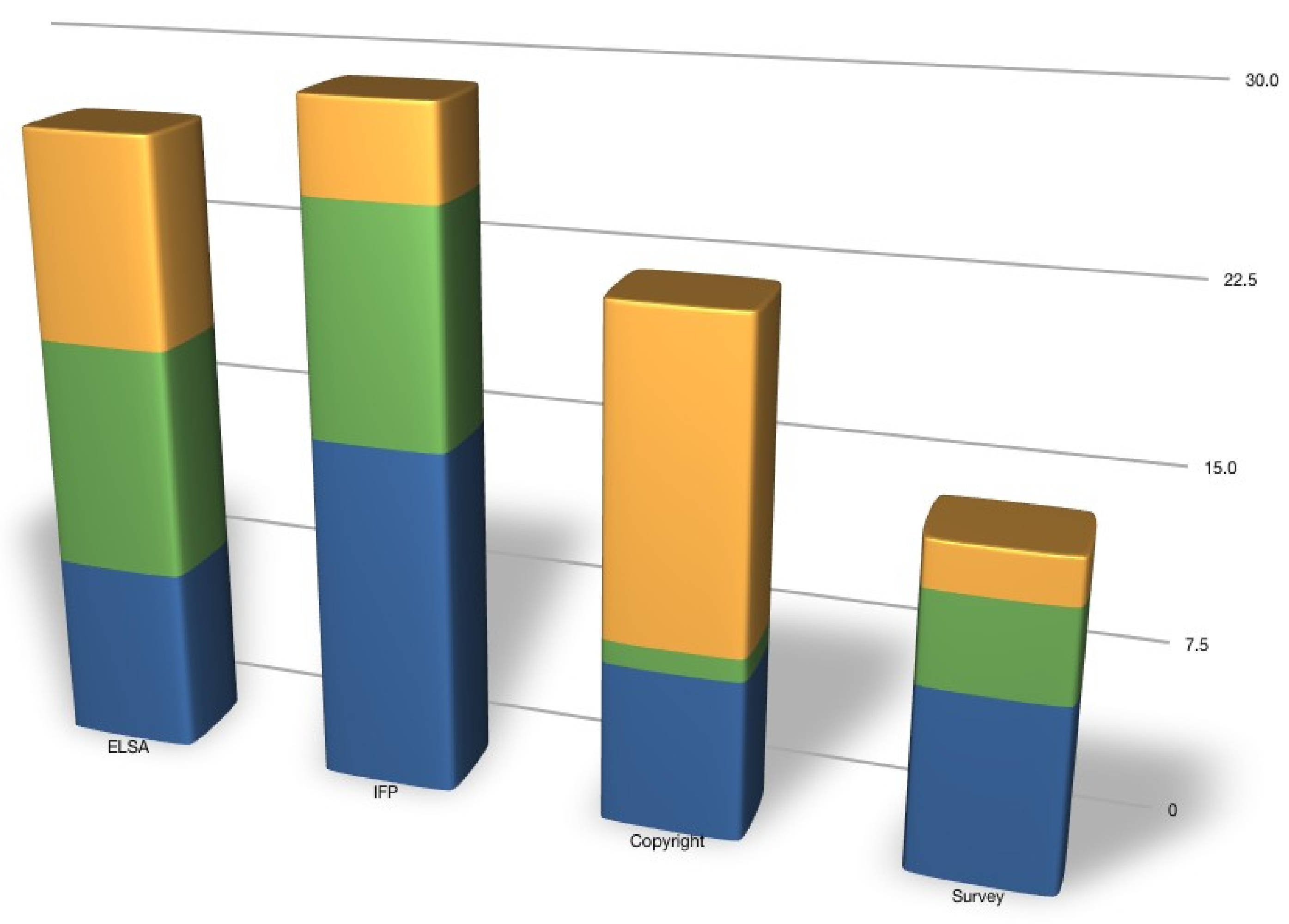
ELSA | COPYRIGHT SURVEY

What Does the Young Generation Believe About Copyright

Report *of* Findings



ELSA Copyright Survey

Report of Findings

What Does the Young Generation Believe About Copyright

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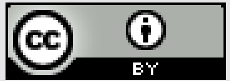

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Why we wanted to do this survey

The end of the millennium was marked by an unprecedented velvet revolution: the internet boom. In a matter of a few years the digital world expanded rapidly to include not only businesses, but most importantly individual users. Such was the nature of the digital environment that everyone could generate, copy, transform, adapt and share content as easily as a mouse click. The augmenting creative output of users worldwide brought along a concomitant stirrup of the debate on the regulation and protection of these works of intellect, which grew to include the entire copyright law spectrum. Soon, it became evident that the existing copyright regime was confined to the needs of the analog world and that its application to the digital environment often proved awkward.

A sweeping wave of new laws the world over, aspired to align the copyright system with the recently emerged socioeconomic conditions, but it only managed to heat up the conflict between creative users and the content industry. As disobeying users kept multiplying, the voices in favour of a copyright reform that would truly address the issues of the digital peculiarities, echoed more densely. For as long as the law remained inert, the public disregarded it, and for the first time in history a law (i.e. copyright law) was so extensively violated. As the Recording Industry Association of America (RIAA) reported "tens of millions of illegal music files are traded annually at an estimated ratio of *20 illegal downloads for every track sold*" (RIAA Piracy Report, 2006).

In this heated context we wanted to see whether users actually understand why copyright law has taken its current form and whether it makes any sense to them. For every user that logs into YouTube, downloads songs, maintains a blog, edits pictures or music, copyright law unfortunately poses a potential legal threat. The rationale, however, behind every threat is not always clear and users have often found themselves wondering what they did wrong. Our aim was to examine to what extent young people in Europe justify copyright regulation as it stands at present.

