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For most of history, a great character or story or song has passed from its original creator into the public domain. Shakespeare and Charles Dickens and Beethoven are long dead, but Macbeth and Oliver Twist and the Fifth Symphony are part of our shared cultural heritage, free to be used or reinvented by anyone on the planet who is so inclined.

But 15 years ago Sunday, President Clinton signed the Sonny Bono Copyright Term Extension Act, which retroactively extended copyright protection. As a result, the great creative output of the 20th century, from Superman to "Gone With the Wind" to Gershwin's "Rhapsody in Blue," were locked down for an extra 20 years.

It was a windfall for the families and corporations that owned these lucrative copyrights. But it meant these iconic works would be off-limits to those who wanted to reuse or reinvent them without permission. And hundreds of thousands of lesser-known works aren't available at all, because there's no cost-effective way to obtain permission to republish them.

The copyright extension that Clinton signed will expire in five years. Copyright holders such as Disney and the Gershwin estate have a strong incentive to try to extend copyright extension yet further into the future. But with the emergence of the Internet as a political organizing tool, opponents of copyright extension will be much better prepared. The question for the coming legislative battle on copyright is who will prevail: those who would profit from continuing to lock up the great works of the 20th century, or those who believe Bugs Bunny should be as freely available for reuse as Little Red Riding Hood.Longer and longer

Today, copyrights can easily last for more than a century. Things were very different when the United States was founded. In America's original copyright system, protection lasted for only 28 years. By the mid-20th century, Congress had doubled the maximum term to 56 years.

Looking 56

Then, in 1976, Congress overhauled the copyright system. Instead of fixed terms with a maximum of 56 years of protection, individual authors were granted protection for their life plus an additional 50 years, an approach that had become the norm in Europe. For works authored by corporations - Hollywood blockbusters, for example - copyright terms were extended to 75 years.

The 1976 legislation granted a retroactive extension for works published before the new system took effect. The maximum term for already-published works was lengthened from 56 years to 75 years. That meant that any work that was still under copyright in 1978, when the new system took effect, was eligible for an additional 19 years of protection. Without the term extension, works published between 1922 and 1941 would have fallen into the public domain between 1978 and 1997.

Instead, those works remained under copyright, providing a windfall for the owners of iconic copyrighted works such as the original Mickey Mouse cartoon, "Steamboat Willie," and George Gershwin's "Rhapsody in Blue." When the 1990s arrived, the holders of those older copyrights began agitating for another extension. Copyrighted works from the 1920s were scheduled to begin falling into the public domain again in 1998, and copyright interests wanted Congress to stop that from happening.Following Europe's lead

"There was not a single argument that actually can stand up to any kind of reasonable analysis," says Dennis Karjala, a law professor at Arizona State University who emerged as a de facto leader of the opposition to the law. The supporters of the law, Karjala says, were "basically the Gershwin family trust, grandchildren of Oscar Hammerstein, Disney, others of that ilk" - that is, holders of copyrights in old works that were on the verge of expiring.

Supporters of the extension pointed to Europe. In 1993, the European Union added 20 years to the term of European copyrights. Under European law, American authors would enjoy longer copyright terms in Europe only if the United States followed Europe's lead and adopted "life plus 70" copyright terms.

"It didn't seem like there was any reason why American creators should be at a disadvantage vis-a-vis their European counterparts," says Preston Padden, who represented Disney in the late 1990s and is now affiliated with the University of Colorado Law School. "The old disparity invited mischief, like American creators artificially creating legal domiciles for Europe in order to gain the benefit of the longer license term." And, advocates said, if Congress were extending terms for new works, it would only be fair to extend terms for existing works as well.

Critics pointed out that extending copyright terms retroactively wouldn't benefit the public. After all, William Faulkner, George Gershwin and Walt Disney had died decades earlier. Granting longer copyright terms for their works couldn't cause them to produce any more masterpieces.

"To suggest that the monopoly use of copyrights for the creator's life plus 50 years after his death is not an adequate incentive to create is absurd," wrote Sen. Hank Brown (R-Colo.) in a 1996 report for the Senate Judiciary Committee. "The real incentive here is for corporate owners that bought copyrights to lobby Congress for another 20 years of revenue - not for creators who will be long dead once this term extension takes hold."

But Brown was in the minority. Indeed, Brown says, he was the only opponent on the committee. "I thought it was a moral outrage," says Brown, who left the Senate after not running for reelection in 1996

and now practices law in Colorado. "There wasn't anyone speaking out for the public interest."A lonely fight

Few members of Congress were opposed to the legislation, but Karjala was working to rally opposition to the legislation from outside Congress. The Copyright Office asked for comments on extending copyright terms in 1993. Karjala says he drafted a letter opposing the idea and got 30 or 40 of his fellow legal scholars to sign it. When Congress took up the idea in 1995, people encouraged Karjala to once again take a leading role. "I kind of groaned to myself," Karjala says. "I'm not an activist type of personality, but I thought, 'I guess I've started on this thing. I'm the only one who seems to be sufficiently energized about it.' "

To actually stop the legislation, Karjala needed powerful allies. And there were established groups that he thought should be helping out. This was long before Reddit and Wikipedia helped create a grass-roots copyright movement. But Karjala says that nonprofit groups representing professions such as librarians and historians had traditionally served as public-interest watchdogs on copyright issues. And those groups had lobbyists who could have helped stop copyright terms from being extended.

