

OpenCourseWare MIT

<http://ocw.mit.edu>

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Disclosure: former Visiting Scholar and great fan of the MIT culture

### OCW at MIT

- 1200 of 1800 courses and growing
- Voluntary by individual faculty
- Heavy staff involvement from OCW office
  - Assist IPR review, alternatives
  - Generating lecture notes
  - Interoperable formats
- CC license

### Strengths

IMMENSE RESOURCES approx \$5 Mill/yr

- Ongoing evaluative efforts
- Worldwide impact: 8 million plus 4 million translation
- Student use in-house
- Low faculty burden
- Innovations also from outside
- Appeal to others as a model: social & private benefits

### More strengths

- Arranged by course and discipline (compensates for any weaknesses in search engine)
- Trustable faculty
  - Will tell truth about copying
  - Quality control
- Prominence means world review/feedback

### Public benefits

- Focus on educational resources rather than scientific
  - Serving educators, students, independent learners
- Yet OCW also provides specific applications
  - Example: water purification process, usable for developing nations

### Private benefits (appropriable by institution hosting an OCW-type site)

- Branding: a university might adopt OpenCourseWare (OCW) model to help make its name prominent
- Competing for top applicants- increasing visibility in worldwide pool
- Internal communications: Student use for planning, course selection

### Threats?

- Posed to OCW
  - need for continued resource and enthusiasm
  - Copyright/defamation liability (not so far materialized)
- Posed by OCW
  - Connection with other publishing modes
  - Dominance over other institutions
  - Cultural dominance (cf. Kuhn)

### Weaknesses

- RESOURCE\$ needed
- IP limits richness of content
- Translation- language & context
- Potential suits (ignorance no defense)

### Other weaknesses: What might inhibit spread of the model

- Need for skilled OCW staff to approach faculty, do IPR review, help technically
- Need for an already-secure faculty open to experimentation and sharing
- Need for trust: honesty and memory re use of copied material
- Envy (vis a vis other top US institutions)

### Opportunities

- Enabling other sites through sharing technology & model; economies of scale
- Model for experimenting re impact on print (example: MIT Press)
- Links and support for open journals
- Gradual shift in publication patterns?
- Developing nations

### What if the model is incompletely followed

Danger: other sites may fail to copy some useful features of OCW, such as arrangement by course and discipline.

One possible solution: CERTIFICATION MARK for “OpenCourseWare”

- Avoid the battle that faced Linux over trademark ownership
- Encourage use of essential features model that works
- Trademark law is a governmentally assisted reservoir of stable language

DOWNSIDE: may discourage competition, experimentation among models

### Opportunity: seek protective legal changes

- Limit OCW liability for, e.g.,
  - Copyright infringement
  - Defamation
  - Physical injuries through misinformation
- Definitions and scope would need specification

### General observations

- The law is a commons and a classic public good.
  
- The law of copyright, patent, and trademark seem to be changing in ways that make it less valuable to the aggregate of commoners.

### When One Commons Shrinks...

The law in copyright & trademark & probably patent & probably trade secret is becoming a less valuable as a commons, viewed in the aggregate.

- One response: change IP law
- Another response: develop a new commons as source of value
  - Develop new modes of organization, new tools for cooperation
  - OCW is one such mode

### How protect the new commons of cooperative tools?

- The information commons has at least two elements:
  - Substantive content (data, information)
  - Tools of cooperation, such as standards
    - Technical (e.g., interoperability)
    - Legal (standard contract or permission modules)
    - Organizational (e.g., how to arrange material to be accessible even to weak search engines)

### Our basic challenge

#### Alternatives to IPRs

How develop the full benefits of a contrary legal regime when lack governmental power?

- Technological and organizational self-help
- Bootstrap from government – use existing rights

### Using existing law as a commons: Bootstrap from existing rights

- Examples: GPL and Creative Common utilize copyright and contract law
- Are there other ways to use existing law-- for example, might use of trademark law add consistency in defining modules, standards, and the like?
- Other models to protect standards
  - E.g., Specification of traits rather than approval by a certifier
- Danger: if build new tools on existing law, otherwise-desirable changes in law might destabilize new tools of commons-building