Seed #4. From Licenses to Play, from Play to Licenses

by Pekko Koskinen & Alessandro Y. Longo

Licenses have a central role in Meshdia's explorative research. The Meshdia protocol offers a pathway to alternative film distribution to filmmakers and cinephiles through organization by licenses. Meshdia diverges from the interests of the copyright system, briefly described in the previous Seed on pirate systems.

In this Seed, we will elaborate on our theoretical perspective on licenses, the premises of which are well outlined by Giuseppe Roberto Tarantino's legal interpretation of the Open Game License[1], to then move on by describing the experimental, play-centered design methodology, incorporating licenses as organizational instruments.

We must begin by drawing a fundamental distinction: while licenses frequently adopt the guise of contracts, they differ in fundamental ways. In the copyright context, licenses are said to: "arise from the unilateral action of the property owner, whereas contract formation requires, among other things, privity, consideration and mutuality of agreement"[2]. Licenses, as property rights, create legal claims between people and 'objects' (tangible or intangible), while contracts establish rights between parties through mutual agreement.

A license determines how a person or legal entity, like an organization, can interact with a work. It grants the "right to include or exclude" others from using the material, while also specifying how it may be used. For instance, the Copyright Act in Canada outlines what Tarantino refers to as the 'right to exclusion':

"*It is an infringement of copyright for any person to do, without the consent of the owner of the copyright, anything that by this Act only the owner of the copyright has the right to do*".

In our view, licenses are tools that mediate relationships and shape the ecology of intellectual production. This intricate bundle of relationships, — among authors, distributors, and the public — shapes society's collective conversation, influencing the lives of individuals and communities. Licenses, as argued by the feminist legal critic

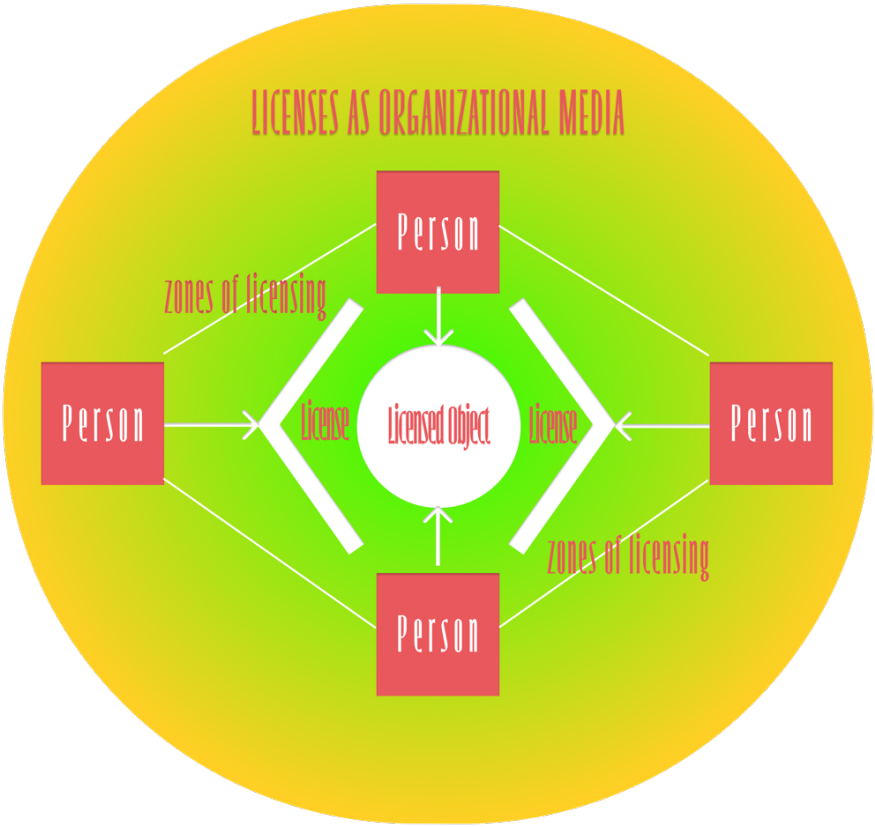
[1] Tarantino, Giuseppe Roberto. "If You Love Something, Set it Free? Open Content Copyright Licensing and Creative Cultural Expression." PhD diss., York University, 2019. Accessed April 9, 2024. https://digitalcommons.osgoode.yorku.ca/phd/58.
[2] Ibid

Carys J. Craig[3], serve a public interest as they modulate the circulation of knowledge within society and regulate the lifecycle of intellectual objects. Beyond distribution, copyright and similar interfaces influence the production of new cultural artifacts too.

