

Hi,

Name here is Jim Konop.

Please forgive my rather lengthy comment.

As a hobby, I enjoy researching various expeditions to the Arctic and Antarctic that took place in the early 1900's, Much of this exploration was accompanied by film crews. Recently I unearthed an early 16mm film that documents Admiral Byrd's second trip to Antarctica. Being an avid amateur researcher, I realized that this film was unknown to the community of polar historians. I confirmed this with my many contacts, including those at the Byrd Polar Research Centers, polar archival program.

I am interested in converting this film to DVD for the purpose of preserving the content, and ease of viewing. I am also interested in making this film available to the multitude of researchers and historians that may be interested in this unknown film.

The film was produced by Pathescope and the Tide Water Oil Company, sometime around 1935. I set out to find if the film was still under copyright protection. This is where my dismay with our current copyright system begins. I use the term system loosely.

My first shock was that many copyrights extend as far back as 1926. I am an Electrical Engineer and as such, have been involved with a number of new inventions and I am familiar with the patent process. I was shocked to discover that copyright can extend to the life of a creator, plus 70 years. Patents don't even approach that kind of longevity. If I were to invent some new device that could cure cancer, I would rather copyright it than patent it. Then I could maintain control over it for most of the next century. I could enforce monopolistic pricing and stifle innovation by others as I could claim infringement on my works for most of a century or more, as it appears copyrights will be extended forever. In addition, I am thinking about liquidating all of my assets and purchasing the copyrights to some music and movies. Then when I die, the royalties could be given to my children. I think I could even avoid the death tax.

My next shock occurred when I attempted to find who could be the potential copyright owner of my film. I was shocked to discover that most of the materials created over the last 100 years are owned by a relatively few companies. It is a travesty that a few large content owners have managed to lock up our intellectual property for most of the 20<sup>th</sup> century. I am additionally concerned that these large corporations have managed to influence the passing laws that have extended protection for what seems to be an indefinite period of time. Not only has the duration of the protection been extended, the protection now extends into my home, where it impacts how I can use and manipulate the content. They tell me I can manipulate the data. Then they encrypt the data and tell me I can't decrypt it. Thus I can't manipulate, the data, such as copying my older VHS tapes to DVD.

My next shock was that copyright protection is present, even if a work has not been registered with the copyright office. In fact, the original creator's works are copyright

protected even if the creator does not wish for such protection and there seems to be no means to un-copyright anything.

Seeing that it is so difficult to find out if this film is copyright protected and figuring out who the copyright owners may be, I thought about just transferring the film to DVD and making it available to others. This brings me to my next shock. It appears there is no way of determining what the potential fines would be if I were to infringe on a copyright owners rights. The punishment that is dished out appears to be all over the map. So if I were to save this historic, unknown film, and make it available to others, I would have no idea what it would cost me in litigation. I am not sure if I am even allowed to transfer the film to DVD as it appears that the copyright laws have infringed on my fair use laws. The new Digital Millennium Copyright Act (DMCA) appears to have made it illegal to circumvent any protection schemes, even if it is only for my own use, in my own home. I am truly confused by the DMCA and from the number of lawsuits that involve the DMCA, it appears everyone else is just as confused.

The current state of our copyright laws is truly a joke.

So what's next?

I think I will just sit on the film and not allow others to view it, as I don't want to wear out the film. Maybe in another few thousand years, copyrights will no longer be extended and I will be able to legally transfer this film to DVD or whatever media is dominant at the time, and make it available to others. For now, it's just not worth the hassle.

It is my belief that we should take the following actions:

- 1) Restore the duration of copyright protection to its intended length, that of around 30 years. This would allow a number of older works to become available and would allow for various file-sharing networks to legally thrive. This would benefit our telecommunications industry as well as computing and other high tech industries.
- 2) Make it mandatory that copyright holders register their works with a central organization. This will aid in finding copyright owners when there is a desire to determine if there is protection still in place or if there is a desire to use the copyrighted works and make appropriate compensation to the copyright owner.
- 3) All copyrighted materials should also have a date displayed, indicating when the copyright is going to expire. This will clear up a lot of confusion about when the material becomes public domain.
- 4) Once a copyright creator has died, a death tax of 47% (equivalent to a business death tax) should be levied on the royalties received from the use of the copyrighted materials until the protection is expired as indicated by the copyright expiration date as described in section #3. If the material does not fall back into the public domain, at least a percentage of the royalties should.
- 5) Create a method for removing copyright protection from a works. This could be accomplished by indicating the materials copyright protection has expired by making the expiration date the current date when the material is created as

- indicated in section #4.
- 6) Make provisions for multiple levels of copyright protection.
  - 7) Reinstate my fair use laws. Copyright protection should not dictate how I use a material in my own home. If I am not uploading or sharing the material in any manner, and I am not profiting from the material I should be allowed to manipulate it in my own home. If I wish to edit out some language or scenes that I deem inappropriate for my viewing, then I should be allowed to do this in the privacy of my own home.
  - 8) Make it a crime to encrypt data that creates a monopolistic environment. Currently, automotive as well as aviation data, that is used for engine maintenance is being encrypted and the new DMCA laws are preventing independent mechanics from properly servicing equipments. This is not only monopolistic in nature, it is also an unsafe practice and I feel it is an abuse of the intent of copyright protection.
  - 9) Involve the public in the creation of future copyright laws. The public should have a voice when it comes to public domain decisions.
  - 10) Create some guidelines that establish fines and punishment for those who violate copyright protection.

I am not against copyright protection. In fact I feel it is important to protect the creators rights, just as in patented inventions should have a term of protection. I do feel that our current copyright laws have become a tool of the content conglomerates and have lost their original intent. Please do what you can to return our heritage to us.

Jim Konop