



The Copyright Dispute: A Transnational Regulatory Struggle

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

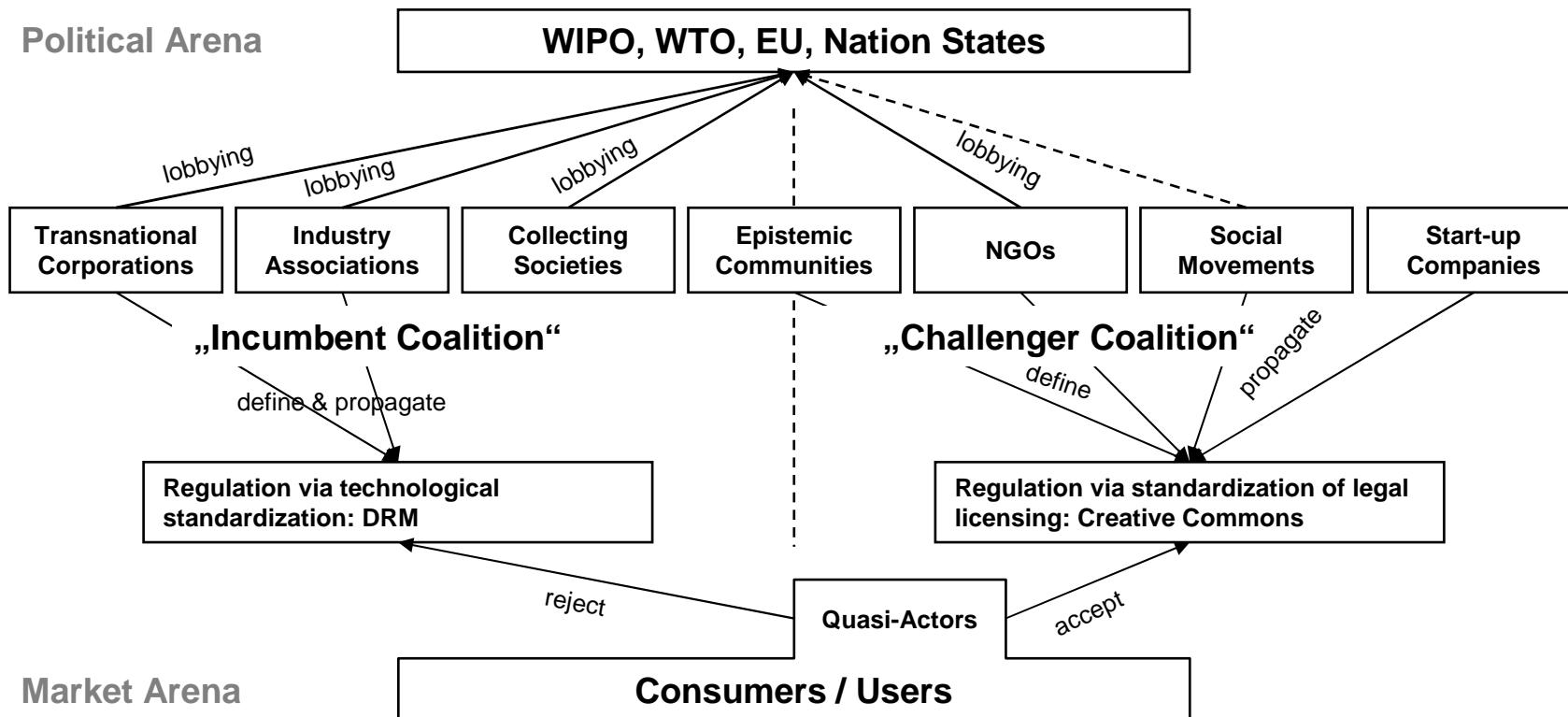
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Transnational Copyright Regulation: Public vs. Private Authority