[3] Craig, Carys J., Joseph F. Turcotte, and Rosemary J. Coombe. 2011. "What's Feminist About Open Access? A Relational Approach to Copyright in the Academy". Feminists@law (1). https://doi.org/10.22024/UniKent/03/fal.7

Drawing on 20th-century French philosophy's 'death of authorship'[4] and Brian Eno's 'scenius'[5], we argue that the cradle of artistic and cultural invention is found in the web of collective conversation, not in the solitude of the individual brain, no matter how extraordinary. The entirety of cultural expression has a discursive nature, incorporating what has already been said or written, into something that has yet to emerge. It is both intrapersonal — emerging from the author's inner self — and interpersonal, shaped by existing discourses and practices.

Culture is born and evolved from collaboration and interdependence. Copyright and analog licenses should maximize these ecologies of interaction and communication, enabling creators and scenes to flourish in their respective milieux. Licenses can work as a form of organizational media with capabilities far beyond just managing economic rights.



The capacities of licenses as organizational structures can be traced to the development of the Gnu General Public License (GPL), which helped establish the Open Source Software space. This work informed more well-known offspring such as

4 See Barthes, Roland. "The Death of the Author." In _Image-Music-Text_, translated by Stephen Heath, 142-148. New York: Hill and Wang, 1977 or Foucault, Michel. The Order of Things: An Archaeology of the Human Sciences_. New York: Vintage Books, 1970.
5 Eno, Brian. "Brian Eno on Genius and Scenius." Synthtopia, July 9, 2009. Accessed April 11, 2024. https://www.synthtopia.com/content/2009/07/09/brian-eno-on-genius-and-scenius/.

Creative Commons (CC), as well as in the Open Game License (OGL) used in connection with the game Dungeons & Dragons and similar roleplay games (RPGs). While the cases of GPL and CC are relatively well-known, OGL application to D&D is a remarkable example of successful and extended use of an open license that organizes shared content in a distributive manner, as argued extensively by Tarantino[6].

Openings from OGL

While the retelling of the history of OGL is not part of our scope, it is useful to highlight some of its aspects, as it sheds preliminary light on the directions we're pursuing. We view OGL's operative space as an opening, not an endpoint — a real-world proof of concept for the organizational capacities of licenses, opening the door to further possibilities.

In 1997, Wizards of the Coast (WotC) bought TSR, the publisher of D&D with the desire of re-launching a version of the once popular RPG. Inspired by the GPL and the Open Source space, the vice president of WotC Ryan Dancey formulated a strategy for a common medium of rules.

This would be governed by a license that builds on the GPL in two significant ways: first, by allowing different rights for different parts of the content. This enabled the possibility of intertwining copyrighted content (such as brand identities) with more openly usable elements. These variations are outlined in a System Reference Document (SRD), provided with the game. Secondly, to open a shared pool of game

6 Tarantino, Giuseppe Roberto. "If You Love Something, Set it Free? Open Content Copyright Licensing and Creative Cultural Expression." PhD diss., York University, 2019. Accessed April 9, 2024. https://digitalcommons.osgoode.yorku.ca/phd/58.

structures. As each game utilizing the license can be added to the pool of shared game elements, this pool of "open" content can keep on expanding.

This led to the 3rd edition of Dungeons & Dragons being published under the OGL system in 2000. The license structure proved highly successful, leading to widespread sub-industry of publishing, based on the license. Perhaps even too successful. Around the publication of the 3rd edition, WotC was sold to Hasbro, which has later conducted numerous unsuccessful attempts to get rid of this license. Currently, the OGL system remains in place for the 5th edition of Dungeons & Dragons, alongside the recent addition of the CC-BY license.

