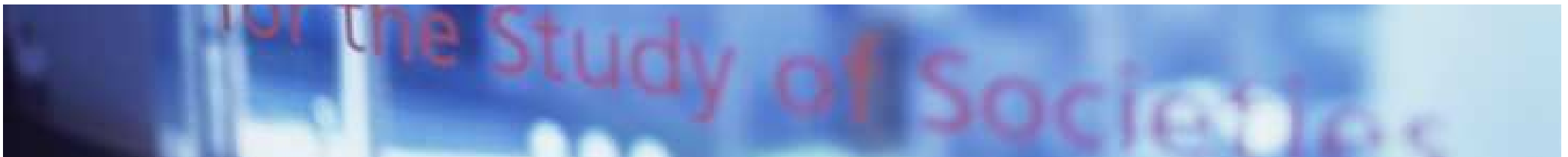




# The Copyright Dispute: A Transnational Regulatory Struggle

Workshop “Mashing-up Culture – The Rise of User-generated Content“, Uppsala University, 13-14 May 2009

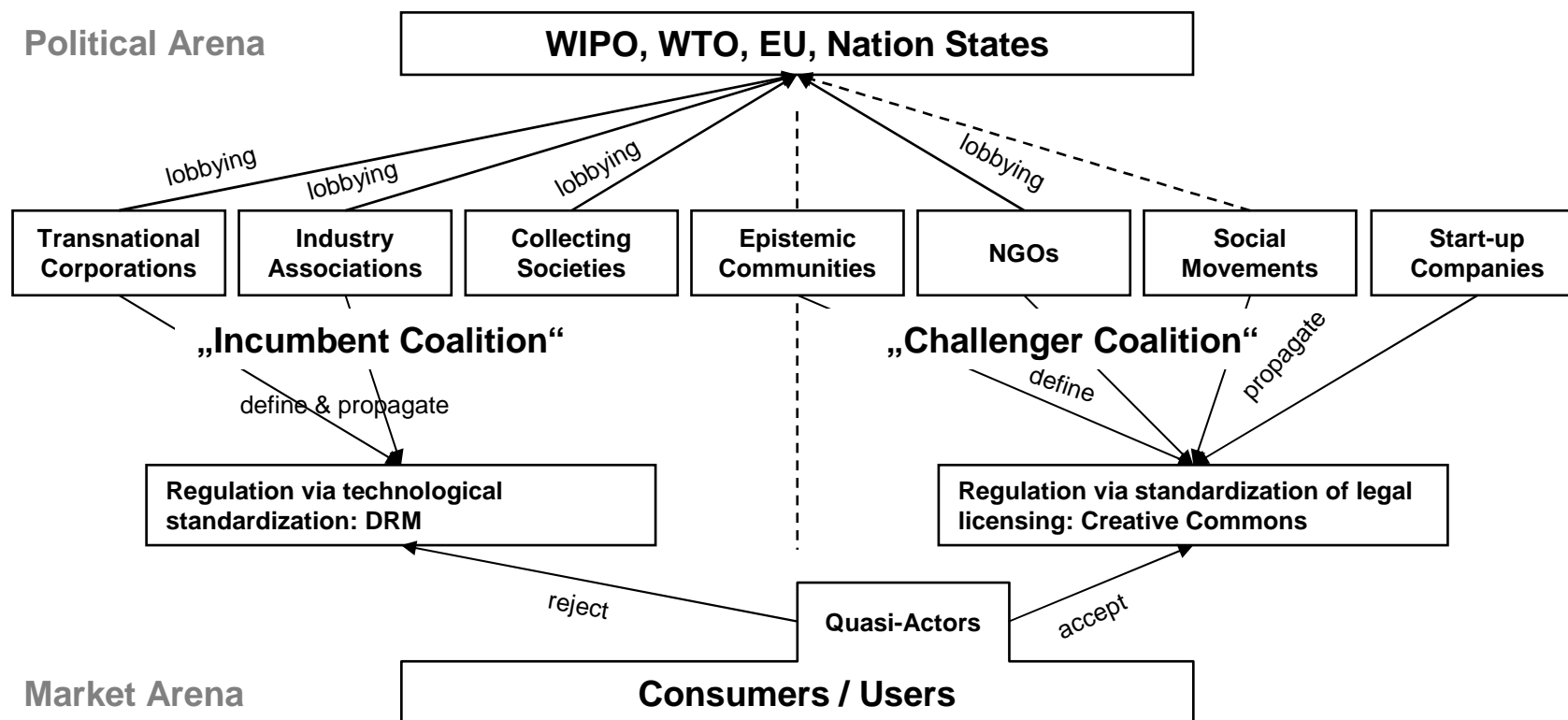
Leonhard Dobusch & Sigrid Quack



## Transnational Copyright Regulation: Public vs. Private Authority

- > Why copyright?
  - Long history of transnational regulation (no “tabula rasa”)
  - Dynamic development during the last 20 years (“digital revolution”)
- > Copyright regulation as an “*issue field*”: actor-oriented, dynamic version of organizational fields