- > 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

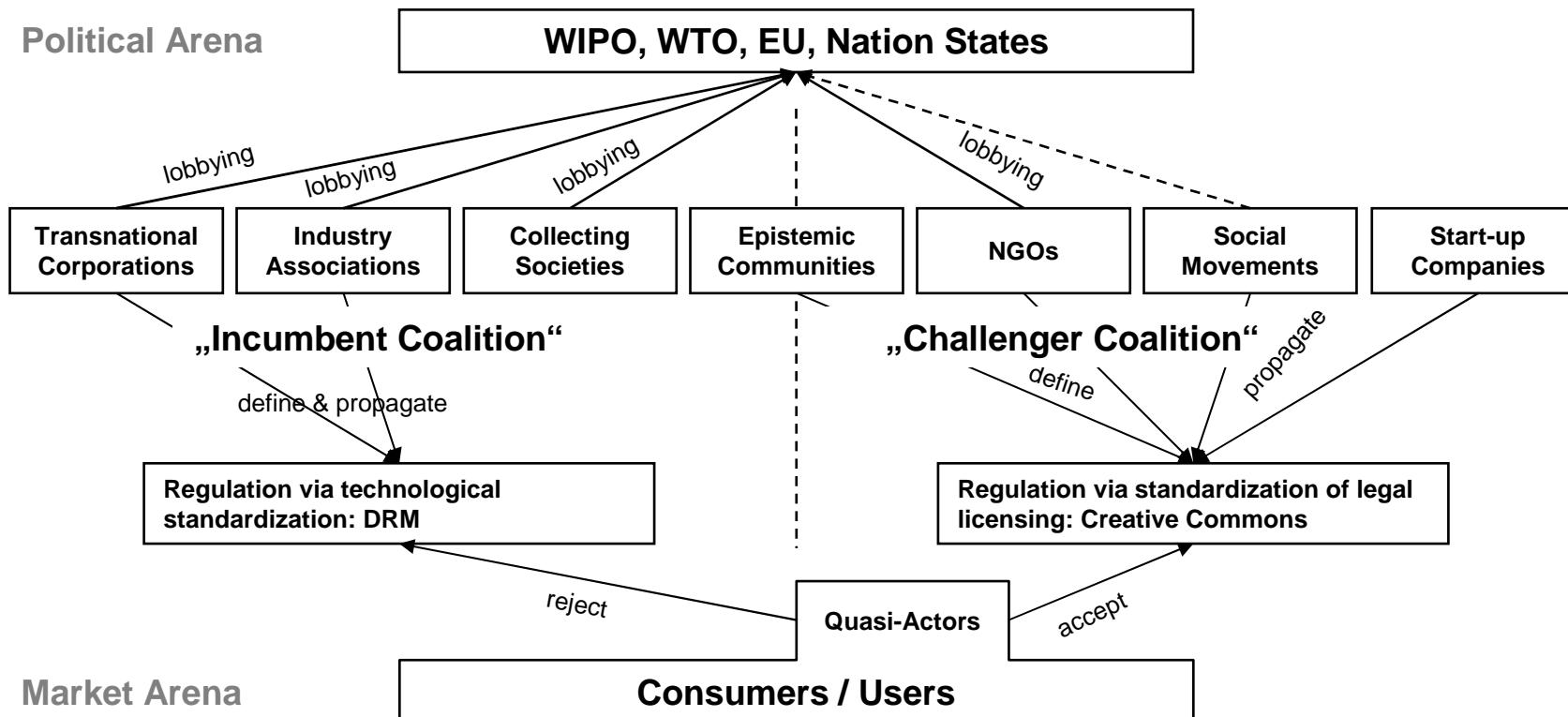
DRM Coalition: Organizational Characteristics

- > 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

- > **CPTWG**: 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)

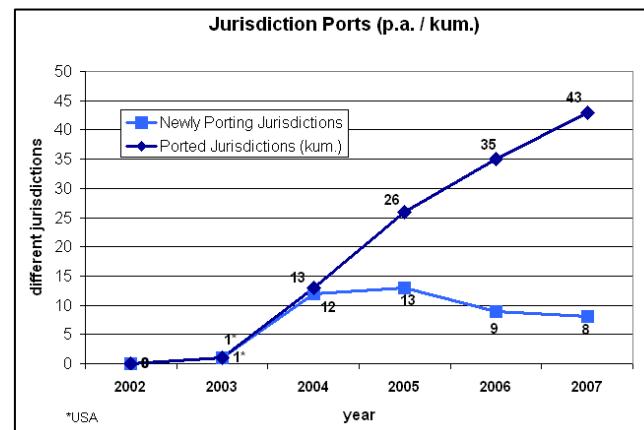
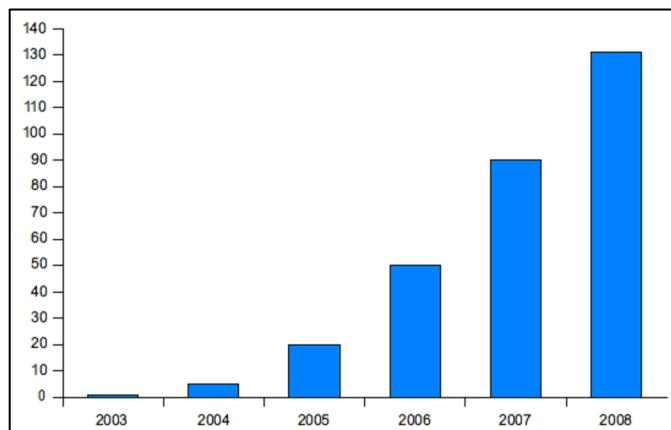


Creative Commons: Organizational Characteristics

- > **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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