



# Imagining a World Without Copyright

Laura Burke





# Road Map

1. **Why we need to *Imagine a World Without Copyright***
2. **Introduction to Eastern Philosophies**
3. **Dissolving Copyright**
4. **Implications**

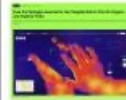
### Dating Apps & Intellectual Property



In anticipation of our presentation coming up on Friday, Scott and I have compiled a few brief readings for your perusal. We will be covering not specific IP topics in addition to the ones contemplated below. These are really just meant to get you thinking about what you generally think dating apps and...

This entry was posted in [Evolving Issues / Your Take](#) on March 13, 2024 at 10:05 PM by [Mazza](#)

### Data as Copyright



Good morning everyone, Sharvari and myself Friday on "Data as copyright". This post will go into we will be talking about. Code as Law- Strong argument that "code is law in the cyberspace", importance of "code" and...

This entry was posted in [Issues / Your Take](#) on March 21, 2024 at 5:04 PM by [Abram](#)

### Two Cases from Internet Courts in China concerning Copyright Aspects of AI-Generated Content



There has been a significant amount of debate about whether works should enjoy copyright protection or not. Given copyright protection if it is given if the same argument is generated content, the question remains as to whom a protection is attributed. The programmer? The AI itself?

This entry was posted in [Issues / Your Take](#) on March 9, 2024 at 3:40 PM by [Ahmed Raqq](#)

## Two Cases from Internet Courts in China concerning Copyright Aspects of AI-Generated Content



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This entry was posted in [Issues / Your Take](#)

## Why...


"I'm haunted that my beliefs are just the thought I keep thinking"- Karen French

### Copyright Conflicts in AI Generated Music



by Brittany, Jack, Jake and Rob: In our presentation this week we will be discussing the tension between AI and human creators in copyright, will specifically focus on music. We will examine how some early experiments in music generation in music are a precursor to current AI approaches to creation. As part of...

This entry was posted in [Issues / Your Take](#) on April 4, 2024 at 8:40 AM by [Silent Storm](#)



Hotshot Canadian Jazz musician, Jake releases song “Rebuilding Merica” in 2028. The hit song, quickly makes it to the Top 100 Billboard in the US.

Family of Stockhausen, sues Jake for Copyright infringement arguing that “Rebuilding Merica” uses a substantial part of Stockhausen Hymnen .

Luckily Jake went to law school and knows a thing or two about Copyright law, seeks your advice on whether the release of his song constitutes copyright infringement?

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## - Creators right v users rights

Purpose of the copyright act is to “balance the author and users rights” -*Bell Canada v Canada* .

