

Transcript for **The Evolution of IP: The Past and Future** video

Note: Interview transcripts have been edited for clarity and consistency. Numbers in brackets [0.00] indicate timestamps for the video. Ellipses in brackets [...] indicate that material has been deleted from the excerpt.

Jim Purdy [00.00]: The concept of IP has evolved over time and this evolution reflects particular historical contexts. Yet this evolution and these contexts can be invisible. Speakers in *The Evolution of IP: The Past and Future* video help make this evolution visible by reinforcing that we in writing studies should teach IP as in process, not as fixed and monolithic but rather as contextually situated in time and place. Participants in this video discuss ways in which the ever-changing landscape of IP intersects--and can interfere--with their own teaching about IP as well as how students come to understand IP. A complete summary of the video is provided in the Video Summary section of the webtext. The Pedagogical Takeaways section summarizes the options interview participants suggest for having IP conversations with students and colleagues regarding IP's history and future.

Joyce Carter [01.05]: What is hard to transfer is—and this is what's so tricky about this kind of law and these kinds of practices—is that what makes sense with one thing in one era, just change a variable or change a few years, and it's not nearly as clear as it was.

John Logie [01.21]: And if we allow the fear of plagiarism to be compounded with a fear of copyright violation with none of the defenses: “This is clearly *de minimis*...” or “This is clearly protected by an academic safe harbor...” “This is clearly fair use...” then what we do is we end up stifling our students' ability to engage critically with 21st Century texts. And worse, we prevent them from making use of the skill sets that they have developed just by being on social media: cutting and pasting and editing photos, making memes, building their own memes. They've got these rich digital skill sets, but if we approach them with 19th Century understandings of...well no, in 19th Century understandings copyright was better. I'll just go with “post-international intellectual property views.” And this is something that I need to wedge in—and I know we're getting to the end, but this is critically important—the term “intellectual property,” functionally did not exist before 1967. I am older than intellectual property as a concept that it wasn't in general parlance or generally recognized. So we managed to have copyright and patent without having that umbrella term, and without propertizing to the degree we now do for the stuff that we think up. We were able to do that for most of our history. So, I think we need to un-ring that bell to the extent that we can. And let's talk about copyright as copyright. Let's talk about plagiarism as plagiarism. Let's let those topics be as narrow as they really are if you take up the spirit in which they were developed, which is maximizing our production and encouraging learning. I think we can claw our way back there. And I think that's going to take overt legislative action. I think it's going to take low-level guerilla theatre kind of action, and I think it's going to take supporting our next generations of graduate students.

Charles Lowe [04.20]: And so I think that students have a way to come to these conversations and engage with them that was not possible 20 years ago...maybe 25 years ago. And these kinds of conversations also lead into other issues about IP that are not related to writing such as looking at GMOs, for example, and all these genetically patented foods—what does that mean for Third world countries, when they're told they have to buy the patented seeds, or farmers who find all of a sudden that their crop—they've been told to destroy their crop or pay a licensing fee because it cross-bred with the patented seed at the next farm. We start looking at...move into medical, and look at the idea of people owning parts of the human genome [or sequencing] and what kind of implication does that have? So, maybe these aren't the best fit for the writing classroom in many circumstances, but starting with what we can talk about that is a direct fit for many of our classes allows students to bridge into these other issues, to start wondering about what kinds of effects does technology have on intellectual property, and why are the laws—at least for my opinion—why do they seem to be situated very strongly to support the ownership of the property rather than the sharing of the property, and what are the differences and the benefits to society?

Jeffrey Galin: [05.57]: Near future and far future I see different things. Near future, I would say, as you mentioned, the Georgia State case will be the definitive case of our generation, I would say. I don't think they'll be another case on fair use and online resources for at least another twenty years. Nothing like this one. But I think this is gonna set the standard for all of us, and we need to be aware of it. I think we'll get more cases on...I think we'll get cases on commercial vendors misusing licenses that were Creative Commons licenses. That there will be lawsuits based on that concept of Creative Commons. I think there will be broader use of Creative Commons, although I will say that the energy behind Creative Commons to have sort of slipped. I haven't seen much discussion or much publishing about Creative Commons licensing in the last five years. And while it probably continues to grow, I think any movement like Creative Commons has to stay active and current, and continue to be raised in the public consciousness. Otherwise it tends to fade. [...] I would expect that discussions of distance education, ownership of distance education materials will continue to be university-based. I expect, in fact, that at this time majority of universities that provide substantial distance education coursework now claim ownership to that teaching material at most universities across the country. And I still think that's problematic. At the very least, there should be discussions of unbundling those intellectual property rights, so that faculty have greater opportunity to use those rights—some of these policies are highly restrictive, some of them are, in fact, unbundled, that is, they allow faculty to take the materials to other institutions, but their home institution has a right to keep using them beyond the faculty's presence, or even delivering them to other colleagues who teach. But if one does that, I would rather...I would like to see to remove...to have my personal name removed from materials that I create. [...] In terms of court cases, or other big splash issues that might emerge, it's possible that we'll see a resurgence of the copyright extension act. I don't think that's gonna happen. I didn't realize this until I spoke with Ken Crews recently, but he said the reason that there was such a big push last time, was not so much because Disney was losing its hold on copyrights for Mickey Mouse and Donald Duck, but because the European Union had

the standard of 70 years plus the life of the author. And that the US was eager to have its international and national laws correspond.

Jim Purdy: Oh! That's interesting.

Jeffrey Galin: And so the push to move beyond 70 years really has no...there's no incentive beyond someone like Disney to do so. And so the odds of it going any further are pretty low. What else might emerge? I expect there'll be a lot of discussion over remix and multimodal teaching, continue doing that—continued discussion. There will be continued discussion every three years at the triennial [role]-making for the Digital Millennium Copyright Act. And every year those current exceptions need to be renewed. Every year...every three years those current exceptions need to be renewed. And every three years those exceptions are extended in some way. And so, that discussion should continue...And I think the whole conversation of open access and tenure, it has to be resolved. I think there has to be a large push. So, all of these things are near term, in the next ten years. I would say far term, *Google Books*, I think is gonna prove to be the cultural heritage of the United States. And perhaps of the Western World. I think that *Google Books* is gonna prove—and I think this was part of their grandiose scheme at the outset; having that tricorder, that you could call up anything, right? from *StarTrek*—well current copyright laws prevent the distribution of most of those orphan works, or a lot of those orphan works at the present time. Within 30 or 40 years, many of those works are gonna be out of copyright, and will be freely available. And the farther we get past this 70 years plus life—this life plus 70—the more available we'll have these works that *Google* has scanned. I think that the more works that become available, the more culture that gets shared, the more likelihood that there'll be push for reducing the amount of protection for copyright.