

Why USC School of Cinematic Arts Should Adopt Creative Commons Licenses

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Introduction

In the age of YouTube, online-user communities, and the rapid sharing and exchanging of information and content, budding (and in this case, student) film-makers find themselves presented with an unbelievable ability to distribute their work freely and widely, with little to no cost on behalf of the film-maker or film-makers. Similarly, approach to traditional views on copyright are being questioned by the very user-base that defines this online revolution.

The USC School of Cinematic Arts (SCA) currently retains an intellectual property (IP) policy that is not only detrimental to its students' ability to participate in these new avenues of distribution but is also antithetical to a contemporary, academically and artistically informed, understanding of copyright. This white paper is meant to inform the reader about the advantages and disadvantages of SCA's current IP policy and why they should change it, specifically to Creative Commons (CC) licensing with an opt-out for their traditional approach. It will be broken down into four main sections:

1. *Reasons why USC wishes to retain copyright*
2. *Changes in the relationship between copyright law and technology*
3. *Why USC should change their copyright policies*
4. *Why USC should seriously consider CC licenses*

Reasons Why USC SCA wishes to retain copyright

There are five main reasons why SCA's retention of copyright can be seen as beneficial towards SCA students. Three different reasons are primarily cited by SCA as why they retain copyright to student films. Firstly is SCA's relationship with the Screen Actors Guild (SAG). Secondly is their relationship with film insurance companies in the Los Angeles area. Thirdly are the technological resources they provide for students.

- 1) USC's ownership of students films is claimed as a necessity to allow student films to feature SAG actors. Without USC retaining copyright, and therefore *restricting commercial viability of student films*, SAG would not allow for such an agreement.
- 2) Insurance companies provide insurance to student films because it is understood that USC is tied to these films through their ownership of the films' copyrights.
- 3) The University provides technological resources to students in the form of cameras, editing devices, and other equipment and facilities of which many student films take full advantage of

Two other reasons for SCA's retention of student ownership present themselves in more abstract terms – firstly students' freedom to use copyrighted music and secondly USC's rejection of auteur theory in filmmaking.

- 4) Many students find it liberating that they may use copyrighted music in their student works w/ out fear of legal repercussion. Due to the fact that student films stay in house, or if they leave are under strict scrutiny from SCA's legal team, the

RIAA doesn't have to worry about unpaid royalties and thus USC's are allowed to exist in a 'lawless limbo' of copyright protection.

- 5) SCA has consistently stated it is opposed to the auteur theory of filmmaking, a theory that argues there is an overall visionary behind a film – an auteur is to film what a painter is to canvas. SCA's opposition to this theory is obvious and understandable – why would a film school engage in a theory that will paint 98% of its students as “unimportant”. Most students will become editors, production designers, casting directors, or the like – not superstar directors (re: auteurs) like Steven Spielberg and George Lucas.

Changes in the relationship between copyright law and technology:

Digital media has changed how, as a society, we create and consume content in drastic ways. In the past, students would come to a film school like SCA in order to get their hands on expensive equipment - be it cameras, film stock, lighting, or the like.

With the advent of digital video and computer-based editing systems (such as Final Cut Pro and Avid), this need is close-to negated on a technological level. To the same token, avenues for distribution have been opened with the advent of social-video sharing sites such as YouTube and Revver, creating an environment where online video is seen a legitimate avenue for up-and-coming filmmakers.

The rules and conventions that apply on these sites don't find resonance w/ classic copyright thought, but are rather based more on the free flow of information as opposed to restrictive copyright. Remixes, mash-ups, and appropriation of prior clips characterize the aesthetic of these sites.

SCA has much to offer its students in terms of faculty excellence, an intelligent and creative student body, and networking. One need only read progressive copyright and new-media literature such as Lawrence Lessig's Free Culture or Siva Vaidhyanathan's Anarchist in the Library to understand that digital tools shift not only our approach to consumption of creative content, but also to its creation. As such, SCA should deeply consider these technological changes in relation to their IP policy.

