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Epistemic communities and social movements: Transnational dynamics in the case of creative commons

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MPIfG Discussion Paper 08/8

Epistemic Communities and Social Movements

Transnational Dynamics in the Case of Creative Commons

Leonhard Dobusch and Sigrid Quack

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Abstract

While the existence of transnational communities is increasingly recognized in globalization studies, very little is yet known about their impact on global governance. Studies investigating the role of transnational communities in international rule setting tend to specialize in specific types, such as epistemic communities, social movements, or policy networks, and narrow down their effects to agenda setting or issue framing. In this paper, we choose a broader view. We examine the regulatory effects which arise when different types of transnational communities with a common goal operate in concurrence through all phases of the rule-setting process. The empirical research of this papers focuses on the transnational governance field of copyright. More specifically, we study transnational communities aiming to overcome limitations to the prevalent transnational copyright regime in the face of new information technology. On the basis of a longitudinal case study, we show how an epistemic community and a social movement came to interact around the non-profit organization "Creative Commons" in ways which provided unforeseen momentum for their rule-setting project. This impetus generated both functional and latent effects. While the rapid growth of the social movement enabled Creative Commons to successfully disseminate its private licenses among producers of digital intellectual goods, bypassing classical regulators and policy makers, it also threatened the goals and internal decision making of Creative Commons itself. Following the division of Creative Commons into two separate, but still connected, organizations, it remains to be seen how the interaction of the epistemic community and social movement will evolve in the future.

Zusammenfassung

Obwohl die Existenz transnationaler Gemeinschaften in der Globalisierungsforschung immer mehr anerkannt wird, bleibt deren Einfluss auf globale Steuerung und Regulierung immer noch größtenteils im Dunkeln. Studien über die Rolle transnationaler Gemeinschaften im Bereich internationaler Regulierung konzentrieren sich meist auf spezifische Typen, wie epistemische Gemeinschaften, soziale Bewegungen oder politische Netzwerke, und beschränken deren Effekte auf Agenda-Setting oder Framing von Themen. In diesem Papier wählen wir eine breitere Perspektive. Wir untersuchen regulatorische Effekte, die entstehen, wenn verschiedene Typen von transnationalen Gemeinschaften mit einem gemeinsamen Ziel gleichzeitig sämtliche Phasen des Regulierungsprozesses durchlaufen. Der empirische Teil des Papiers konzentriert sich auf transnationale Regulierung im Bereich des Urheberrechts. Konkret untersuchen wir transnationale Gemeinschaften, die Beschränkungen des vorherrschenden Urheberrechtsregimes angesichts neuer Informationstechnologie zu überwinden suchen. Auf Basis einer Längsschnittstudie zeigen wir, wie eine epistemische Gemeinschaft und eine soziale Bewegung rund um die gemeinnützige Organisation „Creative Commons" interagieren und so unvorhergesehenen Schwung in ihrem Regulierungsprojekt auslösen. Diese Dynamik erzeugte funktionale ebenso wie verborgene Effekte. Während das schnelle Wachstum der sozialen Bewegung die erfolgreiche Diffusion von den privaten Lizenzen von Creative Commons – vorbei an klassischen Regulierern und politischen Akteuren – unter Erzeugern von digitalen intellektuellen Gütern ermöglichte, bedrohte es Ziele und interne Entscheidungsstrukturen von Creative Commons selbst. Wie sich das Zusammenwirken von epistemischer Gemeinschaft und sozialer Bewegung nach der Teilung von Creative Commons in zwei getrennte, aber immer noch miteinander verknüpfte Organisationen weiterentwickelt, wird erst die Zukunft zeigen.

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"Is it impossible to imagine the lawyers ever on the side of innovation?"
(Lawrence Lessig, www.lessig.org/blog/archives/001410.shtml, March 5, 2007)

1 Introduction

When Victor Hugo initiated the Berne Convention for the Protection of Literary and Artistic Works (inured in 1887), he would have hardly been able to imagine that, 120 years later, law professors, artists, and software producers would mobilize worldwide against the successor of the Berne Convention in favor of the free use of intellectual products such as texts, music, and software. The most recent and most obvious expression of this movement is the foundation of "Creative Commons" as a US-based non-profit organization in 2001, which has since extended its operation to 43 different national jurisdictions. The aim of Creative Commons, according to its statutes, is to build a layer of "reasonable, flexible copyright" into the existing restrictive copyright law. Creative Commons develops licenses that enable people to dedicate their creative works to the public domain – or retain their copyright while licensing them as free for certain uses, on certain conditions.

The organization "Creative Commons," however, is only the most visible part of a wider transnational community that supports ideas of "free use" and "share alike" in the field of free and open source software (e.g. the Free Software Foundation), artistic production, information (e.g. the Wikimedia Foundation), and science (e.g. diverse open access initiatives[1]). The broader issue at stake is the free access to information and culture as a public good, not least to reduce inequalities between the industrialized and developing countries. The advent of the Internet and open source software has provided the means to achieve such a mission. These facilities have made the openness of innovation systems an economic factor in the software industry and in creative industries and thereby raised questions about the appropriateness of existing intellectual property right laws.

In this paper we aim to analyze the organizational and ideational features of Creative Commons as a transnational community. By transnational community, we refer to a social group of transnational scope, in which participating actors engage in interactions sufficiently close and regular to provide them with a sense of community and, to some degree also, of shared identity, which influences their behavior as a collective (Mayntz 2008). Transnational communities have been identified as one important organizational actor of transnational institution building and national institutional change (Djelic/Quack 2003; Djelic/Sahlin-Andersson 2006; Morgan 2001). In general, they are seen as important carriers of values and norms that might generate institutional transformation.

We would like to thank Ulrich Dolata, Thomas R. Eimer, and Jürgen Feick for their valuable comments, as well as the participants of the sub-theme on "Transnational Communities" at the EGOS Colloquium 2007 in Vienna and the participants of the Workshop on the same issue at the Max Planck Institute for the Study of Societies in April 2008 for insightful und helpful discussions.

1 For example, the Budapest Open Access Initiative, www.soros.org/openaccess/, May 25, 2007.

The literature on transnational communities, however, has a number of weaknesses that demand further elaboration. Firstly, most studies have focused on describing and analyzing specific forms of transnational communities (i.e. epistemic communities [Haas 1992, 2007], advocacy coalitions [Keck/Sikkinck 2008], policy networks [Marin/Mayntz 1991; Rhodes 1997], social movements [Tarrow 1998; Tilly 2004], communities of practice [Wenger 1998; Wenger/Snyder 2000]) as pre-given and fixed, while neglecting how different types of transnational communities emerge, overlap, and coalesce within common issue fields of transnational governance (cf. Vertovec 2001). Secondly, only few studies investigate the role of transnational communities in international rule setting, and those that do so tend to focus on their role as providers of ideas at the beginning of the rule-setting process, such as agenda setting by epistemic communities or issue framing by social movements (cf. Plehwe 2008). Transnational communities, however, can engage in regulatory activities that span over the whole rule-setting cycle, such as standard setting and rule diffusion. Therefore, these activities should be taken into account when assessing their role in global governance. Thirdly, and intrinsically linked to this, the importance of formal organizational structures for the sustainability of transnational communities and the accomplishment of their rule-setting projects still remains to be explored (Mayntz 2008) if we are to gain a more complete picture of the role of transnational communities in constructing and negotiating multiple global orders.

The study of the Creative Commons project presented in this paper aims to help fill these gaps in existing research. We have chosen a longitudinal approach to describe the development of different types of transnational communities assembled around and within the Creative Commons organization. At the same time, we account for the multilevel nature of these communities by investigating organizational forms at the national and international level. More specifically, we describe the development of Creative Commons as the enlargement and transnationalization of an originally small and limited epistemic community of liberal US copyright lawyers and its coalescence with civil society organizations rooted in a broader social movement consisting of various groups that aimed to create and preserve a "commons," i.e. a common resource, of intellectual goods. The epistemic community itself built on the pre-existing open source software element of this social movement.

We furthermore show that the activities of the Creative Commons community went far beyond agenda setting and issue framing. Members of the community were involved in the drafting of a set of liberal private copyright licenses, the linguistic and legal translation of these licenses, and their diffusion and adaptation across the world – thus covering all phases of private rule setting. As apparently universal norms such as "share alike" and "copyleft" became associated with the local understandings and meanings of actors operating in distinct legal and cultural contexts, they became a crucial mechanism of mobilizing new members of the transnational community. Finally, the analysis reveals how the rapid growth of Creative Commons, with epistemic community and social movement activities forming a large

number of different local and national contexts concurring in and around it, endangered the respectability of the overall project, which was countered relatively quickly by an organizational separation of the professional and the activist part of the community: a strategic move that reveals the recursive interrelatedness between informal transnational community structures and layers of formal organization.

The paper is structured as follows. In the first part, the theoretical concepts for the study of epistemic communities and social movements are outlined and compared. This is followed by a short discussion of methodological issues. The second part delineates the political and technological context of the study. In particular, it points to existing national and international regulations of copyright law and the challenges that the Internet posed to these regulations. The third and main part of the paper consists of the case study of Creative Commons, including its history, organizational transformations, and transnational features. In the conclusion, we discuss the results and limitations of the case study in the context of other research findings and identify areas for further investigation.

2 Conceptual framework: Transnational epistemic communities and social movements

The comparative study of economic organization increasingly acknowledges that the institutions which govern economic relationships are of a multilayered nature. Standards and rules at the local and national level interact with those generated at the international level and vice versa (Brunsson/Jacobsson 2000). Ongoing discussions on the nature and importance of transnational governance point to the increasingly blurring border lines between these so-called "levels" and raise questions about the nature of the actors involved in these processes. Of particular interest are collective actors with a transnational identity and their potential ability to challenge institutionalized rules and/or to institutionalize new rules for economic behavior in a globalizing economy.

