Skip to content.

Sections

- About Us
- News & Events
- Reading Room
- Issues
- Take Action!
- Why the Public Domain Matters

- PK LOGO
- home
- subscribe
- contact
- donate

- Search
  Seard

New Database Bill is Pending in the House--Your Right to Get the Facts is at Stake

The Database and Collections of Information Misappropriation Act (HR 3261) is currently pending in the United States House of Representatives and to the detriment of the public interest, would create a new type of intellectual property for databases.

Recently, HR 3261, the "Database and Collections of Information Misappropriation Act" was introduced by Representatives Coble, Smith,

Hobson, Greenwood, Tauzin, and Sensenbrenner. This bill is an attempt to create a new type of intellectual property specifically for databases, but is deeply flawed and further strikes at the very heart of the public interest in an informed democracy.

Education and Democracy

We live in a nation in which any individual can become educated, drawing upon publicly available information, to fulfill his or her fullest potential as a participant in democracy. The barriers to achieving that goal should be minimal. Information that falls outside the already-established categories of intellectual property is a shared resource, a public good, and one that is enriched rather than diminished by policies that increase rather than decrease everyone's access to it.

This approach to information, and its importance to the opportunities inherent in democracy, informed citizenship, and self-education stand in fundamental opposition to proposals like HR 3261, that create new intellectual property schemes to lock information up and ensure that every individual pays a toll for every fact he or she learns.

Virtually all creative works—works that are protected for limited terms under copyright law—draw upon publicly available information of the sort that is widely available in libraries, in reference documents, and, increasingly, on the Internet itself. Indeed, this is an aspect of the Internet revolution that our policymakers should celebrate—whole new generations of Americans look it up on "the Net" when they want to know more about any given topic.

Sufficient Protection Under Copyright Law

The core principal of the Copyright Act is that mere information and ideas are not protectable. Further,

under Feist v. Rural Telephone, only the creative expression and/or assembly of information is protectable. Indeed, neither the Framers of the Constitution, nor the Supreme Court in interpreting the Copyright Clause, has ever taken so broad a view of Congress' powers as to suggest that Congress can put a price tag, not just on copyrighted or patented works, but on every fact worth knowing. Thus, the mere assembly or aggregation of data, when not compiled or assembled in a creative matter, is outside the scope of Congress to protect under its copyright power as that power has long been understood.

No Need for Stronger Database Protection

Certainly we recognize that the companies supporting database protection offer the public a valuable service in the ways that they organize data and make it available commercially. But it is precisely because the services that they offer—professional editing, organizing, and supervision of new information on a minute-by-minute basis—are so valuable that the perception of any general threat to these enterprises is at best, overblown. There will always be a significant role for these commercial services, even when researchers lawfully extract public information that has been assembled into these companies' commercial databases and re-use it elsewhere in creative or scholarly or scientific work.

Consider one obvious example: when a Western novelist researches in the Encyclopedia Britannica the history of the state of Utah for a new book, nothing in his or her publication of that book will diminish the value of Encyclopedia Britannica in the slightest, so long as the novelist did not infringe on the copyrighted particular expression of information in the Britannica article. And in the rare case in which some entity contracts with a database company and violates its contract with the provider (for example by substantially duplicating

to Copyright Legislation
read more >>
Public Knowledge Statement on Copyright Office Draft Legislation
read more >>
Public Knowledge Reacts to House Judiciary Committee Approval of Copyright Bill
read more >>
Public Knowledge Urges Support For Alternative Copyright Legislation
read more >>
Public Knowledge Statement on Ninth Circuit Decision in the Grokster case
read more >>
Public Knowledge Supports RealNetworks Campaign for Freedom of Choice
read more >>
Public Knowledge Applauds FCC Certification of TiVo Technology
read more >>
XML

the database services and offering it in competition with the original provider) such inequities already are addressed by long-established principles of contract law, without need to resort to a special category of intellectual property protection for mere collections of facts.

Conclusion

Public Knowledge recognizes that the authors of HR 3261 have made a strong effort to address criticisms of earlier versions of this proposal, but we remain convinced the central concept of broadening database protection is a bad one. We believe a central democratic interest principle is at stake. Our leaders and policymakers should strive to make it easier and less costly—not more difficult and more costly—for citizens to have access to public information. This should be the goal even when that information has been assembled or reassembled by a small number of commercial enterprises.

Download Attachment (application/pdf) 0Kb