The results were a revelation, and are hopefully an interesting read for everyone involved in intellectual property.

How was the survey conducted

The questionnaire was designed with simplicity in mind. It comprised 18 questions, some arranged in sets. The (quantitative) survey was delivered in a structured interview form and was administered mainly online, through an open website (elsasurvey.org), but also print questionnaires were handed out. In order to reach as many people as possible and to ensure that the sample is random, we requested from other students' organisations to spread the questionnaire to their members as well. We are particularly thankful to AEGEE, EPSA, EMSA, IFMSA and EUROAVIA for their precious help in spreading the questionnaire. The questionnaire was also posted on various internet fora. For the purposes of the survey, "young" was defined as people between the age of 18 and 30. The survey was not designed for law students, neither were law students the only target group; we wanted to see what young people, not only young lawyers, had to say about copyright.

1532 respondents

33 countries

18 questions

3 months

The geographical scope of the survey spanned from western to eastern Europe, excluding the countries of the former USSR due to lack of penetration resources. The sample was collected from 33 European countries (see Table 1) and was allocated, where possible, based on the general population ratio to achieve an evenly distributed sample. Population demographics were drawn from Eurostat. Most of the responses were collected from: Belgium, France, Germany, Italy, The Netherlands, Poland, Romania, Spain and the United Kingdom. The survey run for 3 months from mid April to mid June and a total of 1532 responses were processed, 1110 online and 422 in print format. For the collection of the online responses we used the Limesurvey platform, while the processing was done using SPSS. The analysis of the results was greatly aided by national experts who helped us understand their national copyright regulations by filling in a separate questionnaire that corresponded to the issues raised by the survey questions.

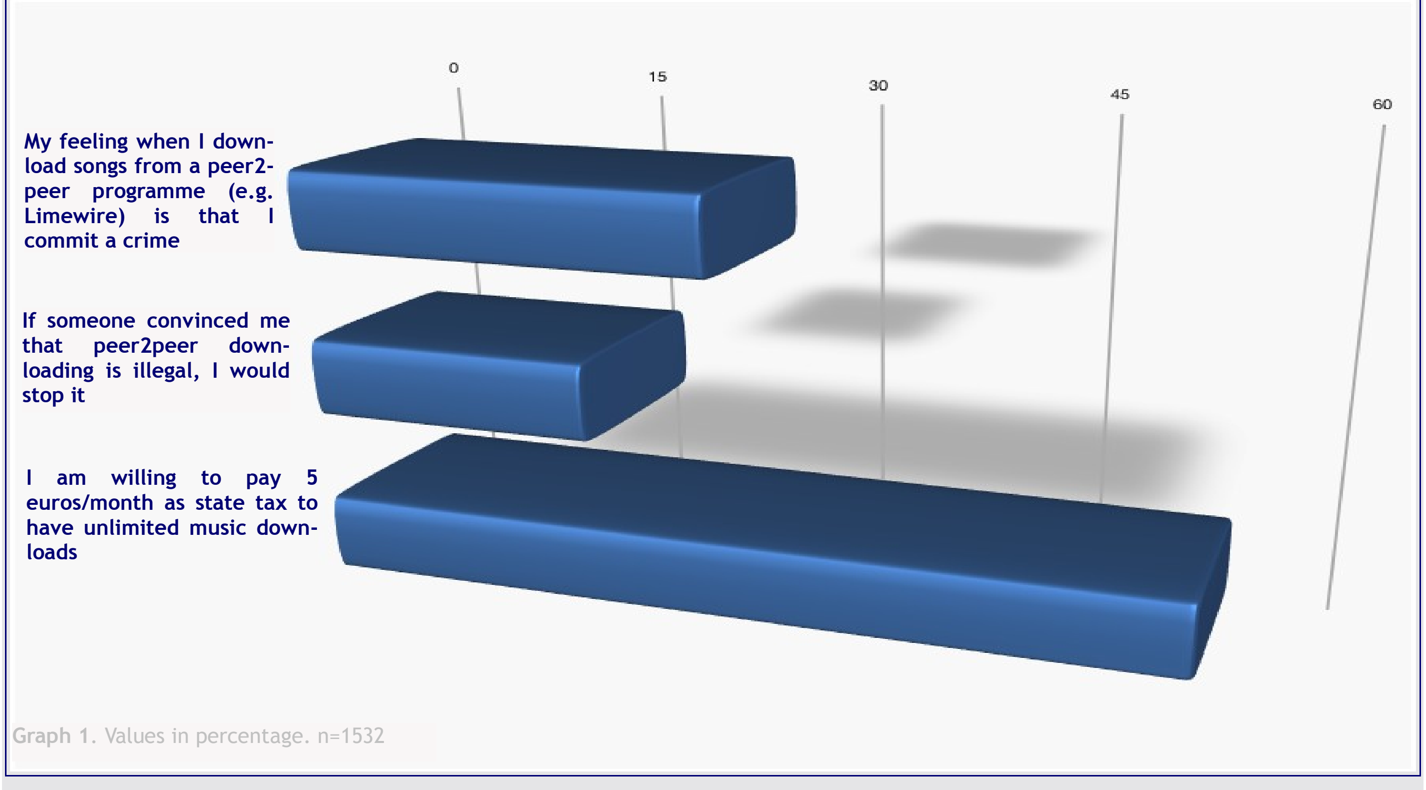
Survey Results' Analysis

The public at large became aware of copyright violations when Napster took over the digital world in 1999. 25 million users globally became criminals overnight, and Napster was forced to shut down after a longwinded litigation with A&M Records (A&M Records, Inc. v. Napster, Inc). Napster was a clear-cut case, because Napster servers maintained a central list with the available songs for download, thus contributing to the illegal file-sharing of the copyrighted songs (the assigned term for such activities was "contributory infringement"). The Napster clones that followed knew better. Instead of facilitating their users through a central list, they simply mediated to connect users with each other. This new generation of peer-to-peer programmes provided only the link to other users, which does not by itself imply any illegal use. However, the change in the architecture of the P2P programmes, did not incur any change in the users' habits. As the data invoked by the plaintiffs indicate, more than 90% of the content circulated through P2P networks constitutes copyright infringement, both during the Napster network (98%) and in succeeding networks, like Grokster (91%, MGM v. Grokster, see the evidence provided by the plaintiffs).

