Text, Textuality and Digital Media
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Lecture 27
Copyright Part - 2

So we have been discussing development of copyright laws and the coming of copyright laws and how, that is dependent on and feeds back on the changing relationship between the author, the text, the printer and the reader, so these are the important notes within which the interaction the relationship, these are the important components of literary production, artistic production and the legal framework within which these relationships function is that of copyright and as ideas of the relationship change, the laws undergo a certain change and the laws enforce a certain structure within that those relationships.

So as we have been seing that in the early history of copyright even before coming of the first text sheet of Queen Anne which is the first recognizable national or state wise legal framework or kingdom wide legal framework for copyright. We did, do have local jurisdictions within which these kind of protections are given and these are primarily given from two particular angles, one is the interest of the printer to be able to protect their financial, their business interest, their profit oriented interests and the second is the interest of state to ensure that seditious material, unwanted material do not actually get circulated.

So these two come together to produce the first examples of copyright laws both in local jurisdiction and in later on in national or state wise or kingdom wise jurisdiction. However, there is an advancement that happens in the 18 century really but we can trace it to a little earlier we have Milton Areopagitica arguing against the censorship of the press. In Areopagitica, Milton charged against the monopoly of printers describing them to be all patentees and monopolizes in the trade of book selling who do not labor in an honest profession to which learning is indebted.

So he is trying to point out that the printers do not really represent the interest of learning the way the authors do, and he argued that commercial interest of printers had limited the goal of enlightenment to free knowledge from the closed walls of ecclesiastical control. So, what we see is a certain kind of importance that he sees that the presence of the printers are reducing the possibilities of enlightenment and the growth of the enlightenment.

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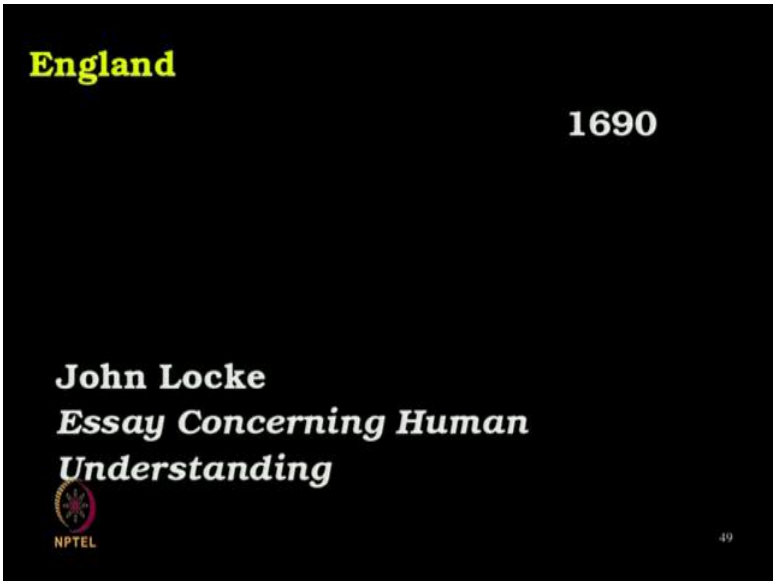

John Locke in 1690 in his Essay Concerning Human Understanding and the Second Treaties of the Government argued that since art in other creative materials are produced by the labor of the human body, it rightly belongs to the person producing it. So John Locke's essay of 1690 the essay concerning human understanding and the second treaties of government argued that since art and other creative material are produced by the labor of the human body, it rightly belongs to the person producing it.

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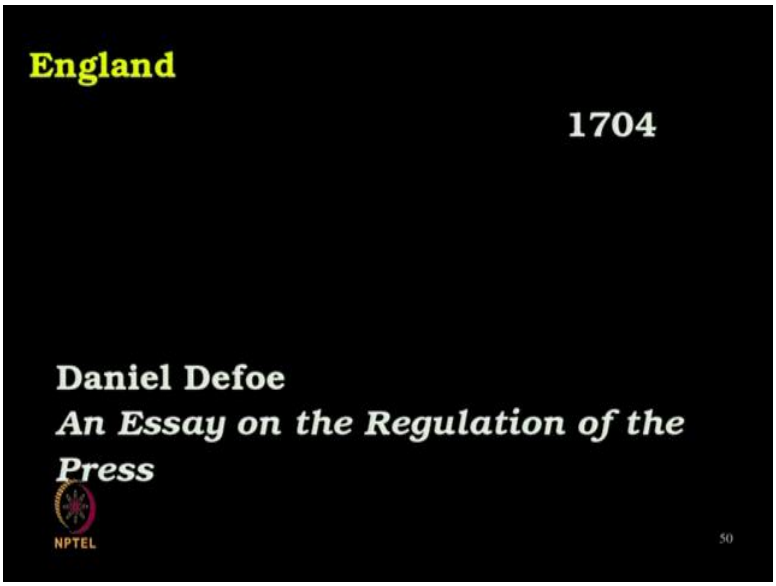

In 1704 barely 5 years before the Statute of Anne ushered in the first legislation of on copyright protection. Daniel Defoe argued in an essay on the regulation of the press for state

to encourage writers, to act in the service of knowledge by guaranteeing the right to prevent unauthorized publication of their works.

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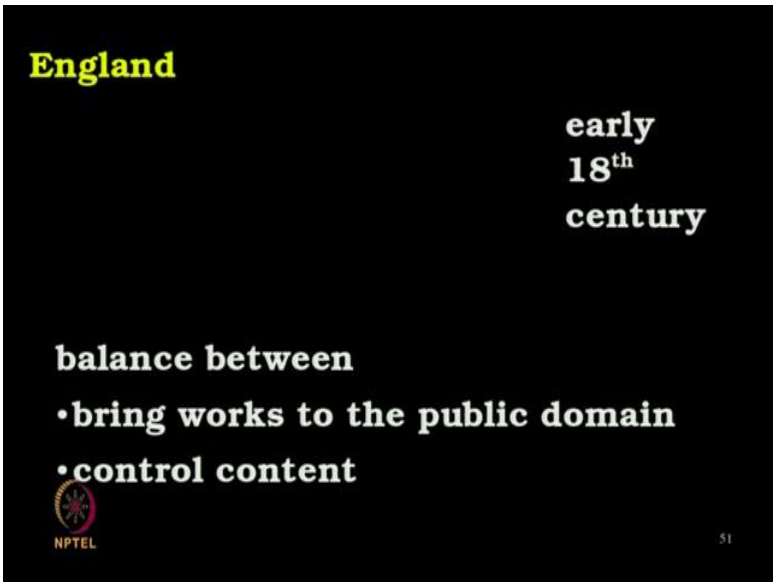

And this idea of copyright actually emanated as a system to balance between the incentive provided to the printers and to bring literature to the public domain. As well as to maintain control over the content of such literature.

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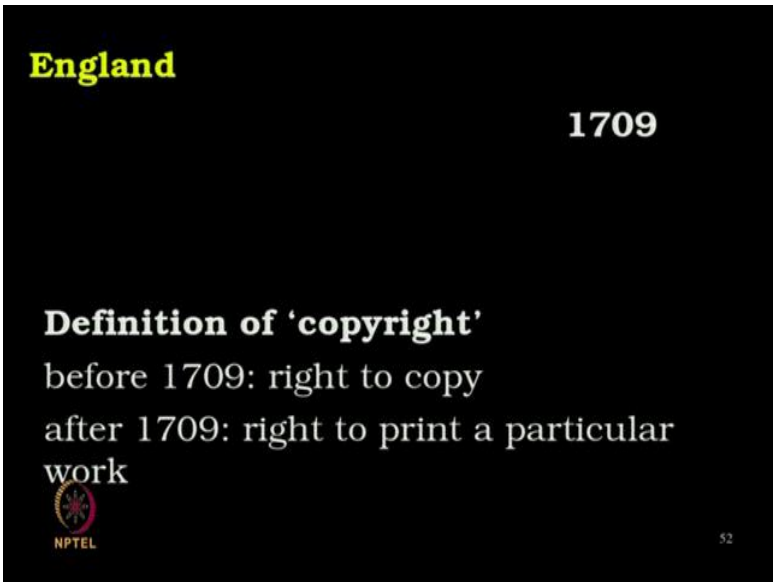

Now prior to 1709 the idea of copyright was just that the right to copy yet Statute of Anne in 1709 marked several changes in the attitude of the law towards the production of intellectual codes, which differentiated it from other sorts of goals, it now applied the right to print on a particular work rather than the entire exercise of printing.

So this is a significant shift that be taken place that you can print but the protection is really on what kind of works you can print, you cannot print works, you know texts which are harmful considered harmful by the state and you cannot produce a work which is being pirated from another printer.

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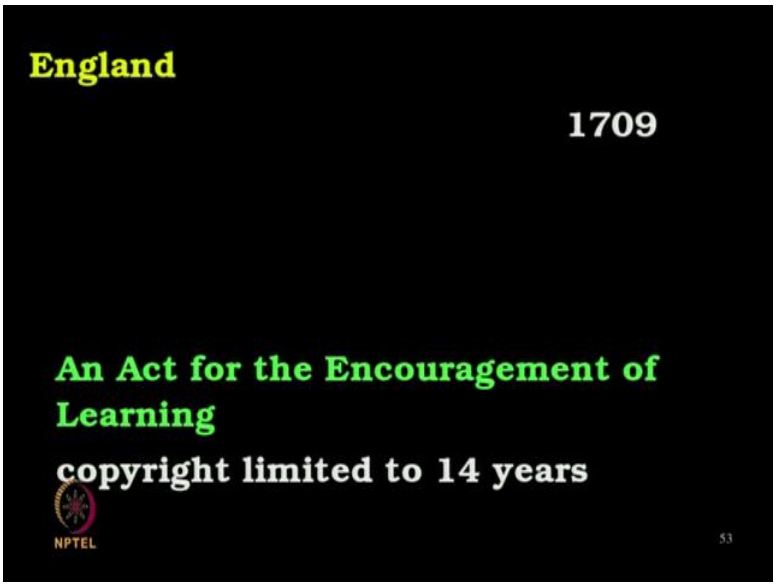

So now what was this act, what we are calling the Statute of Queen Anne is actually a statute which is a monopoly which was granted to the printer to print a particular book which was not perpetual but which is limited to 14 years. The law which was titled 'An act for encouragement of learning by vesting the copies of printed books in the authors or purchasers of such copies'. This is the full title of the statute of Queen Anne. 'An act for the encouragement of learning by vesting the copies of printed books in the authors or purchasers of such copies'.

And this copyright which was granted to the printers was reduced to 14 years. By doing so it recognized the role of information within the public domain which could be the accessed by all other users to create further works. That is it recognized the fact that learning comes from previous learning, learning is seldom original, is probably never original.

Whatever we produce in the world of knowledge is produced actually by our understanding of previous works. Complete original works are nonexistent. So it realizes that in order to keep that process of creativity going, it is important to ensure that books and artistic works stay in the public domain, do not get enclosed within a very restrictive location or restricted by price it had to go into a public domain. So it limited the right to only 14 years.

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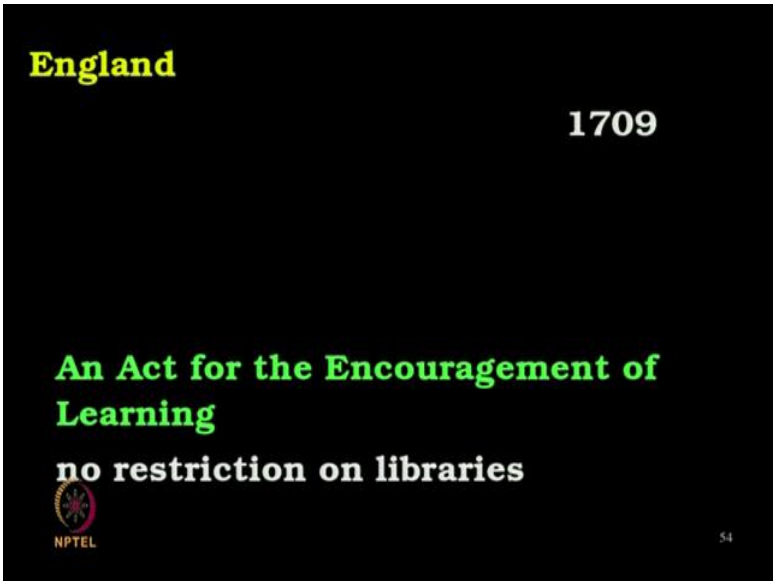

Now, and even within that copyright period of 14 years the law did not seek to restrict the availability of the book in public libraries for noncommercial distribution. That means knowledge, free distribution of knowledge was something that was recognized even in the first recognizable copyright act in the world, a national or state wide copyright law that we can see.

