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Journal

UCLA School of Law Public Law & Legal Theory Series

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Publication Date

2012-09-07

THE KNOCKOFF ECONOMY

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HOW IMITATION SPARKS INNOVATION

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AND
CHRISTOPHER JON SPRIGMAN

OXFORD
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Published by Oxford University Press, Inc.
198 Madison Avenue, New York, NY 10016

www.oup.com

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CIP to come
ISBN-13: 9780195399783

1 3 5 7 9 8 6 4 2

Printed in the United States of America
on acid-free paper

For Lara, Clark, and Willem
For Anne, Arin, and Iain

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THE KNOCKOFF ECONOMY

INTRODUCTION

Every spring, millions of viewers around the world tune in to watch the Academy Awards. Ostensibly, the Oscars are about recognizing the year's best movies. But for many people the Oscars are really about fashion. Fans and paparazzi press against the rope line to see Hollywood stars pose on the red carpet in expensive designer gowns. The television cameras are there too, broadcasting the red carpet fashion show (and the inevitable fashion faux pas) across the globe. In the process, careers in both film and fashion are made and unmade.

For years, the designers at Faviana have been watching the Oscars as well—very closely. Faviana is an apparel firm located on Seventh Avenue in New York City. If you go to Faviana's Web site, you will see a link titled "Dress Like a Star."¹ That link leads to a collection of dresses that are direct copies of those worn by actresses on television, in movies, and, most important, at awards shows like the Oscars. In fact, the dresses are identified using photos of stars, such as Angelina Jolie and Sarah Jessica Parker, wearing the original designs.

Knockoffs like these are a significant part of Faviana's business, as its Web site somewhat immodestly makes clear: "For the past 7 years, the company's 'designer magicians' have been interpreting the red carpet looks of Hollywood's most glamorous stars." And the company does not try to hide that it

does more than “interpret” these red carpet looks; it copies them. Indeed, Faviana trumpets this fact. “Ten minutes after any big awards telecast, the Faviana design team is already working on our newest ‘celebrity look-alike gowns,’” crowed CEO Omid Moradi in an interview.*

Faviana’s creations retail for between \$200 and \$500—not cheap, but much less expensive than the multi-thousand dollar designer creations they imitate. At these prices, even Faviana’s “designer magicians” cannot replicate the expensive materials and workmanship of many of the originals. But for women who could never afford to buy the *real thing*, that does not matter. For them, a cheap facsimile is better than nothing. The company, which excels at the production of both knockoffs and PR catchphrases, refers to its work as “bling-on-a-budget.”

The existence of firms like Faviana (or ABS, Promgirl, or any of a number of similar houses) raises fascinating questions about the relationship between creativity and copying. In most creative industries, copying is illegal. We all have seen this warning as we sit back on the couch to watch our latest Netflix arrival:



“Reproducing,” or copying, a creative work like a film is against the law. Copyright law—and intellectual property law more generally—exist to prevent copying, on the theory that the freedom to copy would ultimately destroy creative industries. If others could simply copy the efforts of creators, few would bother to create in the first place. How then can a firm like Faviana get away with blatantly knocking off a dress that someone else has

* No one will be surprised that Faviana and its brethren do not stop at movie stars; detailed knockoffs of Kate Middleton’s royal wedding dress, and even sister Pippa Middleton’s bridesmaid dress, are available as well.

designed? And, even more important, why doesn't this rampant copying destroy the fashion industry?

Surprisingly, fashion designs are not covered by copyright law. What Faviana does is perfectly legal—and very common.² Fashion trademarks are fiercely policed; it is illegal to copy brand names such as Gucci or Marc Jacobs, and expensive lawyers aggressively sue those who try. But the underlying clothing designs can be copied at will. Firms both high and low in the fashion world knock off others' designs. Some merely take inspiration from or "reference" existing designs. Others copy far more blatantly. But all this copying is free and legal.

