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Creative Commons: An option in creativity

By Jaime N. Soriano

Digital technology has revolutionized the publication and distribution of intellectual, creative and artistic works generally protected by a legal regime called 'copyright'.

For more than three centuries following the introduction of the Gutenberg's printing press, copyright has been the response of every government to provide authors, including publishers and producers, the legal protection for infringement of intellectual property rights.

Under Philippine law and similarly in other jurisdiction, copyright attaches to a work from the moment of creation, and gives the authors, artists and those with sufficient legal interest the right to exclude others from using their works, with the end in view of protecting their economic rights and controlling how the work is used.

According to one John Oswald: "If creativity is the field, copyright is the fence".

In the same context, works published in the Internet are generally presumed to be within the legal ambit of this symbol, "©". But with the ease of making a copy and distributing intellectual works utilizing digital technology, did not the Internet effectively weaken copyright protection or perhaps make it obsolete?

In a diametrical sense, how should the copyright system react to the phenomenon of digital technology? Barbara M. Roche, former Minister and member of the British Parliament, said that "there is no difference between the law of the land on line and off line: the law is technology neutral".

The response: *Creative Commons* (www.creativecommons.org)

Creative Commons was founded in 2001 by Stanford law professor and 'free culture' advocate, Lawrence Lessig, together with cyberlaw law professors and experts, James Boyle and Michael Carroll; MIT computer science professor Hal Abelson, founder of Free Software Foundation; lawyer-turned-documentary filmmaker and cyber law expert, Eric Saltzman; and public domain web-publisher, Eric Eldred. They say that fellows and students at the Berkman Center for Internet & Society of Harvard Law School helped get the project off the ground.

Creative Commons is a global non-government, non-profit initiative that offers a legal option to people who love creativity and believe in the freedom of ideas and

creation in cyberspace without necessarily renouncing basic intellectual property rights.

Creative Commons is about 'free culture' that Professor Lessig referred to in his book: "Free Culture: How Big Media Uses Technology and the Law to Lock Down Culture and Control Creativity", as the 'balance between anarchy and control' in intellectual property.

Creative Commons propagates the use of a free legal code, represented by the symbol "©".

In short, if "*all rights reserved*" is the standard legal import in digital copyright, by using the Creative Commons license, the default clause would be "*some rights reserved*", or even "*no rights reserved*", if the author would want his work in the Internet to be part of the public domain.

The Creative Commons license therefore is not intended to supplant copyright. In fact, it operates within, and finds its legal foothold in, the same copyright environment only that authors, artists and creators of ideas are empowered and given back their freedom of choice on the terms and manner by which their works should be used by the general public in the digital community, automatically and without need of additional layer of state regulations.

On March 9, 2006, the District Court of Amsterdam handed down the first known suit involving Creative Commons, which also upheld the conditions of its license.

Creative Commons successfully concludes its second three-day global summit in Rio de Janeiro, Brazil under the theme "Towards a global digital commons", and with the anticipated hope for a better united international collaboration on its broad vision on open content, access to knowledge, open access publishing and free culture communities.

Yahoo! disclosed that over fifty million link-backs to the Creative Commons license had been reported as of last year. The licensing projects of Creative Commons exist in at least thirty-nine country-jurisdictions.

In the Philippines, the e-Law Center of the Arellano University School of Law spearheads the Creative Commons' initiatives. Certainly, Creative Commons is the paradigm shift that every Filipino artist, author, creator, producer, or publisher of works should look into in this digital age.

The system works because Creative Commons, in itself, is a product of extraordinary creativity of its founders.

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