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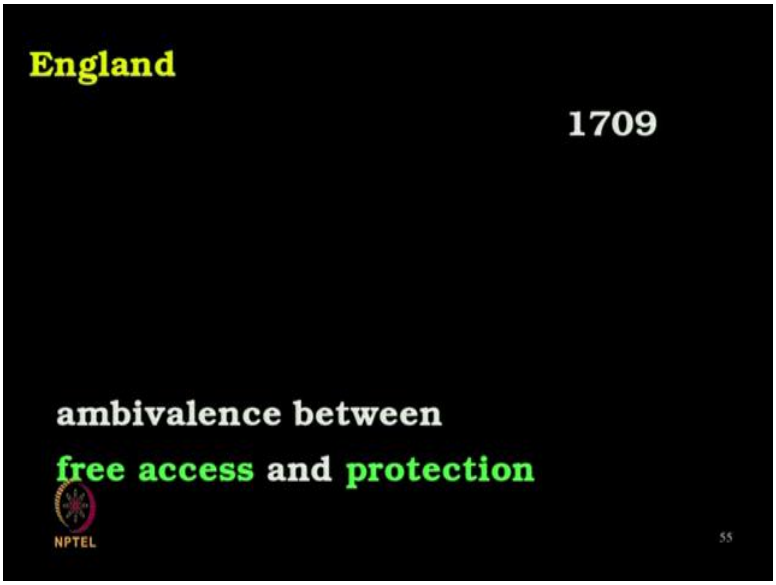

Now, this leads to a certain kind of understanding of an ambivalence that is there between free access and protection. Even at it's original moment the legal view on the protection of intellectual property displayed an ambivalence between the need for free access to the information and that of incentivizing the act of bringing information and knowledge to the

public domain. Now, where is this ambivalence actually stemming from? And this ambivalence continues with intellectual property regimes even today you know with the copyright and the way the law is put forward.

On the one hand the justification to copyright speaks of the need for making available materials of learning and on the other hand it also talks about protecting the interest of the so to say creators of that piece of learning. Now, where does this ambivalence actually stem from?

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To understand that, we need to look at this very important distinction, between public goods and private goods. Economists term intellectual property or information as a public good, as opposed to private goods.

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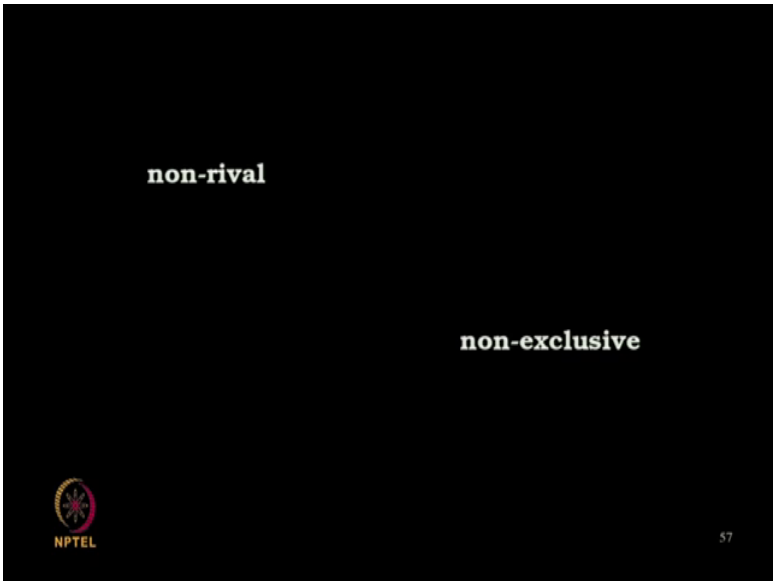

Now, what are the characteristics of public goods? These are non rival and non-exclusive, that is that when I produce something it cannot be replicated in any other form, every other form is a change from it is an alteration from it and two they are nonexclusive that is that when I am enjoying a particular song, there is nothing in the world that prevents you or anybody else from also enjoying that song.

When I am looking at the painting or when I am watching a movie there is nothing that prevents anybody else from also watching that movie that is by characteristic by material that prevents that enjoyment of that particular article.

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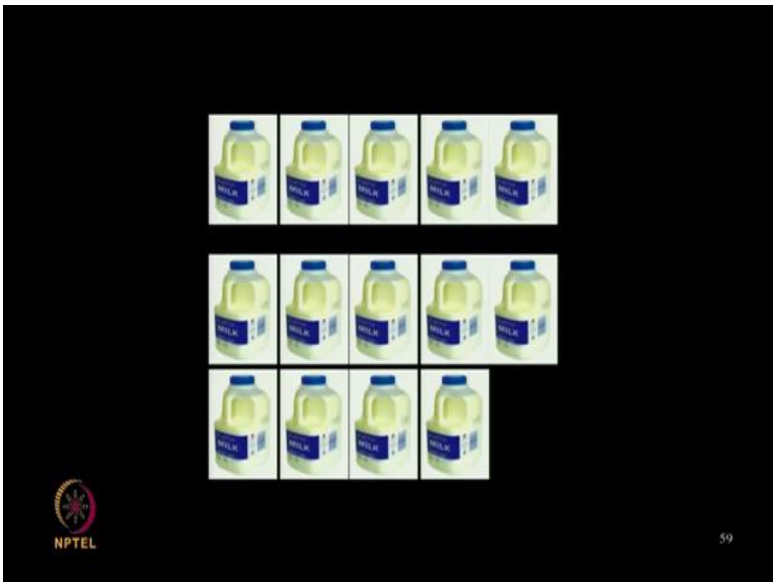

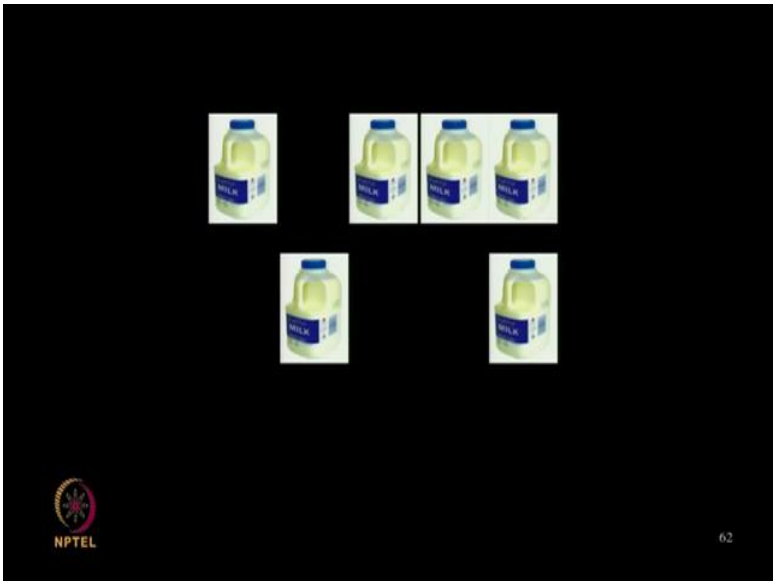

Just to explain this point this is opposed to private goods, now private goods just imagine things which are restricted in supply and arrival. When you have one particular can of milk or a glass of milk, at the same point of time you cannot have another glass of milk, you cannot switch between the two. Though they all are the same producer, same price everything is the same and stacked together it is not possible to treat the two of them at the same par alongside each other.

And the second important point is that, once a customer picks up one milk, one can of milk, one jar of milk, and another customer picks up another jar of milk, it prevents there is no way another person can actually access that same jar of milk, and actually it leads to a scarcity, it leads to a reduction in supply. Whereas, for songs there is no reduction in supply. At some point of time the shelf of milk, will be empty and nobody else will be able to, so there is a restriction in supply.

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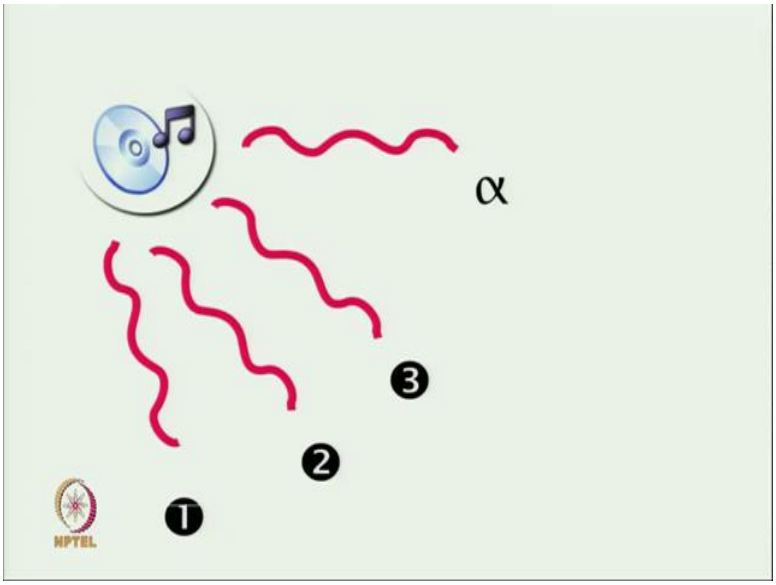

But in the case of intellectual property goods there is absolutely nothing prevents an infinite number of people in listening to a particular song, and they can do so simultaneously that is the non-rival bit, it's non-restrictive and non-rival. So, any number of people can listen to the same song. The challenge before intellectual property regimes is to actually put a physical restriction on this, something that by nature intellectual property has no restrictions.

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Similarly, if we look at a design, that design can be used in multiple ways by multiple numbers of people and there is no particular restriction on it.

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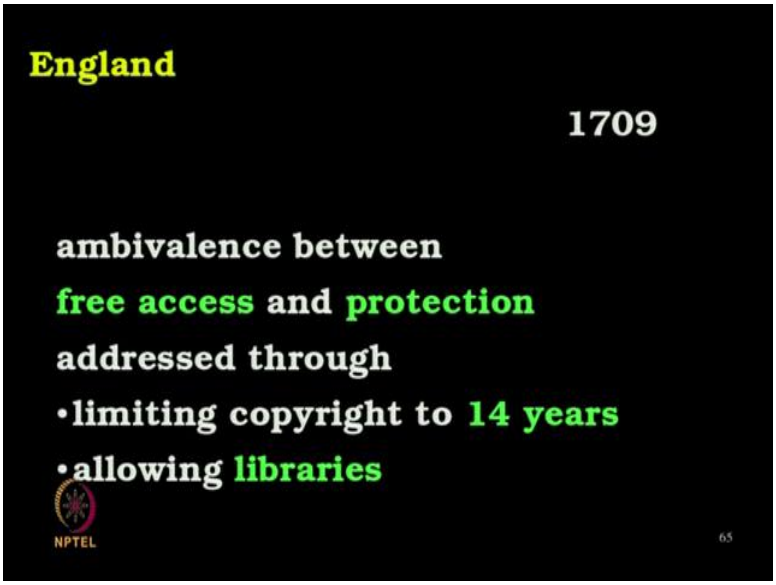

Now this ambivalence is addressed by restricting the copyright period to 14 years and allowing circulating public libraries, this 1709 law registered this ambivalence in the basic tenets of intellectual property legislation. So, this ambivalence was addressed to limiting it to 14 years and allowing libraries to function, libraries to stock books even within those period of 14 years.