As a glance at the reliably thick September issue of *Vogue* will show, however, creativity in fashion has hardly ended. The development of new apparel designs continues every day at a dizzying pace. Indeed, the American fashion industry has never been more creative. All this copying has not killed the fashion industry. In fact, fashion not only survives despite copying; *it thrives due to copying*. This book is about why—and what the story of fashion, and of football, cuisine, finance, and a host of other unusual industries, can tell us about the future of innovation in a world in which copying is cheaper and easier than ever before.

Innovation is central to our contemporary economy. And many people believe that the rules about copying that fall under the banner of "intellectual property"—in particular, copyright and patent—are the basis of sustained innovation.* This belief in the power of intellectual property, or IP, predates the Internet, the computer, and even the lightbulb. It was also a central concern of the Framers of the U.S. Constitution. The Constitution explicitly grants Congress the power to create patents and copyrights for "limited Times" as a way to "promote the Progress of Science and useful Arts."

In a market economy like ours, of course, we depend on competition to keep the price of goods and services low and their quality high. And a lot of competition involves copying. (Think of Pinkberry, whose success spawned kiwiberry, Yogurt Land, and dozens of other stand-alone shops serving tart,

* When we refer to intellectual property in this book, we principally mean patent and copyright—the two forms that are focused on providing incentives to innovate. Trademark law has a different aim: to protect consumers by ensuring that they are buying what they think they are buying. We'll say more about trademark later in the book.

frozen yogurt with mix-ins). So why do we allow prohibitions on copying, prohibitions that constrain competition?³ As the language of the Constitution suggests, we protect innovation from copying because innovation has good consequences, and restraints on copying are thought to be necessary for innovation to occur in the first place.

Some believe that these restrictions have an important moral dimension as well: copying the work of another, they say, is unfair and akin to stealing. The Framers generally took a different view.⁴ As Thomas Jefferson famously wrote, ideas are not like tables or televisions:

If nature has made any one thing less susceptible than all others of exclusive property, it is the action of the thinking power called an idea. . . . Its peculiar character, too, is that no one possesses the less, because every other possesses the whole of it. He who receives an idea from me, receives instruction himself without lessening mine; as he who lights his taper at mine, receives light without darkening me.⁵

In other words, if we take your car, we have it and you do not. But to copy an idea takes nothing from the creator; the creator still has it and so too does the copyist. And this makes the copying of ideas more morally ambiguous than stealing ordinary tangible property like a car.

The primary reason the American legal system regulates copying, in short, is not moral but practical. Both copyright, which protects books, songs, films, and the like, and patent, which protects useful inventions such as medicines, machines, and business methods, rest on the theory that the control of copying is necessary for innovation to occur. Innovation requires rules that allow creators to control who can make copies—either by making the copies themselves, or selling licenses to others. Creators, in short, need a monopoly over the right to make copies. In this book, we refer to this as the *monopoly theory* of innovation.⁶

Why is it thought that creators need a monopoly over their creations? Many innovations are difficult to invent but easy to copy. If copying is allowed, the monopoly theory holds, investment in new inventions and creations will be discouraged as copyists replicate the **work** of originators—and often more cheaply, since they do not bear the costs of creation. In Jefferson's terms, if everyone is constantly lighting their taper from our flame, we might not bother to light our **own** taper in the first place.

The argument that copying stifles creativity is intuitively appealing. Who is going to create if others are free to take? Proponents of this view tend to assume that it is self-evident that strong patent and copyright laws are essential to keep creative juices flowing, and that more protection is better than less.

This is one reason that the term of protection under American copyright law has increased from 28 years in 1790 to over a century today. It is also one reason the scope of patents has expanded from things like cotton gins and chemicals to cover a wide, some would say absurd, range of ways of doing business—such as the patent on “one-click” purchasing awarded to online retailer Amazon. (Only the naïve would ignore another reason for this expansion: there is a lot of money at stake in controlling innovations, and those who possess the relevant rights have every incentive to push to make them as strong as they can.)⁷ The justification for the expansion of monopoly rights is simple: more intellectual property yields more protection, which in turn produces more creativity. Or so the story goes.