Why USC SCA should change their copyright policies:

There are six main reasons why SCA should change their current IP policy on a basic level:

- 1) SCA students are forced to sign SCA's Copyright Policy (available here - https://cntvcommunity.usc.edu/resources/physical_production/pdf/PP-copyrightPolicy.pdf) in order to take any production courses.
 - a. This includes CTPR-290, a course that is required for every undergraduate majoring in any SCA program. *There is no opt-out policy for those who disagree with this copyright policy except for changing majors or schools*
- 2) The internet and digital technology
 - a. The ability to post clips to YouTube, interacting w/ an online community, poses a myriad of potential advantages, as addressed above:

- i. Wider audience
 - 1. More critique
 - 2. More feedback
 - ii. Online resume/calling card
- 3) SCA's Interactive Media Division (IMD) projects
 - a. Specifically speaking, projects done under IMD will, by nature, break the SCA IP policy as they almost unanimously require digital distribution through the internet
 - b. The current SCA IP policy is so disharmonious with the intent of USC's own film program, it actually forces its own students to break policy, just to participate in their courses
- 4) Disbelief in auteur theory yet belief in underlying rights to scripts and ideas
 - a. SCA claims outright ownership towards films produced by their students, in large part due to the complex nature of filmmaking and ownership, yet simultaneously claim that the script and the underlying idea for the student film remains with the student (as stated by Associate Dean Michael Renov – audio found here <http://imlportfolio.usc.edu/freeculture/?p=24>)
 - i. This is unnecessarily complex and highlights the ineffectiveness of SCA's current IP stance
- 5) Discordance between technological resources and tuition paid
 - a. Students pay between \$30,000 to \$40,000 a year to USC (before scholarships) for full access to the faculty and resources USC provides
 - i. As such, SCA's claim that University resources entitle copyright ownership seems exploitative – students must relinquish a fixed monetary amount for the use of such resources, and as such, forcing students to relinquish their copyright seems excessive
- 6) Most importantly, SCA's IP policy is far more restrictive than that of other prominent film programs. Most other film programs either grant full copyright to their students or set in place a system whereas students are allowed *non-commercial* distributive avenues
 - a. In particular, the Loyla Marymount University School of Film and Television, also based in Los Angeles, allows its students complete copyright ownership (<http://www.lmu.edu/Asset5821.aspx>), the ability to use SAG actors (<http://www.lmu.edu/AssetFactory.aspx?did=7149>), and the ability to insure their films (<http://www.lmu.edu/AssetFactory.aspx?did=7143>)
 - i. This is achieved by allowing students copyright of their films, on the condition that they recognize their works as being academic and noncommercial in nature
 - b. Most Art Institutes (including the Brooks Institute of Photography) and California Institute of the Arts also allow their students to retain full copyright to their works
 - c. The University of California in Los Angeles (UCLA) School of Theater, Film, and Television allows their students to retain full copyright to their works

- d. Florida State University (FSU), while retaining copyright ownership of the films allows their students free reign to do with the films what they want, assuming it is for *non-commercial* use
 - i. *Non-commercial use* includes festivals

There has been an SCA internal inquiry to investigate the matter. Discussion between SCA IP Committee has resulted in a recommendation for change, although the recommendation stops short from giving students the work out rightly. It proposes three main changes:

- 1) SCA should hold the copyright for all films produced in Production Division courses, except those made in courses specifically designed to allow the student to hold the copyright (e.g., CTPR 582). SCA should also retain the copyright on any productions in the other divisions that are made using USC's blanket agreement with the Screen Actors Guild or that require insurance coverage under SCA's IP policy
- 2) SCA should provide an option where the copyright of student works can be reassigned from SCA to the student filmmakers if all of the following circumstances are met:
 - a. The film was produced in CTPR 581 or 587;
 - b. The film was not produced under USC's Screen Actors Guild agreement;
 - c. The filmmaker or filmmakers formally request reassignment of the copyright; this request may only be made after completion of the course.
- 3) The School should allow all other CSA projects to be covered by the less restrictive USC Intellectual Property Policy.