The concept of transnational communities, while originating from the field of migration studies (Portes 2001; Vertovec 2001), has also been applied in the study of cross-border economic coordination. Morgan (2001) argues that transnational communities are emergent properties of the internationalization of economic activity. The rise of multinational companies, the development of international regulatory bodies, and the development of cognitive and normative frameworks through the practices of business education, management consultancies, and other global professional service firms generate social spaces in which transnational communities are developing (Pries 2001, 2007). Djelic and Quack (2003, 2008) argue that self-regulating transnational communities have become progressively widespread and

influential in institution building in the transnational space. In self-regulating transnational communities, various private and public actors concerned with a particular type of transnational activity come together, generally in non-structured and rather unformalized settings, to elaborate and agree on collective rules of the game. The process is one of voluntary and relatively informal negotiation; the emerging structural arrangements are relatively amorphous, fluid, and multifocal in nature. Self-disciplining transnational communities tend to rely on voluntary compliance and socialization of the members into a common cognitive and normative framework.

Often, however, transnational communities are expansive and pursue a regulatory project directed beyond their membership. Djelic and Sahlin-Andersson (2006: 390) refer to these as "transnational communities of interest," which are characterized by the common mission around a regulatory project, combine features of epistemic, expert, and professional communities with attributes of formal organizations, and have at the same time "an overarching identity and multiple deep and solid local roots." Often these transnational communities of interests are part of or coexist with social movements that focus on similar policy projects (Boli/Thomas 1999). Discussions of the transnationalization of epistemic communities and social movements, however, have largely taken place separately from each other. Moreover, the ways in which transnational communities of interest and transnational social movements co-evolve and interact have not been sufficiently studied; nor do we have a sufficient understanding of what their specific contribution to transnational rule setting is. This is particularly true for epistemic communities and social movements, which in many ways represent opposite poles of the continuum of transnational social formations reviewed by Vertovec (2001).

Following Peter Haas (1992), epistemic communities represent networks of knowledge-based experts that articulate cause-and-effect relationships of complex problems, frame collective debates, propose specific policies, or identify salient points for negotiation for politicians. Epistemic communities can be both national and transnational. Accordingly, a transnational epistemic community is a cross-border network of "professionals with recognized expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge within that domain or issue-area" (Haas 1992: 3). Epistemic communities may consist of professionals from a variety of disciplines, but they usually have a shared set of principled beliefs, common causal beliefs, shared notions of validity, and a common policy enterprise. Haas states that the solidarity between the members of an epistemic community derives not only from their shared interests

> which are based on cosmopolitan beliefs of promoting collective betterment but also from their shared aversions which are based on their reluctance to deal with policy agendas outside their common policy enterprise or invoke policies based on explanations that they do not accept. (Haas 1992: 20).

According to most studies, epistemic communities provide knowledge and frame issues for politicians and decision-makers in international organizations and supranational institutions. In his work on epistemic communities in environmental politics, Haas (2007) also refers to non-state actors and social movements as recipients of the community's agenda-setting and framing efforts. There is, however, little discussion of the role of epistemic communities beyond this early stage of rule-setting projects, and the synergies or conflicts entailed in the possible interplay of epistemic communities and social movements have not been systematically considered.

While epistemic communities have been considered as potentially transnational from the beginning, social movements have been predominantly studied in local and national contexts. Sidney Tarrow (1998: 4) defines social movements as "collective challenges, based on common purposes and social solidarities in sustained interaction with elites, opponents and authorities." As such, they are distinct from political parties and interest groups. A key feature of social movements is "to mount common claims against opponents, authorities, or elites" based on common or overlapping interest or by tapping "more deep-routed feelings of solidarity or identity" (Tarrow 1998: 4). McAdam et al. (1996) identify three broad sets of factors that lead to the emergence of social movements and shape their development. These are the structure of political opportunities and constraints that they are confronted with, the types of formal and informal organization available for mobilization, and the process of framing the issues under question. Framing refers to the collective process of negotiating shared meanings and definitions with which people legitimate, motivate, and conduct collective activities. The means by which social movements pursue their goals are campaigns, events, and what Tilly (2004) calls "WUNC displays," i.e. participants' concerted public representation of Worthiness, Unity, Numbers, and Commitments.

The emergence of transnational social movements is seen as the result and response to the changing global opportunity structure and arenas for mobilization, as for example the availability of and access to electronic means of communication (Della Porta/Tarrow 2005). Margaret Keck and Kathryn Sikkink (1998) examine social movements that have been largely ignored by political analysts: networks of activists that coalesce and operate across national frontiers. Their targets may be international organizations or the policies of particular states. Cohen and Kennedy (2000) describe a "planetization" of social movement activities, which entails network activities over long distances, enhanced possibilities for pooling resources across borders, and transnational coalition building between different local social movements. The authors describe a "multiplier process whereby flows of pressure feed into each other on a cumulative and mutually reinforcing basis" (Cohen/Kennedy 2000: 320). The quality of internet-based social mobilization, however, remains contested in the literature. Whereas Tarrow (2000) doubts that they have the same degree of crystallization in terms of trust and collective identity, others argue that online relationships can indeed constitute communities comparable to face-to-face ones (Ren et al.

Table 1 Comparison of key features of epistemic communities and social movements

	Epistemic communities	Social movements
Common political project	Yes	Yes
Shared interests	Yes	Yes
Shared principled beliefs	Yes	Yes
Size	Limited	Large
Boundaries	Relatively clear	Fuzzy
Internal heterogeneity	Low	High
Causal beliefs	Consensual	Disputed or absent
Knowledge base	Shared	Not necessarily shared
Means of changing the world	Persuasion by facts and arguments	Persuasion and pressure by action and framing

2007). Based on studies of migrant communities, Vertovec (2001) argues that online communication often represents a technologically supported continuation of localized community relations through which members can interact over long distances (see also Miller/Slater 2000). It thus makes little sense to separate online and offline interaction and communication in social movements.

While the social movements literature recognizes inputs of experts and professional groups as part of the resource mobilization structure, there has so far been little systematic consideration of the overlaps and interactions between the two. The analysis of how social movements impact on transnational rule setting, again, has concentrated largely on how their campaigns target international rule-setting organizations or rule-following actors such as multinational companies through framing policy issues and agenda setting.

Complementary to the question of the different characteristics of both types of community is the question of how they relate to formal organizational structures. In Haas' (1992) conception of epistemic communities, individual actors span different organizational boundaries, but Haas does not expand on the role of formal structures in community development and efficacy. In social movement research, the influence of formal organization is acknowledged but its consequences for the movement have long been in dispute: Both an antithetical as well as a facilitating effect on (resource) mobilization can be found in the literature (Clemens/Minkoff 2004). The recent dialogue between scholars of social movement research and scholars of organization studies (e.g. Davis et al. 2005) breaks with this antagonism and declares the relation of formal organizations and social movements to be an empirical question. Thus, classical concepts on the (dys)functionality of formal structures (Merton 1968) and bureaucracy (Blau 1963) may generate new insights when applied in the context of analyzing epistemic communities and social movement dynamics at their overlap with formal organizational structures.

In sum, the literature suggests that epistemic communities and social movements have a number of features in common while they diverge on others. Both develop around a common political project, something that people want to achieve together,

an interest on which they converge, and shared principled beliefs that motivate them to pursue this project. However, while epistemic communities tend to be limited in size and relatively homogenous in composition with relatively clear distinctions between members and non-members, social movements are usually much larger, are more diverse in their membership, and tend to have rather fuzzy boundaries. Members of epistemic communities share a common knowledge base, causal beliefs, and criteria of judgment, whereas participants in social movements often diverge on causal explanations, their knowledge, and evaluations. Most importantly, epistemic communities and social movements diverge on the means by which they pursue their goals. Epistemic communities predominantly work through persuading political actors by facts and arguments. Recipients can be politicians, as in Haas' (1992) original formulation, but also other forms of regulatory communities and non-governmental organizations. For social movements, too, action, events, and the framing of issues are key components of mobilization strategies, which can include pressurizing as well as persuasion.

Furthermore, the literature review points to the need to study more systematically how epistemic communities and social movements develop around similar issues and formal organizational structures. The Creative Commons project presented in this paper provides an interesting case for such an investigation. Before discussing the case study in detail, we will first provide a short method section and some background information about the technological and political context in the field of copyright regulation.

3 Method and data

Tracking the development of transnational communities with geographically and temporally spread actors requires a longitudinal process approach (Van de Ven/ Poole 2005) that can cope with the complexity of both the case and the multifaceted data sources. The rationale for selecting Creative Commons for a case study is its identification as a "critical" case (Yin 1994) by means of theoretical sampling (Eisenhardt 1989).

The core of Creative Commons is a set of alternative copyright licenses developed by an international network of copyright lawyers – an epistemic community – that emerged out of, and still overlaps with, a social movement for the proliferation of open source software and free access to knowledge. Its fast international dissemination – within five years the licenses were "ported" into 42 different jurisdictions by local "affiliates" – makes it an interesting case for studying the (trans)formation of and interaction within transnational communities. Furthermore, the interplay between locally diverse and relatively independent actors, on the one hand,

Table 2 Case study database (March 10, 2008)

	International level	National level	Σ
Interviews[a]	2	15	17
Mailing-list archives	12	43	55
Blogs	3	–[b]	3
Miscellaneous archival documents	23	14	37

a All but one interview has been recorded and transcribed; two interviews were conducted via telephone.
b Some national blogs have been used to cross-check mailing-list and interview data but have not been investigated systematically and/or entered into the case study database.

and transnational norms, procedures, and (organizational) structures, on the other, promise insights into the genealogy and governance of transnational communities in general.

For data collection as well as for theorizing, it is important to (analytically) differentiate between communities of actors and focal and/or supportive organizations. For epistemic communities, Haas (1992) emphasizes the importance of organizational structures for the diffusion of consensual knowledge, and most of the empirical work to date has analyzed their impact on international organizations and supranational institutions. As far as social movements are concerned, Tilly (2004: 5 and 3) warns about treating "'the movement' as a single unitary actor." He identifies, however, "the emergence of well-financed professional staffs and organizations specializing in the pursuit of social movement programs" as an integral characteristic of contemporary social movements.

As in the case of Creative Commons, there is a focal, eponymous organization, whose history and formal members has served as the starting point for gathering data on (the development of) the transnational communities that led to the organization's foundation and/or evolved and grew around it.

For triangulation reasons as well as "to deal with a full variety of evidence" (Yin 1994: 8) of the case, various data has been collected from several different sources and consolidated into a case study database (see also Table 2):

– Semi-structured, issue-centered (Witzel 2000) interviews with actors of so-called "affiliate organizations" in charge of local Creative Commons projects in 14 different countries, as well as with the CEO of Creative Commons and the leader of the internationalization project. The interviews lasted from 30 minutes to two hours and were entered into the case study database as verbatim transcripts.