This book challenges the conventional wisdom about innovation and imitation. And it does so in a new way. Most of the debate on these issues has revolved around existing industries that are major proponents of strict rules against copying, such as the music business (copyright) or the pharmaceutical industry (patent). We instead explore a variety of industries and arts, like fashion, databases, and comedy, *in which copyright and patent do not apply, or are not used*. In other words, we ask, What happens when restrictions on copying are not part of the picture?

What we find is that even though others can freely copy in these industries, creativity remains surprisingly vibrant. In the pages that follow we will explore a clutch of industries in which copying does not necessarily kill or even impair creativity. In some, copying actually spurs innovation—an effect we call the “piracy paradox.” In others, social norms protect the interests of originators and keep innovation humming. Imitation may also force innovators to structure their creativity in ways that make it less vulnerable to copying. The details vary, yet in all of these instances copying tends to lead to transformation rather than decimation.

Our main message is an optimistic one: surprisingly, creativity can often co-exist with copying. And under certain circumstances, copying can even be *good* for creativity.

This has vital implications in a world in which rapid technological advances have made copying easier and easier. Some believe we are entering an era of cultural and economic decay in which unrestrained copying by “digital parasites” destroys first one, then another, creative art.⁸ Others foresee an impending utopia of the mind in which creativity and information are set free and available to all. We think the truth is more complex, but also more interesting, than either of these views. Copying can harm creativity and some **rules** are necessary; we are not IP-abolitionists.⁹ But the effects of copying on creativity are not nearly as simple as the monopoly theory suggests. The industries we explore tell us that creativity is more resilient than commonly believed; that copying has unappreciated virtues; and that the rise of free and easy copying may, in the end, prove to be far less apocalyptic than many believe.

The industries we look at in this book are often surprisingly big and interesting. Understanding how they work, and *why* they work, is fascinating. We also want to draw out lessons for other industries, such as music and film, which increasingly struggle in the face of rampant, and rising, copying. These IP-dependent industries are certainly different from the industries we profile in the pages to follow.¹⁰ Yet there are still useful lessons about how and when prohibitions on copying are necessary. This is especially true since copying appears increasingly difficult to stop, even as innovation becomes ever more central to our economy. In this new world, a close look at those industries that *already* survive and even thrive in the face of pervasive copying can help us judge whether the future of creativity is bleak or bright. For reasons this book will explain, we think the future is brighter than many realize.

Here are a few examples of the industries, and the stories, we examine in the chapters that follow.

CUISINE

Walking home one night in Los Angeles with his sister-in law, Mark Manguera had an epiphany. Mexican and Korean were two of L.A.’s street food mainstays. Could the tastes be combined? Maybe he could pull off the culinary version of a mash-up. What if he stuffed a tortilla with . . . Korean BBQ’d short ribs?

This was the birth of the now-famous “Korean taco”: a concept that fused two of L.A.’s favorite cuisines—both associated with cold beer and good

times—into one delicious combination. Within a month Manguera had teamed up with a friend and highly accomplished chef, Roy Choi. Choi took the idea and made it work. Together, they launched a business to sell Korean tacos out of a truck. They called it Kogi, a play on the Korean word for meat.

In L.A., food trucks are a common sight. But for decades trucks were limited to basic Mexican fare aimed at construction workers and residents of immigrant neighborhoods. Kogi's insight was to take the concept of a taco truck and tweak it. It was a flash of gastronomic inspiration to combine Korean BBQ with tacos, but it was also a flash of marketing inspiration to offer a more upscale and lively truck experience, one that would appeal to an entirely new demographic.