- > Regulatory battles in political and market arena: conflict, complementarity and paradoxical relations of regulatory initiatives

## „The Copyright Scene“: two coalitions, two arenas



## DRM Coalition: Field Related Characteristics

- > **Relation to copyright legislation:** complement and expand copyright protection
- > **Perceived threat:** large scale copyright infringement (“piracy”)
- > **Internal front lines:** content providers vs. hardware manufacturers
- > **Allies:** established artists & copyright collectives

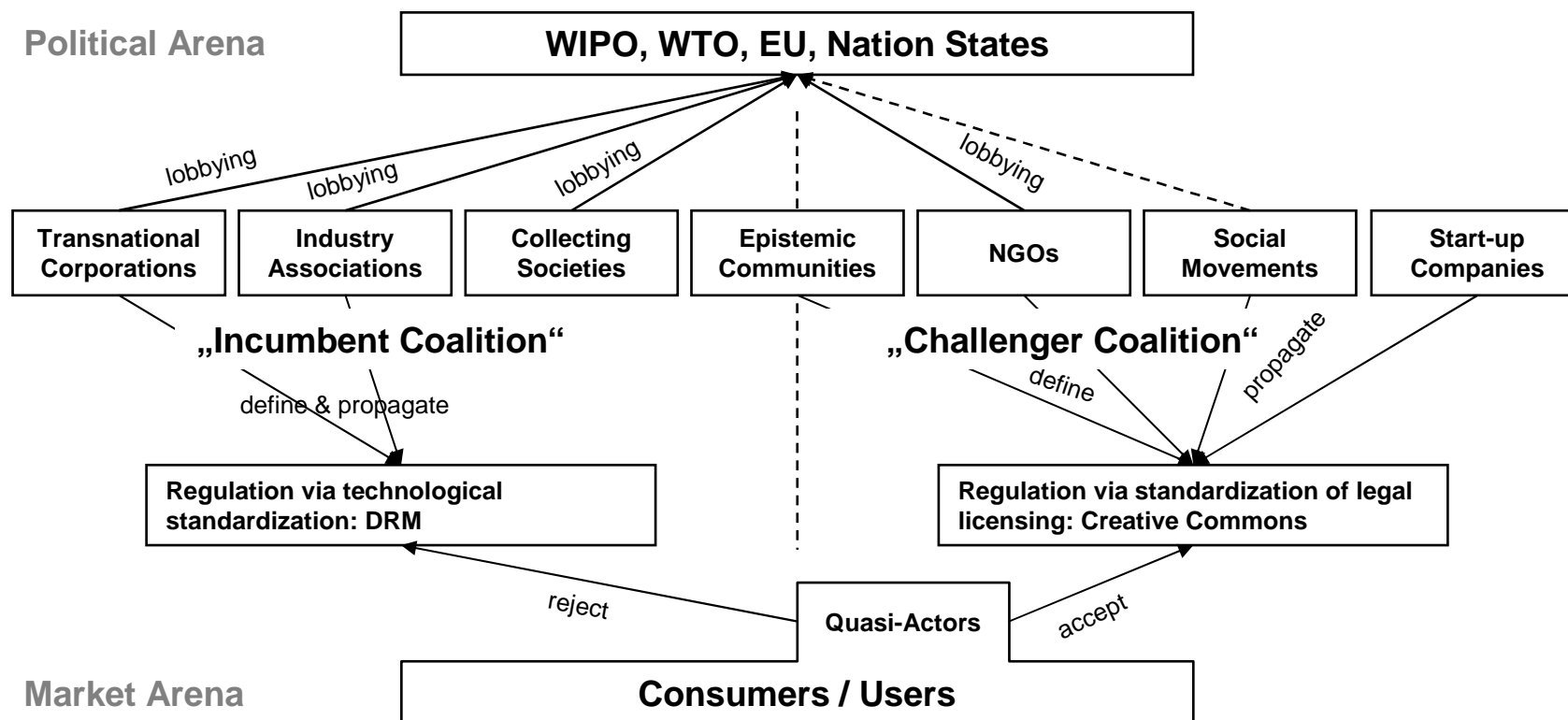
## DRM Coalition: Organizational Characteristics