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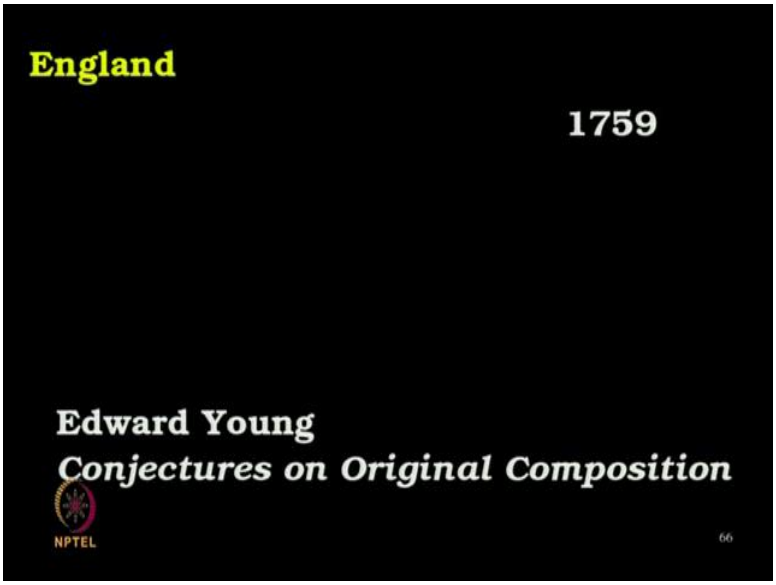

Now, further moving on, this understanding of the commercial relationship that is brought about by copyright. Now, there is a different justification that develops by the 18 century towards copyright. Edward Young raised the issue of property and argued in the Conjectures

on Original Compositions in 1759, that the writer was entitled to his creation due to his original contribution to the world of letters.

Young's work in translation produced a response from German philosophers (()) (13:56) Goethe, Kant and (()) (13:56) who in their arguments sought to locate each book as carrying the imprint of the author. The argument is that there is something of the author or the artist that gets transferred to the book that is printed and tries to understand copyright, not from the point of view of the protecting printers interest but also of protecting the interest of the author.

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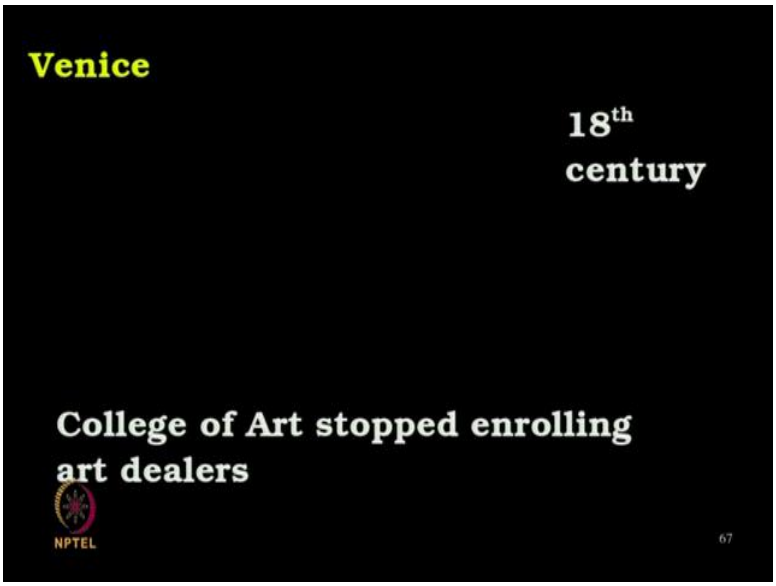

A similar sentiment can be noted in 18 century Venice where the trading of paintings was under the complete control of merchants and art dealers who acquired originals from painters and sold them at prices which were much higher. So as a reaction the college of art in Venice stopped art dealers from enrolling as members suggesting them that they should join the gild of furniture painters for they scarcely knew how to hold a brush. So here were artists who were telling art dealers the relationship being similar to that between authors and printers, so it is like authors telling the printers what do you know about poetry what do you know about fiction you just print, you are just mercenaries

So the gild of artists they tell the art dealers that you should join the gild of furniture painters for you scarcely know how to hold a brush, why should you enough enjoy all the protection that is provided through these legal safeguards. It is the authors interests which need to be protected but it also turns the other way round.

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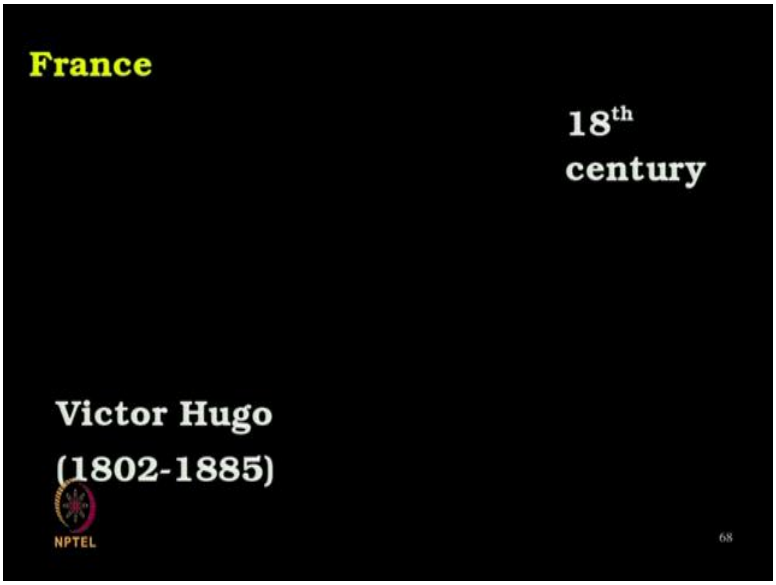

Interestingly, while copyright legislation restricts the tenure of the right to reproduce work it is distinguished from the moral right of the author of the work. Moral right was the addition of French writers like Victor Hugo, to the Anglo-Saxon concept of copyright which was primarily concerned with economic rights.

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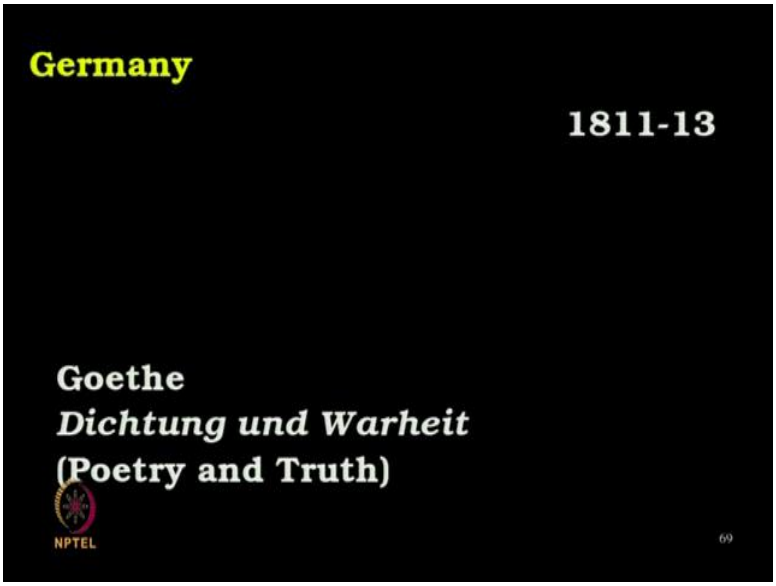

In his auto biographical work, Dichtung und Warheit, please excuse the pronunciation, Goethe described that the beautiful equilibrium that existed between the respected but poor poet and the rich book dealer became unstable in the rapidly expanding market. The poets began to compare their own very modest if not downright meager condition with the wealth of affluent book dealers. So there is this tension that is creeping between the affluent book

dealers, printers, and the poor poet, that there is this sense that this copyright regime is working towards the interest of the printers it is working towards the interest of the state but, left behind is the author.

Now, remember we go back to that very important quotation that pointed out that the author is just one single actor in the act of creating a book, where even the parchment producer, the book binder, the brass worker, all of them are put at the same pedestal. Here we see an argument that is creeping in which is trying to suggest that the author plays a larger role in the act of book making and is being left out.

So there are many other people who are engaged in the act of producing a book but, so far it is only the printers interest which has been protected, that is the person who has invested money capital into it, it is the interest of the capital and in doing so it is treated it par with all other forms of trade, you know, in every other form of trade, gilds get together and expect from their national governments, their heads of state, to provide them protection from competition, ensure that their interest are protected, this could be any kind of gild, any particular kind of in any particular branch of manufacture and so printers are being also protected.

But, now a differentiation is being sought, to look at intellectual labor differently from manual labor because what is argued here, is that poets and authors, the labor, their contribution to the trade is different from let us say that of a cotton farmer's contribution to the textile industry. Till now the authors position was similar to that of the cotton farmer, the cotton farmer produced cotton and provided raw inputs to the textile industry and the law would protect the interests of the capitalists who invest in their textile industry.

However, now that differentiation is sought to be done between intellectual labor and manual labor, that the author contributes a bit more that something of the author is sought to have been passed on into the book, into the printed book and stays there that is the aura of the author even if to a slight bit, is gets passed on to each book that is why the name of the author is put there in the frontispiece of the book, the title page of the book.

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So, now by agreeing to grant the publisher permission to print a work print by her, the author gives up the copyright over the work but, that does not transfer moral right to be called the author of the work to be protected from the damaged cause to her reputation through inappropriate usage of the work. That is, the cotton farmer has no right, to say as to what kind of use the cotton that he produces is put to, what kind of textile is produced, where it is manufactured, where it is exported to.

However, this concept of the moral right is seen as inviolable that is even after the author actually sells off has bartered out the commercial rights over the manuscript to be printed. The author continuous to retain the moral right.

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So there is a distinction that is sought to be made between two forms of copyright, that is between commercial rights and between moral rights. Now this brings in a new kind of a relationship in the textual production, what we have.

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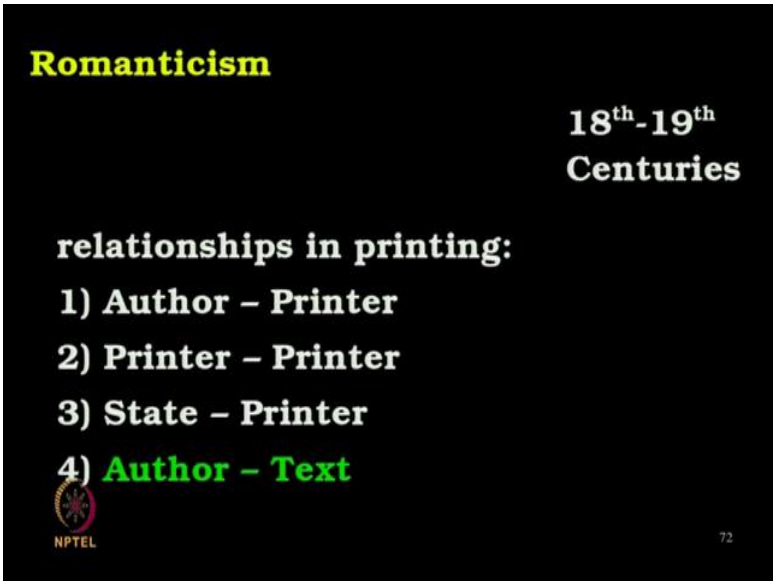

And this is something that comes in the period of Romanticism, this romanticizing over of the author as someone who is a gifted being, as a genius, the artist as a someone who is on the pedestal who has an insight which is super human so to say. So these relationships in printing which we have seen earlier. One more is now added, and that is between the author and the text, where the printer is absent.

All the other relationships at the center of those relationships is the printer and the interest of the printer. But, now we have a relationship between the author and the text emerging. However, in modern copyright law this relationship between the author and the text, and this authors right, claim over the moral right to be called the author of the book is not inviolable.

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Specifically, in cases of works on hire which is produced on hire. So if a company hires somebody to produce something. Then it is possible that that moral right is waived off.