Strikingly, though, **the majority of users do not feel like criminals when downloading songs** from P2P networks. Only a mere 26% of the respondents replied positively, as indicated by the ELSA Copyright Survey (referred to as the Survey hereinafter). When asked whether they would stop file-sharing, if they were convinced about its illegality, 82% said no. What is even more interesting is that 75% of those who don't feel like criminals would not give up illegal file-sharing even if they were convinced that file-sharing is illegal. This explains why, despite RIAA's unceasing efforts to fight copyright infringement over the internet for the last 10 years, P2P networks still account for most of the illegal file-sharing.

Copyright © Levies

Amidst this grim situation the recording industry had better come up with a novel and radical solution sooner or later. A suggestion that's getting more and more positive attention was put forth by the music industry a few months ago: broadband users would pay a $5/month tax to the music industry to have unlimited downloads (The Register, 2006, see also Techdirt, 2008). This indiscriminate copyright levy favours heavy users, but is unfair for those who do not download songs from the internet, or who prefer to pay legal online retailers. Therefore, as expected, respondents were divided as to their stance on this proposal. A moderate **54% was willing to pay 5€/month to have unlimited music downloads**. The underlying principle of copyright levies is that artists should get a flat compensation in those cases that their works are used, but it is impossible to control this use. Copyright levies have a long history, but



Graph 1. Values in percentage. n=1532

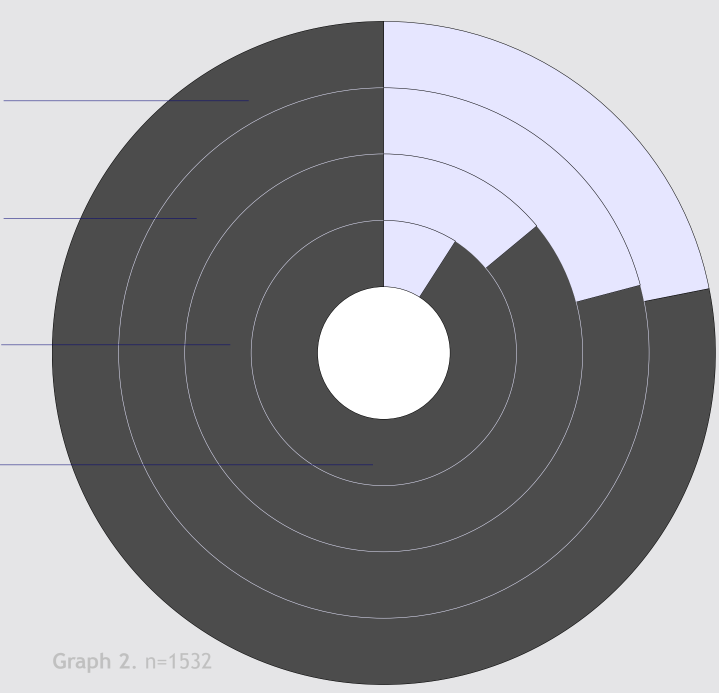
the young generation seems to doubt their rationale. Let us examine the example of copyright levies on blank media. In most European countries the majority of digital and analog means of data storage and reproduction (CDs, cassettes, hard disks, photocopy paper etc) are taxed with a 5-11% fee, which aims at compensating the artists for the unauthorised copies of their works that may be produced on them. In simpler words, a blank recordable CD is taxed, because it **may** be used to copy copyrighted works without the permission of the creator.

While it seems that the distributed copyright levies cost is insignificant to the end user, the cumulative impact on consumers and the ICT industry rises up to 2.1 billion euros annually (Copyright Levies Reform Alliance, 2006).

Participants were asked the following related question: *"You have bought yourself an album of your favorite band. You like it so much that you want to listen to it in your car as well, while you are driving. So you copy it on a CD and keep it in your car too. Do you think that this copy should be paid for (even a small amount)?"* Naturally, **90% found it unreasonable to pay an additional amount (the copyright levy) for that private copy**. Indeed, there is no reason whatsoever to repay an artist for his work simply because users want to keep their CDs in two places simultaneously, copy a damaged old disk to a new one, or create a backup copy for security purposes, to mention just a few perfectly rational everyday activities that fall under the copyright levies category. **In what way is the economic standing of artists harmed when users create copies for personal use and, further, why do they deserve additional compensation for those copies?** From this point of view, the proposed "music tax" is in the wrong direction, not because it fails to serve the copyright levies system and its rationale, but because the very essence of copyright levies partly contradicts the expectations of people about how should the works of intellect be priced. It is highly unlikely that people would justify paying four times an extra amount to be able to listen to an album at home, at work, en-route using a portable MP3 player and in the car as well.

