

Lessons learnt from implementing an open licensing model in distributed film production – The case of "A Swarm of Angels"

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Extended Abstract

While the collaborative creation of software under the FLOSS paradigm is a well-established and recognized mode of production, the peer production of Open Content Film is a fairly new phenomenon. The two approaches share several common features: both are characterized by the massive collaboration of actors in a shared creative space and both are enabled by Information and Communication technologies, in particular the Internet. But technology itself is not sufficient to understand the emergence of a coordinated production mechanism in the shared creative space. A governance structure and a legal framework facilitate and coordinate the transactions between the collaborators.

The UK-based project "A Swarm of Angels" (ASOA) is an experiment to create the first fully peer-financed, peer-produced, and peer-distributed movie. To structure the contributions of its collaborators, ASOA has chosen to use the Creative Commons (CC) framework and agreed on a particular license - the CC-BY-NC - to release the end products to the public. The end-to-end "open" nature of ASOA makes it an ideal case to study the challenges and identify lessons from implementing a peer production model of creation and distribution under a CC license in the domain of film production.

In our paper we address the following research questions:

What does "open" in the context of the production of a complex and consistent artistic creation like a full-featured movie mean and how is this notion of openness reflected in the production and licensing framework? How is in particular the Creative Commons legal framework coping with a massively multi-author, multi-formats, multiple rights environment like ASOA? How are the motivations of the contributors aligned with the legal framework and how the CC "some rights reserved" paradigm balances the complex ecology of the vested interests of the contributors with the vision of "openness" and "freedom"?

We base our investigation on several interviews with ASOA founder Matt Hanson and further key contributors as well as the analysis of statements extracted from the discussion forums at ASOA. In order to investigate the developing dynamics of the community as the project mature, we also analyzed quantitative data such as

the number of contributions per member, the evolution of the joining process and the rolling pattern of the conversations.

As a result of our investigation, we see a couple of lessons emerging for the implementation of an "open" licensing, production, and distribution model for movies.

1. "Open" does not mean that everybody can contribute equally

While there are no formal barriers of entry to participating in the production process of ASOA, there are substantial factual ones: The production process of ASOA turns out to be structured and hierarchical reflecting the nature of the product: A feature film requires a certain threshold of consistency with respect to the plot, the characters, and finally the narrative. A film does not have objective quality or performance indicators on which a community of creators could agree. Instead the end products are the result of singular choices adjusted to reflect subjective preferences and the solitary contributions have to be integrated in the overall creation. ASOA has chosen a hierarchical structure assigning the responsibility to single persons or into a limited group of persons. Our measurement of the activity of individual contributors to the ASOA community shows that 5% of the community members contribute 80% of the contributions. On the other side, 30% of the members only logged in once after joining and are supporting the project silently.

2. Content is only as open as the underlying formats and standards

The dominance of proprietary standards in the domain of film production restricts the notion of openness to content, but does not provide for universal accessibility to the content produced: The Creative Commons legal framework enables and protects the openness of the content and the end-products of ASOA. To create not only an *open*, but also an *inclusive* space of collaboration and enable a wider audience to access and remix the ASOA products, the use of open standards are equally important. But from the discussions we have seen that the use of open standards runs counter to the motivation of professional contributors, which are not willing to change their usual way of working for ASOA and therefore push for the proprietary standards they are used to.

3. The license choice at ASOA was a result of ideology and may even run counter to their goals

The non-commercial use option (NC) of the CC license chosen for the release of the end-products enables a dual licensing strategy, which prevents companies and individuals from commercially exploiting the movie and allows ASOA to sell the right of commercial use separately. The discussion in the community has shown that this choice may not be completely aligned with the overall strategy of ASOA: One of the founding beliefs of ASOA is that the investors should at the same time be creators to resolve the tension between investors and artistic freedom. By

accumulating capital from licensing commercial use, the ASOA community would turn into another source of funding movies and depart from this basic principle.