– Most of the communication and also substantial decisions between Creative Commons and its respective national project leaders as well as within national Creative Commons communities take place through mailing lists. Additionally, different subunits of Creative Commons communicate to the public via specific mailing lists. The archives of these mailings lists are accessible online and

provide real-time data that enables the discussion and decision processes to be traced without the danger of post-hoc rationalization by the actors. The density and amount of mailing-list discussion, however, varies from country to country and from subunit to subunit.

– Other data sources have been various blogs of actors and organizational subunits, and archival data such as license drafts, guidelines, slides, and handouts.

Whereas mailing lists, blogs, and archival data cover the whole period of investigation from 2001 to 2008 by means of real-time information, the interview data was collected during 2006 and 2007 by addressing prior issues only in retrospect.

The chronological reconstruction of internationalization and reorganization processes in the form of a thick description was undertaken by reference to all the available data, using mailing lists and blogs mainly for cross-checking interview and archival data as well as for determining the right temporal order.

4 Technological and political context: The internet challenge to the traditional regulation of copyright

Copyright law is still governed to a large extent by national laws that are connected through intergovernmental treaties. In the nineteenth century, national copyright laws developed out of conflicting private property doctrine and collective societal interests. While artists and authors who produced texts, music, and other cultural artifacts had an interest in being protected from direct copying so that they could earn a living from their work, there were the interests of the larger society to consider. These collective interests carried a contradiction in themselves: Human rights claims for a free and equal access to cultural goods clashed with society's interest in establishing (monetary) incentives for innovation and creativity. Different societies developed different solutions to these conflicting demands (Siegrist 2006).

A major cleavage exists between the US and Commonwealth countries, on the one hand, and the Continental European countries, on the other. In Anglo-Saxon law, the creator of an immaterial product must actively declare his or her copyright (as signified by the proliferation of copyright statements in Anglo-Saxon countries) and can sell, give away, or abdicate copyrights (or declare work as public domain). In countries with a Roman law tradition, particularly in Continental Europe, the creator of a work owns the copyright automatically and for life. Authors and creators cannot give away their copyright; nor can they abdicate from it completely. While copyright in the Anglo-Saxon law tradition is regarded more as a matter of regulating intellectual property through private contract, in the Roman law tradition

the state represents a strong societal interest that imposes a specific use of property rights on the author and creator of immaterial works. Copyright law in Roman law countries further differentiates according to the way in which utilization rights are defined. While the personal rights remain connected to the author, the utilization rights are arranged in different ways. In France, for example, the right to utilize works can be transferred to other persons, whereas in Germany only usufructuary rights can be conceded for a limited period to others (Dreier/Nolte 2006). In all law systems, works become public domain and can be used freely after a period (ranging from 50 to 70 years) following the first publication or the death of the author. This period often exceeds the availability of the works.

The increasing international circulation of works in the late nineteenth century prompted the initial attempts to generate an international copyright law. The Berne Convention for the Protection of Literary and Artistic Works, first agreed on in 1887 and revised in 1907, is an intergovernmental treaty that guarantees mutual recognition of copyrights between sovereign states. According to this convention, states guarantee citizens of other contracting states the same protection of copyrights as they do their own citizens. The revised Berne Convention guarantees a minimum duration of protection of 50 years after the death of the author. Contracting states can extend this period.[2] In 1993, the European Union, for example, extended this period to 70 years. The United States subsequently adopted the same period in the so-called Sonny Bono Copyright Term Extension Act of 1998.

Like patent law, copyright regulation has historically been subject to lobbying by interested economic and societal groups, as well as a matter of conflict between nations at different levels of economic development. Key interest groups have been the authors, the publishers, and the consuming public. Over time, the concentration of the publishing and media industry has led to an increasing influence of this group on copyright regulation. Struggles are now increasingly fought out in global policy arenas, particularly within and between the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO). WIPO is an intergovernmental organization that was founded in 1963 and since 1970 operates under the umbrella of the United Nations. The strong articulation of the interests of developing countries in WIPO has led the US and other industrialized countries to shift decision-making on intellectual property rights to the TRIPS (Trade-Related Aspects of Intellectual Property Rights) negotiations within the WTO. The TRIPS Agreement from 1994 defines for the first time the binding minimum standards for copyright and patent law that the member states of the WTO must incorporate within a defined period into their national laws. With regard to copyright, TRIPS

2 Originally, the US refused to become a member of the Berne Convention because this would have required major revisions to their copyright law (particularly with regard to the personal rights of the owner of an immaterial work). In 1952, the Universal Copyright Convention (UCC) of UNESCO was adopted with the aim of overcoming these concerns.

basically extends the content of the Berne Convention (duration of 50 years after death of author) to the WTO member countries. While these international agreements reduce differences in the duration of protection between national copyright laws, other distinctions continue to exist, as, for example, with regard to the degree to which copyright can be given away by the author. WIPO and TRIPS have been criticized for maximizing the rights of the authors, publishers, and distributors over the public interest in free access to knowledge (Heineke 2006). Even more important, they do not take into account the radical changes in the use of immaterial goods that have resulted from the introduction and spread of digital technology and the Internet use since the 1970s.

The introduction of the photocopy machine, video technology, and, first and foremost, the digital triad of the personal computer as an all-purpose device, the Internet as a digital all-media distributor, and web space as an all-data storage device have fundamentally transformed the availability, reproducibility, and circulation of immaterial goods. By reducing both production and (worldwide) distribution costs of diverse kinds of goods to nearly zero, this technological triad has given rise to new ways of using, reusing, and mixing texts, music, and other artifacts (Lessig 2004).

The traditional copyright industry, however, has seen in these new opportunities mere threats, represented primarily by the enormous growth of peer-to-peer file-sharing technologies such as Napster,[3] and has responded with lawsuits and anti-piracy campaigns.[4] The challenges to their business models by the Internet have been at least threefold. First, digitalization allows the disentanglement of content and medium. This resolves a link lying at the heart of traditional-content businesses that sell not music, films, or novels but CDs, DVDs, and books. Second, the Internet facilitates lossless and immediate copying of all kinds of digital content, which is the technical basis for file sharing and undermines existing regulations on unprohibited private copying. Third, as costs for both production and distribution of cultural goods continue to fall, authors begin to bypass their intermediaries and publish works on their own.

The substantial (economic) potentials paralleling the threats of the new digital era were first demonstrated in the software industry, where free and open source software development began to compete successfully with proprietary forms of software production (Wayner 2002). Activists from user groups and practice communities in the field of free and open source software were among the first to think about legal arrangements that would allow them to pursue their objectives without being negatively affected by the existing law and to create a commons of freely accessible

3 Green (2002) even speaks of the music file sharing program Napster as having opened "Pandora's Box" in threatening "the enforcement of copyright on the Internet."

4 See for example an article of Gary Gentile in The Associated Press titled "Movie Studios Launch Anti-Piracy Campaign," published July 22, 2003.

software (DiBona et al. 1999). In the mid-1980s, Richard M. Stallmann, founder of the Free Software Foundation, invented the "copyleft" principle[5] to protect the freedom of his software project GNU – a recursive acronym for "GNU is Not Unix"[6] – via the GNU General Purpose License (GPL). During the 1990s, several different free and open source software licenses followed, most of them based on US copyright law, which allows for a "copyleft" and "share-alike" clause. These licenses guarantee access to the source code of existing software and of its improvements and adaptations.[7]

The challenge to traditional copyright doctrines, arising from the advent of the digital and Internet technology and the licenses drafted and used by free and open source communities, has been aggravated by the actions of social movement organizations. On the ideational basis of the "GNU Manifesto"[8] and the Open Source Definition (www.opensource.org/docs/osd, May 31, 2007), the Free Software Foundation (FSF) and the Open Source Initiative (OSI) have run campaigns either against software patents or in favor of free data formats (www.germany.fsfeurope.org/projects/swpat/ and www.fsf.org/news/playogg.html, both May 31, 2007]). Events like the annual O'Reilly Open Source Convention (OSCON) or the biannual "Wizards of OS" bring together members of user and practice groups as well as social movement activists, and countless online petitions, mailing lists, and banner exchange programs display the WUNC (Tilly 2004) of the open source movement.[9]

The practices and campaigns of the open source software community have spilled over to other users of the Internet. As a result, an increasing number of people around the globe have discussed or even tried out various possibilities of using the open source approach beyond software development in areas such as audio, video, or text. They, too, have been confronted with the need to protect their content with private licenses. The most prominent example is, without doubt, the free online encyclopedia "Wikipedia." It was founded in 2001 and also needed license protection for its collaboratively generated content. Lacking other alternatives, the founders of Wikipedia[10] chose the GNU Free Documentation License (GFDL), a sister license

5 The term "copyleft" is a play on the word "copyright" and signals that any derivative works or adaptations are also bound by the same license.

6 Today, major parts of what usually is referred to as the Linux operating system consists of GNU software. This is why Linux is sometimes named GNU/Linux. All Linux derivatives use the GPL as a software license.

7 Not all free/open source software licenses are copyleft licenses. Actually, the main difference (and: argument) between open source and free software is that proponents of the former also accept licenses without the copyleft clause, only insisting on the right to view and reuse the source code.

8 www.gnu.org/gnu/manifesto.html, May 31, 2007; for an explanation of GNU, see the paragraph below.

9 For an overview of both the different actors and the different concepts within the movement, see DiBona et al. (eds., 1999), therein particularly the contributions of Richard Stallman and Eric Raymond.

10 Soon after the successful launch of Creative Commons, Wikipedia founder Jimmy Wales joined

of the GPL that was originally developed for software manuals. At this time, initiatives for open content other than software and for open content licenses were still in their infancy.[11]

Licensing along these lines operated largely through private contracting and was therefore potentially open to challenge in the courts, particularly when people from different countries contracted with each other. The great number and complexity of license contracts available on the Internet also made it difficult for users to decide which one would be the most appropriate for their purpose (Möller 2006). With the increasing number of copyleft licensed works, the problem of license compatibility emerged: Due to slight differences in the freedoms granted, even works licensed under very similar terms could only rarely be recombined ("mashed up") and integrated into new works. Together, these difficulties with free and open licensing were some of the reasons that led a group of mainly US copyright lawyers to attempt to establish private licensing standards. Therefore, the free/open source software movement did not only highlight the demand for *non*-software licenses; it also functioned as a "breeding ground" for the foundation of "Creative Commons."

