

The interview with Lawrence Lessig

The interview with Lawrence Lessig, the founder of Creative Commons and Stanford Center for Internet and Society and the professor at Stanford Law School.

[audio & video of this interview @slobodnakultura.org](#)

About: Lawrence Lessig is a professor of law at Stanford Law School and founder of its Center for Internet and Society. He is founder and CEO of the Creative Commons and a board member of the Electronic Frontier Foundation and of the Software Freedom Law Center, launched in February 2005. He is best known as a proponent of reduced legal restrictions on copyright, trademark and radio frequency spectrum, particularly in technology applications. In 2006, Lessig was elected to the American Academy of Arts and Sciences.

In his book *Code and Other Laws of Cyberspace*, Lessig explores the ways in which code in both senses can be instruments for social control, leading to his dictum that "Code is law". Lessig is also a well-known critic of copyright term extensions.

<from Wikipedia, the free encyclopedia>

The iCommons Summit '07 <<http://iccommons.org/isummit-07>> was organized by the iCommons International, in cooperation with the Multimedia Institute MI2 <www.mi2.hr>.

[Dubrovnik, 15th of June, iCommons Summit day one, a cafe downstairs from Revelin]

Hello Mr Lessig, and welcome.

My pleasure.

This year's I-Summit is focused on several specific topics, one of those being how to deal with the problem of collecting societies. We had the opportunity to talk to the representative of one powerful collecting society yesterday, CISAC, and so far it seems that there is not much of the understanding from that side. Is it possible to achieve further progress without the collaboration of collecting societies?

Well, it is certainly possible to achieve lots in many very important areas we work in – in education, in science, and with authors and in places around the world that don't have the exclusive control of arts by the collecting societies, without collecting societies. And, that's so... Certainly, in the worst case scenario we'll do that. But I think it is very important that we make progress with collecting societies because – first, from my perspective, the objectives of collecting societies are not inconsistent with the objectives of Creative Commons. We are not in the business of becoming a collecting society, we are never going to be collecting money for commercial uses of our creative works, so we are not in competition with them. But what we are trying to provide is licensing structure, first for a whole class of the creativity they don't care about – amateur creativity, where people are not actually producing stuff for money, and secondly, we are providing a license that allows people to make free non commercial uses of their work, and as long as collecting rights society believes that there is a such a thing, than they should have no objections to allowing their authors to at least have a choice to do that. Though, there are some extremists, who believe that every single use of culture ought to be taxed in some way, they want to build permission societies. I once was at the conference where this women described her vision of utopia, which was permission society for culture – absolutely every single use, regardless by whom and in what context, was in some sense licensed. But I think that extreme view is rare, that the most people

will recognize that it is one thing for couple of kids to sit down and remix a video, and it is another thing for NBC to remix a video, and rules are to allow both of these to happen without imposing very strict requirements as being imposed on NBC on a kid engaging in remix.

If we observe Creative Commons kind of a parallel copyright achievement, a grassroots movement evolving to a valid alternative to the huge traditional copyright system, do you see the possibility (if most of national regulations would demonopolize the position of collecting societies) of creating a Creative Commons-like movement oriented towards assembling another grassroots network, which would take care of what collecting societies are doing today?

No I don't think we'll ever displace the proper role for collecting societies. I do think that, despite that fact that some of collecting societies movement would not acknowledge this, collecting societies are going to have to change, not because of us, but because technology has radically changed. Hence, competition authorities are much more aggressive about policing these government imposed monopolies, which in some countries collecting society is. So that means that the question is how they change and what they become? Now, I think that ideal role for the artist is to have a choice among collecting societies, competition among collecting societies, so that collecting societies keep their costs as low as possible, they keep the payout to artists as high as possible, they keep their unknown black box funds when they can not find out to whom to give money to as small as possible and that only happens through the competition. So, I think that is an objective we ought to have. But again, I still think that there is going to be a commercial component to what – to culture, and that is not something Creative Commons is going to itself directly support, even though we support structures that complement the commercial component, and I hope do that more frequently.