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So, in the agreement there could be a waiver clause for waiving of the moral rights, in modern day moral rights of authors are restricted through extra legal basis. The law does not recognize the moral rights of artist involved in the creation of works for hire. For example, programmers working in a software firm or copyrighters preparing a jingle in an advertising agency need not be acknowledged, so it depends from what kind of agreement is it. But sometimes that agreement between the contractor and the creator can actually include a clause for waiver of moral rights.

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So what we find that this leads to a certain authorial control through money, that is the larger copyright house gets to control the authorship of that piece of work through capital inputs.

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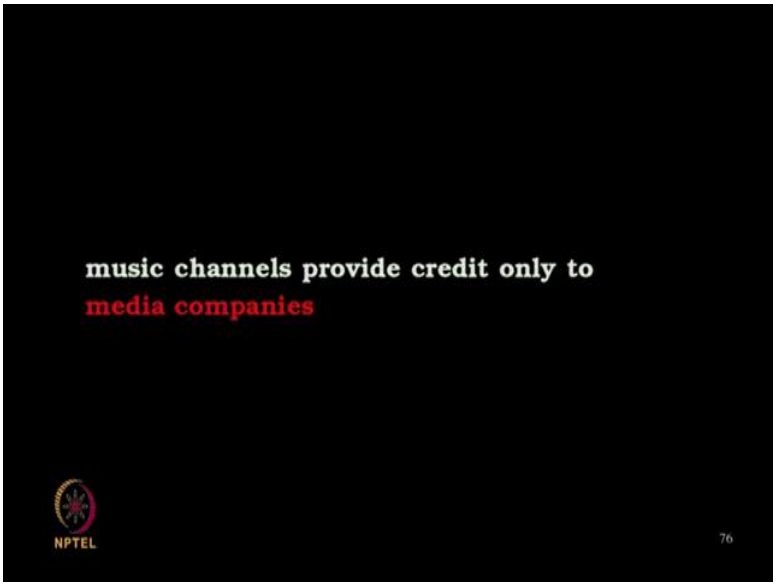

And we often find that if you look at music channels then sometimes credit is only provided to the media companies and not to individual artists, to the the lyricist or the singer or the music composer but, as to which company that particular piece of music has been produced by.

So that is an example if you can see. This is not sort of a universal set of observation but this is something that is generally being observed in, you cannot do without actually having attribute and that is what is protected by copyright that you have to attribute the and reason is

something similar to what Lawrence Lessig was talking about because it is these companies which have the might.

And therefore, who, and can prosecute for any violation, whereas individual artist does not have usually have that kind of where with all to be able to challenge any violation of their rights. So therefore, in most particular cases it is the media companies who are acknowledged, and the media companies themselves do not sort of go out of their way to ensure that the lyricist and the composers are also acknowledged.

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And the laws of copyright and intellectual property define the creator or the artist in a very restricted sense. And what this entire regime sort of depends on is a distinction.

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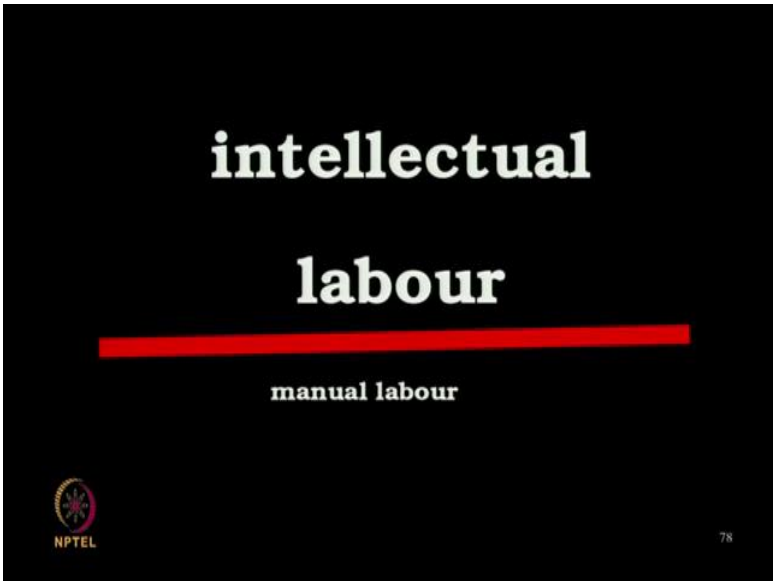

That is, imbalance that is sought to be created between intellectual labor and manual labor, that intellectual labor has far greater rights to be acknowledged, and it is, on the basis of this that copyright is sought to be justified that it is henceforth the justification for the copyright is that it is to ensure the interest of the artist or the writer that copyright should be protected whereas we find that ultimately it is the printer, publisher who actually enjoys most of the profit that is produced, the writer gets only a certain amount of the profits are handed out to the writer.

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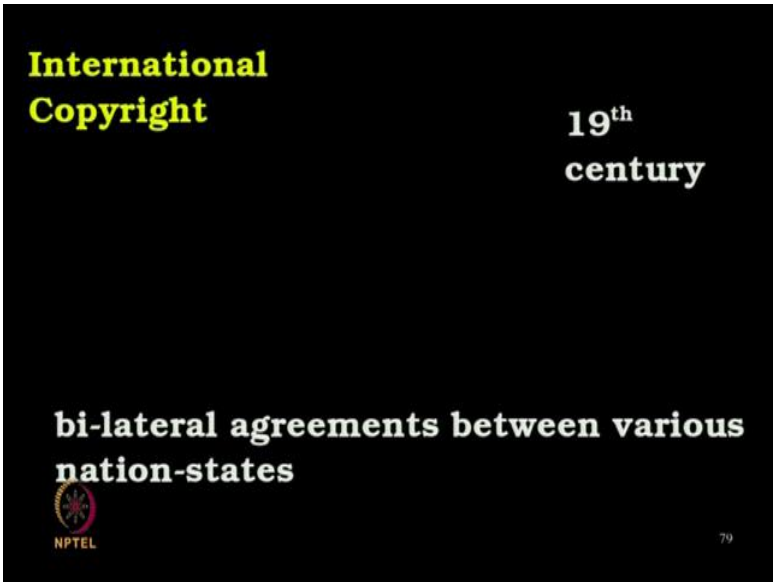

And what you find is that as time goes, copyright laws undergo certain amount of strengthening. In the 19th century various nations states entered into bi-lateral agreements to

grant copyright protection to works produced in each other's territories. Till then you had only national copyright acts but they could be violated in another third country and therefore that would lead to purported loss for printers as well as authors and slowly what happens is, there is certain kind of agreements that between various governments and that is the first international realization of copyright law.

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It was only with the establishment of the Berne Convention in 1886, that the first move to develop an international standard of copyright that was undertaken. Moved beyond the bi-lateral agreement a lot of bi-lateral agreements would then be put together to create a Berne Convention which becomes a standard for international copyright law.

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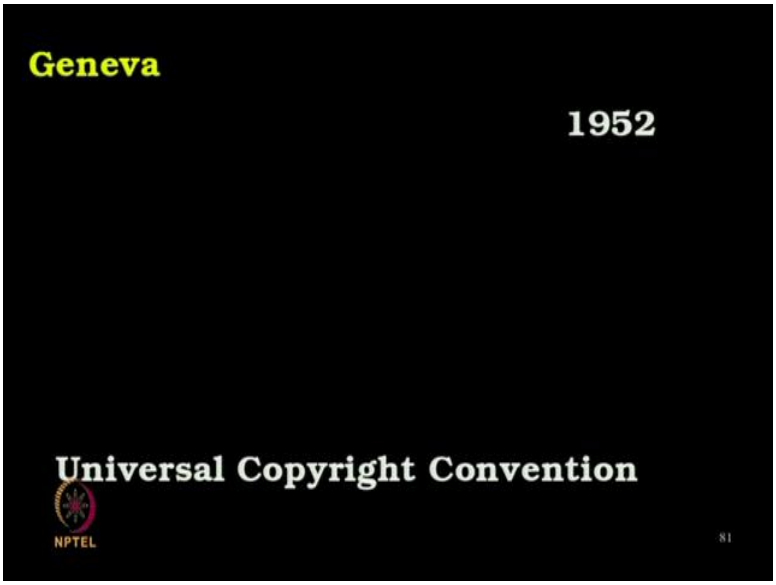

And this was revised thorough the years this Berne Convention with the small changes would be made till the coming of the universal copyright convention which was adopted in Geneva in 1952.

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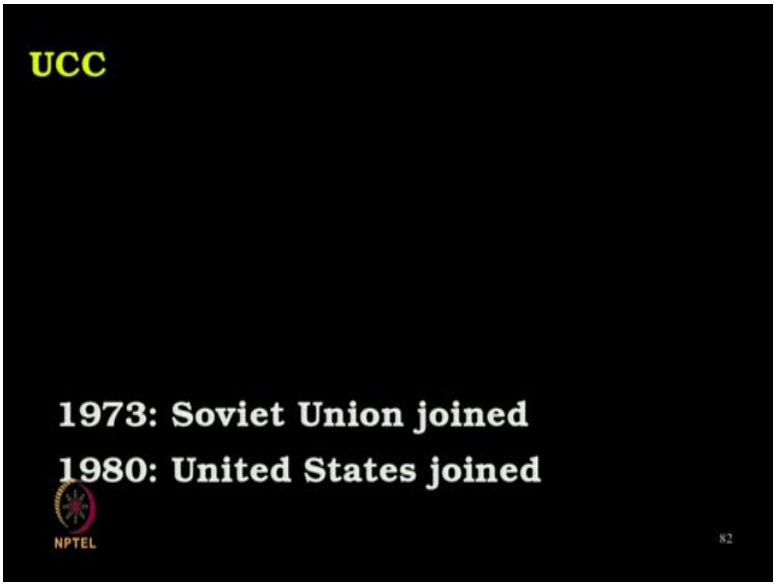

However, not all countries in the world were party to this copyright convention. Infact two of the most important states during that period the Soviet Union and the United States joined the copyright convention very late. And this would be because they benefitted from not recognizing copyright law, because they could straight way take in works of art and in translation produce text within their territory and that would help the development of the intellectual climate within that country, the process of learning would be much easier but

what is sought later on to balance is that okay now we are in a position where we can stand on our own and we want protection for our own intellectual produce further on.

So, mostly till such time, the universal copyright convention was only restricted to primarily within the Anglo-French former colonies and the west Europium regime and other countries joined much later.

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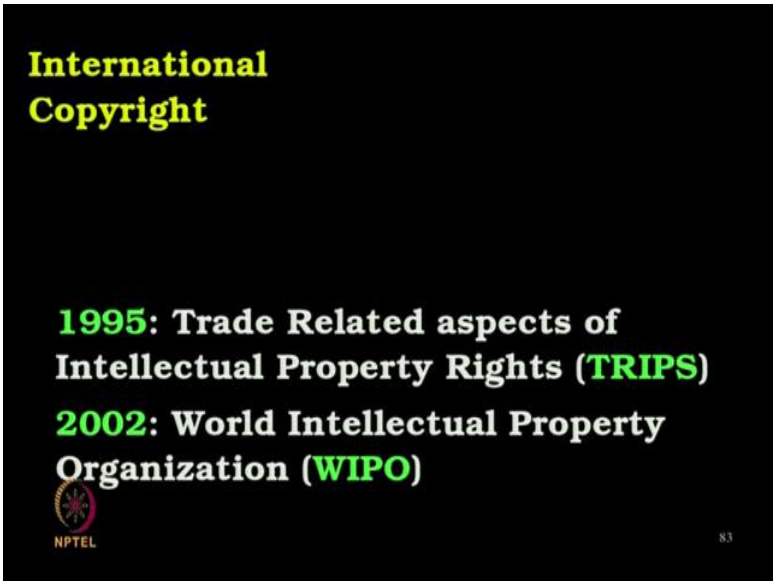

And then in 1995 the international regime on copyright was brought under the most uniform character in history with the TRIPS agreement in 1995 which was followed by the establishment of the world intellectual property organization in 2002.