5 Creative Commons: Epistemic community concurring with social movement

Birth of an epistemic community and formation of a non-profit organization in the United States

In the beginning of Creative Commons, there was theft and failure. Failure, as the (expected) defeat in the Supreme Court trial "Eldred vs. Ashcroft" had been the occasion for founding an organization called Creative Commons. Eric Eldred, an Internet publisher of public domain texts and derivative works, challenged the constitutionality of the United States Congress' Copyright Term Extension Act (CTEA) that prevented a number of works, beginning with those published in 1923, from entering the public domain in 1998 and subsequent years. One of Eldred's legal advisors in this trial was the Stanford law professor Lawrence Lessig. He became the first president of the newly founded charitable corporation and admits that the idea to give away free copyright licenses was not completely new: "We stole the basic idea from the Free Software Foundation." Hence there was also theft. Lessig explains the core concept of Creative Commons in more detail, as follows:

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the Creative Commons board.

11 David Wiley's attempt to establish an "Open Content" license in analogy to open source software licenses in 1998 was not very successful. He joined Creative Commons as the Educational License Project Lead in June 2003.

> The idea … was to produce copyright licenses that artists, authors, educators, and researchers could use to announce to the world the freedoms that they want their creative work to carry. If the default rule of copyright is "all rights reserved," the express meaning of a Creative Commons license is that only "some rights [are] reserved." For example, copyright law gives the copyright holder the exclusive right to make "copies" of his or her work. A Creative Commons license could, in effect, announce that this exclusive right was given to the public. (http://creativecommons.org/weblog/entry/5661, March 7, 2007)

When Lessig – together with others[12] and with the financial support of Stanford University and the Center for Public Domain – founded Creative Commons as an US charitable corporation in 2001, it was still mainly the project of a lawyer community. These lawyers shared the episteme that there was a need for an "environmentalist movement for culture" (070503-Int-LL, 429–430). They had been working together on agenda setting before, as for example in their attempt to convince policy makers of the advantages of tax deductions for donors of intellectual property.[13] By naming the organization "Creative Commons," its founders related to an ongoing discussion on digital commons (e.g. Lawrence 1996) and emphasized the applicability of its work to all kinds of creative works. Creative Commons was founded with the purpose of fund raising and administrating tasks necessary to realize their vision of a "digital commons" for cultural goods of all sorts.[14]

Thus, lawyers and legal experts involved in the founding process of Creative Commons were "a network of professionals with recognized expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge within that domain or issue-area," to quote Haas' (1992: 3) definition of an epistemic community. They more or less had all the characteristics identified by Haas as constitutive of this type of community:[15] As a network of US lawyers with a similar professional background they shared a *set of normative and causal beliefs* that led to social action on the part of community members. In point of fact, engagement in a Supreme Court trial to challenge "unfair" legislation is the standard form of social activism for lawyers in a common law system. For Lessig, it is not only in the con-

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12 For example, James Boyle (professor of law at Duke Law School), Michael Carroll (assistant professor of law at the Villanova University School of Law), Hal Abelson (MIT computer science professor), Eric Saltzman ("lawyer-turned-documentary filmmaker-turned-cyberlaw expert"). A list of participants at the "Inaugural Meeting" referred to below is available online (see http://cyber.law.harvard.edu/creativecommons/partic-pants.html, July 8, 2008).

13 Eric Saltzmann, director of the Berkman Center for Internet & Society at Harvard Law School, in his "Welcome Letter" to the "Inaugural Meeting of the Creative Commons" described these earlier steps thus: "Just as for a child with a hammer, for whom everything is a nail, our group of lawyers and law students started with legal questions. We first pounded the promise of tax deductions as a motivation for donors of intellectual property."

14 See the executive summary of a preparatory workshop prior to the foundation of Creative Commons in May 2001 (010507-Doc-CCprefoundingexecsum).

15 Their high reputation and common method distinguishes the Creative Commons lawyers from the international environmental lawyers, who Haas (2007) explicitly excludes from the epistemic communities.

Table 3 Basic Creative Commons license modules[a]

	Attribution: Others are authorized to copy, distribute, display, and perform the copyrighted work – and derivative works based on it – but only if they give credit the way the creator requests.
	Noncommercial: Others are authorized to copy, distribute, display, and perform the work – and derivative works based on it – but for noncommercial purposes only.
	No Derivative Works: Others are authorized to copy, distribute, display, and perform only verbatim copies of the work, not derivative works based on it.
	Share Alike: Others are authorized to distribute derivative works only under a license identical to the license that governs the work.

These four options – when each is an option – would produce 11 possible licenses. But since, after the launch, 98 percent of the adopters chose the "attribution" requirement, Creative Commons dropped "attribution" as an option and made it a standard property of all licenses. Excluding incompatible combinations such as ShareAlike and NoDerivatives, the four modules lead to the following six different core licenses provided by Creative Commons:
– Attribution
– Attribution-ShareAlike
– Attribution-NoDerivatives
– Attribution-NonCommercial
– Attribution-NonCommercial-NoDerivatives
– Attribution-NonCommercial-ShareAlike
a For the descriptions of license modules, see: http://creativecommons.org/about/licenses, May 29, 2007.

text of intellectual property rights that this kind of motivation is typical for many American lawyers: "[A] significant portion goes to American law school, imagining they are going to change the world. The image is they are good marshals, going to Supreme Court and getting segregation overturned" (070503-Int-LL, 417–420). The Copyright Term Extension Act and its perceived negative consequences for common (intellectual) goods induced a "common policy enterprise … with a set of problems to which their professional competence is directed … out of the conviction that human welfare will be enhanced as a consequence" (Haas 1992: 3). Actually, the trial was only the occasion to broach the issue of intellectual property rights in the digital age. Or, as Lessig puts it:

> Thus just at the moment that Internet technologies explode the opportunities for collaborative creativity and the sharing of knowledge, uncertainty over permissions interferes with that collaboration. We at Creative Commons thought this was a kind of legal insanity – an insanity, that is, created by the law. (http://creativecommons.org/weblog/entry/5668, March 7, 2007)

Finally, as a community of lawyers mainly residing at university law schools, they enjoyed *shared notions of validity* – at least as far as the legal domain was concerned. Before founding Creative Commons, they did what lawyers at universities in all fields of interest do: theorizing, writing books[16] and articles, and participating in legal arguments at and outside of court.

16 See, for example, Lessig's "Code and Other Laws of the Cyberspace" (1999).

During the founding phase, the composition of the community behind Creative Commons did not change much, as the main task – developing a system of copyright license modules – was still mainly a legal enterprise. Consequently, the first outcome of establishing an organization called "Creative Commons" was a legal service: a toolbox of machine-readable license modules and corresponding iconographic markers that could be combined to form six different core licenses (see Table 3).

Transnationalization of epistemic community and organization

The first versions of Creative Commons licenses were issued more than one year after the organization was founded in December 2002. While at this time the epistemic community behind Creative Commons was still directed toward the United States, it soon shifted toward other legal systems abroad, as did the activities of Creative Commons as an organization. This development was triggered by the rising demand from interested parties from around the world for localized and translated versions of the licenses. Because of the existing latent demand for licenses for open content, Creative Commons "never had to intentionally look for local partners" (070420-Int-CM), but lawyers and experts inspired by the example of the free/open source software movement and located in other countries would contact Creative Commons in the US to obtain the right to transpose their license to different national legal systems.

Only four months after the official US launch, Creative Commons opened a new "iCommons" office in Berlin "to coordinate with volunteers from around the world to develop versions of [its] licenses that were tuned to the law of local jurisdictions" (Lawrence Lessig, http://creativecommons.org/weblog/entry/5689, March 7, 2007). This localization of licenses was completely new in the field of standardized open content licensing. No free or open source software license, even now, offers different localized versions.

Started more or less accidentally, the process of license porting soon emerged as Creative Commons' most powerful "growth strategy" (070508-Int-HH, 157–165; 070503-Int-LL, 183–193). License porting "creates" the need for local affiliate organizations that administer the initial porting and the future license development and, at the same time, provides a task for interested parties in countries all over the world. Besides, Lessig argues that license porting "make[s] clear that it is not an American thing" (070503-Int-LL, 188–189). By porting the license Creative Commons is effectively (trans)porting its ideas and concepts as well as building an international community of (legal) experts. Besides, it allows different legal traditions to be addressed, such as moral rights issues. These are obviously more important when dealing with cultural works compared to mere software source code, and their regulation differs significantly between countries in the common law tradition and

countries in the European tradition.[17] So, after Japan being the first country to port the licenses in spring 2004, the number of local branches of Creative Commons grew rapidly to total 42 different jurisdictions by the end of 2007 (see Figure 1).

Of course, there is also a downside to the license porting approach. The Free Software Foundation does not port its two main licenses, the GPL for software and the GFDL for other content. Although these do not have exactly the same legal consequences in different jurisdictions due to separate legal provisions, the advantage of having only one license is the lack of incompatibility problems between different localized licenses. One danger of license porting that some actors within Creative Commons acknowledge is expressed as follows:

> I think it is one of the things that Creative Commons' licensing system can be criticized for, because, in reality, there aren't like six licenses and versions of them. … [E]very country has its own separate license and they are not interchangeable. So, in reality there are something like 200 or 300 different Creative Commons licenses and each of them is a little bit different to the official version. (070508-Int-HH, 158-162)

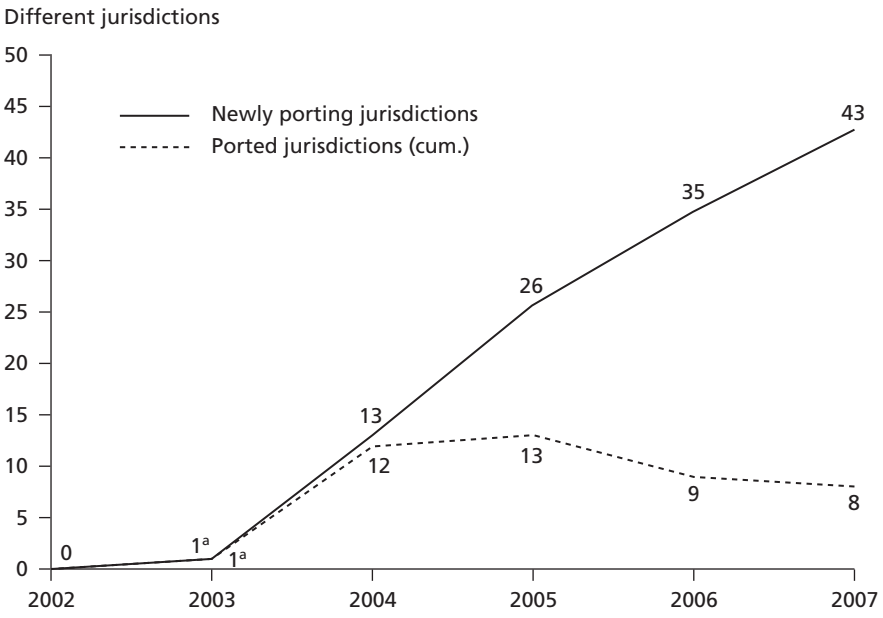
In order to port the licenses, a so-called "project lead" is appointed which might function as an affiliate organization in the country and provide legal expertise – either itself or via local partners. These affiliates have to bring in their own funding and are very autonomous in their work. Restrictions on their role as an affiliate relate exclusively to the use of Creative Commons as a trademark and the formal license porting processes, both of which are set forth in a short memorandum of understanding (MOU). Although these formal agreements are concluded between Creative Commons and different organizational bodies, the actual cooperation is heavily based on interaction with individuals within these organizations who have been appointed the "legal lead" or "public project lead."