When you say that we need more competition and demonopolization among collecting societies, you are actually talking about the deregulation of a position of those societies. And it is exactly this deregulation, this grey zone, which traditionally and historically was the source of unexpected, "creative" and inventive solutions. How do you see this urge to pinpoint precisely what Creative Commons licensing are doing, introducing even more of a precise regulation in the terms of copyright, compared to the traditional "grey zone", a non-regulated zone where creativity comes from?

Well, I certainly agree that uncertainty creates great incentive for innovation and I think for example if collecting societies did not hold monopolies than you would have lots of innovation in collecting societies that would ultimately serve both consumers of music and producers of music much better than the current regime internationally does. But, it doesn't follow from that that everything is better if it is uncertain. So, in a part of the strong motivation for Creative Commons was that copyright law itself is too uncertain. You know, in United States we have a doctrine called *fair use* which gives you certain permissions to use work despite the fact it is protected by copyright, but the analysis of *Fair Use* is extremely complicated. In fact, the Supreme Court has said that the Courts are not supposed to develop simple rules for analysing *Fair Use*, they are supposed to keep a balancing test – which basically means to go to a court, before you can get a question answered and of course the costs of going to a court could be millions of dollars. So uncertainty there does not create innovation, what it does is chill lots of innovation. Our thinking with licences is to the extent we can draw clear lines, we should. Not all distinctions are in need for clear lines, so the non-commercial line is never to be a clean precise line, but to the extent we can make things simpler, we should. So we have to introduce technology to make it so that the creator can specify precisely the way in which she wants to be attributed, and you can click and you get the link and you precisely cut and paste exactly how you want to be attributed. That's making things simpler and I think we'll try to do that as much as we can.

The very name of Creative Commons licenses is something that is derived from and inherent to English language. It is hardly translatable because of the several layers of the meaning of the word "common". In this region dominated by Slavic languages, it is pretty hard to be pronounced, and it is hard to imagine a fifty-something civil servant issuing a statement and saying that they would licence their further public work on Creative Commons Attribution version 3.0. Have you ever considered keeping Creative Commons movement branded as Creative Commons, but giving licenses some catchy 2.0 name, like flickr, google, digg – something which is easy to be pronounced in different languages and easy to be remembered, and not in need of any translation at all?

We think about this all the time. We thought about it when we launched the licences for the first time, giving the licences particular brand names. And so that continues to be something we think about. The particular issue of how to translate the commons is both an opportunity and a problem. It's a problem because there's not going to be any good translation and you shouldn't imagine that even within English people understand what it means. I mean, it's an obscure idea, especially in the United States, so we have always thought from the very beginning, it was an education process, and that is the opportunity with it. As you try to get people focus on what it is this means, they think more clearly about the world that's around them, they begin to recognize important assets in their culture that are in the commons technically – parks and roads, and culture and holidays, those are components of the commons and that everybody experiences whether they have a word for it or not. Now, we are open to finding simpler ways to express the ideas, what's happened is not really by our intention. But what's happened is that the icons have become a kind of universal expressions. So BY-NC, of course you have to know something to know what that means, but as a tag that goes with certain licences it is understandable. Where we see government institutions beginning to adopt the licences, they are very precise about what kind of licence they are trying to adopt.

Can you explain in brief why the withdrawal or cancellation of Developing Nations and Sampling Licenses occurred a few weeks ago?

We've said from the very beginning we'd launch licences, see how popular they were and simplify based on what was necessary and what was not. Those licences were licences that were not being used, very small proportion of our population was using them, like 0.1% of the licences were sampling licences, and 1.5%, I think, were Developing Nations Licences. So the licences were not serving any useful function, apparently, by the way of being adopted. And also they created ideological problems. The Developing Nations Licence was inconsistent with the movement that was born after Creative Commons, the Open Access Publishing movement. Because publishers being into say: Ok, we'll use The Development Nations Licence because Creative Commons gave it to us, we can say we are open access – and it is not consistent with open access values, so that was not right. And on the other hand, the sampling licence was the simple sampling licence that was blocking the ability for people to share even non commercially their creative work, and making sure that people can at least share non commercially is important to a very significant segment of our community. So they have ideological as well as practical reasons that led us to retire both of them.

