

Out of the Mouths of Babes: Studying Children's Judgments about Creativity, Ideas, and Ownership

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Alex Shaw, Vivian Li & Kristina R. Olson, Children Apply Principles of Physical Ownership to Ideas, 36 Cognitive Science 1383 (2012), available at [Yale University](#).

Legal scholars who study intellectual property rarely think about children. Children are almost never inventors of patented technologies, and, although children's drawings technically receive copyright protection the moment they are created, children rarely appear as litigants in disputes.

But recent research coming from psychologist Kristina Olson's lab suggests that we should be thinking more about children. In their new paper, Olson and her graduate students Alex Shaw and Vivian Li, report the results of experiments testing children's intuitions about the ownership of ideas. This paper provides an interesting insight into the development of our ideas about intellectual property and creativity, and it should be widely read by IP scholars.

Olson is interested in learning how and when children's judgments about creativity, ideas, and ownership emerge. Research by other developmental psychologists had shown that very young children (2+ years old) apply concepts of ownership to physical objects. In earlier work, Olson showed that 6-year-old, but not 4-year-old, children respond negatively to those who plagiarize others' ideas. That research suggested the possibility that children of a certain age think about ideas as things that can be owned.

In this project, Olson and her colleagues set out to test whether children apply principles of physical ownership to ideas. In a series of studies, 6- to 8-year-old children were presented with vignettes that were intended to test whether they applied fundamental principles of ownership—first possession, non-transfer of ownership via theft, and control of permission—to ideas. For example, children were given the following stimulus:

Steven has been trying to come up with a song about a dragon but has not come up with a song. Zack sees this and comes up with a song about a dragon. Who owns the song about the dragon?

The authors found that children apply the first possession heuristic—that the first possessor of a thing, not the first pursuer, is its owner—to intangible ideas in much the same way that adults do. In addition, when told of a situation in which one person steals an idea from the person who initially had the idea, children declare that the original thinker and not the thief is the idea's owner. Children also seem to pay attention to whether an individual controls access to an idea in determining its owner – a finding that is striking considering the important role that control and exclusion play in theories of ownership of property and intellectual property. Importantly, however, the authors show that children do not apply ownership indiscriminately. For example, children tend not to say that someone is the owner of a mere word rather than a complete idea.

Olson and colleagues speculate on the origins of children's sense that ideas can be owned. They suggest that children develop concepts of ownership applied to physical objects early in life, and, as they develop, children learn to apply those same concepts to ideas. This learning may come from

explicit socialization about rules or through implicit cues related to the value that is placed on idea creation. Interestingly, they suggest that these effects may be weakened in non-Western cultures that are less individualist and more prone to see ideas as public goods. William Alford's work on Chinese IP law is certainly relevant here.

This research raises a number of interesting issues for IP scholars. Most interesting to me is what they tell us about the emergence and strength of IP metaphors and the moral psychology of creativity and copying. Much recent IP scholarship has focused on (and often critiqued) the use of real property metaphors in IP debates. Concepts like "property rights" and "theft," it is argued, are inappropriate to copyrights and patents. Bill Patry, for example, has noted how property and birth metaphors are often used in IP debates to promote stronger rights and tougher enforcement, and he has suggested that we should instead understand copyright law as establishing "social relations" between people.

But the work of Olson and her colleagues suggests that getting people to think differently about IP may be incredibly difficult. Although their research does not suggest that treating ideas like other physical property that can be owned is evolutionarily hard-wired into our brains, it does suggest how easily our minds seem to take to these concepts. Even without explicit socialization, it seems, 6-8 year old children begin to think of ideas the way they do physical property. In combination with Olson's work on children's plagiarism judgments, this implies that, at a very early age, children are developing moral judgments about the kinds of issues—creativity, copying, and ownership—that are at the heart of IP law.

In other recent and forthcoming research, Olson's lab is investigating the extent to which children value the contribution of ideas vs. labor in artistic creation and children's ideas about reputation and attribution. IP scholars should keep a close eye on all of this work.

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