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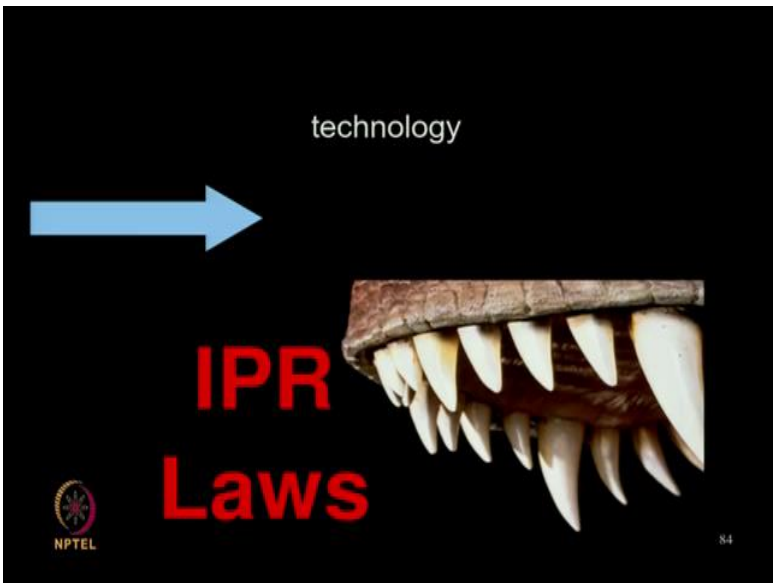

And what we see through all of these development is that slowly what happens is that IPR laws intellectual property laws becomes stronger and stronger and as I have already earlier said, that intellectual property laws gather greater teeth as technology advances, as it becomes easier and easier to produce copies of a particular book or a piece of work, stronger laws are sought to be provided.

Earlier at the beginning of printing you could actually control a lot more by controlling the number of places where printing occurs. Because printing presses required far more capital inputs, require far more infrastructure, whereas as printers become cheaper, more portable you know it was more difficult to keep a check and certainly with the coming of digital technology keeping a check becomes much more sophisticated.

And therefore, stronger IPR laws are provided to ensure that violation is kept to a minimum and so, there is a certain inverse relationship between advancement of technology and the kind of IPR laws that are there. And so copyright laws have grown scope and severity down the century and today have encompassed almost all forms of creative expression for mechanically reproducible art like books and films to the visual arts like paintings, culture to even intangible firms like theater and choreography. From the 14 years in 1709, copyright protection today is extended to 50 years and after the death of the author under the TRIPS regime.

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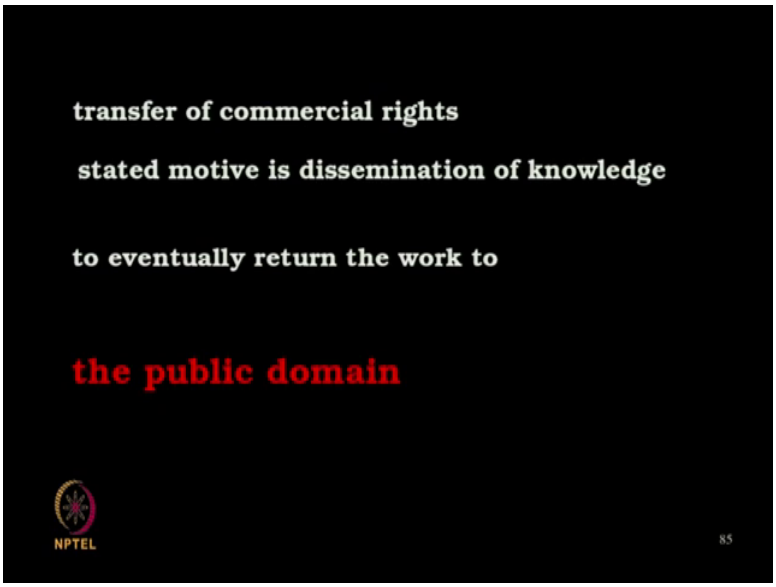

So, we see now that the transfer of copyright laws, the stated motive really is dissemination of knowledge and eventually to return the work to the public domain as in the 1709 law we saw that there is a certain restricted term, it is not a perpetual law. So, if I go to a market and

buy a piece of furniture or textile I kept to own it forever. Whereas, any intellectual property law defines a certain period after which the work will return to the public domain, that is anybody can copy and reproduce it.

But, and that is as I said, that ambivalence between the public good nature of knowledge, for free distribution of knowledge that knowledge has always been free, has sorry, the knowledge is always not being restricted by commercial restrictions normally it has not always been free, as I have already earlier pointed out. Knowledge would be restricted to specific groups of power but, that is a very different kind of restriction and here the restriction is provided through commercial terms.

Though one would argue that both kinds of restrictions whether restriction of some people coming into the discourse within a certain religious domain or intellectual domain, in a space for oral discourse is restricted by, either by caste or by class or it is restricted by price. You would have as I have pointed out earlier that in knowledge centers, educational centers not everybody could have access, people of certain sections of society were kept out of the knowledge processes, through institutions of knowledge in the way power would be embedded in knowledge.

But today that restriction is sought through controlling admission to educational institutions, it could be through various kinds of admission policies or through the pricing, the cost of education, when it rises it automatically filters out a large number of people who are unable to pay for that education. So, price mechanism is also another way of restricting knowledge, but, what one recognizes is that knowledge by its very nature is a public good there is no real clear something in the nature of knowledge itself.

Like the nature of air. We cannot prevent someone else from actually breathing the same air. Similarly, if there is a story, if there is a piece of knowledge, piece of an important know how, there is no way to prevent somebody else other than physically restricting that person or restricting that person through pricing so and that has always been the nature of knowledge.

In the modern era in the industrial era knowledge is sought to be restricted through putting a certain restriction through copyright that you can buy a certain book, you can read a certain text only through pricing and today with the sharpening of intellectual property laws, that restriction has increased even further. So this promise remains that the work will return to the public domain by recognizing the public character of knowledge, public good character of knowledge.

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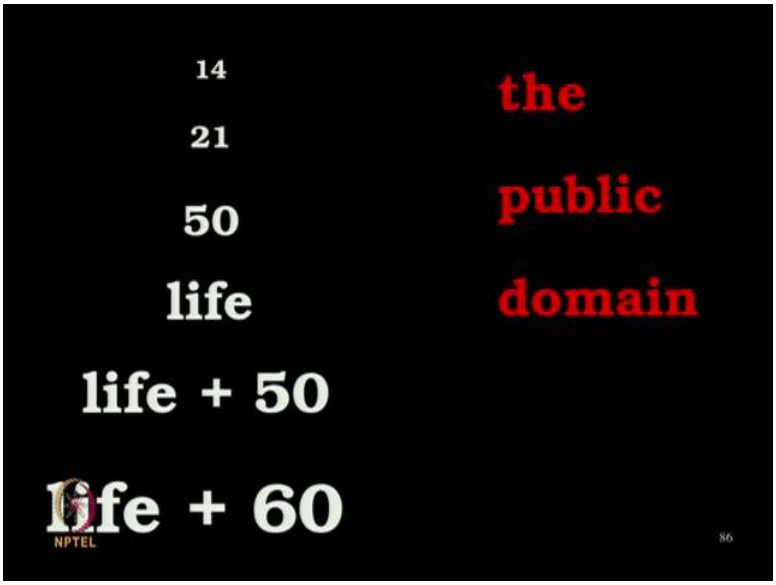

But what we find is that as further copyright laws become stronger and stronger, that 14 years got extended further and further to become virtually perpetual. So this public domain recedes from the promise of the public domain keeps on receding and there are of course legal methods through which this can be even extended beyond the 60 years of the life of the author by creating a kind of mechanism called the estate of the author.

So, this is not a space where we are going to have a detailed discussion of copyright laws, but you can explore the point as to how certain works of certain authors are sought to be restricted by their estates beyond this stated term of 60 years after the life of the author as well.

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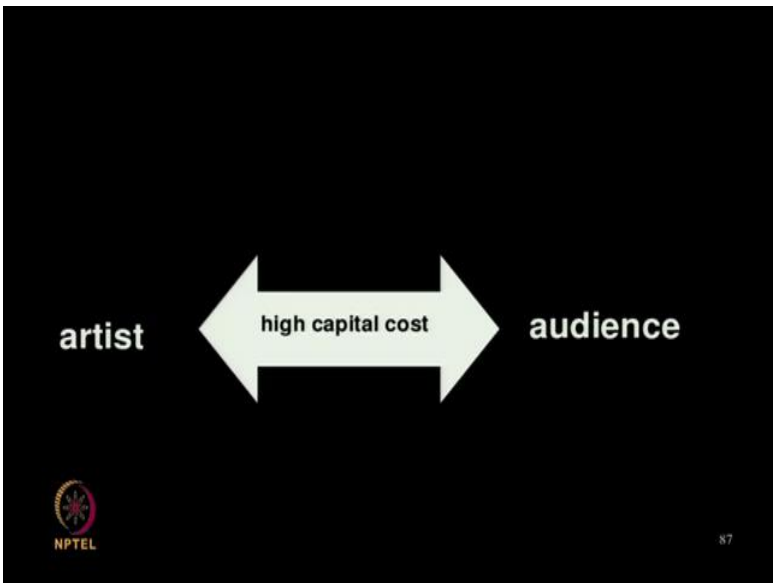

And what is important for us to note is that what Lawrence Lessig pointed out in all of this is that the might of the corporate publisher is very important in being able to keep certain works within that private restriction, the kind of lawyers that they can afford plays a very important role in maintaining that restriction of works of art and preventing them from entering into the public domain fully.

So though the progressive broadening and the scope of effectiveness of the copyright regime appears to have a consistency in granting greater incentive for production and dissemination of knowledge and ideas through protecting those involved in creation and dissemination. The basic contradiction has remained that between enlightenment ideas or unbridled spread of knowledge and ideas, and the desire of profit which followed.

Because of the capital investment involved, the relation between author and the reader remain mediated by the publisher, producer, art dealer. The contradictions which are apparently ironed out in the legislations are visible through the numerous case studies where copyright laws are interpreted.

So, as Lawrence Lessig pointed out that it is not the wording of the law alone but the interpretation of the law, from case to case there could be contradictory interpretations depending on the kind of arguments put forward by the lawyers hired by the owners of the copyright, and what also happens is that we find that with the coming of the book, with the coming of printing, this restriction of knowledge within certain ecclesiastical or high places of learning is sought to be broken because now, it is not restricted to specific manuscripts, but if a book is printed it can spread far and wide, and as printing becomes cheaper, the spread of knowledge can spread even further but that idea is put under a certain heavy restriction and a heavy wall which is of copyright law.

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You have access to all the texts, intellectual texts which are produced provided you pay for it, so this pay wall is something that comes into being. And what we can see is that this kind of restriction ultimately results in a restriction, a kind of division of knowledge between the north and the south.

Since the north or the western powers really become, hold the most important centers of knowledge creation, the trickling of knowledge or the movement of knowledge from the west to the rest or the north or to the south is prevented through this kind of copyright regime. So transfer of knowledge is restricted so to, I mean any book that is produced within let us say a country like India is cheap enough for any western scholar.

But Indian institutions pay a huge deal of, they have to pay a huge deal from their budget to even maintain some minimum amount of a stock of books in their libraries and buying of journal and digital rights occupy a large part or large fraction of the budget of institutions in the south. Which means the hegemony of knowledge is the right of producing knowledge or to be always in the cutting edge of knowledge tends to be stronger.

I am not arguing here that institutions in India have not produced very important breakthroughs, institutions in the south have had tremendous impact as well, but the overall domain and this can be looked upon in the form of brain drain, and other kinds of arguments as well, where simply the knowledge that is produced in these powerful knowledge producing centers in the west, that hegemony control is helped assisted tremendously through this kind of copyright wall that is sought to be produced that is sought to be maintained and the south

is simply priced out, of this kind of competitive environment simply because of the purchasing power.