Historically, as increasing numbers of national projects joined, Creative Commons became a non-profit organization of transnational scope. A close look at the individuals and affiliate organizations involved in license porting shows that transnationalization during the early period (2003–2005) was predominantly fueled by the absorption of critical open source and Internet lawyers from outside the US into the epistemic community. This highlights the importance of a pre-existing free/open source software movement for the speed of license porting during the first years of Creative Commons' existence. In seven of the first ten countries that "ported" the license into their local jurisdiction, at least one of Creative Commons' affiliate organizations had a strong technological background and experience with free/open source software licensing.[18] Many of the early project leads had previously

17 Unlike US copyright law, which factors out moral rights completely, some other jurisdictions require legal provision for them (070616-Int-PK, 172–179).

18 In Finland, the second country to port the licenses, lawyers with longstanding experience in free/open source software licensing at the Helsinki Institute of Technology became project lead (070508-Int-HH, 24–26). In Germany, the fourth jurisdiction, Creative Commons cooperated

Figure 1 Number of different jurisdictions with completed license porting process per annum and cumulated over time



a USA

participated in seminars or workshops held by the founding members of Creative Commons at Harvard or Stanford and subsequently developed personal contacts with them. The legal project leads of the first two porting countries, Japan and Finland, for example, both attended the same seminar of Lawrence Lessig at Stanford (070508-Int-HH, 34–44). Ronaldo Lemos, the Brazilian legal project lead, first came into contact with Creative Commons at Harvard's Berkman Center (070616-Int-RL, 26–30). At the same time as there was a strong socialization effect of the Harvard and Stanford group on the early project leads, there were also other affiliation partners who joined independently but were inspired by a similar, at least partially political, interest in adopting copyright licenses for new digital media and open source technologies. This is illustrated by the project lead of the Netherlands – the sixth country to port the licenses – who describes his pre-existing motivations and plans as follows:

> We had written a description for a project on open source software and open content for Civil Society Organizations called DISC. … This was before we knew Creative Commons – that time open content still was defined rather vaguely. (070616-Int-PK, 16–23)

with the Institute for Legal Issues on Free and Open Source Software (Institut für Rechtsfragen der Freien und Open Source Software (iFROSS)), and in Austria – country number seven – the Open Source Platform of the Austrian Computer Society (ÖCG) took the lead, while the legal tasks for porting the licenses to the Austrian jurisdiction were commissioned to a German law firm.

In some early adopting countries, support for the community's episteme was more important than expertise in the field of copyright law per se. In Brazil, for example, the third country to port the licenses, the project lead even reported approval from other camps of lawyers, but resistance among the "traditional" copyright lawyers:

> Many other lawyers, like human rights lawyers and several other lawyers which follow a more open textured way of practicing law, these guys were open but the traditional intellectual property lawyer in Brazil had an incredible resistance.

So, even though not all of the lawyers were copyright experts, legal professionals dominated the transnationalizing epistemic community during the early expansion phase of Creative Commons. 23 of 31 affiliates (about 74 percent) located in the early (first 21) adopting jurisdictions were lawyers originating from legal institutions (see Figure 2). During this phase, a strong professional focus helped to maintain the homogeneity of the epistemic community in the face of its transnational expansion, as Lawrence Lessig observes:

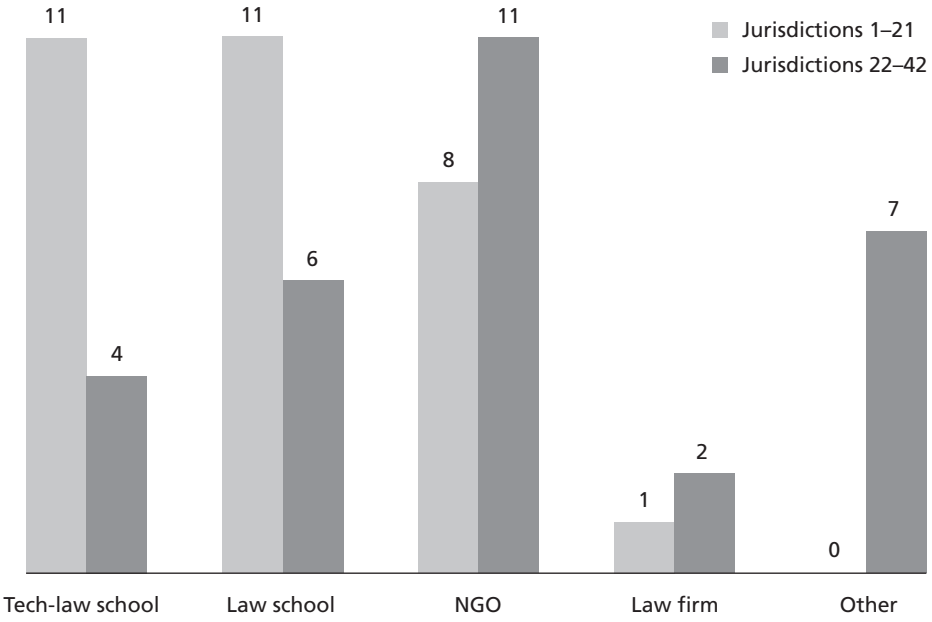
> Today, when I am in Bulgaria, the people I meet are the same compared to the people in Stanford, they know the same things, we are talking about the same issues. … That is completely different compared to the situation 25 years ago, a change due to the Internet. (070503-Int-LL, comment after end of recording)

Unexpected effects of success: Social movement organizations joining in

The rapid transnational diffusion of Creative Commons licenses made them a success. By the year 2005, 26 jurisdictions had translated the Creative Commons licenses and users from a broad range of applications fields started to use these licenses. In August 2005, 4.1 million photos hosted on Flickr and 159,000 audio files hosted on Soundclick already used a Creative Commons license. Over the next three years, the aggregate number of Creative Commons licensed photo, audio, and video files in three popular online archives increased exponentially. In January 2008, Flickr listed 57.9 million photos, Soundclick 430,000 audio files, and Revver 417,000 video files under any of the different Creative Commons licenses.

During the same time period, the number of Creative Commons national affiliates rose further from 25 in 2005 to 43 in 2007. The success of the Creative Commons licenses, however, attracted a new sort of project lead. As opposed to the early (first 21) adopting jurisdictions, where 23 of 31 affiliates (about 74 percent) were legal institutions, in the late (last 21) adopting jurisdictions only 12 of 30 affiliates (40 percent) were such. In contrast, the proportion of NGOs and other organizations concerned with the educational, cultural, and social issues of digital environmentalism was much higher among the late adopting jurisdictions. Whereas NGOs and other organizations accounted for not more than 8 of 31 affiliates (about 26 percent)

Figure 2 Types of affiliate organizations, grouped into early (first 21) and late (second 21) adopting jurisdictions



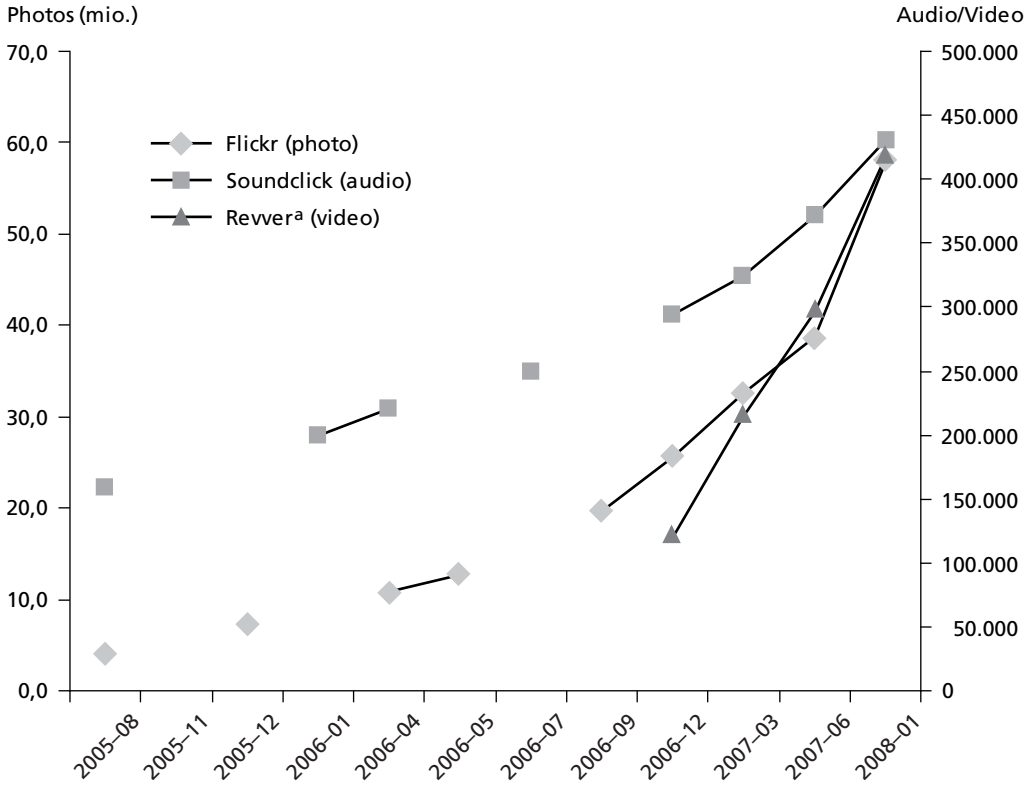
in the early adopting jurisdictions, they represented 18 out of 30 (60 percent) in the late adopting jurisdictions (see Figure 2).

