

## Acknowledgments

The ideas for this book come from the theoretical and practical work I have been doing for the last ten years. None of that work has been done alone. As a result, the list of people to whom I am indebted makes Oscar night acknowledgments look haiku-terse by comparison. Here I can mention only a few. I beg pardon for the inevitable omissions.

First and foremost, my family has tolerated my eccentricities and fixations and moderated them with gentle and deserved mockery. “Want that insignia torn off your car, Dad? Then it would be in the public domain, right?”

My colleagues at Duke are one of the main influences on my work. I am lucky enough to work in the only “Center for the Study of the Public Domain” in the academic world. I owe the biggest debt of gratitude to my colleague Jennifer Jenkins, who directs the Center and who has influenced every chapter in this book. David Lange brought me to Duke. His work on the public domain has always been an inspiration to mine. Arti Rai’s remarkable theoretical and empirical studies have helped me to understand everything from software patents to synthetic biology. Jerry Reichman has supplied energy, insight, and a

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spirited and cosmopolitan focus on the multiple ways in which property can be protected. Jed Purdy and Neil Siegel commented on drafts and provided crucial insights on the construction of my argument. Catherine Fisk, Jim Salzman, Stuart Benjamin, Jonathan Wiener, Mitu Gulati, Jeff Powell, Chris Schroeder, and many, many others helped out—sometimes without knowing it, but often at the cost of the scarcest of all resources: time. Amidst a brilliant group of research assistants, Jordi Weinstock and David Silverstein stood out. Jordi showed a dogged ability to track down obscure 1950s songs that was almost scary. Additional thanks go to Jennifer Ma, Tolu Adewale, Paulina Orchard, and Emily Sauter. Balfour Smith, the coordinator of our Center, shepherded the manuscript through its many drafts with skill and erudition.

Duke is the most interdisciplinary university I have ever encountered and so the obligations flow beyond the law school. Professor Anthony Kelley, a brilliant composer, not only educated me in composition and the history of musical borrowing but co-taught a class on musical borrowing that dramatically influenced Chapter 6. Colleagues in the business school—particularly Jim Anton, a great economic modeler and greater volleyball partner, and Wes Cohen, a leading empiricist—all left their marks. Dr. Robert Cook-Deegan, leader of Duke’s Center for Public Genomics, and my wife Lauren Dame, associate director of the Genome Ethics, Law and Policy Center, provided crucial support to my work with the sciences in general and synthetic biology in particular. I was also inspired and informed by colleagues and students in computer science, English, history, and political science.

But the work I am describing here is—as the last chapter suggests—something that goes far beyond the boundaries of one institution. A large group of intellectual property scholars have influenced my ideas. Most importantly, Larry Lessig and Yochai Benkler have each given far more than they received from me in the “sharing economy” of scholarship. If the ideas I describe here have a future, it is because of the astounding leadership Larry has provided and the insights into “the wealth of networks” that Yochai brings. Jessica Litman, Pam Samuelson, Michael Carroll, Julie Cohen, Peggy Radin, Carol Rose, Rebecca Eisenberg, Mark Lemley, Terry Fisher, Justin Hughes, Neil Netanel, Wendy Gordon, David Nimmer, Tyler Ochoa, Tim Wu, and many others have all taught me things I needed to know. Jessica in particular caught and corrected (some of) my many errors, while Pam encouraged me to think about the definition of the public domain in ways that have been vital to this book. Michael suggested valuable edits—though I did not always listen. Historical work by Carla Hesse, Martha Woodmansee, and Mark Rose

has been central to my analysis, which also could not have existed but for work on the governance of the commons by Elinor Ostrom, Charlotte Hess, and Carol Rose. Kembrew McLeod and Siva Vaidhyanathan inspired my work on music and sampling. Peter Jaszi was named in my last book as the person who most influenced it. That influence remains.