So the publisher, author, artist, financial relationship is non-conducive to artistic experimentation, the attitude to innovative artist/arts being neutral at best. If such innovation veers on the political and is developed as a challenge to rule of capital the attitude is one of outright rejection, such as system can never support or tolerate dissident art forms.

The nature of copyright as a system which stems flow of knowledge discovers innovation and prevents free exchange of ideas is inimical to social and political change, it is interesting to note how the capitalist society when it has placed itself in a position of dominants as abjured the same principles which it had struggled for in the era of its ascendancy, at the point of its ascendancy the capitalist class argued for greater and greater advancements of knowledge and greater and greater doing away with the kind of ecclesiastical restrictions that would be there.

But, now when it has established itself it places a very strong control over rights and we also see another important thing is that if we study colonial history we find that the same kind of laissez faire ideas which intellectuals within the western European powers are arguing for their own population, those laissez faire ideas are abandoned in the colonies through various arguments which are racial arguments to say the least.

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So here is the distinction the claim of copyright that copyright is sought to be justified as a protection which is needed to provide adequate incentives and compensation to the artist but what we find that in reality the law recognizes the owner of copyright and not the artist as the fit candidate to receive material compensation from the sales or distribution of the work. So, once the artist has produced the work and has signed an agreement with the publisher or the distributor it is the publisher or distributor who becomes the owner of the copyright that is the commercial right may not be the moral right in every case but certainly the commercial right.

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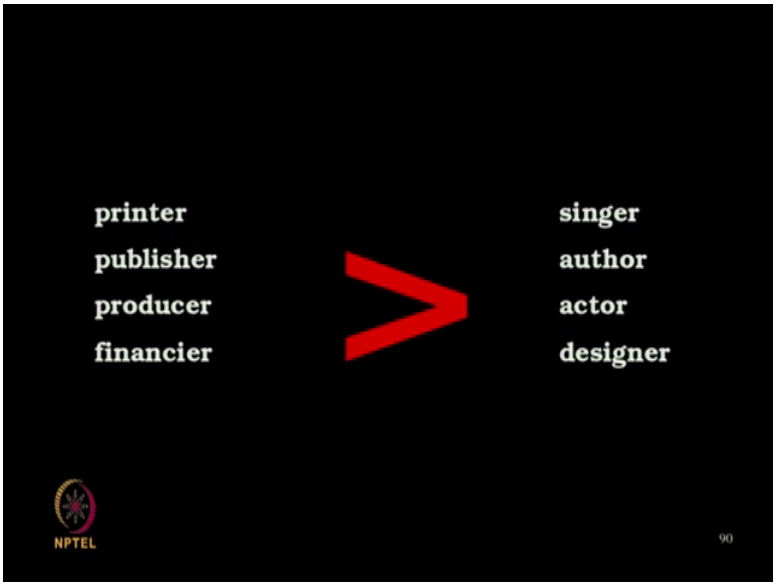

So always we find that the printer and publisher is at a far greater strength position of strength, far superior strength over the actual creator the singer, the author, the actor or the designer.

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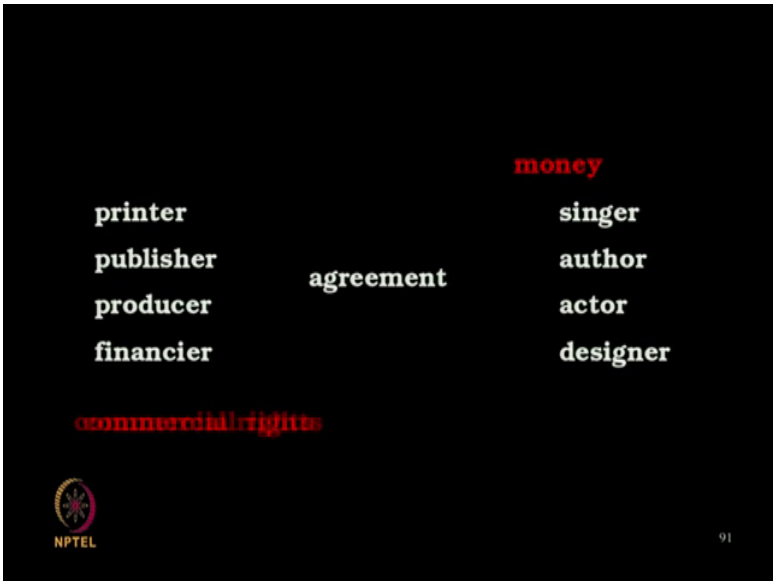

And what we find is that commercial right are transferred through transfer of money and this money is not a huge sum, I mean researchers have shown, if we look at the data we find that the actual fraction of the total industry, the money that is produced in entire industry, only a very small fraction of it is actually by the actual creators of knowledge, and yes, there could be exceptions in the case of some star producers, star creators, star artists, or authors but for authors none of the main authors certainly it is the printer and publisher who actually hold the greater sway over the commercial rights.

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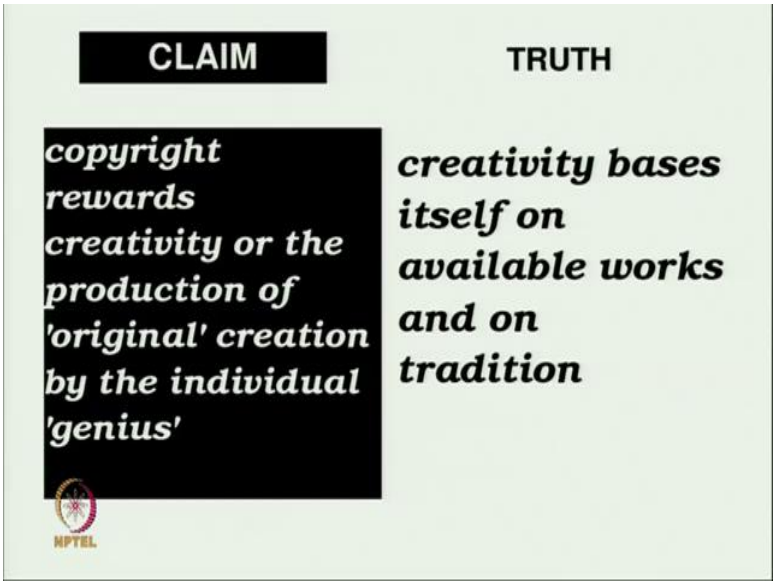

The other claim of copyright is that copyright rewards the creativity or production of original creation by the individual genius, that is it is important to ensure that the rights of the artist is protected, but what it actually does is that creativity bases itself from available works and on tradition. That is this idea that the individual genius artist is creating some original piece of work is actually not completely true because even the most original artist is basing any tune or any painting everything is based on previously available pieces of work because at the end of the day works of art are pieces of communication where the artist is communicating with people out there.

And that communication can only happen through a certain common basis, through a certain language and the basis of that language is the entire field of knowledge existent at that point of time. So creativity always bases itself on available works of tradition, and so this claim of the original creation by the genius artist and therefore, the effort to justify copyright on the basis of that kind of original creation exists on very shaky ground.

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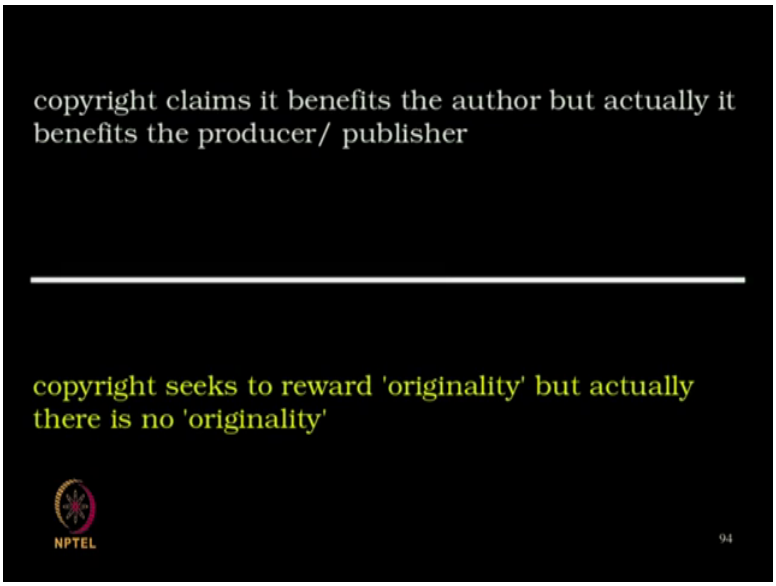

Now, if we can move to a certain two tier argument here, that first of all copyright claims that it benefits the author but actually it benefits the producer and publisher and secondly copyright seeks to reward originality but actually there is little or no originality. So on both these claims, the basis of copyright is questionable really.

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Now, so what copyright laws actually try to do is forcibly convert information and knowledge from being a public good to a private good to restrict that is if we buy a DVD that DVD, that song that is there within the DVD is actually public good anybody can listen to it, but by buying by purchasing that you agree to a certain condition of not distributing it, not publically screening that movie or further making copies of it.

So that particular DVD is sought to be treated as a private good whereas that movie or that song which is embedded, which is recorded on that DVD is actually there is nothing in that nature that prevents anybody else from also enjoying it at the same point of time. So, the challenge before copyright laws is to convert information and knowledge from their public good character to a private good character.

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Now this presents a certain difficulty of tracing all contributors, I mean if you actually had to acknowledge everybody so the point that is made is that no work of artist is completely original, there are influences from various other sources. Now it is impossible to actually trace all contributors and to provide them with their due remuneration. So therefore, the way out is to reward only the last definable contributor and this is important because the edifice of copyright now rests on the fact that it is for the artist, it is for the writer's interest that copyright needs to exist, not that of the publisher or the printer but because of the artist.

Because what has created this kind of a halo around the artist of being a genius it becomes a kind of easy vehicle a certain convenient vehicle for the justification of copyright. So therefore, if one has to reward creativity and that creativity actually has a certain lineage it is not possible to actually identify the lineage therefore reward only the last contributor.

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Now that becomes very difficult in clear cases of collaborative work because the point that I am trying to make here is that first of all is that all forms of art have inputs from multiple people, not from single individuals but from multiple people because tradition plays that role. But, in specific cases of specific forms of art where the production process is collaborative, this leads to a certain difficulty in actually sorting out these claims of authorship, and therefore, the kind of copyright.

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For example, specifically in theater there are multiple actors, multiple people who are contributing at the same point of time. Now who are we going to actually recognize as the claimant of copyright for a theatrical performance, in fact one could also argue that the audience plays a very important role so that makes it far more difficult to actually look at rights in performative. But in IPR laws, the IPR laws try to only recognize the playwright, as someone who is the creator of the text.

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Or the director of the play as someone who actually owns the production. So in theater festivals whenever a particular play wins the best play award, it is the director who goes and collects the award. In the case of films, in any film award ceremony when a certain film means the best film award, it is the producer of the film because the film is a mechanical form, whereas theater is not a mechanical form.

And it is very interesting to note that copyright in the theater is actually enjoyed on the basis of a particular fixed form because we understand and this is something that we noted that like various oral forms the performative is ephemeral and therefore the performative changes from moment to moment, it is not fixed. Every single performance is unique and what happens is that in the case of copyright laws, they recognize the copyright of a performance of a play if it is recorded through any mechanical means that is it has been recorded in a certain sort of way, either a camera has recorded the show or there should be some kind of publicity material. It is on the basis of that that the authorship, the copyright the ownership of that particular theatrical piece is maintained.

So, the point that I am arguing here that in cases like theater where the authorship is very clearly difficult to be identified, the copyright laws are much more wobbly, but the argument is just like that German, 18th century German description of book making, even literary forms, there are multiple contributors to the process of creating a piece of literary art and what copyright does is just to recognize the last notable artist, last notable writer and that signals towards a certain contradiction within the copyright laws which should hold our interest.

