

Apr 19, 05 17:47

1P

Page 1/2

Apr 19, 05 17:47

1P

Page 2/2

CAFTA - Intellectual Property
Apr 19, Portland ME

There is a common belief that authors and creators should be able to benefit from their creations. That's the basis of the arguments about intellectual property - that property rights are an expression of personality.

That copyright exists for the benefit of artists, musicians, writers or programmers is laughable. A few record companies control 85 percent of music distribution. IBM registers the most patents. The original artist or programmer is hung out to dry - unable to own her own thoughts.

Copyright law applies to derivative use of copyrighted material. People cannot develop new material based on copyrighted work without permission. This restriction stifles innovation in every sphere, as engineers and artists cannot take what exists and build on it.

The Digital Millennium Copyright Act and CAFTA do not speak for the creators, but for those who accumulate massive amounts of copyright. The romantic idea that copyright protects the author fails when intellectual property rights are transferred.

The US Constitution give Congress the power to grant temporary monopolies to authors and inventors "in order to promote progress in useful arts". Copyright, originally for 14 years, protected only a few items like books and charts. It did not cover translations.

Professor Lessig calls it "copy-duty" - the concept that owners of works have a duty to return their work to the commonwealth in exchange for intellectual property protections. This is not free riding; it's the basic social contract under which we grant copyright in the first place.

We don't need stronger intellectual property laws. Instead we need make sure intellectual property accrues to the commonwealth much more rapidly than it does now.

Drugs

Protection of pharmaceutical patents is a key element in the CAFTA language. Proponents claim it finds the right balance between protecting drug industry investments and access to necessary medicines in less developed countries. What it really does is prevent poorer countries from producing much needed medicines at reasonable prices because government purchases and loans are conditional on their accepting copyright laws.

That's not free trade; it is colonization. King George, molasses, tea.

Seeds

Farmers in some countries, Mexico, Iraq among them - are not permitted to store their own seeds, even from native crops. Somehow keeping one's own seed violates Monsanto's "rights" to free trade.

Business methods

Patents on business methods where there is no technological problem, merely being the first to come up with "one click" turn being born later into a barrier to entry.

Free software

I've been running a small Internet Service Provider here in Maine for more than a decade.

I've learned that ownership of software is obstructive and counterproductive. Software should be in the public domain, freely available to anyone who wants to use it, modify it, or customize it. Ownership interferes with the evolution and incremental improvement of software products. I've built my business exclusively on open source software.

There are countless ways new art builds on old. What works for free software applies to seeds, drugs and business methods.

CAFTA is not about free trade. It is about rules to regulate trade in favor of large corporations no matter the cost to the people. We're looking at a world where our seeds are patented, where we are forbidden from saving our own seeds - even those from natural stock - where the business methods we might use to store seeds are patented and forbidden, where we have no recourse when Coke-a-Cola or Nestle's pumps our ground water. Where we have to sell our products and services by rules that favor large global corporations.

"As much land as a man tills, plants, improves, cultivates, and can use the product of, so much is his property. He, by his labor does, as it were, enclose it from the common." Locke. Nor can others suffer harm from this enclosing of the common. We are at the point where intellectual property restrictions are causing great harm.

Agreements like CAFTA turn we the people into sharecroppers for the global corporate elite. They will control what we eat; they will own our thoughts; they will get their percentage on everything we produce. There is nothing free trade about that.

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