- > **Dominant actors:** transnational corporations and trade associations
- > **Ressources:** financial resources and political lobbying power
- > **Mode of coordination:** conferences in the realm of informal (CPTWG) and formal (SDMI) standard setting bodies
- > **Selection of regulatory alternative:** negotiation among experts and market competition

## DRM Coalition: Adoption & Diffusion

- > **CPTWVG**: Development and market launch of some standards (e.g. CSS for DVD protection); challenged by effective circumvention software and political protests
- > **SDMI**: complete failure with silent dissolution in 2001
- > **PressPlay, Musicnet and others**: ultimate failure in 2007/2008; MP3 as de facto standard for online music distribution in 2009

## „The Copyright Scene“: two coalitions, two arenas



## Creative Commons: Field Related Characteristics

- > **Relation to copyright legislation:** neutralize or alleviate copyright protection
- > **Perceived threat:** industry controlled and all-embracing DRM regime
- > **Internal front lines:** copyright radicals/abolitionists vs. copyright reformists
- > **Allies:** selected, avantgardistic artists & quasi actors (filesharing scene, users of commons-based services)

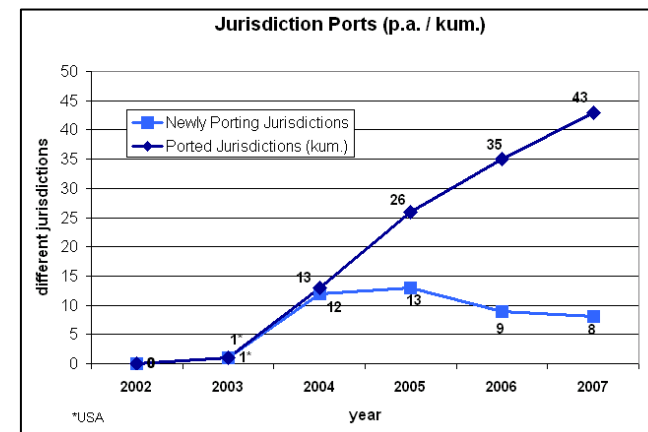
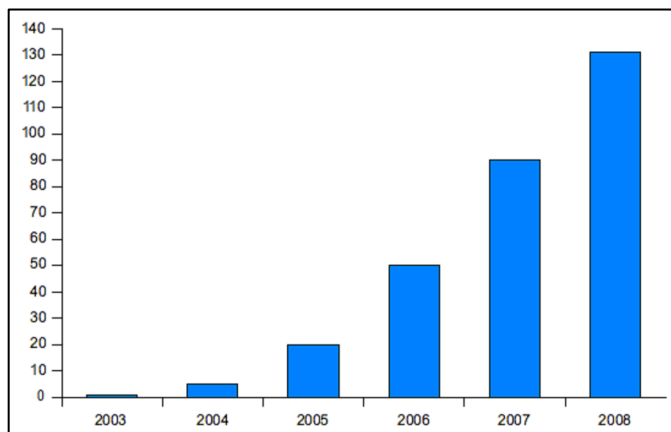


## Creative Commons: Organizational Characteristics

- > **Dominant actors:** social movement organizations & epistemic lawyers community
- > **Ressources:** grassroots activism & political identity and motivation
- > **Mode of coordination:** formal standard setting organization, mailing lists & conferences
- > **Selection of regulatory alternative:** negotiation among experts

## Creative Commons: Adoption & Diffusion

- > Strong and fast growth of license usage: linkbacks to Creative Commons licenses as a diffusion proxy
- > License porting as a growth strategy: adapting licenses to local jurisdictions together with local partner organizations (“affiliates”)
  - 50 jurisdictions by the end of 2008
  - over 70 different affiliates



## Conclusions:

- > **Mode of regulations:** private regulation in spite of (or even: because of) strong public regulation
- > **“Dialectics of private governance” (Teubner 1998):** apolitical character vs. re-politization
- > **Organizational forms:** different characteristics and resources correspond with regulatory logic on different levels



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