Coping with © Copies

Sadly, activities like the ones described right above are not only taxed but often considered illegal by the content industry. For as long as the concept of a "copy" remains the "sacre coer" of copyright law, users and



To copy it to any other computers you have at home **78%**

To copy it as many times as you want on the same pc **79%**

To play it on any portable MP3 players you own **86%**

To play it as many times as you want **91%**

Graph 2. n=1532

You legally download a song from an internet music store. Your opinion is that you have the right...

innovation will continue to be sabotaged, even when no harm is evidenced. The case of a now dead website, MP3.com, is a very instructive example. This service allowed users to listen to their legally purchased music disks anywhere in the world through the internet, by maintaining a huge songs database on its servers. The user simply opened an account, inserted their disks in the CD tray of their personal computer, then MP3.com verified the legal copy and accordingly gave access to the user only to those specific songs. Instead of asking the user to upload the songs from his disk to the MP3.com servers (which would take much time and bandwidth), MP3.com had stored the songs in advance, and unlocked only the songs that corresponded to the certified user's music CDs. Much to its bad luck, the content industry deemed the copied songs on the MP3.com servers to be unauthorised copies and demanded that it shut down, as it did. MP3.com would

probably pass the legality test if it requested that users upload the music files themselves. In effect, the situation would be precisely the same, but would require a lot more trouble from the users. The content industry focused on the copies rather than on the result or the economic (or moral) impact to the artists.

MP3.com taught a good lesson to entrepreneurs and to users alike about the law's perception of copy. The gap it left would soon have to be filled. Portable MP3 players arrived right on time and users quickly detected the practical value of copying songs from their computer to their MP3 players, thus stretching and at the same time testing the limits of the law. We didn't miss the chance to see what they think of copying: 78% of the respondents think they have the right to copy a legally downloaded song from the internet to other computers at home or elsewhere, 79% think they have the right to copy it as many time as they want on the same computer (e.g. different hard drives or folders), **86% find it legal to copy it on a portable MP3 player** and 91% find it legal to play it as many times as they want.

Digital Rights © Management

The trend did not go unnoticed and once again, the content industry begged to differ. In an effort to control, to the maximum extent the copies that could be created, the Digital Rights Management (DRM) system was introduced. DRM is a piece of software injected into a file in order to allow or prohibit certain uses, like playback or copying. A music file protected with DRM, may disallow copying or unlimited playback, contrary to what a large majority of users finds reasonable (as demonstrated by the Survey results above). Apple, for instance, prohibits the transfer of songs downloaded from its extremely popular music store (called iTunes and claiming a 70% market share) to portable MP3 players other than iPod (U.S. Securities and Exchange Commission, 2007). This prohibition does not take the form of a legal rule; it rather takes the form of computer code that blocks certain actions whether the user likes it or not, whether he has the right or not. As a result, 86% of young consumers (see above) are either forced to buy an iPod, or see the practical and economic value of their songs fall dramatically.

Computer software can also be protected with DRMs. In fact, in the case of computer software the possibilities are considerably more extensive, spanning from copying restrictions, to reverse engineering or adaptation limitations, and the stakes of breaking the DRM protection are accordingly much higher. Of course, the technical restrictions imposed by DRMs can be broken by cracking the code. This is why lawmakers instituted yet another layer of protection, this time a legal one. The relevant rules make it illegal to circumvent any technical measures that serve to protect files or software, and in many countries even directions, hints or advice on how to bypass technical protection measures may be outlawed. Last year, in a case that gained negative publicity, Coupons.com, a company that allowed users to print their own coupons filed a lawsuit against John Stottlemire on the grounds of breaking the Coupons.com software restrictions on how many coupon copies users could produce. What Stottlemire simply did was to let people know that if they deleted a few files from their computer, they could print unlimited copies.

"The young generation takes for granted non-existent rights, but hesitates to take advantage of what is legally allowed"

Action	Legal?	Percent who think it's legal	Copyright Law - Respondents Accordance
adapt software to other platforms	yes	41 %	☠
access to the source code	yes	38 %	☠
copy software to more computers	no	87 %	☠

n=1532

Stottlemire's statement could well be protected under the free speech rules, yet the legal threat of copyright was enough to mute him. A few years earlier another famous case hit publicity, for it was one of the first to bring to the foreground the oddities of the copyright system. The case went down in history as the "DVDCCA Case" (see EFF, 2005). CSS (Code Scrambling System) was an algorithm used by the content industry to encrypt the movie files on DVDs, so that they could not be ripped or copied. Playback was (and still is) the only allowed use and it was performed by software that could decrypt the CSS protected file. On the Microsoft Windows operating system it was easy to find such software, but no software could reproduce a CSS protected movie on Linux. This meant that a legal DVD movie could be played on Windows but not on Linux. So, a frustrated Linux user, Jon Lech Johansen, created a small programme called DeCSS, which would unscramble the DVD movie. Technically speaking, DeCSS did

circumvent technical measures, but it only did so in order to offer Linux users the same rights Windows users had, the self-evident right to play the movie.

CSS was not the only case where users that purchased software designed for one platform (e.g. Windows) wanted to adapt it to other platforms. The adventures of Johansen did not deter them from seeking to make the most out of their software, and as they got more and more acquainted with computers, interoperability became increasingly practical, calling for more experimentation and involvement. When asked whether they think they have the right to adapt software to other platforms, 41% of the respondents said yes. Adaptation, in turn, presupposes access to the source code of the software, so that it can be modified in the necessary way.

