

Paper Title: "Copyleft as Training Ground: The Digital Horizons of Intellectual Property"

The history of the development of the concept of copyleft is well-documented; at this point, the Free Software narrative has become a kind of mythology.<sup>1</sup> This paper will not retell that story; instead, it will attempt to do two needed and interrelated theoretical tasks: 1) connect the recent enthusiasm around alternative models of *intellectual property regimes*--broadly grouped under the general concepts of *copyleft* and the *creative commons*--to the *ur*-historical struggle centered around the idea of *enclosure* (simply: the process of erasing the commons); 2) to move beyond US Constitutional Law-based critiques of the current IP regime--currently focused around competing interpretations of the meaning of Article 1 Section 8 Clause 8<sup>2</sup>--to an authentically *global* consideration of the implications of the contemporary enclosure of the immaterial world.

The status of *ideas* has always presented a challenge for the Western liberal conception of property. John Locke's examples of *land* and *things* never quite convince when one moves to the metaphorical realm of the ownership of those infamously non-tangible things: ideas. Perhaps, one wonders, if the *immaterial* world had then its current *material* form--i.e. the ones and zeros of binary code--whether the entire notion of 'private property removed from the commons through man's labour' would have collapsed under its own absurdity. For it is this very shift--unique to our contemporary moment--that has forced the objects of IP out of their cozy metaphorical slumber and into the world of tangible things: the digital file, the sequenced genome, the archives of traditional knowledge... Only when we understand the terms of the debate surrounding the new digital-biopolitical enclosures in its historical context as arising out of that eternal struggle--eternal, yes, but comprised of discrete moments of intervention--against the concept of *property as such* will we be able to consider the demands.

And those demands are global in scope. Once we understand *copyleft* as part of that Many Headed Hydra, we will be able to see its how its concerns move far beyond superficial revisions to international treaties like TRIPS; on the contrary, *copyleft* is concerned with the very metaphysical building blocks of that *other world* we all know is possible. Technology here is key. This section will take the notion of 'film as a training ground'--as described by Walter Benjamin in his well-known essay on the work of art in the age of mechanical reproduction--as a departure point so as to propose the digital file as the 'training ground' of our contemporary moment. I will explore copyleft's abilities to meet Benjamin's demand that the idea "neutralize some traditional concepts," especially through examples from the vibrant debates in Latin American over the status of authorship and the appropriateness of the concept of IP in light of the reality of the artistic process. This investigation will lead me to alternative circuits of literary/intellectual production, distribution and consumption. In putting these examples into dialogue with the theoretical/historical background, I highlight how groups of contemporary Latin American intellectuals and artists are dealing with issues that are at once entirely novel (the digital horizons of intellectual property) yet connected to a hidden line of past struggle. This utopian vision of an intellectual commons extends beyond the literary to include problems such as biodiversity, alternative knowledge traditions and the land itself.

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<sup>1</sup> See, for instance, *The Cathedral and The Bazaar*; also <http://www.gnu.org/philosophy/free-sw.html>

<sup>2</sup> The *Intellectual Property Clause*: "To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."

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