Still, Kogi's culinary mash-up was not an immediate hit. The truck parked in a busy part of West Hollywood, yet at first the team couldn't give their tacos away. But Manguera and Choi weren't deterred, and they tried some innovative strategies to get the attention of jaded Angelenos. The truck would park near offices by day, residential areas in the evening, and clubs and bars at night. Manguera would hand out free samples to the club bouncers, who loved the food and spread the word to those waiting at the rope lines. Manguera also reached out to L.A.-area food bloggers, and they reciprocated with glowing reviews. And Kogi benefited from the tech savvy of Manguera's sister-in-law, Alice Shin, who made extensive use of Twitter to help followers to know where the truck was at all times. But the overwhelming reason for their success was the creativity of the Kogi team, who cleverly combined two great tastes that had existed cheek-by-jowl in L.A. for decades, and, moreover, chose to "upscale" the plebian food truck rather than start a traditional brick-and-mortar restaurant.

The rest is food history. In 2010, Roy Choi was listed as one of *Food & Wine* magazine's 10 best new chefs, and today there are hundreds of gourmet food trucks in L.A. and nearly every other major city in the nation, offering everything from banana pudding to sushi. Inevitably, there are also many knockoffs of the Kogi taco. Even Baja Fresh, the fast-food Mexican chain, began offering one.

From an innovation perspective, cuisine is a lot like fashion. Recipes are unprotected by copyright, so anyone can copy another's recipe. Actual dishes—the "built food" you order in a restaurant—can also be copied freely. As anyone who has eaten a molten chocolate cake or spicy tuna on crispy rice knows, popular and innovative dishes do seem to migrate from

restaurant to restaurant. The bottom line is that almost anything a chef does that is creative—short of the descriptions of the food in the menu, which are at least thinly protected by copyright law—can be copied by another chef.

Copyright's purpose is to promote creativity by stopping copying; if everyone could imitate, no one would innovate. By this logic, we ought to be consigned to uninspired and traditional food choices, since in the food world, it is easy and legal to copy. In short, the Korean taco should not exist.

But the real world does not follow this logic. In fact, we live in a Golden Age of cuisine. Thousands of new dishes are created every year in the nation's restaurants. The quality and variety of American cuisine today is very high, and much higher than it ever has been before. The so-called molecular gastronomy or modernist cuisine movement has innovated in myriad (and often bizarre) ways that have filtered down to more modest restaurants all over the world. But so too have the ideas of many "farm to table" chefs working in cities across America. Television shows such as *Top Chef* and *Iron Chef* challenge contestants to mix and match improbable combinations of ingredients with little warning or time. Our contemporary food culture, in short, not only offers creativity, it increasingly *worships* creativity—and many of us worship it right back. So how are chefs so creative when they know others can **copy** their recipes?

STAND-UP COMEDY

Louis C.K. is a "comic's comic," which is one way of saying that while his fellow stand-up comedians esteem him, he is not exactly a household name. That has begun to change in the last couple of years, however, not least because of his new television show, *Louie*. The show has received adoring reviews, and viewers are beginning to notice.

Dane Cook, on the other hand, is a stand-up comedy superstar. He has recorded five best-selling comedy albums, has a burgeoning film career, and has hosted *Saturday Night Live* twice. In 2007, Cook sold out two shows at Madison Square Garden in the same night. Dane Cook is the biggest thing that the world of stand-up comedy has produced in a very long time. He is, however, not well liked by some rival stand-ups. Some of the bad feeling may just be jealousy. But some is about Cook's credibility as a comedian. Cook has a reputation for stealing jokes. And the most persistent allegations revolve around three jokes that appear on Cook's 2005 album *Retaliation*,

but which are remarkably similar to jokes on Louis C.K.'s 2001 album *Live in Houston*.*

Louis C.K. has never said anything publicly about the allegations against Cook. But other comedians and comedy fans certainly have. For the last six years or so, Cook's penchant for copying, and the specific allegations regarding Louis C.K., were detailed on comedy blogs and in a 2007 article in *Radar* magazine. And then there are the videos on YouTube, posted mostly anonymously, accusing Cook of imitating the routines of a number of other comedians. The allegations clearly have upset Cook. In a 2010 interview with comedian Marc Maron, an agonized Cook insisted that he "didn't steal anything from Louis C.K." "How can I really convey to people so that they understand?" Cook added. "I've never stolen anything in my life. . . . I'm not a thief."