The percentage of young people who think they have the right to see the source code of a programme surprisingly drops to 38%. **It is odd and at the same time alarming that the percentage in those two questions runs so low, given that both of those activities are legal**. In Europe and in the United States the law explicitly allows software users to access the source code for research, scientific or teaching purposes and, moreover, to take reasonable steps towards legitimate uses like achieving interoperability, error correction or execution in accordance with the intended purpose of the programme (US Copyright Act, Section 117, EC Copyright Directive, Article 5(3)(a), EEC Directive on Legal Protection of Computer Programme, Article 5). On the contrary, **an astonishing 87% of young users find it legal to copy computer software to all of their computers, while this is a clear case of unauthorised use**. Indeed, legislation prohibits users from creating copies of computer programmes (and by copies we mean multiple installations too), and almost all software licenses clearly state that the licensed programme may be installed on a single machine.

In extreme cases, software producers can become so obsessed with their proprietary software that they won't even allow it to be installed on systems they don't approve of. Apple serves as the sad example here. Until recently MacOS, Apple's popular operating system, was installed exclusively on Apple systems, like the MacBook series or the iMac series. As Apple products have a reputation for being overpriced, a company called Psystar decided to offer an alternative to Apple computers by installing Apple's operating system to non-Apple systems, thus dropping the price (CNet, 2008). Apple responded by filing a lawsuit, claiming that Psystar violated the MacOS End-User License Agreement (EULA), which "allows [users] to install, use and run one (1) copy of the Apple Software on a single Apple-labelled computer at a time" (Article 2, MacOS EULA). This practically means that you can buy the new, sleek multi-feature Leopard MacOS, but you also need to buy an Apple computer to install it on. The rest of your non-Apple computers simply won't do.

Why are there such fluctuations when it comes to identifying the legality of an act in relation to copyright law? An obvious answer could be that the public remains largely ignorant of copyright law. As Jessica Litman has wittily put it "copyright law questions can make delightful cocktail-party small talk, but copyright law answers tend to make eyes glaze everywhere" (Litman, 2001, 13). But then again, the public is not supposed to be proficient at copyright law (neither at any other field of law). **It lies with the lawmakers to draft such laws whose rationale is easily perceived and accepted by the majority**, **just like the majority understands that it's wrong to kill or tax-evade**.

Copyright law turns out to be so complicated that it comes as no surprise that the young generation takes for granted non-existent rights, but hesitates to take advantage of what is legally allowed. The Survey evidence shows that the respondents regard as lawful what could be characterised as an everyday/ordinary activity, but remain sceptical about acts that are more complicated and involve more effort or expertise. For instance, we asked the participants if they think **singing "Happy Birthday" at a big party without copyright clearance form the right-holders of the song is legal**, and naturally 89% of them affirmed their right. But they were wrong. Singing a song in front of a crowd amounts to public performance, which falls under the creator's exclusive rights, regardless of any intention for commercial exploitation.

Commercial © Use

Commercial use also raises the same confusion. As demonstrated by the Survey, respondents appear to be under the impression that non-commercial use is not a violation of copyright law, since the user does not make any profit out of the creator's work and consequently does not harm the creator's economic interests. A set of

questions sought to illuminate the public's view on the issue. The first question (0901) was formulated as follows: *"Do you think that a restaurant playing a radio station as background music should pay for this performance?"* As a matter of law, playing radio station music in public (the restaurant customers) is usually considered to be public performance and the artists are entitled to compensation. Restaurant owners are therefore required to pay a certain (flat) amount. 63% of the respondents thinks otherwise though! **Only 37% justifies payment for the public performance of radio music**, which -in final analysis- is the same as the public performance of music from an album. It got even more complicated when we asked the participants to compare broadcasting radio music in a restaurant **and** in the waiting hall of a public hospital (0902). The apparent difference is that the public hospital does not make any profit out of the music it plays, whereas restaurants do (music makes the atmosphere more enjoyable, thus attracting customers). This line of thinking led **70% of the respondents who think that the restaurant only has to pay to hold that non-commercial use without permission is legally safe** (though we also got alternative imaginative answers, as for example that "actually, at the hospital nobody really pays a lot of attention to the radio station, for they have other serious problems to deal with"). Copyright law, however, does not make any distinction between commercial and non-commercial use when it comes to infringements. Both of the above cases deserve equal treatment before the law (only 8% replied "yes" to both cases (correct), in contrast to 51% who replied "no" to both cases (incorrect)). After all, unauthorised public performance does not only violate the creator's economic rights, but his moral rights as well, and the latter have nothing to do with money. A third question split respondents right in the middle: *"Imagine that you are a big fan of Harry Potter books. Imagine also that you are French and that the book is not yet available in your language. Thankfully you can read English, but not your friends, who are also big fans of Harry Potter. So you translate the first chapter (20 out of 800 pages) into French and you post it on your personal blog for your friends to review the book. Should Rowling (the author) be able to sue you?"* First, a point of clarification: the question is whether respondents think the author *should* be able to sue (a matter of copyright policy), not whether they think the author *has* the right to sue (a matter of copyright law as it currently stands). In this case-study, which is based on a true story (Denverpost, 2008), the first unauthorised use relates to the translation of the work and the second to the presentation (making available) to the public through the blog. Needless to say that a personal blog may have an audience, but it is intended for private rather than for commercial use, and no dolus for infringement can be inferred prima facie. But again, the provisions of copyright law notwithstanding, **50% finds that, absent commercial exploitation or malice, translation and communication to the public should not be prosecuted**.