The complex social process generated around this license is outside of our scope of scrutiny. Some aspects of it are worthy of note, though, such as the massive pushback from the player community against the latest effort to modify the license in 2022, ultimately leading to the full cancellation of this effort (along with the addition of the CC-BY license as a seemingly apologetic gesture from WotC/Hasbro).

Also noteworthy is that the aftermath of this "victory," has brought about a resurgence in the development of new licenses for RPGs, including the large-scale effort of Open Creative License (ORC). This license was created by the same legal team that developed the original OGL, and seeks to serve as a type of OGL 2.0. In addition, there's seemingly a surgency of small-scale licenses, which is likely to keep on growing.

The latter development is of particular interest for us, as it has given birth to multiple light-weight license expressions that are still legally informed. Two examples of such:

+ Mythmere License[7] - A much leaner license than OGL and ORC, which creates a similar pool structure as its predecessors.

+ Shadowdark License[8] - While slightly more traditional in its approach, this license still establishes a specified pool of open content. More noteworthy perhaps is its approachability, as it shows at least potential toward more flexible license creation around sharing.

Overall, OGL and its social ramifications provide a sizable use case of a license as an organizer of shared cultural content. As such, it provides pertinent background information for configuring Meshdia protocol and legal structure.

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[7] Attronarch. "Aelf: An OGL Replacement by Matt Finch Is Now Available." Accessed April 24, 2024. https://attronarch.com/news-aelf-an-ogl-replacement-by-matt-finch-is-now-available.
[8] Shadowdark. "Shadowdark RPG Third-Party License V1.1." Accessed April 24, 2024. https://www.dropbox.com/sh/dvmwvjyieffurfb/AAB63uwLZ2QuJeRLqrGd6n8fa/License?e=1&preview=Shadowdark+RPG+Third-Party+License+V1.1.pdf.

License as an organizational instrument

As principles of design, we approach the instrumentation provided by licenses particularly from two directions: as potential organizational instruments, and as frameworks for establishing new social rules, which can be prototyped via social play.

Core Perspective

The functionality of the various open and common licenses can be observed as a form of rights distribution: the license expresses a distributing corpus, defining a constellation of rights for the content that it licenses.
This perspective implies an organizational space that could be considerably wider in scope than the current practice of licenses. The following topics highlight some of the cultural possibilities, opened from this point of observation.

Distributive Constitution of Organization

In a nutshell, this direction considers an organization that would use a license as its constitutive document. This would enable the organization to be spread distributively, in the structural sense of this term. Any operation, stemming from the license, could form an operational "head" that organizes around itself, utilizing the affordances provided by the license.

This approach opens the possibility of designing distributed architectures for social organizations, expressed through licenses. While this would not result in a legally recognized form of organization (such as a cooperative, association, etc.), thus lacking the additional rights provided for such recognized forms, it could potentially embed recognized organizations into the affordances of its license.

While such direction might sound exotic, it does reflect an already practiced usage -- indeed, this seems to be a direction that such an organization could develop toward rather "organically." Examples of this can be traced from our earlier case: the many companies and independent operators that arose around OGL and their co-dependency on shared structures of intellectual property. While OGL doesn't embed a traditional organization within it, the shared game mechanics as an embedded, organizing pool is a structural reflection of this (we'll revisit the constitutive overlap of games and organizations later).

Moreover, in recent years the evolution in the blockchain space saw a proliferation of token standards (like the ERC-721 Non-Fungible Token) that acted as similar techno-legal interfaces helping the formation of Decentralized Autonomous Organizations (DAOs). Although token standards are not legal licenses, the evolution of DAOs helps imagine the formation of new organizational forms[9].