ASOA's goal is to show that an alternative model of film production is possible. Given the commercial nature of most movie screening places, the insistence on the NC option restricts the reach of ASOA to university film societies and private audiences, unless the film should become popular enough to attract licensees for commercial use. But, "non-commercial" is a catch phrase, which obviously motivates many members of ASOA and seems to act as an important unifying force adding identify to the community. Therefore the motivational quality of this choice of license should not be under-estimated, even if the choice may run counter to the goals of ASOA and restrict its spread and reach.

4. Attributing an amorphous mass of contributors remains an unaddressed challenge

Collective authorship is an unexplored concept, which also the CC paradigm does not explicitly address. On the contrary, the CC concept depends on the "hack" of copyright law, by which a creator claims copyright for her creation and licenses it back to the community under the terms of the CC license. Under ASOA's legal framework, every contributor licenses her contribution under CC-BY to the community. CC-BY is the widest of all CC licenses and requires attribution only. The license allows the integration of the contributions into the end-product and allows ASOA to release the movie both under the non-commercial license and sell of the commercial license. But how this acknowledgment will look like is neither specified by the CC license, nor has this been discussed in the community. It is just obvious that given the multitude of contributors, contributing either original material or remixing the material into the final product, will not fit on one web page.

5. The complex ecology of motivations creates tension within the community and requires a dynamic discussion and decision making process to resolve and balance the tensions

The motivation of creators to contribute is driven by a multiplicity of reasons, including personal agenda (utilitarian motives) and creation of a public good (idealism). This multiplicity of motivations leads to individual preferences for using a particular CC license and individual exceptions from the general licensing agreement within ASOA. But not every creator agrees on the release of his material under the chosen license. In particular the creator of the poster for ASOA has released his picture under the CC-NC license. In order for ASOA to be able to license the right of commercial use to a third party, his individual agreement will be required or the community will have to look for a new poster. The license choice and the conditions, under which creators are contributing to ASOA are subject to a permanent discussion in ASOA's online forums. This discussion process is necessarily emerging and ongoing and evolves as the project matures.

At the end we conclude that the CC framework as a basic legal framework provides a flexible set of tools, which can be adjusted and complemented to fit for the purposes of Open Film Production. But the legal framework by itself is not sufficient to explain the production process. The legal framework has to be supported by a set of social norms, which still have to emerge in the space of film production. We have seen that the community has not yet agreed on the appropriate definition for "openness": In particular the question of open content vs. open standards seems to be a major obstacle for the production of film in an open and collaborative format.

We will put the findings derived from ASOA into perspective by comparing them with the lessons learnt from similar, although less radical approaches like the one used at ASOA. One example is the Blender community, which is currently producing their second animation movie using a single open-source animation suite. The movie will be released under CC-BY while at the same time they are pre-selling DVDs for €34. Another example is the Star Wreck Pioneering Experience produced by four passionate and jobless Finnish students and caught the Universal Pictures Distribution attention after it has been released under CC-ND-NC.

Biographical Notes

Irene Cassarino is a PhD student at the faculty of Management Engineering of the Polytechnic of Turin. She is investigating the peer-distributed production of art, with a particular focus on cinema. She spent the last eight months at the University of Sussex, UK, and at the Queensland University of Technology, while collaborating with the Oxford Internet Institute in a research project on the performance of Distributed Problem Solving Networks. She collaborates with the NEXA Centre for Internet and Society of the Polytechnic of Turin since its foundation in 2006.

Wolf Richter is a doctoral (DPhil) student at the Oxford Internet Institute, University of Oxford. He writes his thesis on the future of copyright law in the digital age and focuses on novel approaches, which reward creators for the popularity of their works instead of relying on the scarcity created by copyright law. Most recently he has been involved in a major research project on the Performance of Distributed Problem Solving Networks investigating the performance of distributed news aggregators and the legal implications of Open Content Film production. Wolf holds Masters degrees in Computer Sciences and Intellectual Property law and worked as an IT strategy consultant before joining the Oxford Internet Institute.