

Consensus on Copyright?

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The copyright panel at the [State of the Net Conference](#) [2] here in D.C. earlier this week was notable for a surprising degree of consensus. The panel, entitled "User-Generated Content -- Can Copyright Tolerate Mixing & Mashing?" seemed to find basic agreement that:

- Mash-ups and sampling can play a legitimate and indeed valuable role in the creation of parodies and other new and transformative creative works.
- The current rights regimes for commercial content are too complex, with too many rights holders, for it to be feasible for would-be mashers and samplers to license all commercial content they use. So even if it is preferable in theory to require users to pay some type of licensing fees to the content owners (a point that panelists did not necessarily agree on), transaction costs may make such licensing impractical.
- On a more general level, the current copyright statute is too complex for a world where digital technologies have empowered widespread public participation in activities (creating, sharing, manipulating, and distributing creative content) governed by copyright.
- Congress should pass orphan works legislation.

Of course, the apparent consensus may owe a lot to the make up of the panel: Jim DeLong of PFF, Pam Samuelson of UC Berkeley, Steven Starr of Revver.com, and Rob Pegoraro of the Washington Post as moderator. Nobody directly representing the interests of the commercial content community -- the folks whose content gets "mixed and mashed." It would have been interesting to see if, where, and how vehemently any such representative would have dissented.

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