And then, a couple of months after the Marc Maron interview, the Louis C.K./Dane Cook dispute took a fascinating turn: Cook appeared as himself in an episode of *Louie*. In the show, Louie wants to take his daughter to a Lady Gaga concert for her birthday. He approaches Cook, who shares a promoter with Gaga, for help in scoring tickets. The comedians meet in Cook's dressing room for a face-to-face discussion.

At first Cook is surprised and offended that Louie would ask him for a favor. But Cook agrees to get the tickets for Louie—on one condition: "All you have to do," Cook says, "is go on YouTube, and tell everybody that I did not steal your material."

Louie does not respond directly; instead, he denies ever accusing Cook of theft. Cook shoots back that what Louie has done is just as bad: he's allowed other people to make the accusations, without stepping in to deny them. And then Cook lays out how badly he's been hurt:

You know what?—I'm excited that you're in this room right now, because I've waited four years to tell you this. . . .

The year 2006 was the greatest year in my entire life. I had a double-platinum comedy album—first one ever to exist. I had a massive HBO special. . . . 2006—that should have been like my triumph. And I enjoyed it, Louie, for maybe two months. Two months before it started to *suck*. Because everything I started to read about me was about how I stole jokes from you. Which I didn't.

* One joke is about the strange names that parents give to their kids. A second focuses on how people get tongue-tied in moments of panic. And a third muses on the travails of having an itchy rear end.

“I kind of think you did,” Louie shoots back. And then he tells what he thinks happened:

I don’t think that you saw me do those jokes and said “I’m going to tell those jokes too.” I don’t think there’s a world where you’re that stupid, or that bad a guy. . . . I think you saw me do them—I know you saw me do them—and I think they just went in your brain; I don’t think you meant to do it, but I don’t think you stopped yourself either. And that’s why I never felt the need to help you not be hated by a lot of people.

An exasperated Cook asks Louie again for a public statement of absolution. Louie responds by asking whether Cook would be willing to admit that he did appropriate the jokes, even if inadvertently. Finally, Cook breaks down and says he’ll get Louie the tickets. Nothing has really been settled, but each comic has had the chance to say his piece.

On one level, Louis C.K. and Dane Cook are simply actors playing parts in a TV show. But the dispute they’re sparring over is real, and the on-screen confrontation also says something important about how comics behave out in the real world. When a comedian believes that a rival has used one of his jokes, he doesn’t file a copyright lawsuit. Copyright law technically covers jokes. But because copyright protects the specific expression of a joke, rather than the underlying funny idea, it is very easy to sidestep the legal rule and simply tell the joke in a slightly different way. In practice, this means copyright just does not protect the work of comedians.

But that does not mean comedians stop creating new jokes: in fact, a big part of being a successful stand-up comic is churning out fresh material, not rehashing your greatest hits. The fact that copyright is essentially unavailable to comedians has not led to a decline in the invention of new jokes and routines. Instead, comedy is more pervasive than ever, with a flourishing world of comedy clubs and bars and even Comedy Central on cable television, featuring many stand-up acts. How is it that comedians have managed, without using the law, to reconcile creativity with copying?

FOOTBALL

When football started, it was a brutal game of straight-ahead running plays—the slow grind of “three yards and a cloud of dust.” The results

weren't always pretty, and indeed they were sometimes disastrous in an age when players wore little protection. In the 1905 college season, 18 players were killed and more than 150 badly injured. After viewing a photo of a mutilated player, President Theodore Roosevelt demanded change in the rules of the game. Football responded by innovating: teams introduced the forward pass into their offensive strategies.

The pass was thought to be less dangerous to players than the run, but some wondered whether it would ever count for much. A *New York Times* writer said, "There has been no team that has proved that the forward pass is anything but a doubtful, dangerous play to be used only in the last extremity."¹¹ Yet the pass not only caught on, it became, for many teams, the first tenet of their offensive doctrine. Passing changed football forever. Size mattered less; speed, smarts, and strategy much more. The pass added a range of previously unimaginable complexities to the offense, which demanded new defensive countermeasures. The result has been a continuous wave of innovation. And a just-as-continuous wave of copying.

