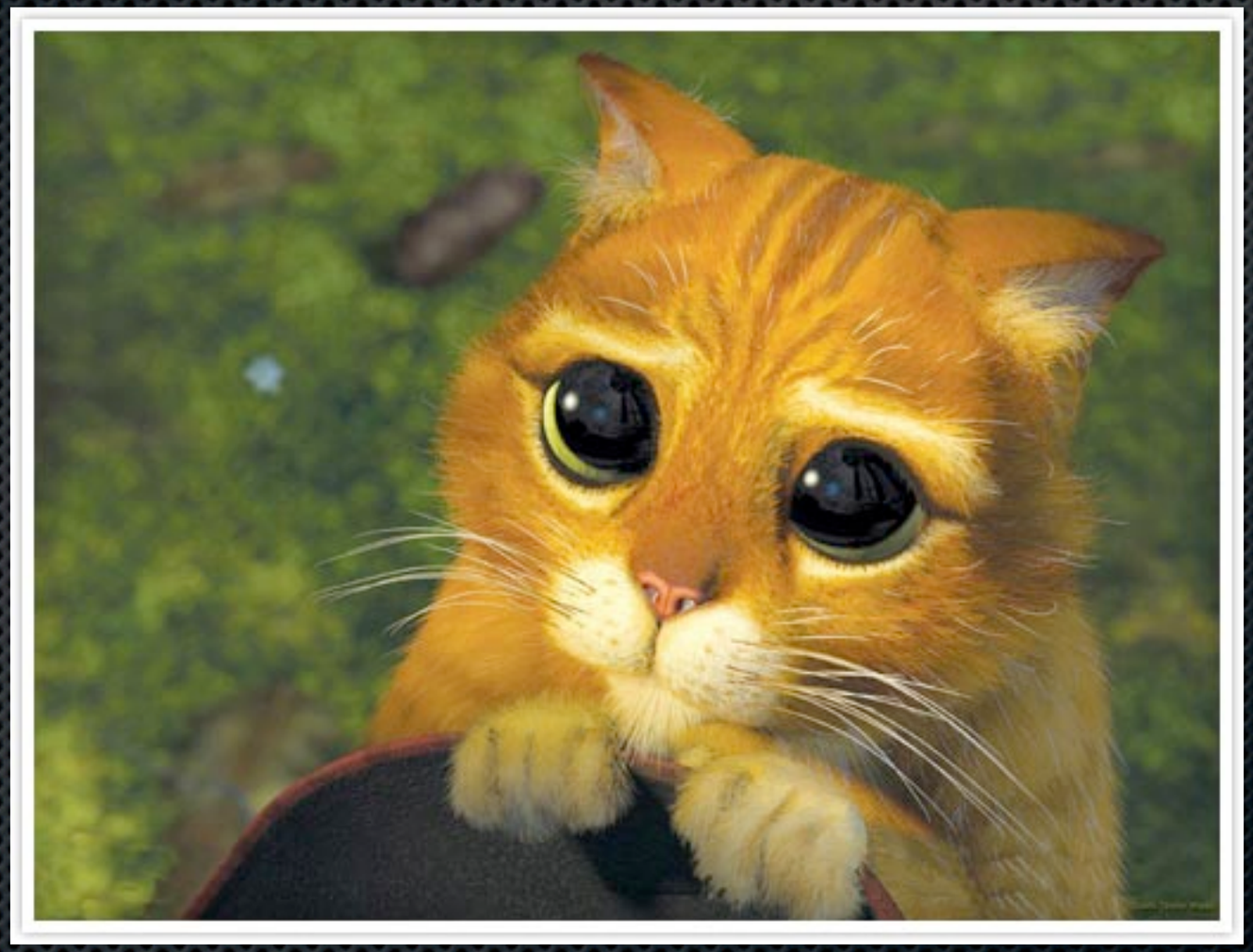
Derechos de Autor: Historia y Alternativas