This recommendation comes w/ advice from Steve Yamaguchi, USC General Counsel, Dr. Jennifer Urban, Head of the USC Intellectual Property Clinic, and the John Sweet, USC Office of Technology Licensing. The report was released by the SCA IP committee, chaired by Jed Dannenbaum with help from Robert Ballo, Brenda Goodman, Chris Swain, Bill Yahraus. I encourage the SCA IP Committee to release this report to the public, and in specific, its students.

This is all not to mention growing dissatisfaction amongst the SCA student body towards SCA's current IP policy. The USC FreeCulture group has issued a statement against SCA policy on their website (<http://imlportfolio.usc.edu/freeculture/?p=23>) and also jumpstarted an online petition asking SCA to reconsider their policies (<http://www.petitiononline.com/freeusc/petition.html>).

Why USC SCA should seriously consider Creative Commons licenses:

Although it is fairly obvious, both internally and externally, that SCA must change its current policy on a very basic level, adopting progressive licensing such as those offered by Creative Commons can be seen as a compelling option for five main reasons:

- 1) Positive PR in the digital activist community has been few and far between for both USC and SCA in particular.
 - a. www.BoingBoing.net one of the most widely read weblogs, has ran a variety of articles critiquing USC's administration on both its policy towards file-sharing and free speech
 - i. If SCA were to adopt a progressive licensing scheme such as one through CC, it would certainly go miles to paint USC as a whole as a more new-media friendly
 - b. www.CopyrightUSC.com is a site specifically devoted to pressuring SCA to change its copyright policy.
 - i. The existence of such a website clearly shows that there is a negative perception of SCA's policies outside of the USC community. This bodes poorly for SCA's public image, and therefore its prospective students and alumni donations.
- 2) The issue of auteur theory is easily solved through the use of CC licenses.
 - a. As USC doesn't believe in auteur theory, CC licenses would allow all students who worked on a given film the same rights towards free distribution.
- 3) CC licenses allow for commercial restriction while allowing for free distribution and the ability to allow others to freely build upon work.
 - a. It can be assumed that commercial viability is of utmost concern to SCA (in comparison between SCA's IP policy and that of LMU) in continuing to allow special agreements with SAG and local insurance companies
 - i. CC licenses can specifically allow for that commercial restriction
- 4) USC can be seen as a leader in their field.
 - a. No film school actively promotes CC licenses, although it is inevitable that some will. USC can stay ahead of the curve by adopting these licenses now and, in the long term, will be seen as having incredible foresight by utilizing CC licenses
- 5) Duty to students
 - a. It is SCA's obligation to it its students to engage them in the debate around copyright, as they will be the content creators of tomorrow
 - b. Having little to no knowledge of these complexities in this day and age is as big of a fault as ignoring cinematography, editing, directing, or any other aspect of traditional film-making

Final Thoughts:

USC SCA stands at an impasse. Conflicting approaches to copyright present various options for SCA as it reevaluates its IP policy, and it would do well to adopt (and encourage) CC-licensed IP option for its students. SCA's most glaring fault is in its discordance with the IP policies of other, similar, film programs through out the U.S.,

especially those in Los Angeles who face the same industrial constraints (LMU, UCLA, CalArts).

SCA's goals should be to foster creativity and openness. Its IP policy should reflect this by being inline with the sprit of artistic creation and the spirit of academic inquiry. Its current policy represents neither of these, but rather a corporate, non-academic approach to content ownership. This must be remedied if SCA wishes to remain a leader in its field and continue to offer its students a cutting-edge education – both technologically and ideologically.