Consider the "No Huddle Offense." In 1989, Sam Wyche, then coach of the Cincinnati Bengals, had the seemingly crazy idea of employing a "hurry-up" offense, typically used in a game's waning minutes, during the entire game. The offense became known as the "No Huddle," and it worked exactly as it sounds—Wyche's smaller and well-conditioned Bengals ran a very quick series of pre-scripted plays without huddles, all with the object of confusing and tiring the larger, less mobile players on the opposing defense. The strategy worked brilliantly and provoked anger among opposing coaches. In the days leading up to a playoff game against the Buffalo Bills, Bills coach Marv Levy angrily asserted that Wyche's innovation was equivalent to cheating. But anger soon gave way to imitation. The following season, Levy's Bills knocked off the no-huddle offense and went on to play in four straight Super Bowls.

So what does this mean? There is a lot of innovation in football. But there has been virtually no attempt to copyright or patent any of the innovations that have periodically roiled the game. There are some serious legal hurdles, but since American law already protects "choreographic works," copyrighting a football play is not as far-fetched as it may seem. Patent protection extends to new and useful "systems," and a novel football offense might be characterized this way. It might also be characterized as a "method of doing business"—a category of inventions which **is** also patentable (with some

restrictions) under U.S. law. In short, IP law might conceivably step in to prevent copying, but it never has. So why do football coaches continue to innovate, even when they know that their rivals will study their innovations and imitate them?

Fashion, food, football, and comedy are all industries in which creativity is vibrant and the patent and copyright laws are either absent or irrelevant. There are many similar examples, as this book will demonstrate. Few have been studied as a source of insights about innovation. The best known involves open-source software. The entire purpose of open source is to keep code “open”—to allow others freely to copy and modify what previous programmers have created. The use of copyright law to prevent copying or modification of the code is not permitted. And yet creativity flourishes and open-source software products, such as Linux and Firefox, have significant market shares. Others have explored the story of open source in depth. Still, we will say a few things about it in the conclusion to point out just how important the overall approach of open source is to our understanding of how imitation and innovation mix.

There are many other fields in which IP plays little or no role in incentivizing innovation. Fonts are a vibrant creative area, with literally thousands available and many new fonts created every year. Copyright law does not effectively protect new fonts against copying. And the advent of digitization has made copying very easy. Rather than slow down the growth of new fonts, however, digital technology has actually accelerated it.

The financial industry—banking, investment management, insurance—is also a fertile ground for innovation, with new investment tools and strategies deployed (for better or worse is not clear) in a ceaseless competition to maximize returns, hedge risk, and lower costs. Some of these innovations are patented, but many—and many very valuable ones—are not. As a result, financial industry innovators are often knocked off by their competitors. Still, copying does not appear to suppress incentives to innovate very much.

The computer database industry—which provides a huge range of products that collect and organize information and make it searchable using a computer—is another innovative industry where an enormous amount of new work is produced with very little IP protection. The content in some databases is copyrightable—for example, the huge collections of news articles available via Lexis-Nexis or the DowJones “Factiva” database. In many

other instances, the content of databases is composed of basic facts—like the price of houses—and under American law basic facts are uncopyrightable. This is a contrast with Europe, where factual databases *are* protected against copying. Yet the surprising thing is this: the database industry is growing on this side of the Atlantic, and stagnating on the other. The freedom to copy has not killed the U.S. database industry—if anything, it seems to have strengthened it.

These stories, and others, describe a world of robust creativity in the face of easy—and sometimes relentless—copying. These accounts are interesting in themselves. Taken together, however, they are more than just snapshots of particular settings in which innovation thrives without the incentives to create that IP is designed to provide. They raise wider questions about when, and how, restraints on copying are central to innovation in *any* setting.*

These questions are especially pressing now. Innovation is an ever more central driver of economic growth in today's economy. Rules against copying have a critical role to play in this economy.¹² Yet there are several reasons to think that having too much regulation of copying can pose as great a danger as having too little. IP rights come at a price. IP protects creators by limiting competition, and less competition means higher prices for books, films, music, drugs, and so on. They require enforcement, which is often expensive. And IP regulations can be a powerful tool for established firms and industries to squash newcomers, and new technologies, that could, if left alone, give rise to entirely new businesses and cultural products.