As a general comment, one could conclude that people's views on copyright legality correlate with factors like frequency of the act in everyday life, intention and profit, whereas copyright law *only* cares for the *bare* fact that the creator's exclusive rights are violated. **It is hence no wonder that people often don't even realise that they are braking the law**; a law that is far from what their common sense seems to suggest. For example common sense would suggest that if the creator wants to abdicate the rights granted to him by copyright law, he should be free to do so. 93% of the respondents agree. Copyright law disagrees; the majority of European legal systems does not offer such an option. For a law that ostensibly wants to promote the arts and sciences, forcing the creator to keep his exclusive rights is unfair as well as counter-efficient from the perspective of

Commercial Use Focus

Copyright law can be violated even when no commercial use (or intention) is diagnosed on the infringer's side. Therefore, we can involve in copyright infringements without aiming at making profit. All of the following acts are in principle illegal. The numbers show the percentage of the participants that deem them legal.

Act	%
Singing "Happy Birthday" at a big party without copyright clearance (not-for-profit)	89%
Playing radio music in a restaurant without remuneration (for-profit)	63%
Translating and posting portions of books on a blog for personal use without the author's permission (not-for-profit)	50%

n=1532

economic analysis of intellectual property law (Posner & Landes, 2003, 71 et seq.). The reason is that the information contained in the works of intellect maximises its value when it achieves maximum circulation, so that more people can built upon it, thus promoting culture.

Copyright © Extension

And as if this prohibition was not enough, the content industry has now set its goals to extending the copyright term, thereby tying for yet a longer period artists to their rights. The United States, the European Union and Japan have obediently put forward amending acts to extend copyright with the alleged aim of creating more competitive markets and ensure lifetime income for creators. Under the current regime, artists get a 50-70 year protection depending on the country the rights were obtained and the type of the artist. For example, in the EU authors get a lifetime plus 70 years protection, while performers get a 50-year protection term starting from the day of the performance. An author who writes a book at the age of 20 will be remunerated for his efforts till the end of his life plus 70 years, and a performer till the age of 70. Apparently copyright-holders deem the current term insufficient and seek a prolongation of copyright protection. Charlie McCreevy, EU's Commissioner for Internal Market, has recently suggested that we move the performer's rights protection from 50 to 95 years, to align it with the protection offered for other types of creators, an act that he sees as beneficial to the economy and culture (COM(2008) 464/3). On the same track the UK has been flirting with copyright extension for the last 2 years. Ars Technica, bitterly points out the irony of the plan by juxtaposing IFPI's arguments in favour of the act with Sir Cliff Richard's support campaign: “In July 2007, when the government said that 50 years of copyright on songs was plenty of time to cash in, the head of the international music trade group IFPI warned, "Some of the greatest works of British music will soon be taken away from the artists who performed them and the companies that invested in them. Extending copyright term would **promote vital investment in young talent and new music**, all of which will help to secure the UK's future as an exciting music market." The extension has been most vocally backed by musicians like Cliff Richard, whose 1958 hit "Move It!" is just about to enter the public domain. (We're not sure it helps Cliff's cause when the first picture you see on his official website is **Sir Cliff standing before the gates of what is, presumably, his mansion**)” (Ars Technica, 2008). It is hard to discern how a start-up singer would benefit from an amendment that will affect him 50 years later.

And while stimulating culture and the economy is wishful thinking, historical and economic data suggest that the extension would be an unfortunate development. The mission of copyright law is to provide an incentive for creators to produce works by granting them exclusive rights for a limited time. This exclusivity guarantees that the creator will be able to make money out of his work, as well as gain reputation and moral recognition. With the current protection term spanning from 50 years to a lifetime, it is reasonable to believe that creators feel secure enough about their exclusivity. After all, there is no other job that provides compensation for something done 50 years ago (maybe even earlier). We wanted the young generation's opinion on this matter as well, so we asked them whether they would be more motivated as authors to write books, if copyright protection was extended to 90 years after the author's death (instead of the current 70). We also reversed the question to see whether they would be less motivated if the copyright term was reduced to 50 years. The creative public's response leaves no margin: **95% does not find any stronger incentive in extending copyright and 93% will not lose its motivation even if the copyright term is cut down by 20 years**. The vanity of an additional 20 years seems pretty clear to the creative class. It is them that best know their interests and an extension that goes against their expressed will is a blatant countermarch. As to the economic impact such measures would have, **it is contested whether artists would have anything to gain**. An analysis conducted by leading European academics and institutions demonstrated that neither consumers, nor artists will benefit. In their own words “It is not true that this

