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**REMIX: MAKING ART AND COMMERCE THRIVE IN THE  
HYBRID ECONOMY**

[Book Review]

REMIX: MAKING ART AND COMMERCE THRIVE IN THE HYBRID ECONOMY. By Lawrence Lessig. New York: Penguin Press 2008. Pp. 352. \$25.95.

*Reviewed by J. Richard Stevens\**

“What does it mean to society when a whole generation is raised as criminals?”<sup>1</sup> This question frames the rationale for Lawrence Lessig’s latest (and reportedly the final) exploration of digital copyright, leading to discussions of the culture war waged over digital content rights, the emergence of amateur media expressions and the economics of online content delivery.

A professor of law at Stanford University, Lessig is the co-director and founder of the Center for Internet and Society as well as a founding board member of Creative Commons. His book *Code and Other Laws of Cyberspace*<sup>2</sup> illustrated how legal code and software code grant unprecedented power to corporations. He followed with a case against corporate control of the commons in *The Future of Ideas*.<sup>3</sup> In *Free Culture*,<sup>4</sup> Lessig leveled a scathing critique against corporate copyright holders in, arguing that copyright destroys the freedom to create new cultural forms.

*Remix* extends the arguments from *Free Culture* to the blending of content (remixes), putting a face on the cultural conflict being waged across the Internet. As he posits, our children become the collateral damage in the war over intellectual property, because the online platform “invites our kids to be creative. Yet a system of law prevents them from creating legally. The

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<sup>1</sup> LAWRENCE LESSIG, REMIX: MAKING ART AND COMMERCE THRIVE IN THE HYBRID ECONOMY xvii (Penguin Press 2008).

<sup>2</sup> LAWRENCE LESSIG, CODE AND OTHER LAWS OF CYBERSPACE (Basic Books 2000).

<sup>3</sup> LAWRENCE LESSIG, THE FUTURE OF IDEAS: THE FATE OF THE COMMONS IN A CONNECTED WORLD (Penguin Press 2002).

<sup>4</sup> LAWRENCE LESSIG, FREE CULTURE: THE NATURE AND FUTURE OF CREATIVITY (Penguin Press 2005).

regulation of this creativity thus fails every important standard of efficiency and justice.”<sup>5</sup>

Lessig suggests these conflicting messages are causing a crisis in

[T]he basic integrity of our kids. Our kids are “pirates.” We tell them this. They come to believe it. Like any human, they adjust the way they think in response to this charge. They come to like the life as a ‘pirate.’ That way of thinking then bleeds. Like the black marketers in Soviet Russia, our kids increasingly adjust their behavior to answer a simple question: How can I escape the law?<sup>6</sup>

From this central missive, Lessig explores the history of American copyright, pointing out that the seminal argument posed by 20<sup>th</sup> Century artists like John Phillip Sousa was for the protection of rights to keep mechanical reproductions from stifling the activities of “yeoman creators,” the amateur performances that create and sustain popular culture. Without controls, Sousa worried, Americans would soon “not have a vocal chord left.”<sup>7</sup>

But when Congress increased copyright control, the system quickly expanded beyond this simple concern, as the wording protecting “copies” granted sweeping powers to copyright holders over not only original forms, but derivative expressions that included the very amateur performances Sousa tried to protect.

Lessig labels these amateur performance “Read/Write” (RW) culture, arguing that from the beginning of time, consumers of culture have 'read' cultural expressions and incorporated those readings into their 'writing'. Copyright law instead created an imperative towards what Lessig terms “Read/Only” (RO) culture, in which creators maintain near complete control over the terms and conditions under which their creations may be experienced.

The first section of *Remix* explores the differences between RW and RO cultures. Lessig points to how the 1976 Copyright Act, when combined with recent software code, locks down culture, stifling creativity and keeping amateurs from adding value to the work of professional creators.

This argument leads to the jewel of the book, Lessig’s discussion of different economic models for digital content. Successful online content creators (such as Amazon, Wikipedia, Netflix and craigslist) utilize three keys: utilizing long tail distributions, leveraging smart surveillance, and allowing users to customize the functionality of platforms.

These tools bridge the division between the capital economy and the sharing economy, building on what Lessig calls the “hybrid economy”:

Commercial economies build value with money at their core. Sharing economies build value, ignoring money . . . . The hybrid is either a commercial entity that aims to leverage value from a sharing economy, or it is a sharing economy that builds a commercial entity to better support its haring aims. Either way, the hybrid links two simpler, or purer, economies, and produces something from the link.<sup>8</sup>

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<sup>5</sup> LESSIG, *supra* note 1, at 266

<sup>6</sup> *Id.*, at 283.