As this last point emphasizes, strong restraints on copying can inhibit as well as enable innovation. One of the key arguments of this book is that innovation is often an incremental, collective, and competitive process in which the ability to build on existing **creativity** is critical to the creation of new and better **things**. Apple took the idea of a mouse and an icon-based computer display from researchers at Xerox, tweaked it, and commercialized it. Disney's *Steamboat Willie* (and by extension Mickey Mouse) was a sort of proto-remix of Buster Keaton's *Steamboat Bill*. Thomas Edison's lightbulb imitated elements from over a dozen earlier bulbs. Shakespeare's *Romeo and Juliet* borrowed from earlier writers (and *Westside Story* in turn

* Smart defenders of rules against copying note—correctly—that these rules are not just aimed at creation but also at distribution. We say more about the role of intermediaries in the chapters to come.

drew heavily from Shakespeare). Since few creations are entirely new, laws that prohibit copying can block as well as spark innovation. The flipside is that open and easy copying can spark as well as block innovation.

To be sure, it is very hard to determine the optimal mix of imitation and IP in a given industry, let alone across the spectrum of our creative economy. The prevailing view, embodied in the monopoly theory, is that copying is a serious, even mortal threat to creativity. But perhaps the opposite is true: fewer restraints on copying could actually yield more innovation—or the same amount of innovation at a much lower cost. (That is the fundamental notion behind open source.) To date, there are few if any convincing tests of either of these propositions. Much of our regulation of copying, in short, is based on theory and intuition, not hard evidence.

Our central point is simply this: despite the widespread view that copying is a serious threat, when we stop and look at a broader range of creative industries, we see that imitation often co-exists with innovation. If the future is going to be one of more, rather than less, copying—and everything to date suggests that will be the case—these industries present a window on the ways in which innovation can continue to thrive.

And this has implications for how we think about the future of our increasingly ideas-based economy. Consider this example. In the 1980s the motion picture industry tried to use copyright law to eliminate a fearsome new technology—the VCR—that the industry’s chief lobbyist, the famed Jack Valenti, in a congressional hearing memorably likened to the Boston Strangler.* That bid, spurred by the fear that Americans would begin copying films and television shows at home, just barely failed—the Supreme Court voted 5–4 to permit the VCR, and one vote going the other way would have resulted in the elimination of the home video market. Contrary to Valenti’s prediction, that market became a huge moneymaker for Hollywood.¹³ In subsequent decades the VCR, and then the DVD player, poured many more dollars into the film studios’ coffers than piracy was ever able to steal away.

* Valenti did not stop there. The VCR, he predicted, would simply destroy Hollywood: “Now, we cannot live in a marketplace, Mr. Chairman—you simply cannot live in a marketplace, where there is one unleashed animal in that marketplace, unlicensed. It would no longer be a marketplace; it would be a kind of a jungle, where this one unlicensed instrument is capable of devouring all that people had invested in and labored over and brought forth as a film or a television program, and, in short, laying waste to the orderly distribution of this product.”

As this history shows, getting our policies on copying right—or wrong—can have major economic impacts. And the story of the VCR illustrates that the relationship between copying and creativity is anything but simple. The film industry feared the VCR's ability to copy, but later discovered that copying created rather than killed markets, allowing the industry to grow and fueling future creativity.

Copying is not always so benign, or so lucrative. Rules about copying have an important, even essential role to play in our economy and our world. But that role is much more nuanced than many believe. Major industries survive and even thrive in the face of copying, and in some cases copying makes them richer and more productive. If we can begin to unlock that paradox, we can learn a host of important lessons about the future of innovation.