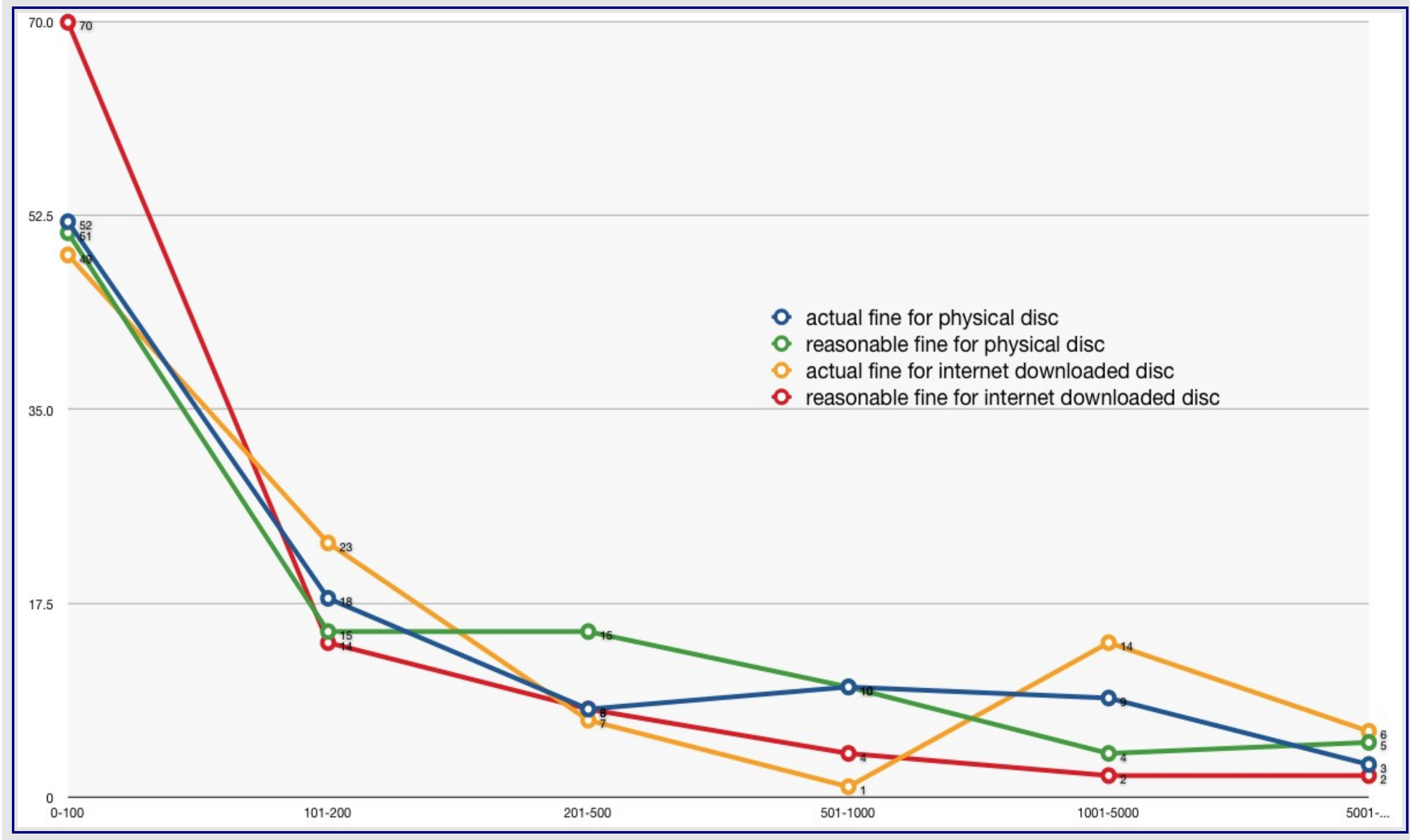
Motivation to create

-20 years	Current Copyright Term: 70 years	+20 years
7% will be less motivated		**5% will be more motivated**

remuneration will increase through extension if the licence fee paid by users (such as broadcasters or night clubs) is assumed to remain the same. The same amount of money will be divided between more right holding performers but many will now be dead! As a result, young performers entering the profession will receive less." (Joint Academic Statement, 2008, 2) The coalition goes on to underline the true beneficiaries, i.e. recording companies: "This is because performers on existing recordings will have assigned their rights to record companies, and the proposal applies the terms of such agreements to the proposed extension of term. So, **the chief beneficiaries of extension are the owners of large back-catalogues of rights**, going back more than 50 years. **Almost all of these rights are in the hands of only four companies: Universal, Sony BMG, Warner Music and EMI.**" (Joint Academic Statement, 2008, 3).

Copyright © Enforcement

As the discussion of some aspects of copyright is coming to an end, one point remains uncovered: the enforcement mechanisms in copyright law. Over the last few years the fines imposed by courts applying copyright law have become legendary, as they soar at hundreds of thousands of dollars. The latest example is the high-profile case of Capitol Records v. Jammie Thomas, that brought a total fine of $222,000 against Jammie Thomas, who was found to wilfully violate the copyright of 24 songs, a $9,250 fine for each song! While this amount may seem a record, **the actual highest possible fine could theoretically reach up to $150,000 for every violation (in the US)!** The verdict was eventually overturned, but infringing users that bypass the court still usually end up paying a $200-750 fine (in the US) as an out-of-court compromise for every song. Even so, the total amount due for a handful of songs can rise up to thousands of dollars. And as explained above, the lack of malice does not indemnify the user, it merely reduces the fine (it strikes out the element of "wilfully"). To exacerbate the situation the recently proposed US Pro-IP Act suggests that "a copyright owner is entitled to recover statutory damages for each copyrighted work sued upon that is found to be infringed. The court may make either **one or multiple awards of statutory damages with respect to infringement of a compilation**, or of works that were lawfully included in a compilation, or a derivative work and any preexisting works upon which it is based" (amendment to Section 504(c)(1) of title 17). In simple words the proposed amendment brakes down the concept of *one* infringement into *multiple* separate violations. William Patry, Google's Senior Copyright Counsel and author of a 6,000 page copyright treatise, explains in simple words the practical impact of the provision: "Under the bill, there may be 25 [awards for violations]: there would be 12 for each track on the sound recording, 1 for the sound



Graph 3. n=1532. Values on y axis in percentage and on x axis in euros.

recording as a whole, and 12 for each musical composition. Under this approach, for one CD the minimum award for non-innocent infringement must be $18,750, for a CD that sells in some stores at an inflated price of $18.99 and may be had for much less from amazon.com or iTunes. **The maximum amount of $150,000 then becomes $3,000,000."**

European countries are not lagging behind in monetary fines either. Monetary sanctions vary from as high as 300,000 euros in France to as low as 30,000 euros in Greece, depending on the damage caused, the intention of the infringer, the commercial use and other factors.