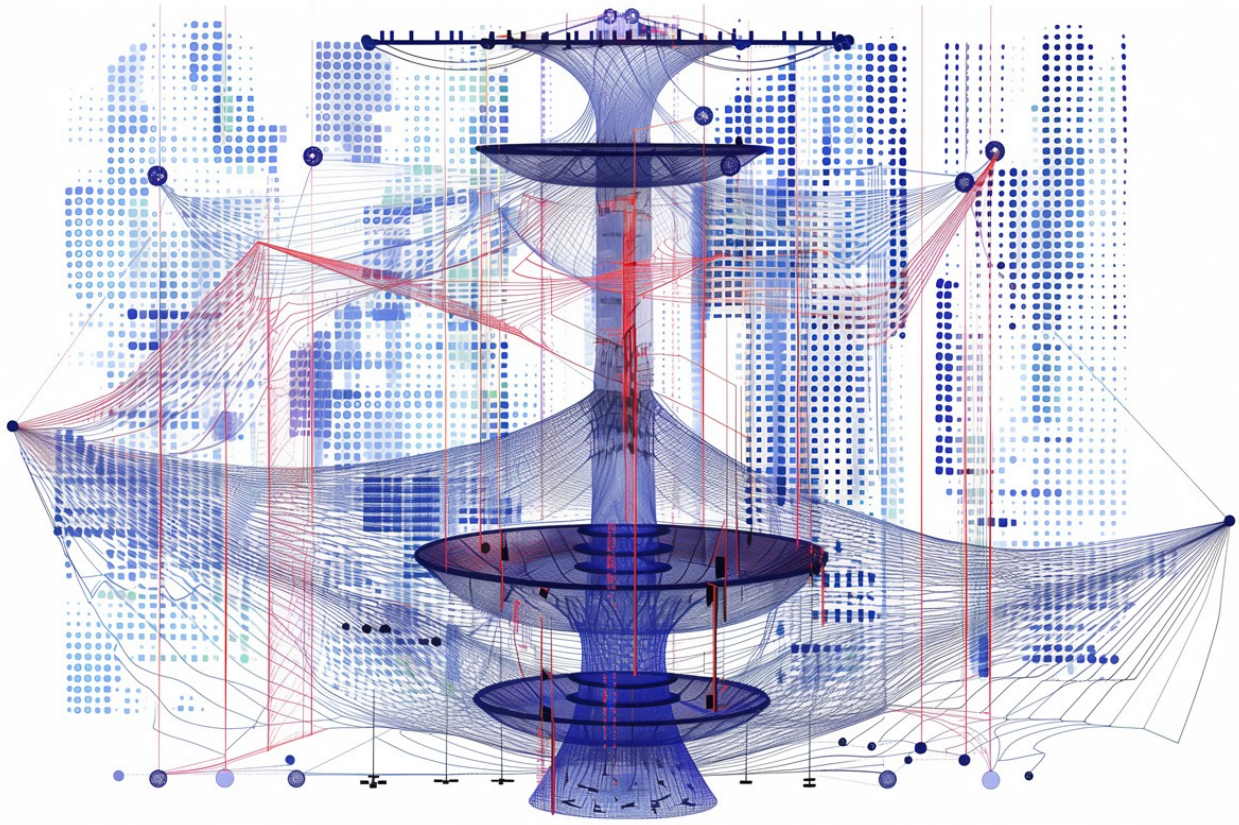
In our view, these already existing network structures of organizations have not received the attention they deserve. They outline networked forms of organization that are viable and functional, and as such, provide useful sources for conceiving network-based paradigms of organization.

Expansions to Our Rights to Organize

Arguably, the current discourse of user's and creator's rights tends to focus economic structures, especially the rights of monetary transactions. While this emphasis is understandable (because it reflects the economic fortunes rather directly), it's still problematic: It harbors a danger of focusing on the surface-level, symptomatic structures, and disregarding the deeper, more causal structures as targets of reconsideration and re-design.
Such deeper structuring can also be de-emphasized as being harder to change -- more lodged in foundations, if you will. But there are ways to approach such structuring. Toward this, we'll have to establish certain analytic premises, summarized below.

[9] Catlow, Ruth, and Penny Rafferty, eds. Radical Friends: Decentralised Autonomous Organisations & the Arts. English edition. Torque Editions, 2022.

Pattern of Patterns



While this highlights a wider scope of organization, we should also note that a similar structuring takes place in any scope of organization. Even a small association operates by issuing rights (to itself), self-systematically distributing these rights to create a social space of operation, capable of establishing external relations to itself (and by extension, to its members and other operatives). All conventional structures of organizations depend on this general pattern of operations. Rights issued by their expression, and rights constellated by their relative association, attached to a nodal identity "the organization" as an anchor point.

