

Steamboat Willie and Intellectual Property

You've likely already seen him freely used across the Internet over the last two days. As of 2024, *Steamboat Willie*, the cartoon which introduced Mickey Mouse, entered the public domain.

This means that *Steamboat Willie* and its depictions of Mickey Mouse is fair game for any usage (I'd guess Disney likely will still try to be protective of modern renditions of Mickey). You can make and sell your own *Steamboat*-era Mickey shirts. You could produce your own *Steamboat Willie* shorts on TikTok. You could even release *Steamboat Willie* horror [video games](#) and [movies](#) (personally I recommend the title *Steamboat Willies*).

How did this happen? It may be hard to believe it in our regime of universal intellectual property (IP), but artistic works like drawings, art, and songs are all on the path to becoming public domain as soon as they are copyrighted.

It would be nice if I could give a simple rule explaining how many years it is before works join the public domain, but it isn't that easy. Depending on the year the work was created and the status of authorship, the rules change. Here's a simple chart from Wikimedia breaking down the different rules.



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Of course, this chart doesn't account for the fact that in the decades of protection, copyright laws can be changed. For example, *Steamboat Willie* was supposed to enter the public domain years ago, but the IP was protected by the Copyright Term Extension Act of 1998 (sometimes known as the Mickey Mouse Protection Act).

What can economics tell us about IP and the copyright system? First, we have to clarify what exactly IP laws protect.

Intellectual, Yes. But Property?

What is the basis of copyright law? On what grounds can people own an idea like Mickey Mouse? Why can't I sell my own drawings of Mickey Mouse?

To think about this, let's start by considering normal property. When you discover and cultivate or simply buy land, you become the owner of the land. Having the land as property is characterized by your ability to use it, transfer it via sale, or rent it out.

Owning property means that if someone tries to use your land without permission, you are within your rights to remove him from your land—using reasonable force if necessary.

Now think about intellectual property. If you create and cultivate a character like Mickey Mouse, you also have the right to use, transfer it, or rent it out. But now we run into an issue: IP is different from normal property in that someone else can, in theory, sell your IP without harming your own ability to do so.

If you're living in a house and someone steals the deed and sells your house, you're unable to sell it yourself anymore (provided you can't bring the thief to justice). On the flip side, if someone copies *Steamboat Willie* from you and sells it, you can still sell it too. Maybe you'd be competing with the copycat, but you aren't literally prevented from selling as in the case of the house.

This makes things tricky. To see why, think of what it would take to defend your IP from someone else copying it. If you defend your land or house, all you have to do is prevent trespassers and aggressors from trespassing on and damaging

your property. You can literally fence your property.

What about IP? Well, you can't really fence it. If I wanted to stop someone from copying *Steamboat Willie*, it would require me to enter someone else's property and prevent him from drawing or selling pictures of Mickey.

Owning land means I have to be able to prevent someone else's body from trespassing on my land. Owning an idea means I have to be able to prevent someone's body from making particular pen strokes and auctioning them off on his or her own property. Granting IP legitimacy requires the owner to have a lot more control over what other people do than do usual property owners.

Economics does not answer the question of whether IP is morally legitimate. The fields of philosophy and religion are better suited for this question. If you're interested in this sort of question, the [primer on individual rights](#) by my colleagues Dan and Patrick is a better place to start than here. Dan has written [elsewhere](#) regarding his view of IP in particular.

However, just because economics cannot answer questions about the moral legitimacy of IP doesn't mean it cannot analyze the effects of IP.

In fact, analyzing the results of differing arrangements of property rights is really the thing that economics is best at. Ultimately, economics tells us how rational people interact in the context of differing rules over time. So let's look at the tradeoffs inherent with IP.

Monopoly Mouse

So what is the impact for enforcing intellectual property? Well, IP essentially gives a company an exclusive right to sell a particular type of good. In this case, copyright over

Steamboat Willie and Mickey Mouse gives Disney the right to be the only company that sells any content or merchandise involving either.

Other businesses can compete by producing content with their own characters, but *Steamboat*-era Mickey is off limits. As a result, Disney content will have higher prices for customers and will bring in higher profits for Disney than if the IP were not legally protected. It also means fewer Mickey Mouse style goods will be produced.

This sounds like a bad deal for customers, and that's mostly true. However, proponents of IP see this result as a *feature*, not a bug. Supporters of IP want companies like Disney to sell at higher prices and make above-normal profits for their creations.

This should be surprising. Generally, the government claims to be opposed to monopolies. There is a whole agency, the FTC, dedicated to enforcing antitrust laws aimed at stopping monopolies from collecting above-normal profits. Yet, in the case of IP, the government is actively enforcing a monopoly (very narrowly defined) for the explicit purpose of creating high profits.

Why? Well, the argument is that without the profits guaranteed by IP laws, there wouldn't be an incentive for creativity, or at least the incentive would be diminished. If Walt Disney thought Mickey Mouse would be copied and repurposed by a large studio, perhaps he would've never gone on to make the mouse and found Disney.

So the monopoly exists to maintain creativity. When an action brings more benefit, we expect an individual will do more of that action.

But it isn't quite that simple.

Unseen Steamboat Spin-offs

It's true that the initial creator of a copyrighted work has a higher incentive to be creative, but one man's benefit is another man's cost. The legal force that backs up copyright provides a benefit to the initial creator, but it imposes a cost on anyone interested in creating spin-offs.

In the wake of Mickey Mouse being released into the public domain, we'll likely see a lot of creative spin-offs make use of the art by creating new content for customers to enjoy.

You might be a little skeptical, but let me remind you of another company which utilized the creative work of others in creative ways which revolutionized media: Disney.

That's right, the golden age of Disney was built on the back of creative work not pioneered by Disney the company or the person.

Movies like *Cinderella*, *Snow White*, and *The Little Mermaid* are based on tales much older than Disney. Even Disney's most famous original, *The Lion King*, draws heavy inspiration from Shakespeare's *Hamlet*.

When Disney created the *Snow White* movie, he did so with no expectation of keeping the IP, since the IP did not belong to the company. It didn't belong to anyone because "Snow White" is a German fairy tale recorded by the Brothers Grimm in the early 1800s.

The point is, while it's possible that IP can encourage creativity, it's also possible that IP can stifle creativity. Many of our greatest works of art are spin-offs from originals.

Personally, I welcome the release of *Steamboat Willie* into the public domain. It's time to relinquish the monopoly and let creators have the freedom to create that Disney has enjoyed

for years.

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