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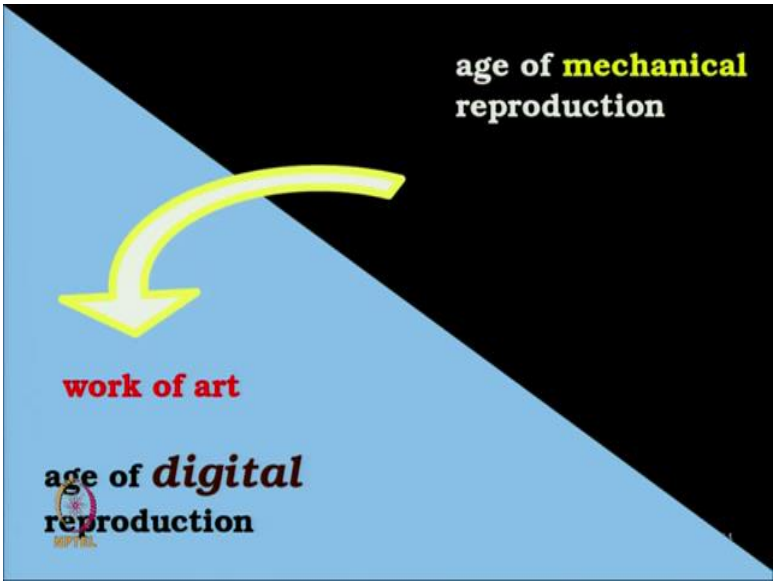

Now, when the work of art moves from the age of from mechanical reproduction to the digital reproduction that brings about a new set of characteristics.

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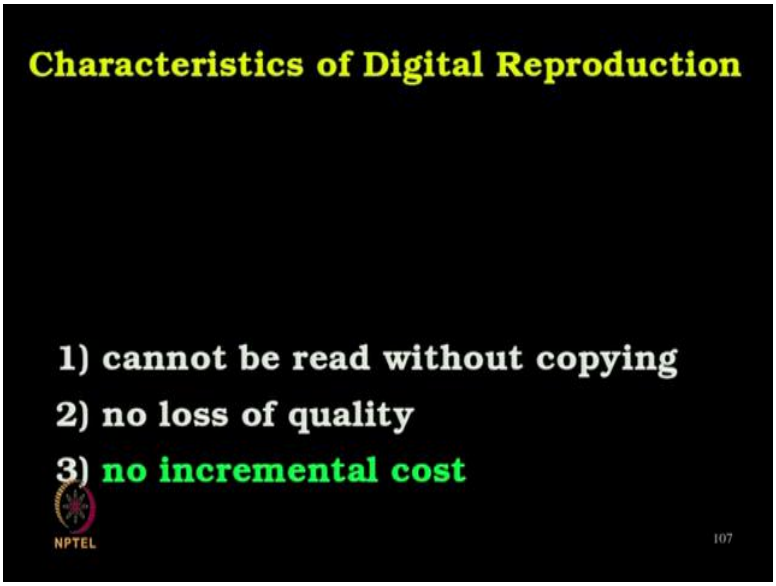

So, now to understand the effects of digital reproduction on the work of art we need to understand certain characteristics of digital reproduction. First of all, in digital reproduction no particular work, no particular piece can actually be read or enjoyed without copy, without making a copy you cannot actually enjoy a certain restriction so when you buy a book from the market the copyright from a book shop, the copyright laws will tell you that it cannot be further copied in any retrievable form. You can read it, you can talk about the book but you

cannot copy it in any mechanical or retrievable form. So you cannot go and make a photocopy of that book.

But in order to read that book, if I want to, I have a certain book and I want some friend of mine to be able to read it, I do not have to make a copy of it I can actually share that copy with my friend I can either gift it to her or I can lend it to a friend. But in the case of a digital reproduction this is not possible, because the moment I share a certain thing online, that copy of a particular text always is there.

So when I am listening to a particular song even though there might be various kinds of digital rights management which would be working with that song, any online radio platform, or any online streaming platform, that song that particular file actually gives downloaded and saved within a certain folder within the hard drive of the computer that I am playing it on or the phone that I am playing it on. And if I have a certain amount of technical knowhow, there is absolutely no way that I can be prevented from actually maintaining that copy forever, there are legal restrictions.

But the very act of reading the text, seeing an image or listening to a piece of sound can only happen when that file gets downloaded onto the memory of the phone or the device or the computer that is there, so point to understand is that within the world of digital reproduction copying is simultaneous with reading, so that makes the exercise of copyright far more difficult.

Yes, what we can say is that copyright restriction forbid the retaining of that copy beyond the act of reading, once you have read that gets deleted, and it is programmed in a way that temporary folder or the temporary dump of that particular file gets removed or deleted from the device as soon as the process of reading is complete so as soon as the streaming is over and the user actually does not retain a copy of that work beyond a certain length of time.

The second point to be noted is that in digital reproduction there is no loss of quality as we noted with Benjamin that he says that in the case of mechanical reproduction every subsequent generation of a certain production there is a loss of quality, when you reproduce a certain work then it goes into further and further generations of quality when there is what we call the original and for that copy A is produced and from copy A copy B is produced and from copy B copy C and till copy N, in each step there is a loss of quality.

If you're producing it from the original itself, then there is a certain quality level that could be there, but further copies leads a lack of quality. So, if you had an audio cassette and you record from cassette the original, the factory produced the cassette and you copy it, the copy A will be a better copy than copy B and copy C will be a reiteration till finally it will become ultimately much more difficult to actually understand or listen to that song.

Whereas, in cases of digital reproduction every copy is exact, is the same, so when you download a movie let us say there is a process called checksum where you actually there is program where you manage to do that checksum and see whether the copy that has been downloaded is exact, otherwise the movie may not run very satisfactorily, if the checksum is fine that means the quality that you have is virtually the same as that of what is labeled as the original.

So there is no loss of quality, through a particular thing may undergo infinite number of generations of copying particular piece of work of film or song or pdf file could be made infinite number of generations of copies. But they will not, and they could circulate across the internet through multiple number of users, but there would be negligible or no loss of quality.

There is no is, the third point is there is no incremental cost. So in the case of a book production you find that when the printer produces a certain book, for every additional book the printer has to invest in the paper and the ink of for that particular book, so there is an incremental cost although one can say in producing a book sometimes printers would say that we can only break even if we produce about 1500 copies of a particular book or 2000 copies of a certain book because the cost of making the first copy is very high. So in putting all the plates together and all that there is certain amount of investment that is made after that the incremental cost is much less.

So the printer once he gets the manuscript together, he has to do the type setting, the editing and then produce the plates which goes into the printing process and produces a certain number of copies, this producing of the first copy is a great cost and to be able to recoup that the printer actually has to produce a certain number of copies to be able to recoup that cost that is true even with digital reproduction, in order to record a certain song within a certain quality studio and pay the artists there is a certain amount of cost that is involved which cannot be recouped which can only be recouped only when a certain number of copies of that song are sold.

But however, in the case of printing every additional book that is produced there is some amount of cost that is the cost of printing itself that is maybe the labor, the paper, the ink and the cost of distribution could be there. But in the case of digital reproduction this incremental cost is 0, because once you have produced a certain book there is no cost whatsoever, there is no paper involved, there is nothing involved, there is little or no cost if I email a certain file to a friend or if it is distributed through other means of a network there is no, the incremental cost is virtually negligible, other than the bandwidth cost which may be there but that is virtually negligible.

So there could be as many number of copies of a particular digitally produced art, reproduced art without incurring any further incremental cost. So these are certain important characteristics of digital reproduction which make it different from mechanical forms of reproduction.

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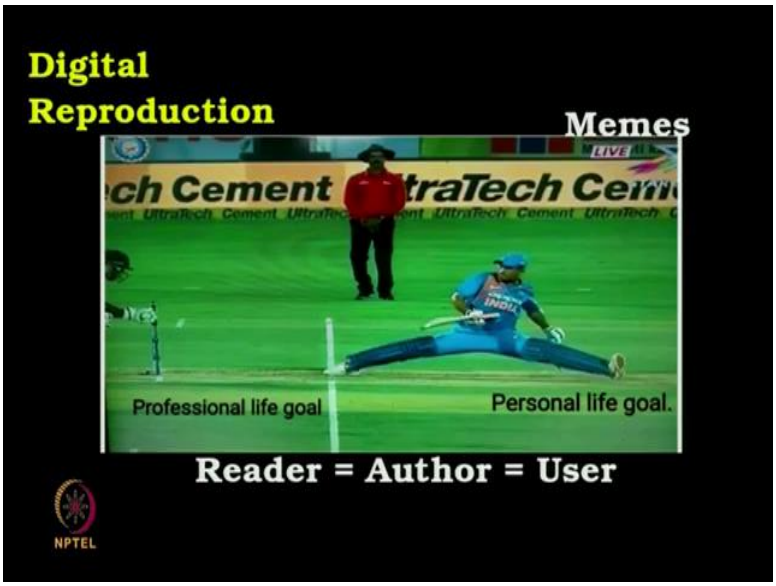

The other thing is in digital reproduction it changes this relationship between the reader, author and user, they get fused together. The reader at the same point of time is the user and the reader, especially if we look at the meme culture. I mean the person who is looking at a certain image can immediately also transform that image and add value to that image to give a different meaning to add a certain meaning to reference various forms of tradition does not have to go through a complex publishing process through that gate kind of very distant process of production.

So the reader at the same point of time can be the author or the user. Mind you I am not here using the term producer, the reader is not the producer or the user simply because a reader is

not the producer because the producer still remains the person who is that entity which is providing that platform within which that sharing is happening because the reader could also be the producer but in most cases it is not so.

Simply because the most social media channels social media platforms within which some of these user produced works are shared are circulated are actually owned by certain entities, and that a certain kind of distinction between the user and the producer because these platforms would have their own terms of agreement terms of use, so when you sign up for a particular service online you have to agree to certain process and that means the ownership of that platform is within a certain corporate control within the control of somebody else.

You do not own it all you are doing you are using it at the same point of time you are also reading that work which is produced by other readers when there is a social media post that you are responding to, you are simultaneously an author and a reader at the same point of time. But this position is very distinct from the producer of the work who is placing those or the owner of that platform who is placing certain restrictions on the terms on which you can actually use it. So that becomes a very important topic.

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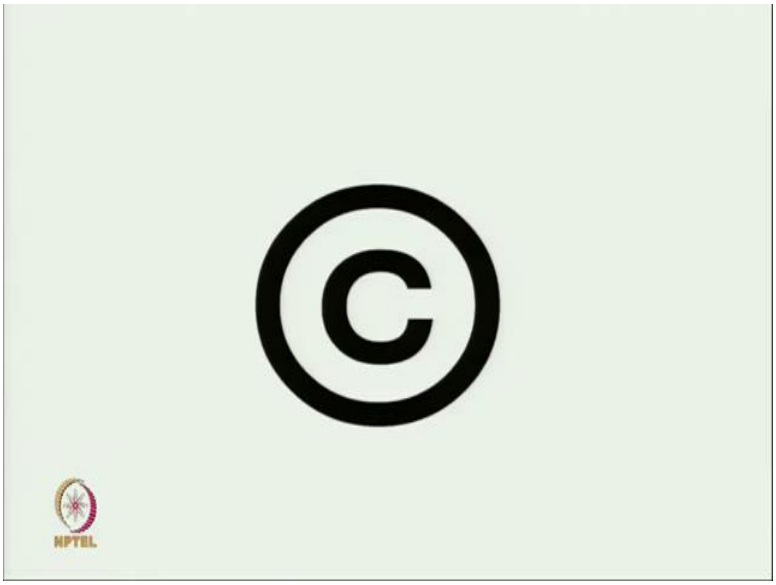

