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### Copyright Term Must be Shortened

For the ability to preserve, use and improve works is essential.

As of the most recent United States copyright term extension, all works are protected under copyright for the life of the author plus 70 years, or longer if work was made for corporate authorship. Such a long term effectively makes copyright perpetual, lasting much longer than an author of a work could possibly need it. Long copyright terms also harm the dissemination of knowledge and culture, as opposed to promoting them as copyright is intended to. Copyright would still be a great asset to authors without greatly harming the public if copyright term was shortened to five years.

While no compensation to artists for creation – as in no copyrights at all – would provide no incentive to create works (Rappaport 2), the majority of royalties for works are generated within the first five years. Healthy sales generally last no longer than 5 to 10 years, and smash hit-level sales generally last no longer than two years (Rappaport 5). An example is that the longest a single song has been on the Billboard Top 100 is 76 weeks (Pietroluongo), and as this is a record it is, neither common nor normal. As works get older, they earn even less and have less chance of earning anything: Only 2% of copyrights over 55 years old still generate royalties (Rappaport 7). Giving an author a tiny chance of earning a minimal amount so far in the future would have a negligible influence in inspiring authors to create new works (Breyer, *Eldred v. Ashcroft* 13). Since the amount made after this time is over is small compared to the amount

made during that time, it is a fairly small sacrifice compared to the benefits of a more open public domain, described later.

When a work is under copyright, it is not available to the public. Any monopoly, including copyright monopolies, will result restrictions in access to goods (Rappaport 2). In this case, since the monopoly is on intellectual property, it is restricting access to knowledge and culture. The term of copyright is limited so that the public is not permanently deprived of an artist's work (Breyer, *Eldred v. Ashcroft* 4). This deprivation of artists' works prevents works from being preserved, used or improved.

Preventing works from entering the public domain prevents them from being preserved and appreciated. Since these works are not generating revenues for their owners, the owners have no incentive to rerelease or preserve these works. "Distribution of older works has largely become a specialized business" (Rappaport 3): several publishers sell a line of classic books, and museums or similar institutions may be interested in preserving works for non-economic reasons. An example of this is the Library of Congress and their American Memory program, which provides historical documents on the web, but has focused on documents from before 1920 because such works having an expired copyright (Rappaport 4).

In addition, most forms of storage have a limited life cycle; after this point any data on those devices cannot be retrieved. One example is floppy disks – often used to distribute computer programs or games before CDs were invented. The widespread use of Floppy Disks started in the 1960s. They store data through magnetic charges, and are capable, under the best conditions, of keeping these magnetic charges strong enough to be read by floppy drives for 30 years (Edwards). Much of the software released in the 1980s and earlier would have faded away without some people illegally copying the programs from the floppy to another form of data

storage (Edwards). Another example is film, which by the necessity of being affected by light is very fragile. A lot of the film of movies is sitting in vaults of major movie studios who are unable to financially benefit from selling the works, but still unwilling to surrender the works do to the potential of a profitable lawsuit in the future. Half of all feature films made before 1930 have been irreparably lost because of this (Breyer, *Eldred v. Ashcroft* 12). Rights holders have no interest in preserving culture and no one else is allowed to, making decay of culture inevitable.

The permissions requirement makes an attempt to use older works repressive, and this only gets worse as the works age. Older works are more often going to have transferred copyrights, either from one corporation to another or from an author to a child, grandchild or even possibly an estranged niece as an inheritance. And these transfers can make discovering who the copyright holder of a work is difficult or impossible hard to find (Breyer, *Golan v. Holder*). And an entity, a museum, university or library, if it wants to use a copyrighted work must find the copyright owner or be faced with the threat of being sued for infringement. Because of the impossible costs involved in finding copyright owners, collections of older works, such as a Mexican folk music collection in the Los Angeles Public Library, have been unable to make their works available to the public (Breyer, *Golan v. Holder*). A five-year copyright would significantly decrease these administrative costs. The original copyright holder is much more likely to continue holding the copyright so although finding a copyright holder may still be difficult, it is still easier when one knows who the copyright holder is. The permissions requirement is nearly preventing the use of old or abandoned works from being used, even if a copyright holder would have given permission if they could be found.

The economic incentives provided by copyright are clearly not enough to convince copyright holders to preserve old works, and due to the restrictions created by copyright, it is impossible for anyone else to preserve necessary parts of cultural heritage. And preserving cultural heritage is a good thing since it allows people to use or read those works.

A larger public domain is beneficial since it allows works to be improved upon. No works are created in a vacuum – works are often made collaboratively and use inspiration from earlier works (Chandler and Sunder 9). Earlier works need to be accessible to artists, or else the liability and costs of earlier inspiration will stop innovation and creation (Chandler and Sunder 10, 13). Examples of Intellectual Property being helpful and accessible to artists include the book *Pride and Prejudice and Zombies*, the Steam Engine and Justin Bieber’s rise.

The book *Pride and Prejudice and Zombies*, published in 2009, is heavily based on the earlier book *Pride and Prejudice*, published in 1813. Despite 85% of *Pride and Prejudice and Zombies* being taken straight out of *Pride and Prejudice*, it manages to be a respectable work in its own right (Lawless). It is a best seller, and even has respect from Austen purists (Lawless). It is an interesting and unique concept, and did require some skill to merge the overall story behind *Pride and Prejudice* with segments of zombies. *Pride and Prejudice and Zombies* has also inspired at least one prequel and one sequel (Lawless), which avoid the complaint of detractors that *Pride and Prejudice and Zombies* is lazy since *Pride and Prejudice* doesn’t itself have a prequel or sequel. *Pride and Prejudice and Zombies* is an excellent example of what can happen when works are allowed to be built upon,

Although this example involves patents, as it deals with an invention, improvements on artwork and musical works, such as remixes and covers, are possible in a similar way. James Watt invented a new type of the steam engine in 1777, and patented it. Until the patent expired in

1808, almost no improvements to the efficiency of steam engines were made. In the 35 years after the engine entered the public domain, the efficiency of the steam engine improved by almost 500% (Boldrin, Levine and Nuvolari; Boldrin and Levine). Allowing the public to improve a work results in better works, which in turn improves the public's condition.

Justin Beiber is a worldwide sensation and the result of using other people's works. Before he became famous, he made a few videos performing covers of preexisting songs. It was with this help of other songs that he was able to be noticed by a manager and begin a professional music career (Gatehouse). This career has included 2 albums with a combined total of 4.5 million sales (Gatehouse). However, there is almost no doubt that the works Justin Beiber used in his pre-fame videos were covered by copyright and used without permission, and therefore illegal. However, by being able to use these songs, even if under current laws he wasn't allowed to, he was able to become a celebrity.

These examples showed how useful the ability to build on others' works is. It can increase the value of those works and help new artists begin their careers. Reducing copyright term will allow more of this kind of building on other works which is necessary for new works to be created.

Copyright term is currently long enough that it prevents the public, including artists, from being able to use, preserve, improve or even be able to enjoy older works, and the problem only gets worse the older the works get. Older works also do not earn as much as newer works, and have less of a chance of earning anything when compared to those same works when they were younger. This means copyright is more harmful to the public and copyright gives fewer incentives to artists the longer its term is. Therefore, copyright term should be shortened to five

years so as to provide the most benefit to both the public who consumes works and the artists who make them.

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