Since you mentioned the word "ideological", there is, especially on CC mailing lists, a certain number of people arguing that Creative Commons as a movement and the discussion about the usage of licences should be depoliticized as much as possible. But we are all aware that we are dealing with the very foundation of something which is currently perceived as a property. To introduce changes within the attributes and the system of that "property" can not be anything else but a political act. Then again, the argument is that CC is supposed to present some sort of trans-ideological platform rather than a concrete political movement. What is your view about the politics of Creative Commons?

I think Creative Commons is a tool, much like digital camera is a tool. When you pick up a digital camera, or a video camera, you don't have to sign up to a political party, you don't have to say that you are Marxist, or libertarian, or a republican. You pick it up and you use it. There are a lot of people who use the camera, who use it in a ways I disagree with, and a lot of people who use it in ways I agree with. But, you can't help it say that the consequence of that digital camera is political in a sense that it would empower the whole bunch of people to make a film who could not make a film before. I think that's the same with Creative Commons licences, you don't have to take loyalty of, to use a Creative Commons licence. We would be perfectly happy if Britney Spears used Creative Commons licence. I'm very happy when corporations build business around Creative Commons licences. I am very happy when republicans use Creative Commons licences. I don't have any view that we ought to be insisting on a political program for the licences but at the same time I don't think you can deny that the consequence of the licences is to empower a kind of creativity that otherwise would not be empowered. So that is the political consequence.

Regarding the economical aspects of licensing, a business model of Chris Anderson's Long Tail was usually associated with open source business and open content licences. I think it is fair to say that the long tail business model grew a sort of a long beard now. Is there a new relevant economical theory or business model which may be the support to open content economy, is there a new relevant trend or theory emerging?

Chris's *long tail* is a powerful way of understanding a potential. As he recognizes, the mere fact of long tail doesn't guarantee that people would succeed. down the long tail. It is an opportunity for them to succeed. And the next hard question is how do you move up the tail, how do you as a creator move up the tail. And as he describes in his book, one way to move up the tail is to bring audience up on stage, make the consumer a producer. So, enabling people to remix your work or to use your work in another kinds of creative context is a good way of becoming better known and therefore move up the tail. And Creative Commons licences, of course, are designed precisely for that. So, I think that that the first iteration of the long tail theory made it sound like a force of nature

instead of a problem. It's a problem of a long tail. And than a question is how to solve that. Hence, there are plenty of ways which are tools, helping people solve their problems of a long tail.

It is a day one of the iSummit 2008. Maybe it's a bit too early, but can you describe the feel of it so far, and do you have any predictions or hopes for the forthcoming period? Can you give some sort of a short-term estimation on how the things are going to develop, and what the consequences of this iSummit are going to be?

For me, the most significant fact is that I don't recognize most of the people who are here. Two thirds of people are not Creative Commons People. And that's a great thing. So I think what is going to happen in the next year is that this movement that is now internationalized is going to become even bigger and more out of control. And I'm excited about that, that's a great opportunity. I think that you are going to see the nodes that lcommons have established actually succeeding in producing innovative new projects that would not have been produced, at least right away, without lcommons doing it, that is going to be exciting, too. I think next year's conference is going to be even bigger and more diverse than this one. I think we are at the stage where things are taking off, hence I expect to see more of that kind of growth in a next short period of time.

Thank you for taking time to give us this interview.
Thank you very much.

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[< link to iSummit 2007 photo set >](#)

this was the interview with

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[the audio & video of this interview @slobodnakultura.org]

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questions: Vladimir Jerić Vlidi

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