<sup>7</sup> *Id.*, at 25.

<sup>8</sup> *Id.*, at 177.

Through his descriptions, Lessig differentiates between “thick” (or “we-regarding”) economies and “thin” (or “me-regarding”) economies,<sup>9</sup> creating a taxonomy that bears a striking resemblance to Robert Putnam’s descriptions of strong and weak social ties in *Bowling Alone*.<sup>10</sup>

Other authors have contributed pieces of this argument and Lessig incorporates the work of Chris Anderson,<sup>11</sup> Henry Jenkins,<sup>12</sup> Dan Bricklin,<sup>13</sup> Don Tapscott and Anthony Williams,<sup>14</sup> Clayton M. Christensen,<sup>15</sup> and Lewis Hyde<sup>16</sup> into his framework. The works cited are important in their own right, but Lessig’s assembly provides an approachable synthesis of the major interlocking components of these phenomena, explaining the profitability of Web 2.0 approaches to content.

Lessig’s third section contains a call to reform copyright law. Lessig argues that by preventing amateurs and artists from incorporating pieces of content into their own works, copyright law in effect deprives them of a digital “paint on a palette” because the references themselves become an essential part of the contextual language of digital media.<sup>17</sup> Because the differentiation between ‘use’ and ‘copy’ are blurred in digital media (one cannot browse a Web site, for example, without creating a perfect copy of the content in question, seemingly violating the technical language of copyright law), existing copyright has become a barrier to new media literacy. Practices common in other media expressions, such as quotation of key passages in print, become illegal in new media forms.

But Lessig is also quick to qualify his stance against an outright abolishment of copyright:

Copyright law must be changed. *Changed*, not abolished. I reject the calls of many (of my friends) to effectively end copyright. Neither RW nor RO culture can truly flourish without copyright. But the form and reach of copyright law today are radically out of date.<sup>18</sup>

Toward these ends, Lessig proposes five changes to copyright law, including the deregulation of amateur creativity, the creation of a clearer system of title, a simplification of the copyright code, the decriminalization of producing digital copies and the decriminalization of file sharing.

Within the context of his previous books, *Remix* concludes a natural arc began with the release of *Code*. Each book approaches the intersection of law and technical code with an increasingly narrow focus. Readers will notice a strong resemblance between the first section of

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<sup>9</sup> *Id.*, at 152.

<sup>10</sup> ROBERT PUTNAM, *BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY* (Simon & Schuster 2001).

<sup>11</sup> CHRIS ANDERSON, *THE LONG TAIL: WHY THE FUTURE OF BUSINESS IS SELLING LESS OF MORE* (Hyperion 2006).

<sup>12</sup> HENRY JENKINS, *CONVERGENCE CULTURE: WHERE OLD AND NEW MEDIA COLLIDE* (New York University Press 2008).

<sup>13</sup> Dan Bricklin, President, Software Garden, *The Cornucopia of the Commons: How to Get Volunteer Labor*, (Oct. 12, 2006), available at <http://www.bricklin.com/cornucopia.htm>.

<sup>14</sup> DON TAPSCOTT & ANTHONY WILLIAMS, *WIKINOMICS: HOW MASS COLLABORATION CHANGES EVERYTHING* (Portfolio 2006).

<sup>15</sup> CLAYTON CHRISTENSEN, *THE INNOVATOR’S DILEMMA: WHEN NEW TECHNOLOGIES CAUSE GREAT FIRMS TO FAIL* (Harvard Business School Press 1997).

<sup>16</sup> LEWIS HYDE, *THE GIFT: IMAGINATION AND THE EROTIC LIFE OF PROPERTY* (Vintage Books 2004).

<sup>17</sup> LESSIG, *supra* note 1, at 74.

<sup>18</sup> *Id.*, at 254.

*Remix* and his previous work in *Free Culture*. Most of the book summarizes and reframes Lessig's earlier works rather than breaking new ground. But like any good remix, the familiar refrains find new significance within the new context, teasing out new nuances and implications. *Remix* is certainly Lessig's most approachable book, combining the complexity of technical platforms with the intricacies of copyright law communicated through grounded examples.

The result is an important work that scholars and casual readers alike should have little trouble engaging. Even for those familiar with Lessig's previous work, the middle section of the book on hybrid economic models is worth the price of the book. Few writers engage such complex topics with such clarity. If this is indeed Lessig's last printed contribution to the digital copyright wars, his voice will be missed.