

# Doing business with ideas. Some notes on the privatisation of General Intellect.

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Daniel Villar Onrubia | [dvo@zemos98.org](mailto:dvo@zemos98.org) |

The fact that information and knowledge are the categories that are most widely used to define the specificity of the times in which we live is directly related to a technological revolution that covers all aspects of life, and is developing at a vertiginous rate.

This technological revolution is leading towards «a new form of social organisation in which the generation, processing and transmission of information become the fundamental sources of productivity and power»<sup>1</sup>.

The cornerstone that holds together the network-society is the knowledge - ideas and their ability to circulate - that this technology makes possible.

Pierre Lévy points out that from the Neolithic until the industrial revolutions, the principal means of production had been the earth, but since the Industrial Revolution these means of production materialised as machinery and technical infrastructure.

But, «for some decades now, and probably increasingly in the future, the main means of production will be ideas»<sup>2</sup>. Therefore, at this new stage of humanity, it seems apt to identify the means of production as «a series of signs, conditions and skills that arise from work and education»<sup>3</sup> rather than a set of tools and equipment such as IT devices and physical networks. We're dealing with the sum knowledge of humanity, which is now more than ever within everybody's reach.

The importance of «the immaterial» in current production structures «tends, due to its quantitative and qualitative reach, to begin questioning once again the categories defined by the capitalist economy, and specially the notions of productivity and property».<sup>4</sup>

To the extent that the ideas of human beings are the means of production in a knowledge economy, we can consider them to be part of the General Intellect, the accumulation of knowledge that has been deposited at the historical level of a society.

As Michael Hardt explains, «Marx uses the term *General Intellect* to refer to the general social knowledge or *Collective Intelligence* of a society at a particular moment in history».<sup>5</sup>

Fixed capital is able to incorporate this *General Intellect* in production in the same way that it uses the «collective power of bodies» to achieve particular objectives, such as for example moving the enormous stones used to build the pyramids.

We can say then, that the forces and means of production overlap and make it difficult to separate them, which in turn influences production relationships. And this is basically due to one of the most significant properties of information, which is summed up in the often-quoted words of Bernard Shaw:

«If you have an apple and I have an apple and we exchange these apples then you and I will

still each have one apple. But if you have an idea and I have an idea and we exchange these ideas, then each of us will have two ideas».

In contrast to industrial capitalism, cognitive capitalism is not characterised by a scarcity of raw materials and means of production, given that these are not destroyed -consumed- in the process.

This involves a radical change in relation to the ownership of the means of production, given that when we are talking about «the earth» or physical tools, ownership is being applied to a finite resource that can easily be divided up, but «the world of ideas is infinite»<sup>6</sup>. The fact that ideas can be transmitted without being lost and used without being destroyed leads us in a single step to talk about economies of «scarcity» and «abundance».

This technological revolution isn't simply raising the possibility of the dematerialisation of the work force and the means of production, which wouldn't necessarily affect the market's normal operating structure. It is also expressed in immaterial goods, which are becoming less dependent on the physical media that up till now had allowed them to be marketed as though they were objects. And it's here that continuity problems really arise for a system that is based on scarcity, and the attempt to force continued scarcity through legislation.

We are now finding that the development of digital technology is dissolving physical media, although there are other physical structures - *hard drives* - that function as containing devices, but these do not have an univocal link with their contents. More interestingly still, these contents then to come together in a single virtual space - cyberspace - that arises from the interconnection between their receptacles.

This is why it is now much easier to guarantee citizen rights to access culture, to knowledge.

### Controlling information

Intellectual property rights were created in the 18th century for the purpose of regulating the author's rights over their works. But the court ruling applied to the «physical media» on which knowledge materialised, and not to the ideas themselves.

That is, the concept of property applied to the material support - the book -, which is what, in practice, was sold, rather than to the true fruit of the intellectual work of the writer - the work itself. Using Perry Barlow's famous metaphor, we would then say that intellectual property laws concerned themselves with the «bottles» - physical media - and not the «wine» - ideas -, because: «thus the rights of invention and authorship adhered to activities in the physical world. One didn't get paid for ideas but for the ability to deliver them into reality. For all practical purposes, the value was in the conveyance and not the thought conveyed.»<sup>7</sup>

Faced with this process of disassociation of immaterial work from «physical media», which had traditionally objectified it in the form of goods that could be sold or exchanged, capitalism reacted by toughening intellectual property laws, so that «today the right includes a large collection of restrictions on the freedom of others: It grants the author the exclusive right to copy, the exclusive right to distribute, the exclusive right to perform, and so on».<sup>8</sup>

This toughening of intellectual property laws involves placing harsh restrictions on citizen access to culture, and it has taken the form of «extending the protection period for works, the creation of new intellectual property rights - such as the *sui generis* right,

which protects databases created using pre-existing elements -, limiting legal exceptions - such as the fair use of protected works -, questioning the advantages acquired by users (such as public libraries), or even the possibility of patenting software programs».<sup>9</sup>

In fact, there is even an attempt by the government to conceal the citizen rights that exist in this regard, through confused campaigns with the aim of avoiding piracy, that make many citizens believe that it is illegal to make private copies of records or movies, or download music from the Internet for private use.