## - Problem/solution



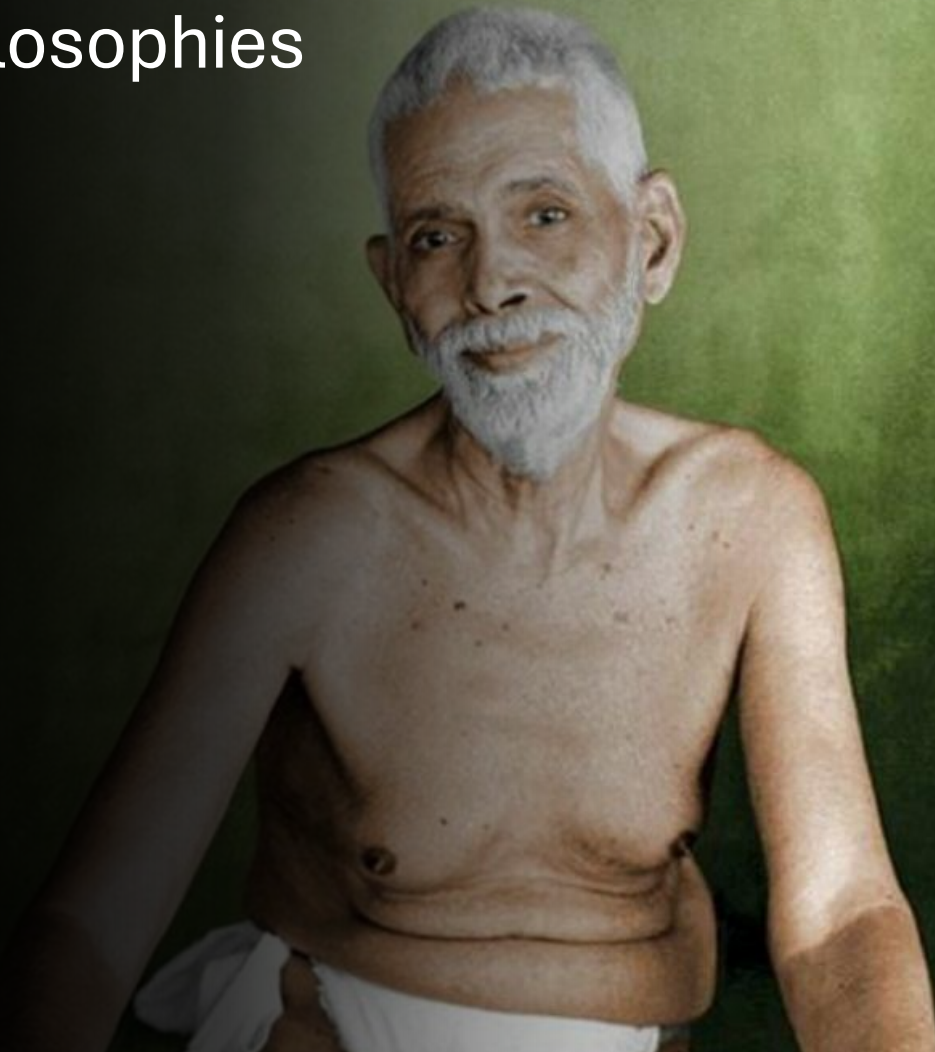
# — Intro to Eastern Philosophies

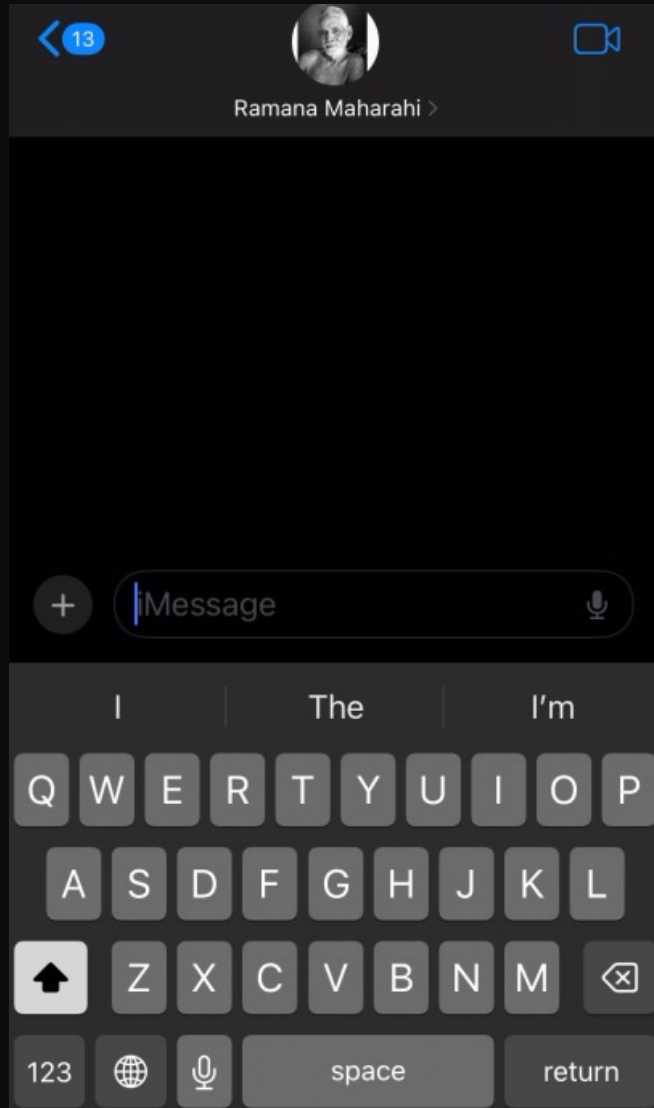
## Ramana Maharshi

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19<sup>th</sup> century Hindu Philosopher