The bandwidth of application fields among the affiliate organizations joining in the second half of the period is quite large. For example, the Austrian affiliate already referred to mainly focuses on projects in the education sector in order to collaboratively develop and freely provide course materials,[19] whereas one of the affiliates in Taiwan cooperates with the governmental National Digital Archives Program (NDAP) of Taiwan to build a national commons archive. Other local branches focus in their work (at least for the moment) on particular artistic areas such as video and film (Poland, http://creativecommons.org/weblog/entry/7440, May 31, 2007) or music (Spain and Catalunya) (http://creativecommons.org/weblog/entry/7432, May 31, 2007). In Switzerland the newly founded political non-profit association "Digitale Allmend" claims to work "for public access to and the further development of digital goods" (http://wiki.allmend.ch/Ziele/, June 26, 2008, translation L.D./S.Q.), having taken over the affiliate role from a group of open source lawyers ("Openlaw") in 2008. Similarly, the German "newthinking communication" was only recently accepted as an official affiliate and is engaged in what may be called "digital environmentalism."[20]

19 070306-Int-GP. One of the greatest users of Creative Commons licenses in the US is also situated in the education sector, namely the Massachusetts Institute of Technology and its Open Courseware project; cf. http://ocw.mit.edu, May 31, 2007.

20 In describing his ideological position, the head of "newthinking communications" distinguishes between mere license users and activists: "There is probably a gut feeling of supporting a good

Figure 3 Usage of Creative Commons licenses in different fields of application by number of works available in three content hosting services



a Revver is an overestimate, probably the total number of uploads, some of which may have been removed or never published; data obtained from <http://wiki.creativecommons.org/ License_statistics>, (June 26, 2008).

In the later adopting Balkan States – where Croatia was the 14th adopter, with Slovenia (adopter 23), Macedonia (37) and Serbia (42) following – or other Eastern European countries such as Hungary (22) and Bulgaria (27), hardly any legal institutions act as official affiliates. Instead, it is mainly civil society organizations with stronger links to producers of cultural content that have become partners of Creative Commons.[21] Their focus is on the cultural, educational, and political aspects of open access to knowledge and cultural artifacts, while they rely on external legal advice in license porting and adaptation. For example, a member of the Croatian affiliate "Multimedia Institute" describes his organization as "dealing mostly with culture, social theory, political activism, and culture policy" (070616-Int-TM, 19–21).

cause – comparable to many people who don't know exactly the consequences of energy saving but know that it helps preserve our environment. Similarly, using Creative Commons licenses preserves or cultivates an information ecology, a sustainable handling of digital resources. I am aware of this relationship but I assume the majority is not." (070201-Int-MB, 335–345)

21 For example, in Croatia this is the Multimedia Institute, in Macedonia the Metamorphosis Foundation funded by Foundation Open Society Institute Macedonia, and in Hungary the Center for Media Research and Education.

One obvious reason for national differences in types of affiliate organizations is rather mundane: Smaller countries like the Balkan States, Hungary, or Austria have very small legal communities with very few copyright experts, and copyright enforcement is not a major priority either.[22] But the strong representation of civil society organizations among the second half of adopters cannot be fully explained by such geographical patterns of accession. This explains why we also find NGOs as national affiliation partners in Argentina, Switzerland, and New Zealand. Mike Linksvayer, Chief Technology Officer (CTO) of Creative Commons, speaks in this context of "cultural environmentalism" when he claims that "by applying a Creative Commons license to your work you're saying 'please share' and (in some cases) 'please remix' and also 'please preserve for posterity' or more simply – 'please backup!'" (http://creativecommons.org/weblog/entry/5816, June 26, 2008)

Behind these country patterns, therefore, lies a broader trend away from legal institutions toward NGOs and grassroots organizations. This reflects on nascent social movements which have been emerging over the last years, targeting the protection of civil rights to freedom of information on the Internet. Out of the many existing initiatives, the Open Rights Group, established in 2005 in the UK (www.openrightsgroup.org/about-org, July 28, 2008), and the Electronic Frontier Foundation, launched 1990 in San Francisco (www.eff.org, July 28, 2008), are two of the most well-established examples. Umbrella groups, such as Access to Knowledge (A2K), based at Yale University, or the Digital Future Coalition (www.dfc.org, July 28, 2008) represent loose collections of civil society groups, governments, and individuals. Last but not least, this emerging social movement has already given birth to the establishment of political parties striving for reforms to the existing copyright regime. Starting with the establishment of a Pirate Party in Sweden in 2006, the idea has spread under the same name with similar goals in Europe and worldwide (www.pp-international.net/, July 28, 2008).

The rise of social movements for "digital environmentalism" has fueled part of the recent expansion of Creative Commons, as increasing numbers of NGOs from this camp have joined as new national lead partners, or replaced existing affiliates. Seven years after its founding and five years after going international, Creative Commons contracts with more than 65 affiliate organizations, but the types, organizational structures, and aims of the member organizations have become more heterogeneous. The rapid success of Creative Commons has challenged (as discussed in the next section) basic characteristics of the former, more exclusive and homogenous, epistemic lawyer community.

22 Civil society organizations, however, have not acted everywhere as an alternative to law school affiliates. In Mexico the only affiliate is a privately owned law firm, and in countries like Malta or Malaysia Creative Commons' partners are publicly founded governmental organizations.

Organizational decoupling: A split-up for unity

Whereas license porting helped the transnational Creative Commons community to prosper, it complicated the management structures and tasks of the still very young Creative Commons organization: Having started to port the licenses into local jurisdictions, an increasing number of local outposts of various national and professional backgrounds demanded coordination and involvement in further license development. What is more, after having released their license, different groups of previously non-organized but latently existing (collective) actors (Dahrendorf 1959; Mayntz/Scharpf 1995; Dolata 2003)[23] gravitated toward these newly founded outposts of Creative Commons. The German public project lead explains Creative Commons' appeal to pre-existing, politically motivated, but often dispersed copyright activists, since it offers the "possibility to legally underpin your own views."[24] A fact that was soon recognized by the leaders of the focal organization themselves:

> [O]ne thing we were surprised about was how much of that activist component Creative Commons would inspire. So, once we had launched in a number of countries, we had a whole bunch of people associating with Creative Commons with a very ambitious activist program. (070503-Int-LL, 33–36)

This dichotomy between a homogenous, still rather epistemic lawyer's community and a very diverse community – or even communities – of license users represented by the local affiliates led to debates over Creative Commons' structure, strategy, and license policies. In other words, a collateral consequence of selecting – or even being selected by[25] – independent affiliates for spreading Creative Commons was their urge to participate in decision-making and thus turn a unilateral relationship of license translation into a bidirectional one of recursive interaction on organizational and licensing issues. This may be illustrated by two rather antithetical comments from mailing-list debates:

> A shame that "open" and "democratic" are traveling in different directions. iCommons, the world is watching ... and you are creating a corporate machine rather than a democratic one ... is that what all the iCommoners, free culture and assorted supporters want? Success for Creative Commons/free culture is one thing, but let's not lose sight that the means are just as important as the ends. (http://lists.ibiblio.org/pipermail/cc-community/2006-November/001312.html, June 27, 2008) [26]

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23 Mayntz and Scharpf (1995) emphasize the potential in the self-organization processes of these "quasi groups" of individuals, which have one or more attributes in common. Similarly, Dolata (2003) stresses that these non-organized collective actors carry a huge potential. Especially within social movements, quasi groups can transform into or at least function as a collective actor.

24 070201-Int-MB, 42-43. He continues to exemplify these political attitudes as "Hello, we ask you explicitly: Copy these things! Distribute them further! … Meet the potentials of the net much more head-on!" (070201-Int-MB, 44–46).

25 As already mentioned, Creative Commons did not actively search for potential affiliates – at least not at the start of its internationalization process (070420-Int-CM).

26 For more extensive evidence of this critique, see Berry and Moss (2005), where they argue that

> We … must overcome the problem that many activists try to exploit the ideas behind CC for some random political anti something agenda … To make CC a long term success it is absolutely crucial to stay neutral in relation to ideologies of any kind …. (http://lists.ibiblio.org/pipermail/icommons/Week-of-Mon-20070528/000271.html, June 27, 2008)

Cory Doctorow, a university professor and science-fiction author involved in Creative Commons from the beginning, referred explicitly in his response to the latter comment to the issue of Creative Commons as both an organization and a social movement:

> The difference between a movement and an organization is that an organization is a group of people who want the same thing for the same reason. A movement is a collection of groups of people who want the same thing for different reasons. Movements are infinitely more powerful than organizations. … [T]here are Marxists, anarchists, Ayn Rand objectivists, economists, artists, free marketeers, libertarians, liberal democrats, etc. who see copyright liberalization as serving their agenda. If we insist that copyright reform is about copyright reform and nothing else, there will be no copyright reform movement. (http://lists.ibiblio.org/pipermail/icommons/Week-of-Mon-20070528/000273.html, May 31, 2007)

Unwilling and unable to control these "free spirits" in the social movement, focal actors still tried to protect the "core business" of providing copyright licenses that the organization Creative Commons was originally founded for. Consequently, Lawrence Lessig has emphasized that "CC has a real brand and product that it needs to guarantee and that requires a component of expertise more than democratic motivation" (070503-Int-LL, 86–87).

The "activist component," of course, was never completely "alien" within Creative Commons. From the very beginning – namely the political motivation behind the involvement in the Supreme Court trial – Creative Commons and its (lawyer) community had ideological claims. However, the main tasks such as license development and porting are predominantly legal ones and require legal expertise first and foremost; and these are the functions the newly founded organizational bureaucracy of Creative Commons was designed for and suited well as long as the community behind it was still mostly an epistemic one of lawyers.