Beyond the academy, my main debt is to the board members and staff of Creative Commons, Science Commons, and ccLearn. Creative Commons, on whose board I am proud to have served, is the brainchild of Larry Lessig and Hal Abelson; Science Commons and ccLearn are divisions of Creative Commons that I helped to set up which concentrate on the sciences and on education, respectively. The practical experience of building a “creative commons” with private tools—of allowing creative collaboration with people you have never met—has shaped this book far beyond the chapter devoted to it. Hal Abelson, Michael Carroll, and Eric Saltzman were on the midwife team for the birth of those organizations and became close friends in the process. Since the entire Creative Commons staff has made it routine to do seven impossible things before breakfast, it is hard to single out any one individual—but without Glenn Brown at Creative Commons and John Wilbanks at Science Commons, neither organization would exist today. Jimmy Wales, founder of Wikipedia and another Creative Commons board member, also provided key insights. Finally, but for the leadership of Laurie Racine neither Creative Commons nor our Center at Duke would be where they are today, and thus many of the experiments I describe in this book would not have happened.

The intellectual property bar is a fascinating, brilliant, and engagingly eccentric group of lawyers. I owe debts to many of its members. Whitney Broussard told me the dirty secrets of the music industry. Daphne Keller—a former student and later a colleague—helped in more ways than I can count.

A number of scientists and computer scientists made me see things I otherwise would not have—Drew Endy and Randy Rettberg in synthetic biology, Nobel laureates Sir John Sulston and Harold Varmus in genomics and biology more generally, Paul Ginsparg in astrophysics, and Harlan Onsrud in geospatial data. Paul Uhlir’s work at the National Academy of Sciences introduced me to many of these issues. The work of Richard Stallman, the creator of the free software movement, remains an inspiration even though he profoundly disagrees with my nomenclature here—and with much else besides.

Activists, civil rights lawyers, bloggers, and librarians have actually done much of the hard work of building the movement I describe at the end of this book. Jamie Love has touched, sparked, or masterminded almost every benign

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development I write about here, and novelist Cory Doctorow has either blogged it or influenced it. I have worked particularly closely with Manon Ress, Fred von Lohmann, Cindy Cohn, Jason Schultz, and Gigi Sohn. John Howkins and Gilberto Gil have provided considerable leadership internationally. But there are many, many others. The entire community of librarians deserves our thanks for standing up for free public access to knowledge for over two hundred years. Librarians are my heroes. They should be yours, too.

Some of the work contained here has been published in other forms elsewhere. Portions of Chapters 2 and 3 appeared as “The Second Enclosure Movement and the Construction of the Public Domain”;<sup>1</sup> Chapter 7 shares little textually but much in terms of inspiration with an article I co-wrote for *PLoS Biology* with Arti Rai, “Synthetic Biology: Caught between Property Rights, the Public Domain, and the Commons.”<sup>2</sup> For several years now I have been a columnist for the *Financial Times*’s “New Economy Policy Forum.” Portions of Chapter 5 and Chapter 9 had their origins in columns written for that forum. Chapter 10 has its roots both in my article “A Politics of Intellectual Property: Environmentalism for the Net?”<sup>3</sup> and in the symposium, *Cultural Environmentalism @ 10*,<sup>4</sup> that Larry Lessig kindly organized for the tenth anniversary of that article.

Finally, I need to thank the institutions who have supported this study. The Rockefeller Center in Bellagio provided an inspiring beginning. The Ford, Rockefeller, MacArthur, and Hewlett Foundations have generously supported my work, as have Duke Law School’s research grants and Bost Fellowships. My work on synthetic biology and the human genome was supported in part by a CEER grant from the National Human Genome Research Institute and the Department of Energy (P50 HG003391-02). In addition, my thanks go out to the anonymous donor whose generous donation allowed us to found the Center for the Study of the Public Domain, and to Bob Young and Laurie Racine, whose work made the Center possible. Yale University Press were supportive and critical in all the right places. I would like to thank them for agreeing to release this work under a Creative Commons license. What could be more appropriate to the book’s theme?

I could go on and on. But I will not. This flurry of names and areas of knowledge signifies more than just the deep thanks of a dilettante. It signifies the emergence of an area of concern, the coming together of very different groups around a shared problem—an imbalance in the rules that define property in the information age. It is that problem, its history, philosophy, and politics that I try to sketch out in the pages ahead.