For many people these numbers are absurd. We requested the young generation to give us an estimate of how much they think the law requires them to pay if they steal a 20-euros album from a physical music store (question 1301). Then we asked them to compare it to the amount they think they are liable for in case the illegally download a 20-euros album from the internet (question 1302). In both examples, we also wanted to know how much they think the law *should* require them to pay (again, a matter of copyright policy) (questions 1303 and 1304 respectively). With this set of questions we were able to extract useful conclusions on the difference between the users' and the law's view on actual and appropriate sanctions. As demonstrated in Graph 3 , 70% of the respondents think that the fine in the case of question 1301 should be 0-200 euros. 72% holds the same for question 1302. Their opinion on how much the law should require them to pay stands at the same levels more or less. What is remarkably, though, is the public's opinion on the appropriate fine for illegal downloads: **while 49% of the respondents thinks that the actual fine for an illegally downloaded disc is 0-100 euros, an increased 70% thinks that this *should* be the appropriate fine.** On the contrary, in the example of a physical theft, both the actual and the appropriate fine revolve around 50%. **This means that many people find that even a 101-200 fine is excessive for downloaded songs worth 20 euros.** Combine the high percentage of people that place the anticipated actual and appropriate fine in the 0-200 cohort with what the law actually proscribes, and you will get a picture of how rigid the law is compared to the expectations and beliefs of the creative public class.

It appears that the copyright fines are largely exorbitant according to the Survey results. Yet, the most interesting part is that people place the fines for digital violations lower that for those in the physical world, which is weird given that all major cases that resulted in excessive fines involved digital and not analogue infringements (58% of the respondents gave a lower fine for the illegal download than for the physical theft). Most likely, the "feel" of digital crime is not the same as the physical one.

All in all, the impression the Survey left us was a sad one. Copyright law in Europe is so complicated that it stands almost impossible for the young generation to take advantage of it. Creative output is often met with lawsuits and users get intimidated. Yet the rip-mix-burn culture seems unstoppable and despite the IP law's direction, users worldwide continue to build upon any artistic work they can lay their hands on. Open-source licenses, free content on the internet, the rise of the copyleft culture and the evergrowing solidarity among creative users of the digital era, de facto transform the regulation of the intellectual environment. The copyright war still holds, but there is not much point in placing bets over the winner. As with the history of Hollywood, the radio and video-cassettes the law will hopefully again follow the right path; that is not the path of tolerating piracy, but the path of the creative public's common sense.

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Additional Tables

Arithmetic data not covered by the above analysis

Table 1: Geographical Distribution of Cases

Country	Cases	Percentage
Albania	9	0.59
Austria	33	2.15
Belgium	65	4.24
Bosnia/Herzegovina	29	1.89
Bulgaria	31	2.02
Croatia	27	1.76
Czech Republic	37	2.42
Denmark	24	1.57
Estonia	23	1.5
Finland	39	2.55
France	118	7.7
Georgia	5	0.33
Germany	154	10.05
Greece	50	3.26
Hungary	50	3.26
Italy	95	6.2
Latvia	22	1.44
Lithuania	19	1.24
Malta	12	0.78
The Netherlands	60	3.92
Norway	35	2.28
Poland	105	6.85
Portugal	35	2.28
Republic of Macedonia	13	0.85
Romania	77	5.03
Serbia/Montenegro	38	2.48
Slovak Republic	25	1.63
Slovenia	27	1.76
Spain	64	4.18
Sweden	40	2.61
Switzerland	35	2.28
Turkey	42	2.74
United Kingdom	94	6.14
TOTAL	**1532**	**100**

Table 2: Detailed Distribution of Cases for Graph 2

You legally download a song from an internet music store. Your opinion is that you have the right...	**Copyright Expert**	**Basic Knowledge**	**Remote Relationship**	**Not Familiar**
To to copy it to any other computers you have at home (workstations or laptops)	I/D*	86%	66%	73%
To copy it as many times as you want on the same computer (eg. on your different hard drives or in different\folders)	I/D	85%	72%	82%
To play it on any portable MP3 players you own	I/D	86%	85%	85%
To play it as many times as you want	I/D	91%	90%	86%

*Insufficient data. Only 2% (30 respondents) were associated with the expert level

Table 3: Combined Distribution of Cases for Questions 0901-0903

	Restaurant pays	Hospital pays	Restaurant doesn't pay	Hospital doesn't pay
Restaurant pays	37%	8%	N/A	70%
Hospital pays	8%	I/D	25%	N/A
Restaurant doesn't pay	N/A	25%	63%	51%
Hospital doesn't pay	70%	N/A	51%	I/D

Legend:
Restaurant pays: A restaurant playing a radio station as background music should pay for this performance
Hospital pays: A public hospital playing a radio station as background music in the waiting hall should pay for this performance
Restaurant doesn't pay: A restaurant playing a radio station as background music should not pay for this performance
Hospital doesn't pay: A public hospital playing a radio station as background music in the waiting hall should not pay for this performance
I/D: Insufficient data (no conclusions can be reached based on the format of the questions)
N/A: Not applicable

Table 4: Detailed Distribution of Cases for Graph 3

	0-100	101-200	201-500	501-1000	1001-5000	5001-...	
estimated actual fine for physical theft of a 20-euros album	52%	18%	8%	10%	9%	3%	58%
appropriate fine for physical theft of a 20-euros album	51%	15%	15%	10%	4%	5%	26% =
estimated actual fine for illegal download of a 20-euros album	49%	23%	7%	1%	14%	6%	
appropriate fine for illegal download of a 20-euros album	70%	14%	8%	4%	2%	2%	16%

Prices in euros

Legend:

percentage of the respondents that gave a lower fine for the illegal download than for the physical theft

percentage of the respondents that gave equal fines for the illegal download and for the physical theft

percentage of the respondents gave a higher fine for the illegal download than for the physical theft

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