*“The Oneness of  
Things”*





# Fundamental Assumptions

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- Hindu notion of “Namaste”
  - The teacher self and student self exist within us
  - Student = problem solvers
  - Teacher = question our fundamental assumption, and definition of what constitutes a problem
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## Zen Master Dogen

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*13<sup>th</sup> Century Buddhist who spread Zen Buddhism to Japan*

### *“The Unity of All Beings and Time”*

*“To study the Buddha Way is to study the self, to study the self is to forget the self, and to forget the self is to be enlightened by the ten thousand things. To be enlightened by the ten thousand things is to recognize the unity of the self and all things.” -(Dogen, 1241, Shōbōgenzō)*





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Carl Jung

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19<sup>th</sup>/20<sup>th</sup> century Swiss psychologist

## **“Collective Unconscious”**

“in addition to our immediate consciousness, which is of a thoroughly personal nature and which we believe to be the only empirical psyche, **there exists a second psychic system of a collective, universal, and impersonal nature which is identical in all individuals.** This collective unconscious does not develop individually but is inherited.”

*(Jung, Collected Works vol. 9.I (1959), "The Concept of the Collective Unconscious" (1936), ¶192 (p. 44))*

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## Sam Harris

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21<sup>st</sup> century Neuroscientist and Author

*“Don't fixate on any particular objects.*

*It's as though you were watching a movie and you could choose to focus on the screen itself.*

*It's the difference between seeing people and objects and seeing mere light on the wall. But in this case you ARE that condition.*

*You are not merely looking at it. Consciousness is aware of itself.*

*As a matter of experience, everything you see in this moment is made of consciousness, including the seen.*

*There is just this one condition. Simply rest as that. “*

NEW YORK TIMES BESTSELLER

SAM HARRIS

“An extraordinary and ambitious masterwork.”

—Maria Popova, *Brain Pickings*

WAKING UP

*A Guide to Spirituality  
Without Religion*

# Divergent Assumptions

## Conventional Legal Thinking    Eastern Modality

- |  |   |
|--|---|
| <ul style="list-style-type: none"><li>• The “self” exists, and operates as a demarcation between self and other (creator/ user)</li><li>• ownership</li><li>• Problem → solution</li></ul> | <ul style="list-style-type: none"><li>• The “self” as an illusion</li><li>• The unity of all things</li><li>• Problems are undone, rather than solved</li></ul> |
|--|---|

# Dissolving Copyright



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## 3 requirements for Copyright to subsist

–s2, 5(1) *Copyright Act*

1. Literary, dramatic, musical and artistic work

**2. Originality???**

3. Fixation

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# Originality

“for a work to be original it must be the product of an authors exercise of skill and judgment “ -[25]CCH *Canadian Ltd v Law Society of Upper Canada*

When an idea can only be expressed in a limited number of ways = less likely for Copyright to subsist *Red Label vacations*

**NOTE:** In France originality means both the **intellectual contribution** of the author and **the novel nature** of the work as compared with existing work



# Doctrine of Independent Creation

## **Preston v. 20th Century Fox Can. Ltd. (Ewok Case)**

"It is really not surprising that Lucas, Preston and Hurry drawing from a common pool of folklore, information and misinformation, conventions of science fiction and their own imaginations, should have come up with similar ideas about primitive human-like populations"

"Many of the detailed similarities, in my view, can be traced to the common store of folklore about primitive species with human characteristics upon which Lucas was as free to draw as were Preston and Hurry "

**Ring a bell.....Carl Jung: collective unconscious!!!**



# Public Interest Defense

## Canada:

Purpose: concern for public. Informed citizens -Mahoney J,  
*R v Lorimer*

Did the publication further the disclosure to the public of:

1. Materials relating to alleged misdeeds, or
2. Other matters of serious nature that are
  - (i) Important to the country, and
  - (ii) To the public welfare

## Outside of Canada:

**UK:** dealt with public interest in the context of information that ought to public and is not.' -*Hubbard et al v Vosper*

**US:** *Pentagon papers case*





# Fair Dealing... the user, is also the creator

TEST:

- 1) Whether the dealing is for an allowable purpose in s29?
- 2) whether dealing was fair?

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“from perspective of “user”- McLachlin CJ CHH v LSUC



# Implications of a World Without Copyright

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## **Economic**

- Incentive Theory of Copyright v Incentive fallacy

## **Social**

- Enhance public domain/ democratization of knowledge (e.g. OSS)
- Creativity?

