

LABORATORIUM LUCERNAIURIS

Exhaustion of Rights in Digital Objects

Prof. Dan L. Burk (University of California, Irvine)



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UNIVERSITY OF LUCERNE, FROHBURGSTRASSE 3, ROOM 4.A05

Exhaustion of Rights in Digital Objects

Intellectual property law produces a curious condition of dual ownership: physical objects in which a creative work is embodied are typically treated as personal property, but the creative work entails a separate set of exclusive rights held by another owner. Intellectual property law has long provided for purchasers of physical items to dispose of their lawfully purchased chattels by resale or other transfer, effectively limiting the entitlement of the intellectual property owner. This doctrine of “exhaustion” or “first sale” has created opportunities for development of secondary markets for used copies of books and other expressive tangible goods.

But the trend toward digitization of books, music, and other creative works wreaks havoc with this solution. It is unclear what it might mean to «resell» an intangible digital copy, and businesses hoping to deal in used digital goods have encountered legal obstacles under a copyright regime designed for the transfer of material goods. Courts on both sides of the Atlantic have wrestled with this issue, producing a welter of formalist and purposive decisions with no coherent policy trajectory. In this lecture, Professor Burk will discuss the recent developments in the United States and in the European Union that will determine whether there can be a market for used digital products.

Dan L. Burk is Chancellor’s Professor of Law at the University of California, Irvine. He is an internationally prominent authority on the law of intellectual property, who specializes in the areas of cyberlaw and biotechnology. He is the author of numerous papers on the legal and societal impact of new technologies, including articles on scientific misconduct, on the regulation of biotechnology, and on the intellectual property implications of global computer networks. Burk’s scholarship has been characterized by an early recognition of key legal issues created by emerging technologies, followed by legal and policy analysis that has often defined the social discussion of the issues. He is consistently ranked among the most highly cited and influential intellectual property scholars in the United States.

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The *laboratorium lucernaiuris* lecture series is designed to provide a public forum for intellectual exchange and to showcase cutting-edge research from around the world. Scholars are invited to report from their respective ‘laboratories’ and to present new insights into the ‘alchemy’ of current research at the intersections between law and other disciplines.

All lectures are free to attend. No registration is required.

Further information: www.lucernaiuris.ch