All of these measures are making the concept of intellectual property shift from the «bottles» to the «wine», and as «physical media» - which allowed the objectification and sale of knowledge in the same way as material goods are sold - fade away, the idea of property is starting to be applied to the «ideas» in themselves.

Discussing this appropriation of ideas from the private realm, Barlow points out that the fact that today's technology allows information to be transmitted independently of physical media leads to an attempt to own the ideas themselves, rather than their expression, and «just as it is possible to create useful tools that never take on a physical form, we have become used to patenting abstract concepts, sequences of virtual events and mathematical formulas - the least *real* goods imaginable».<sup>10</sup>

This situation leads to alarming extremes, like those that would be the equivalent of trying to own the concept *wheel*, extremes that are made concrete in software patents or even particular properties of the human body.<sup>11</sup>

In this context, corporations act as though ideas arose *ex nihilo*, independently of the

General Intellect that is the basis for most of the knowledge that then gives shape to innovations, inventions and other results arising from creative processes that are concerned with areas from the artistic to the scientific fields.

Measures such as the exponential increase in the time that passes from the moment a work is created until it is in the public domain make Philippe Quéau question whether the ultimate purpose of this intellectual property protection really is the justification of encouraging creativity, in an attempt to ensure that the immaterial work of creators is paid and, thus, to «protect the general interest by ensuring the universal circulation of knowledge and inventions, in exchange for a monopoly of use with consent (for a limited period) for authors».<sup>12</sup>

And the answer is clear, it seems more appropriate to consider that extending usage rights to eighty years after the death of an author does not in any way contribute to encouraging creation, or to finding new talents, but rather to allowing a whole series of middle men to obtain lucrative and lasting benefits from the authors in their catalogues.

The ease of distribution of «culture» offered by new technologies do not involve any disadvantage to creators, given that their role continues to be just as essential; the people that become unnecessary are all those middle men who had done business through distributing this materialised culture on physical media, and those who manage the corresponding copyright.

«A free culture supports and protects creators and innovators. It does this directly by granting intellectual property rights. But it also does it indirectly by limiting the scope of these rights, in order to ensure that creators and innovators who come along later will be

as free as possible from the control of the past. A free culture is not a culture without property, just as a free market is not a market in which everything is free. The opposite of a free culture is a «culture of permission» - a culture in which creators can only create with the permission of those in power, or the creators of the past». <sup>13</sup>

The only sense in a society providing inventors / creators with a degree of protection is if in exchange the invention/creation ends up favouring that general intellect from which it arose, by becoming part of the public domain that allows its use and appropriation by part of humanity.

The problems of a fierce application of the concept of ownership to the area of thought are not only directly related to restrictions on ways in which citizens can use culture - works that are fruit of immaterial work-, there is another factor that is even more worrying, if possible.

This is the only way in which this legislation is favouring the plundering of the public, human heritage, at the hands of private entities. Because «transnational companies and the institutions of rich countries are patenting everything they can, from the human genome to subtropical plants, perpetrating a true armed robbery on the common property of humanity». <sup>14</sup>

One of the most, if not the most, shocking cases is that of applying patents to living beings, genes and biological substances; perhaps because it affects in quite a direct way the most tangible aspect of the human being, the body, through food and medicine.

«Up until November 2000, patents had been granted, or were in the process of being granted, to over more than 500,000 partial or complete genetic sequences of living organisms. From this total, about 9,000 were

pending or had been granted on 161,195 complete or partial sequences of human genes. The increase in this category of genes is impressive, given that the figure was 126,672 in the previous months, meaning there was an increase of 3,400 or 27% in a single month (*Guardian*, 200). The remaining genes on which patents had been granted or were in the process of being granted were for plants, animals and other organisms». <sup>15</sup>

In the face of this, it is «urgent to revitalise, reinforce and protect the idea of ‘public domain’ from the voracity of private interests at a time when private operators seek to extend their domain of appropriation of information». <sup>16</sup>

On the other hand, to ensure citizen access to culture, we have to ensure the existence of legislation that allows a degree of flexibility, and gives authors the option to allow their works to be copied - without the need for middlemen to manage a canon for compensation -, manipulated and circulated freely by citizens, as long as it is for non-profit purposes - except where the author doesn't mind.

But it is also necessary to rethink the system of paying authors in ways that apply to the new context.

The most interesting way to provide incentives for creation is to do without the middlemen as far as possible, so the author receives profits directly. There are many new models, but everything seems to point to the fact that the most intelligent thing would be to take the focus away from remuneration for the work of authors on sales of material products, although this is also an option that can easily be compatible with the others. These alternatives include payment for artists to develop projects by commission, live performances or describing and explaining creative processes in educational contexts.

To finish off, we would like to bring up the possibility of a basic income as a starting point for guaranteeing the sustainability of immaterial workers.

## NOTES

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