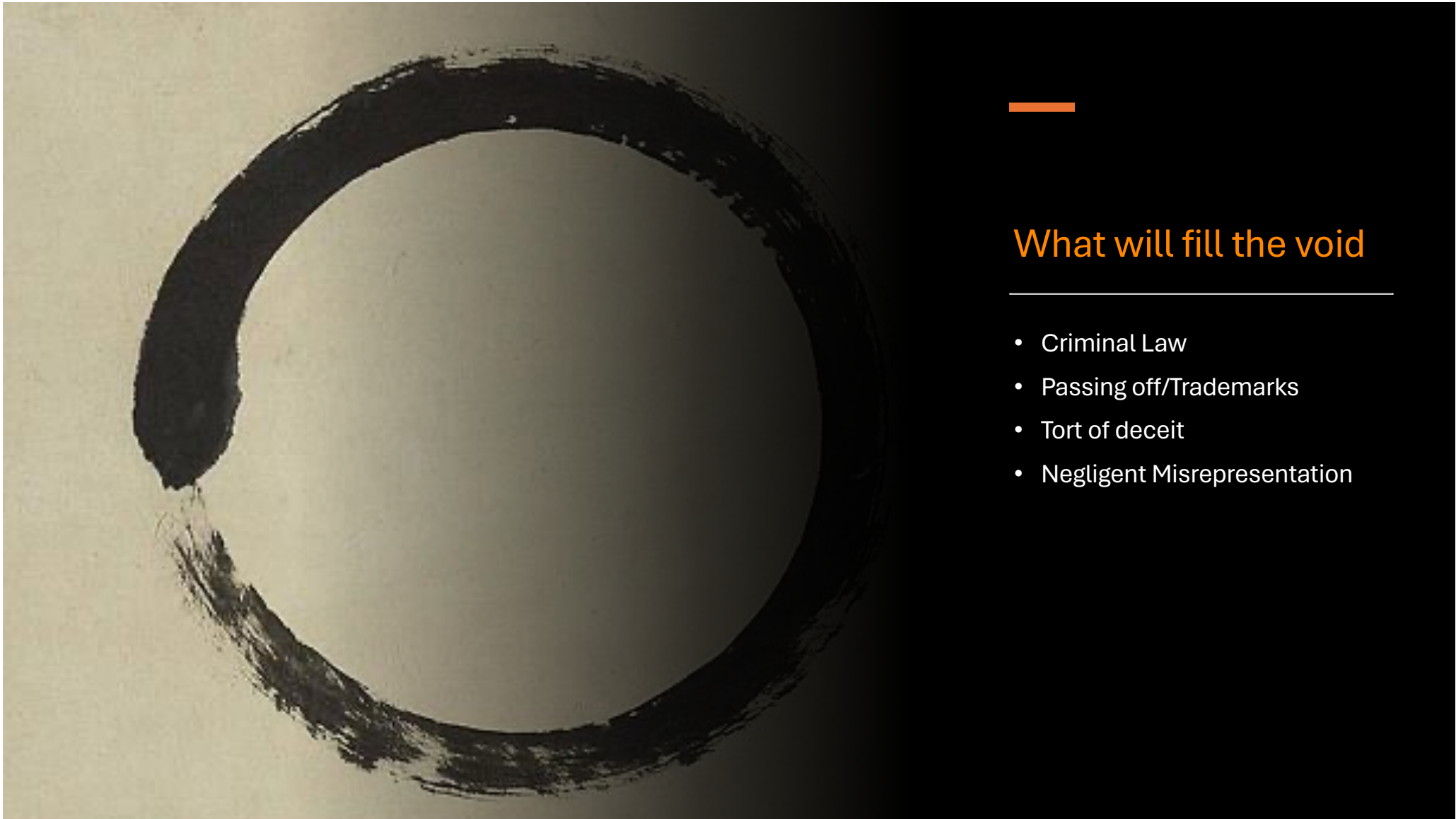
## **Political**

- Enhance trust in political institutions

## **Legal**

- Berne Convention
  - Intersection of other laws
  - Rule of Law and certainty
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## What will fill the void

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- Criminal Law
- Passing off/Trademarks
- Tort of deceit
- Negligent Misrepresentation