The growing success in terms of both internalization and usage in various areas of application raised questions of transnational decision-making and political issues (not so far) beyond the mere legal licensing of content. The same bureaucratic structures that led to professionalism in terms of license development and porting[27] were rather dysfunctional (Merton 1968: 251) in terms of balancing the conflicting

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"we need political awareness and struggle, not lawyers exercising their legal vernacular and skills on complicated licences, court cases and precedents."

27 See, for example, the "CCi guidelines," which now formally standardize the license porting process for new jurisdictional branches: http://wiki.creativecommons.org/images/e/e6/CCi_Guidelines.pdf, June 27, 2008.

demands and interests of the growing and increasingly diverse non-legal sections of the community. In the terminology of Brunsson (2003), Creative Commons' organizational structures were designed for producing "action," not "talk," able to cope with conflicting demands.

The response of the Creative Commons board to these developments was a radical organizational restructuring on both the international and the national level. On the international level, Creative Commons actually split up into two parts when it hived off "iCommons" as a separate legal entity and organization situated in London in November 2005 (see Figure 4; http://creativecommons.org/weblog/entry/5700, March 7, 2007). At the same time, the internationalization project in Berlin was renamed Creative Commons International (CCi) and remained "just an office" (070503-Int-LL, 538) of the US charitable corporation. Lessig explains this organizational de-coupling between the legal and the activist part of Creative Commons as follows:

> [W]e wanted to make it clear that there were two things going on. One was the building of an infrastructure, which enabled people to deploy rights in a more flexible way. And the second was any activism there might be around changing copyright laws or attacking digital rights management or something like that. We didn't want those two activities to merge too closely. (070503-Int-LL, 37–42)

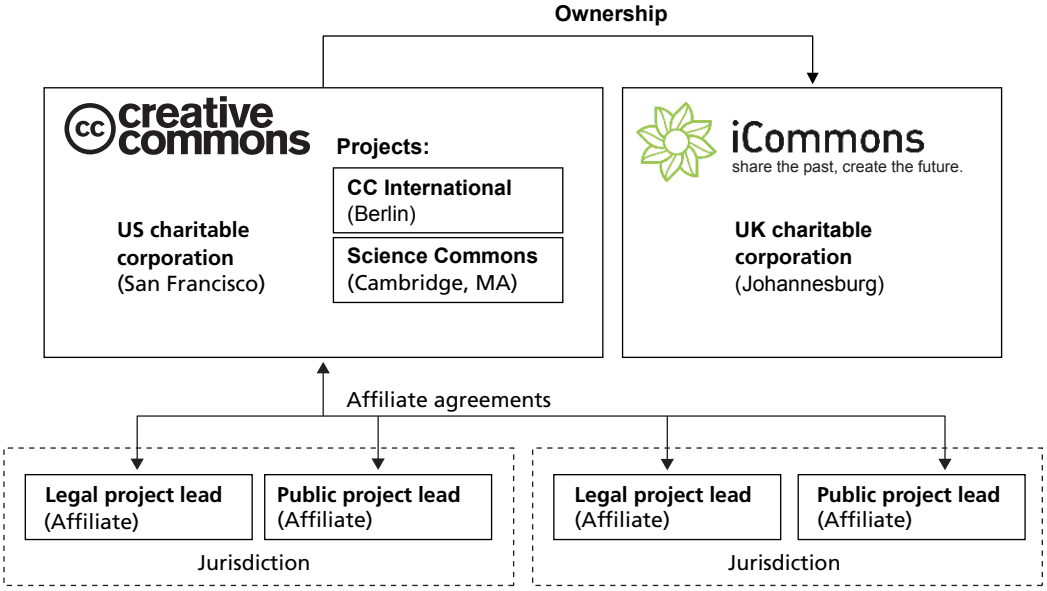
On the national level, Creative Commons differentiates between legal and public project leads. Whereas the former must provide legal expertise and work in close cooperation with the CCi office in Berlin on license porting and development, the task of the public project lead is to do all the "community work," above all organizing events, marketing the licenses, and networking among different groups of license users.

By now it is impossible to predict whether the strategy of an *organizational* split will sustain both elements of the transnational Creative Commons community, the epistemic and the activist component. More than three years after the splitting, the affiliates responsible for the public project leads still contract with Creative Commons and not with iCommons (070500-Doc-AffiliateAgreement). And the paradox procedure of establishing top-down an organization explicitly designed as a platform for bottom-up processes is not without risks, as critics particularly from public project leads – iCommons prime "target group" – reveal:

> The [iCommons] board with Joichi Ito and Jimbo Wales has just been presented to us and, I don't know how, they are representing the movement now; a rather questionable approach from the point of democracy theory. But they just established it as a label and we will see, how it will develop over the next years. (070201-Int-MB, 254–259)

Finally, further license development requires knowledge transfer and communication between the communities of lawyers and the various license user communities.

Figure 4 Formal structure of Creative Commons after hiving off iCommons in 2005



For example, the actual meaning of license properties such as "non-commercial" and their resolution via license adaptations is still an issue of severe debate among and between these different communities (070503-Int-LL, 270–274; http://creativecommons.org/weblog/entry/5752, March 25, 2007).

6 Conclusions

In this paper, we have investigated possible interactions and concurrences between the development of different forms of transnational communities and their regulatory projects in global governance. The transnational governance field studied in this paper – the regulation of copyright for immaterial goods and, more specifically, open source content – has undergone rapid changes over the last 25 years, triggered by the rise of digital technologies and new collaborative forms of the production of immaterial goods.

The empirical evidence provided in this paper shows how an epistemic community and a social movement came to interact around the non-profit organization "Creative Commons" in ways which provided unforeseen momentum for their common project of promoting a digital commons. After having failed to influence politics via agenda setting or litigation, the epistemic community of US lawyers behind Creative Commons engaged in drafting standardized licenses, thereby directly addressing potential license users. As a consequence, Creative Commons attracted and activated previously non-organized "quasi-actors" (Dahrendorf 1959; Mayntz/

Scharpf 1995; Dolata 2003) and started a process of bottom-up standardization. The rapid increase of license usage across countries and different application fields attracted a growing number of new members from heterogeneous backgrounds to the Creative Commons movement, eager to participate in what may be called a "movement for cultural environmentalism;" its "free spirit" both helped and threatened the Creative Commons project of establishing a global commons of alternatively licensed works.

The success of the Creative Commons project can be easily seen in the rise in the number of license porting jurisdictions (43 countries in 2007) and the exponential growth of license usage for various types of content on the Internet. Diffusion of Creative Commons' licenses has initiated new uses of open content in various fields and countries. Supported by public campaigns organized by the activist component of the community, this has generated an increasing awareness of digital rights in civil society. While the intensity and focus of debate certainly varies, the question of how to balance the economic interest of the producers of immaterial goods in protection, on the one hand, with the interest of society in open access to ideas and knowledge, on the other, has made its way onto the agenda of policy makers, academics, and regulators in many countries.

Three factors are important to understand the momentum which the Creative Commons project gained over the relatively short period from 2002 to 2007. The first factor is the foundation of a non-profit organization. Originally intended as a goal-oriented infrastructure for the development of standardized licenses, it eventually served as a discursive space in which members of the epistemic community, social movement activists, and participants of user and practice groups exchanged views and fought over the goals and directions of the overall community. At the same time, the professionally managed non-profit organization provided more visibility, credibility, and accountability toward the public than any of the sub-communities involved could have generated on their own. These organizational assets were also the main difference to prior attempts at transferring free/open source licensing practices to other domains, as in the "open content license" published in 1998.

The second factor which was crucial for the rapid expansion of Creation Commons is the transnationalization of the community and the organization. This resulted from the strategic decision to adapt licenses to national jurisdictions instead of disseminating a unique global license. A comparison of the porting strategy of Creative Commons with the single-license diffusion strategy of the Free Software Foundation for the GNU license reveals the differences. A large number of independent local outposts in different jurisdictions helped to spread Creative Commons' ideas and tools within an impressively short period of time. In turn, the growing and more diverse nature of the national affiliation partners of Creative Commons had a retroactive effect on the community's composition and discussions as well as the decision-making and structures of the non-profit organization. As a consequence,

the goals and norms of the Creative Commons community are the result of a continuous transnational negotiation process rather than a fixed missionary agenda.

Last but not least, the success of Creative Commons is also a story of the intercohesion of overlapping communities reinforcing each other's efforts toward a common goal. While the epistemic community and the social movement clearly represent constitutive parts of Creative Commons, it is difficult to draw exact borderlines between them. Individuals and organizations rarely belong to *only* one of the two parts – even though they would mostly identify themselves as primarily belonging to a particular fraction. This has generated the sort of intercohesion between distinctive communities which Balazs Vedres and David Stark (2008) identify as a source of organizational and institutional innovation. It has generated a beneficial range of reinforcing effects: Epistemic reasoning and professional expertise have made licenses available, NGOs have promoted the idea of a digital commons to new application fields, users have applied licenses to new objects, new demands for licensing have emerged. As beneficial as the intercohesion between the groups has been in terms of expansion, it has also generated internal tensions and conflicts over future directions and the modes of decision-making to be used.

Once more, it was in the context of the non-profit organization that these conflicts were first articulated and the attempt was made to solve them. When Creative Commons' officials recognized conflicting demands between the epistemic and activist part of the community, they reacted with corresponding reorganization measures. Hence, core activists tried to preserve the reinforcing, yet partly contradictory dynamics of two different, but overlapping types of community via formal organizational decoupling. As far as the Creative Commons community wishes to draw continued benefits from the diversity of professional and political backgrounds of its members in the future, it cannot even aim at resolving the ambiguities of the existing heterogeneity completely: It will have to live with and balance them. The Creative Commons case, thus, shows both the potential as well as the limitations for actors to actively and purposefully transform structural features of their community.

