Commentary on
Reconstructing copyright’s economic rights in a time of rapid technological change

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26 May 2017
downstream surplus is a positive externality
car manufacturers aren’t entitled to post-sale revenue involving the car
when seller can factor downstream uses into initial price, there is no value gap
making a distinction between linking & embedding
<a href="www.page.com/image.jpeg">this is a link</a>
<img src="www.page.com/image.jpeg">this is an embed
SO YOU WANT TO STOP HOTLINKING AND BANDWIDTH THEFT

Would you like to stop hotlinkers? Is your web hosting bandwidth bill growing each month? No budget in getting a dedicated server? Want to test image hotlink protection for your web site? Here is information on using an `.htaccess` file to stop hotlinking and bandwidth theft.

HOW DO I STOP HOTLINKING AND BANDWIDTH THEFT?

You can stop others from hotlinking your site's files by placing a file called `.htaccess` in your Apache site root (main) directory. The period before the name means the file is hidden, so you may want to edit your file as `htaccess.txt`, upload it to your server, then rename the txt file to `.htaccess` in your directory. Contact your web host on how to access your directories and configure your `.htaccess` file.

Example: Your site url is `www.mysite.com`. To stop hotlinking of your images from other sites and display a replacement image called `qX4w7.gif` from an image host, place this code in your `.htaccess` file:

```
RewriteEngine On
RewriteCond %{HTTP_REFERER} !^http://(\.|/+\.)mysite\./ [NC]
RewriteCond %{HTTP_REFERER} !^$
RewriteRule .*\.(jpe?g|gif|bmp|png)$ http://i.imgur.com/qX4w7.gif [L]
```

**publisher can have technical control over embeds**

To stop hotlinking from specific outside domains only, such as `myspace.com`, `blogspot.com` and `livejournal.com`, but allow any other web site to hotlink images:

```
RewriteEngine On
RewriteCond %{HTTP_REFERER} ^http://(\.|/+\.)myspace\./ [NC,OR]
```
embedding can include ads and metrics
if the publisher is entitled to control the context, how far does it go? Do we legally prohibit...

direct linking to non-html resources?
use of ad blocking? refusing cookies?
going to the bathroom during commercials?
Real world consequences of current doctrine
Rebecka Jonsson v. Les Editions de l’Avenir SA

Rebecka Jonsson has denied that the film was published on YouTube with her consent. Under these circumstances it is l’Avenir that shall prove the opposite, or prove that the company in any case did not have and should not have had knowledge that that was the case.

L’Avenir has published the link in question on a news site and it is therefore, according to the district court, obvious that it was done for the purpose of carrying profit. L’Avenir is therefore subject to the presumption of full knowledge described above. L’Avenir has not been able to prove the opposite. Therefore, it shall be concluded that l’Avenir had has knowledge about the film being published on YouTube without Rebecka Jonsson’s consent and has therefore, by making it possible for visitors to watch the film by posting a link to YouTube, communicated the film to the public. L’Avenir has henceforth in this manner infringed Rebecka Jonsson’s exclusive right.
Erin Langworthy Bungled Bungee - Bungee snaps over Zambezi River.mp4

Up next

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Department of Foreign Affairs and Trade
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Go Find Yourself
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The TOP
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Top World's Most Dangerous and Scariest bungy jump
FOOTBALL Myth
7,742,284 views

CROCODILE CATCHES
the current rule creates perverse incentives and encourages rent-seeking
let’s talk about transaction costs
Article 13

Information society service providers that store and provide to the public access to large amounts of works or other subject-matter uploaded by their users shall, in cooperation with rightholders, take measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter or to prevent the availability on their services of works or other subject-matter identified by rightholders through the cooperation with the service providers.
Agreements with rightsholders

Every creative work is automatically copyrighted as of its creation

- 2.5 billion (2,500,000,000) people used email in 2015, sending more than 205 billion (205,000,000,000) emails per day

- People will take an estimated 1.2 trillion (1,000,000,000,000) photos in 2017

Sources:
- In 2015, 200 million Google Photos users uploaded 24 billion selfies
- Email, The Radicati Group
- Photos, InfoTrends and Mylio
It is not possible to conclude agreements with 2.5 billion people
Preventing availability

- YouTube’s Content ID has over 35,000,000 reference files from just 8,000 partners
  - This doesn’t scratch the surface of the copyrightable works in the world
  - YouTube has the entire contents of every file on its service
  - Content ID cannot identify infringement, just similarity of content
Similarity doesn’t always mean infringement.
It is also not possible to know a priori who each of those 2.5 billion people have authorized to use their works, and under what circumstances.
our VP Digital Media has the clip for you. fyi--In light of the fact that the goal is to make it look "hijacked" we won't blur the round number on the clock. Steve actually suggested we throw (if technically possible) visual time code on it to add to the "hijacked" effect.

Liaise with Steve on format, but he has the clip ready to go. We feel the length is appropriate to get the point across, but if you want to cut it shorter, we're cool with that too.

Thanks...this is going to be great!

SVP Sports and Specials
Spike TV

To Whom It May Concern:

We received the email below in response to 7 videos we have on YouTube for the MTV show – The Hills. We were hired by MTV to do online marketing around the show with a key tool being uploading and syndicating clips from each show via YouTube. We were authorized by MTV to use their videos on YouTube.

I called MTV to let them know about these emails and how someone contacted YouTube to say we are infringing on their copyright material. I was assured that they would call their lawyers to let them know that we are legit and what we are doing has been authorized by MTV.

What do I need to provide or have MTV provide to settle this matter?

Chris Davies - Mar 19, 2010

Viacom secretly uploaded own content to YouTube, then demanded take-down?

This is HILARIOUS

Can we get posted on YouTube asap? (from scott of course) NOT WITH A PARAMOUNT LOGO OR ASSOCIATION

Senior Vice President
Interactive Marketing
Paramount Pictures

Google
an economic approach to copyright
... with flexible exceptions to foster innovation