In other words, we can observe a recurrent pattern of organization, regardless of scope. It is this pattern that enables any scale of organization to operate with a similar palette of operations. For instance, and once again DAOs offer a good case, even a small association could introduce a money-like token structure for its scope. By offering these tokens, internally or externally, the organization structures its relations.

This is feasible due to the fundamental similarity in organizing patterns across different contexts.

Even games reflect this same pattern. For example, a board game organizes (itself) to existence by the same principles of self-systematizing distribution as an organization. Games, whether governed by rules ("laws" of the game), tokens (playing pieces), or

players ("members" of the game), extensively employ principles akin to those found in the economy or broader societal organization Indeed, given the structural prolificity of the numerous types and forms of games, it's plausible, perhaps even likely, that the palette for these structures is more extensive in the cultural realm of games, or at least contains a significant selection of structures unused in the realm of organizations. This is a hypothesis we'll draw upon, to survey future possibilities of organizational speculations.

For these reasons, observing economy as a self-contained context, considered separately from other forms of organization, is analytically misleading. Rather, we can observe the structures, characterizable as economic, operating as a particular style of structural design. They offer alternative methods of organization but ultimately distribute from the same basis of operative affordances.

For example, money is fundamentally a rights structure. It utilizes its units as rights-carrying objects (rights to partake in economic offers, particularly), which interface with affordances that an organization or individual retains toward itself, or objects it has rights to. Without such a perspective, the design considerations of money-like structures are significantly limited.

If we operate from such limited perspectives, we also limit ourselves to a constrained space of consideration, also toward new operative possibilities for users and creators. As economic transactions intertwine with a wider space of constellated rights, there's a clear benefit of considering novel structures that expand this space of rights by establishing new architectures of organization.

From Patterns to (Licensed) Possibilities

We've already touched upon potential directions to approach new forms of organization. As described above, every organizational context unavoidably becomes a particular rights fundament, an issuer, and an organizer of rights to itself. This perspective, as emphasized consideration for novel designs, should hold openings yet to be explored.

Certainly, this direction comes with its limitations. The social power of organizing tends to be initially rather modest, limited by the level of commitment it receives and likely starting small. It can offer external relations to itself and the things it produces but has no powers beyond that.

But this is a situation that we generally find ourselves in. We are able to grow only through other's intentional acts of commitment and spending much of our labor working toward such. This points to an additional reason why a license-based

organization holds an interest in exploring novel organizational architectures. A distributive approach, where any engagement point with the license can become its operative head, dispersing the pressure to succeed. A singular initiative could be transformed into a multi-headed effort, allowing for local cultures of operation.

Of the Necessity of Organizational Imaginary (in an Ever-Changing World)

In essence, we observe licenses as seeds for distributing socio-organizational "outposts" while establishing networks between them. They are lightweight instruments for exploring the network as a paradigm of organization, especially given the vast array of tools available for networked operations in an ever-changing world.
Licenses are a medium of expression for the organizational imaginary. Their expressions could offer novel relations between us, opening other routes to our empowerment — paths that diverge from the usual, heavily contested, and controlled channels of governance.

What possibilities could emerge from such an organizational vision? The horizon is wide, but in the meantime, we do have a few initiatives already in place...

References

[1] Tarantino, Giuseppe Roberto. "If You Love Something, Set it Free? Open Content Copyright Licensing and Creative Cultural Expression." PhD diss., York University, 2019.

[2] Ibid

[3] Craig, Carys J., Joseph F. Turcotte, and Rosemary J. Coombe. 2011. "What's Feminist About Open Access? A Relational Approach to Copyright in the Academy". Feminists@law 1 (1).

[4] Barthes, Roland. "The Death of the Author." In Image-Music-Text; Foucault, Michel.
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[5] Eno, Brian. "Brian Eno on Genius and Scenius." Synthtopia, July 9, 2009.

[6] Tarantino, Giuseppe Roberto. "If You Love Something, Set it Free?"

[7] Attronarch. "Aelf: An OGL Replacement by Matt Finch Is Now Available."

[8] Shadowdark. "Shadowdark RPG Third-Party License V1.1."

[9] Catlow, Ruth, and Penny Rafferty, eds. Radical Friends: Decentralised Autonomous Organisations & the Arts.