But his efforts to recruit them to fight term extension fell flat. With the bill looking unstoppable, most of these groups chose to make peace with the forces pushing the bill. Karjala says they were "bought off" by minor changes to the legislation that addressed specific issues that concerned them. "In exchange, they agreed not to oppose the rest of the bill," he says.

Brown did his best to slow progress on the bill. "I noted the absence of a quorum several times," he says, a tactic that delayed consideration of the legislation. "I did my best to extend the debate."'A hostage situation'

But the biggest reason the fight lasted as long as it did - legislation was introduced in 1995, but it didn't pass until 1998 - was that the restaurant industry saw the campaign for term extension as an opportunity to advance its own pet issue: getting a broader exemption for small bars and restaurants that played copyrighted music over the radio.

"This was a hostage situation," says Peter Jaszi, a law professor at American University who also testified against extending terms. Bars and restaurants didn't care about term extensions, but they threatened to bottle up the proposal unless they got their way.

Negotiations over the hospitality industry's demands slowed the passage of the Copyright Term Extension Act (CTEA). But eventually, policymakers agreed to pass the Fairness in Music Licensing Act, which addressed the hospitality industry's concerns, as a companion bill. When bars and restaurants dropped their opposition to term extension, the legislation's remaining opponents weren't powerful enough to stop it. It passed both houses of Congress on Oct. 7, 1998, and was signed by President Clinton on Oct. 27.

The retroactive extension of copyright terms soon drew a legal challenge. Eric Eldred was an Internet publisher who specialized in publishing works that were in the public domain. Represented by legal scholar Larry Lessig, Eldred became the lead plaintiff in a lawsuit challenging the constitutionality of retroactively extending copyright terms.

The Constitution requires that copyrights be granted for a limited time; Lessig argued that if Congress

has the power to retroactively extend copyright terms, it effectively has the power to grant unlimited copyright terms on the installment plan. Ironically, the legal battle against the CTEA drew much broader public support than the legislative battle had. "Once Larry Lessig brought the constitutional challenge, all these same people came out of the woodwork," Karjala says of people who hadn't engaged on the issue when the legislation was before Congress. "They started writing amicus briefs to argue [that] the Supreme Court should rule it unconstitutional."Economists go to bat

One brief was signed by some of the nation's most prominent economists, including Nobel laureates Milton Friedman, Ronald Coase and Kenneth Arrow. The Constitution requires that copyright protection promote the progress of science, but the economists pointed out that the CTEA was hard to justify on these terms. Copyright terms were already so long, they argued, that an additional 20 years would provide only minimal incentive to produce new works. More to the point, retroactively extending protection for existing works couldn't possibly encourage the creation of new works.

But these arguments fell on deaf ears. Writing for a seven-member majority in 2003, Justice Ruth Bader Ginsberg ruled that Congress had broad discretion to choose copyright terms and to retroactively extend them as it saw fit. As long as the terms remained finite, the court held, they satisfied the court's "limited times" requirement.'They're going to have to start doing it now'

The big question now is whether incumbent copyright holders will try to get yet another extension of copyright terms before works begin falling into the public domain again on Jan. 1, 2019.

For now, Hollywood is staying mum; a spokesman for the Motion Picture Association of America declined to comment on its plans. We weren't able to find any sign the topic has come up on Capitol Hill. But most of the experts we spoke to said the stakes are so high that a renewed lobbying push is almost inevitable.

"If Hollywood and their allies want to do this, they're going to have to start doing it now," says Chris Sprigman, a legal scholar at New York University. "I would imagine there are discussions going on." Sprigman predicts that a debate over term extension over the next five years will look very different than it did in the 1990s. "People are paying attention," he says. "There's a coalition now" that's likely to oppose longer terms.

Indeed, Sprigman sees public outrage over the 1998 extension as a catalyst for the copyright reform movement that came of age with the protest that stopped the Stop Online Piracy Act last year. "None of that would have been possible without the loss in the CTEA and Eldred," he argues.

One advantage opponents will have this time around is better arguments and evidence. Public debate over the last extension has stimulated increased academic research into the economics of the public domain; as a result, we know a lot more about the costs of longer copyright terms than we did 20 years ago.

One striking example: a study that looked at the availability on Amazon.com of books published in the last 200 years. Surprisingly, the study found that there are more printed books available from the 1880s than the 1980s. When books fall into the public domain, as works from the 1880s have, anyone is free to re-publish them. In contrast, books from the 1980s are still in copyright, so only their original copyright holder can give permission to distribute them. As a result, older books are actually easier to get online than newer books are. That means that the 1976 and 1998 extensions have deprived a

generation of readers of easy access to books from the 1920s, 1930s, 1940s and 1950s.

Not only have many copyright holders failed to keep their older works in print, but there are now many books whose copyright holders can't be identified at all. In many cases, the original copyright holder is dead and records about who now holds the copyright aren't available.

These "orphan works" have become a serious problem for projects such as Google Books, which aims to digitize books and make them available to the public. Google can't obtain the rights to reproduce these books at any price because it can't figure out whom it needs to negotiate with. The older a work is, the more likely it is to be orphaned, so copyright extensions have made the problem much worse.

"There's no evidence suggesting that a longer term is going to produce any more art, literature," Sprigman says. "The only reason to extend the term is to give private benefits to companies like Disney or Time Warner that have valuable properties like Mickey Mouse or famous films."

But copyright, he says, is "not supposed to be about corporate welfare for Disney." Over the next five years, we'll find out if Congress agrees.

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