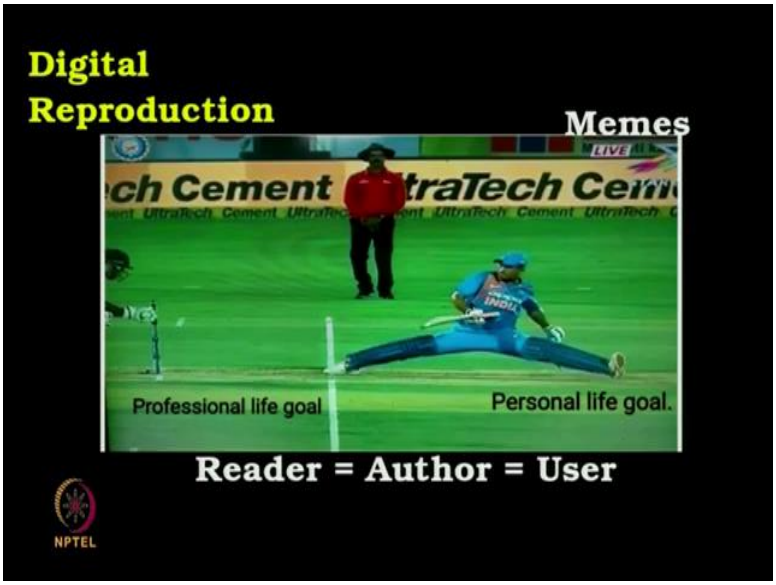

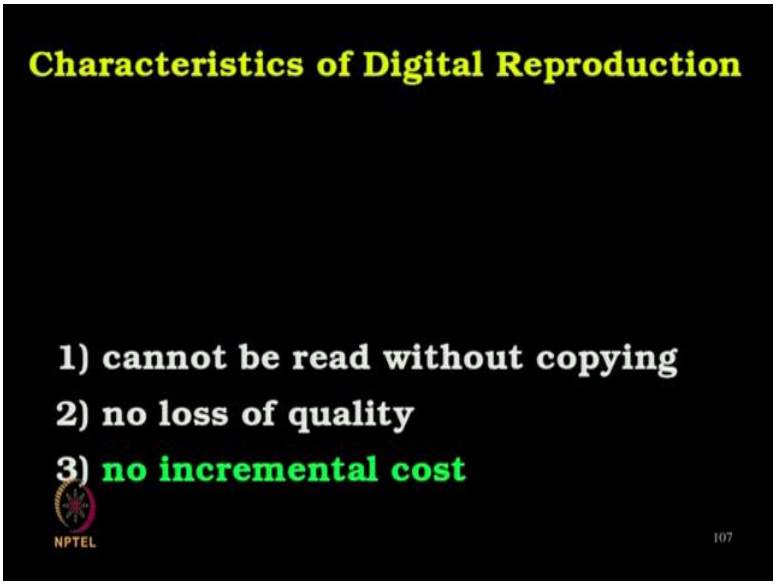

So the argument really is that can copyright survive, or should copyright survive in this environment of digital reproduction, because as we have seen in digital reproduction one, the act of producing the first copy is much easier so you can download a certain image and you can produce a meme on it with minimum amount of effort we do not need, you have even very rudimentary smartphone will be able to provide the basic tools through which a meme or any kind of modification t certain files or creation of certain files.

You can very easily use the camera of your phone to shoot a particular video and may be edit that particular video minimally or certainly record audio or write text, so creation of it becomes much easier. And certainly distribution also does not have any incremental cost as we have already noted there is no incremental cost. So, in this kind of environment what does it mean for copyright regime, because what copyright is trying to do is that last vestige of reason why you know.

In the case of books you know, printed books there can be a printer can print let us say 1500 copies of a particular or 5000 copies of a certain book, but at some point of time that book will go out of print, so, there is a certain characteristic of the printed book which is partly private good, if we are talking about this specific copies of a particular book but it goes out of print.

But in the case of the digital environment it will never go out of print, that particular work will always be available, and it can be shared with greater ease. So in this particular environment which has undergone a sea change from copyright and we must remember that copyright actually emerged within an environment of coming of mechanical reproduction that is the discovery of printing that is what we have traced so far.

Before the coming of printing knowledge was restricted but knowledge was restricted through other means, not through commercial means, not through you know the means of restricting act of copying of a piece of work. So with the demise or the reduction of importance of mechanical reproduction what is the fate of copyright?

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Now to understand that let me introduce to you, a different kind of copyright license, mind you the Creative Commons License as we understand it is also a copyright act, the copyright license but it is a specific kind of license which can used to share works of art. So, if a particular author or an artist decides to place his or her work under a Creative Commons License which is a specific kind of copyright license, then that work of art becomes far more sharable as we saw in the case of Lawrence Lessig's book Free Cultures that is being placed under the creative commons license.

So there is no restriction to actually share that book with anybody and that is not, that does not come as illegal, this is something that even Richard Stallman also pointed out. You know this idea of the commons of a free and open source software that not only is it easily sharable freedom of knowledge is there. But it is also open source which means it can be modified, it can be changed.

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So creative commons license can come with various kinds of features there could be case where you have work can be completely in the public domain so there could be various things that could be placed within certain restrictions, you can allow people to copy and publish that or sometimes you say okay you can share it with anybody, but you must attribute it to the person who has created a particular work, or it can restrict commercial users of the work and say that okay you can make use of this work whichever way you want as long as you are not making you are not exploiting it commercially so, non-commercial usage is free, otherwise you cannot use it.

The other is to modify and adapt, that is okay you can share this work, you can you know do it without attribution or with attribution but you cannot modify or you are free to modify, you can make whatever change. But most of these licenses what they say is that even when you modify you cannot then put in under the restrictive license, certain licenses do that, this is the last column, certain licenses do that, certain licenses do not do that.

And you can choose any particular given combination of these licenses to put your work, within a particular license so when you say create a certain video and upload it on to a video sharing platform the video sharing platform might give you the choice of various kinds of

licenses that are available. And you can choose whether to share it within a certain creative commons license or whether very restrictive copyright license that you want to put that piece of work.

A very good example of the use of creative commons license is Wikipedia you know, in Wikipedia various people across the globe are constantly modifying and reaching this particular resource, this particular encyclopedic resource and if you go and look at the bottom of an any Wikipedia page you would find that it is something that is protected only through a certain creative commons license, it is protected in a sense that nobody else can actually restrict its usage.

So, creative commons licenses are also lock, if it is a copyright is lock and key, creative commons licenses are also locks and key, but very interestingly, whereas other copyright laws usually they use the lock and key to keep the door closed, creative commons licenses use the lock and key to keep the door open, you pull the latch and lock it so that nobody is able to latch the door anymore. So it frees the doors of the world of knowledge.

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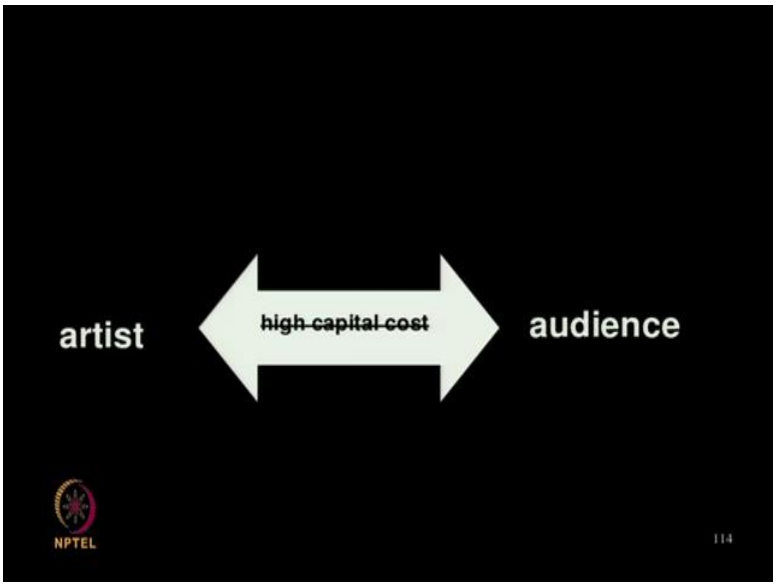

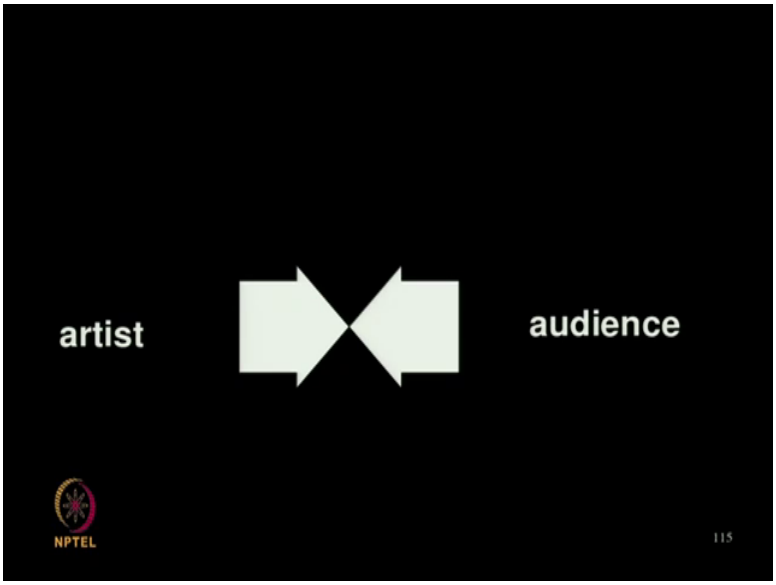

And what it seeks to do is that this high capital cost which was brought in through printing and created this role of the artist of the printer, or the publisher as a mediator between the artist and the audience is sought to be undone through creative commons licenses by bringing together the artist and audience. This is a possibility, this is only in the realm of a certain possibility, it is not something that is realized really in the contemporary world because the contemporary world continues to be, in the contemporary world knowledge and knowledge sharing continues to be monitored and adjucated through a copyright regime which came into existence within the era of print.

Even after going away of the era of printing that kind of hierarchy between the owners of the means of reproduction are sought to be placed even within the world of digital reproduction. Today's day and age we find that the way the internet has been structured has come to be structured is highly dependent on large capital inputs, there are some large media companies which play a significant role, a predominant role in controlling the distribution of works. But, the nature of the technology as we had discussed, if you look at the history of the birth of the internet, the internet was born to create a certain network between various centers of knowledge principally initially as a military act of ensuring that all data centers do not get bombed together and it first immerged as a network among the various universities within the United States and in western Europe.

And at that point of time the way the network was to create a certain distributed spread of knowledge, of knowledge creation and knowledge sharing, whereas through the 90's and the 21st century that kind of evolution of the internet has sought to be arrested and a very restrictive kind of a structure of ownership of the internet is put in place where large servers

and large media companies play a predominant role and they administer the internet and digital reproduction in the same way that the intellectual property, intellectual produce was sought to be administered within the world of the mechanical reproduction.

So this contradiction between copyright laws, this kind of a distinction between the copyright laws and creative commons licenses actually points out to the different possibilities of the internet, and digital reproduction where digital reproduction is significantly different is fundamentally different from mechanical reproduction and the full potentials of digital reproduction is not realizable within a certain copyright regime, it is the copyright regime that continues to maintain that war of knowledge between those who have the knowledge and those who do not have the knowledge, between the haves and have nots of the knowledge world.

That restriction which was created through the mediatory role of this high capital cost or the capital investment, even though today it is possible that the artist and the audience return to that oral domain that performative domain where the artist and the audience can interact with each other, without any restriction that is possible today, technologically it is possible today.

Today it is possible that we do not need large servers, that we can let's say hook up each of our individual computers to actually serve as the main server for the internet as a certain kind of distributed server, and that will therefore not require any large capital input, if millions of computers owned by individual across the world are used as a common server space then it is possible to circumvent the need for large servers.

But, that is not the way the technology has not advanced and technology has not advanced in that direction because of the interests of these large media companies.

And just to recall Raymond Williams' ideas that two views of the development of technology, one is technological determinism that is technology determines the changes that effects of technology are determined by the technology, the other is the historical view of technology, the particular technology comes into being within a certain historical context, the historical context the contemporary world that we live in is one where large media companies protected interest through copyright regimes and prevent the growth of a truly free internet.

Internet where this kind of a need for high capital inputs are nullified because the technology itself does not require high capital inputs, it is the interest of capital that ensures that high capital inputs, are made mandatory. Thank You.