In this paper, we have concentrated on Creative Commons as a symbiotic interpenetration of communities with a formal organization. We have shown that this hybrid constellation has been able to produce and disseminate standardized open content licenses and thus qualifies as a private rule-setter in global governance. More research is required about the reactions of other players in the field to this initiative and to evaluate the effects it may have in the longer term on the existing copyright regime. Notwithstanding these caveats, the evidence presented in this paper suggests that transnational communities can play an important role as rule-setting actors in transnational governance fields and that their involvement in rule setting can go far beyond agenda setting and issue framing. In the governance field studied in this paper, individuals and organizations from both the epistemic and the

social movement communities have been involved in standard setting, diffusion, and adaptation, thus covering the full rule-setting cycle. Whether this is particularly the case in governance fields where, like the copyright field, a strong "incumbent regulation" is challenged or whether it is valid for transnational governance fields in general is a matter for further examination.

References

Berry, David/Giles Moss, 2005: On the "Creative Commons": A Critique of the Commons without Commonalty. In: Free Software Magazine, 5, <www.freesoftwaremagazine.com/art-icles/commons_without_commonality>.

Blau, Peter M., 1963: *The Dynamics of Bureaucracy: A Study of Interpersonal Relations in Two Government Agencies*. Revised Edition. Chicago: University of Chicago Press.

Boli, John/George M. Thomas, 1999: *Constructing World Culture: International Nongovernmental Organizations since 1875*. Stanford, CA: Stanford University Press.

Brunsson, Nils, 2003: *The Organization of Hypocrisy: Talk, Decisions and Action in Organizations*. Copenhagen: Copenhagen Business School Press.

Brunsson, Nils/Bengt Jacobsson, 2000: *A World of Standards*. Oxford: Oxford University Press.

Clemens, Elisabeth S./Debra C. Minkoff, 2004: Beyond the Iron Law: Rethinking the Place of Organizations in Social Movement Research. In: David A. Snow/Sarah A. Soule/Hanspeter Kriesi (eds.), *The Blackwell Companion to Social Movements*. Malden, MA: Blackwell Publishing, 155–170.

Cohen, Robin/Paul Kennedy, 2000: *Global Sociology*. Basingstoke: Macmillan.

Dahrendorf, Ralf, 1959: *Class and Class Conflict in Industrial Society*. Stanford: Stanford University Press.

Davis, Gerald F., et al. (eds.), 2005: *Social Movements and Organization Theory*. Cambridge, MA: Cambridge University Press.

Davis, Gerald F./Mayer N. Zald, 2005: Social Change, Social Theory, and the Convergence of Movements and Organizations. In: Gerald F. Davis/Doug McAdam/Richard W. Scott/Mayer N. Zald (eds.), *Social Movements and Organization Theory*. Cambridge, MA: Cambridge University Press, 335–350.

Della Porta, Donatella/Sidney Tarrow, 2005: *Transnational Protest and Global Activism*. New York: Rowman and Littlefield.

DiBona, Chris/Sam Ockman/Mark Stone (eds.), 1999: *Open Sources: Voices from the Open Source Revolution*. Sebastopol: O'Reilly.

Djelic, Marie-Laure/Sigrid Quack (eds.), 2003: *Globalization and Institutions: Redefining the Rules of the Economic Game*. Cheltenham: Edward Elgar.

Djelic, Marie-Laure/Sigrid Quack, 2008: Institutions and Transnationalization. In: Royston Greenwood et al. (eds.), *Handbook of Organizational Institutionalism*. Thousand Oaks: Sage, 299–323.

Djelic, Marie-Laure/Kerstin Sahlin-Andersson (eds.), 2006: *Transnational Governance: Institutional Dynamics of Regulation*. Cambridge: Cambridge University Press.

Dolata, Ulrich, 2003: *Unternehmen Technik. Akteure, Interaktionsmuster und strukturelle Kontexte der Technikentwicklung: Ein Theorierahmen*. Berlin: edition sigma.

Dreier, Thomas/Georg Nolte, 2006: Einführung in das Urheberrecht. In: Jeanette Hofmann (ed.), *Wissen und Eigentum: Geschichte, Rechte und Ökonomie stoffloser Güter*. Bonn: Bundeszentrale für politische Bildung, 41–63.

Eisenhardt, Kathleen M., 1989: Building Theories from Case Study Research. In: *Academy of Management Review* 14(4), 532–550.

Green, Matthew, 2002: Napster Opens Pandora's Box: Examining How File-Sharing Services Threaten the Enforcement of Copyright on the Internet. In: *Ohio Law Journal* 63, 799–818.

Haas, Peter M., 1992: Introduction: Epistemic Communities and International Policy Coordination. In: *International Organization* 46(1), 1–35.

——, 2007: Epistemic Communities. In: Daniel Bodansky/Jutta Brunnée/Ellen Hey (eds.), *The Oxford Handbook of International Environmental Law*. Oxford: Oxford University Press, 791–806.

Heineke, Corinna, 2006: Adventure TRIPS – Die Globalisierung geistiger Eigentumsrechte im Nord-Süd-Konflikt. In: Jeanette Hofmann (ed.), *Wissen und Eigentum: Geschichte, Rechte und Ökonomie stoffloser Güter.* Bonn: Bundeszentrale für politische Bildung, 141–163.

Keck, Margaret E./Kathryn Sikkink, 1998: *Activists Beyond Borders: Advocacy Networks in International Politics*. Ithaca: Cornell University Press.

Lawrence, John, 1996: Intellectual Property Futures: The Paper Club and the Digital Commons. In: Charles Ess (ed.), *Philosophical Perspectives on Computer-Mediated Communication.* New York: State University of New York Press, 95–114.

Lessig, Lawrence, 1999: *Code and Other Laws of Cyberspace*. New York: Basic Books.

——, 2004: *Free Culture: How Big Media Uses Technology and the Law to Lock Down Culture and Control Creativity*. New York: The Penguin Press.

Marin, Bernd/Renate Mayntz, 1991: *Policy Networks: Empirical Evidence and Theoretical Considerations*. Frankfurt a.M.: Campus.

Mayntz, Renate, 2008: *Global Structures: Markets, Organizations, Networks – and Communities?* Paper presented at the workshop "Transnational Communities," April 17–18, 2008, Cologne, Germany.

Mayntz, Renate/Fritz W. Scharpf, 1995: Der Ansatz des akteurzentrierten Institutionalismus. In: Renate Mayntz/Fritz W. Scharpf (eds.), *Gesellschaftliche Selbstregelung und politische Steuerung*. Frankfurt a.M.: Campus.

McAdam, Doug/John D. McCarthy/Mayer N. Zald (eds.), 1996: *Comparative Perspectives on Social Movements*. Cambridge: Cambridge University Press.

Merton, Robert K., 1968: *Social Theory and Social Structure.* Enlarged Ed. New York: Macmillan.

Miller, Daniel/Don Slater, 2000: *The Internet: An Ethnographic Approach*. Oxford: Berg.

Möller, Eric, 2006: The Case for Free Use: Reasons Not to Use a Creative Commons-NC License. In: Bernd Lutterbeck/Matthias Bärwolff/Robert A. Gehring (eds.), *Open Source Jahrbuch 2006*. Berlin: Lehmanns Media.

Morgan, Glenn, 2001: Transnational Communities and Business Systems, Global Networks. In: *A Journal of Transnational Affairs* 1(2), 113–130.

Portes, Alejandro, 2001: Introduction: The Debates and Significance of Immigrant Transnationalism. In: *Global Networks* 1(3), 181–194.

Plehwe, Dieter, 2008: *The Making of a Comprehensive Transnational Discourse Community: The Mont Pèlerin Society of Neoliberal Intellectuals.* Paper presented at the workshop "Transnational Communities," April 17–18, 2008, Cologne, Germany.

Pries, Ludger (ed.), 2001: *New Transnational Social Spaces: International Migration and Transnational Companies in the Early Twenty-First Century*. London: Routledge.

Pries, Ludger, 2007: *Die Transnationalisierung der sozialen Welt: Sozialräume jenseits von Nationalgesellschaften.* Frankfurt a.M.: Suhrkamp.

Randeria, Shalini, 2003: Cunning States and Unaccountable International Institutions: Legal Plurality, Social Movements and Rights of Local Communities to Common Property Resources. In: *European Journal of Sociology* 1, 27–60.

Ren, Yuqing/Robert Kraut/Sara Kiesler, 2007: Applying Common Identity and Bond Theory to Design of Online Communities. In: *Organization Studies* 28(3), 379–410.

Rhodes, Rod A.W., 1997: *Understanding Governance: Policy Networks, Governance, Reflexivity and Accountability*. Buckingham: Open University Press.

Siegrist, Hannes, 2006: Geschichte des geistigen Eigentums und der Urheberrechte: Kulturelle Handlungsrechte in der Moderne. In: Jeanette Hofmann (ed.), *Wissen und Eigentum: Geschichte, Rechte und Ökonomie stoffloser Güter*. Bonn: Bundeszentrale für politische Bildung, 64–80.

Vedres, Balazs/David Stark, 2008: *Opening Closure: Intercohesion and Entrepreneurial Dynamics in Business Groups*. Unpublished Manuscript.

Tarrow, Sidney, 1998: *Power in Movement: Social Movements and Contentious Politics*. Cambridge: Cambridge University Press.

——, 2000: *Transnational Contention*. Working Paper RSC No. 2000/44. Florence: European University Institute.

Tilly, Charles, 2004: *Social Movements, 1768–2004*. Boulder: Paradigm Publishers.

Witzel, Andreas, 2000: Das problemzentrierte Interview. In: *Forum Qualitative Sozialforschung/Forum: Qualitative Social Research* 1(1), <www.qualitative-research.net/fqs-texte/1-00/1-00witzel-d.htm> (29.4.2006).

Van den Ven, Andrew H./Scott M. Poole, 2005: Alternative Approaches for Studying Organizational Change. In: *Organization Studies* 26(9), 1377–1404.

Vertovec, Steven, 2001: *Transnational Social Formations: Towards Conceptual Cross-Fertilization*. Paper presented at the workshop on "Transnational Migration: Comparative Perspectives," Princeton University. Working Paper 01–16. University of Oxford.

Wayner, Peter, 2002: *Free for All: How Linux and the Free Software Movement Undercut the High-Tech Titans*. New York: HarperCollins.

Wenger, Etienne C., 1998: *Communities of Practice: Learning, Meaning, and Identity*. Cambridge: Cambridge University Press.

Wenger, Etienne C./William M. Snyder, 2000: Communities of Practice: The Organizational Frontier. In: *Harvard Business Review* 78(1), 139–145.

Yin, Robert K., 1994: *Case Study Research: Design and Methods*. Thousand Oaks: Sage Publications.

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