Andrés Guadamuz González

SCRIPT Centre for Research in IP and Technology Law
University of Edinburgh

script

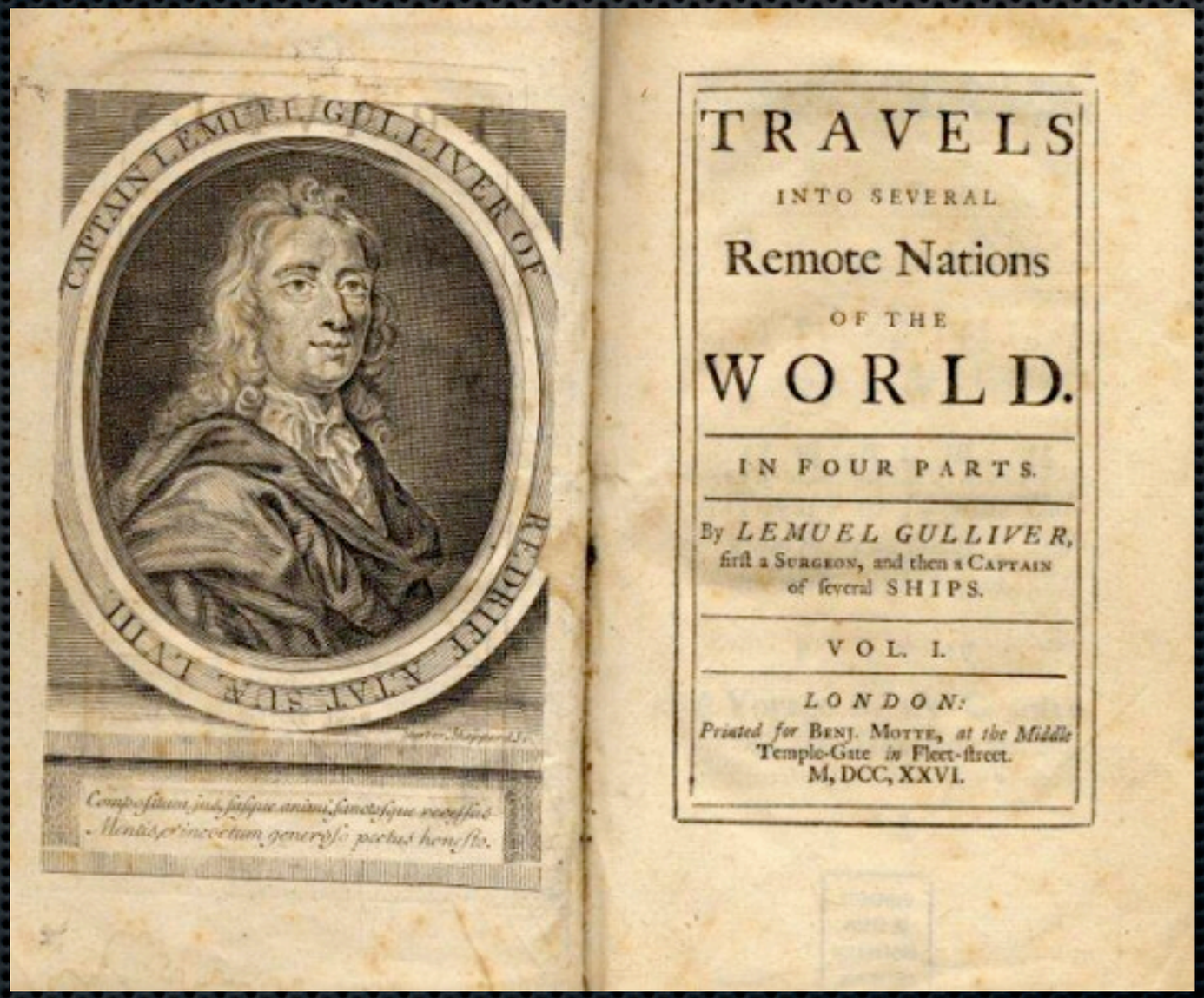
[Adjuntar disculpa]



Historia

En el principio...

Nacimiento del derecho de copia



Nacimiento del derecho de copia

Nacimiento del derecho de copia

Nacimiento del derecho de autor

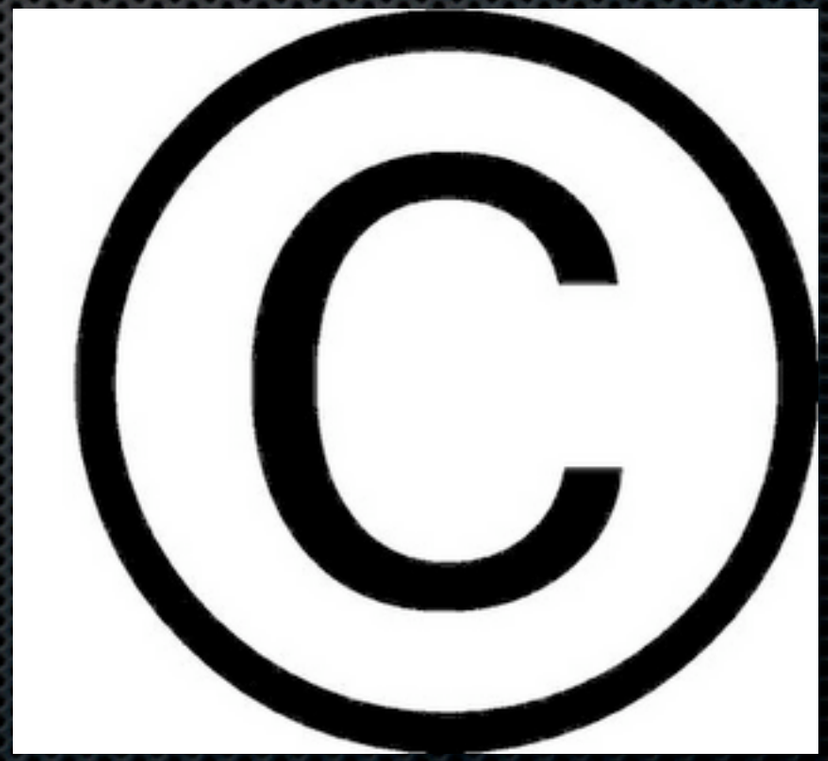
Dos versiones

Copyright	Droit d'auteur
Derechos patrimoniales	Derechos morales
Copia, reproducción, publicación, etc.	Atribución, integridad

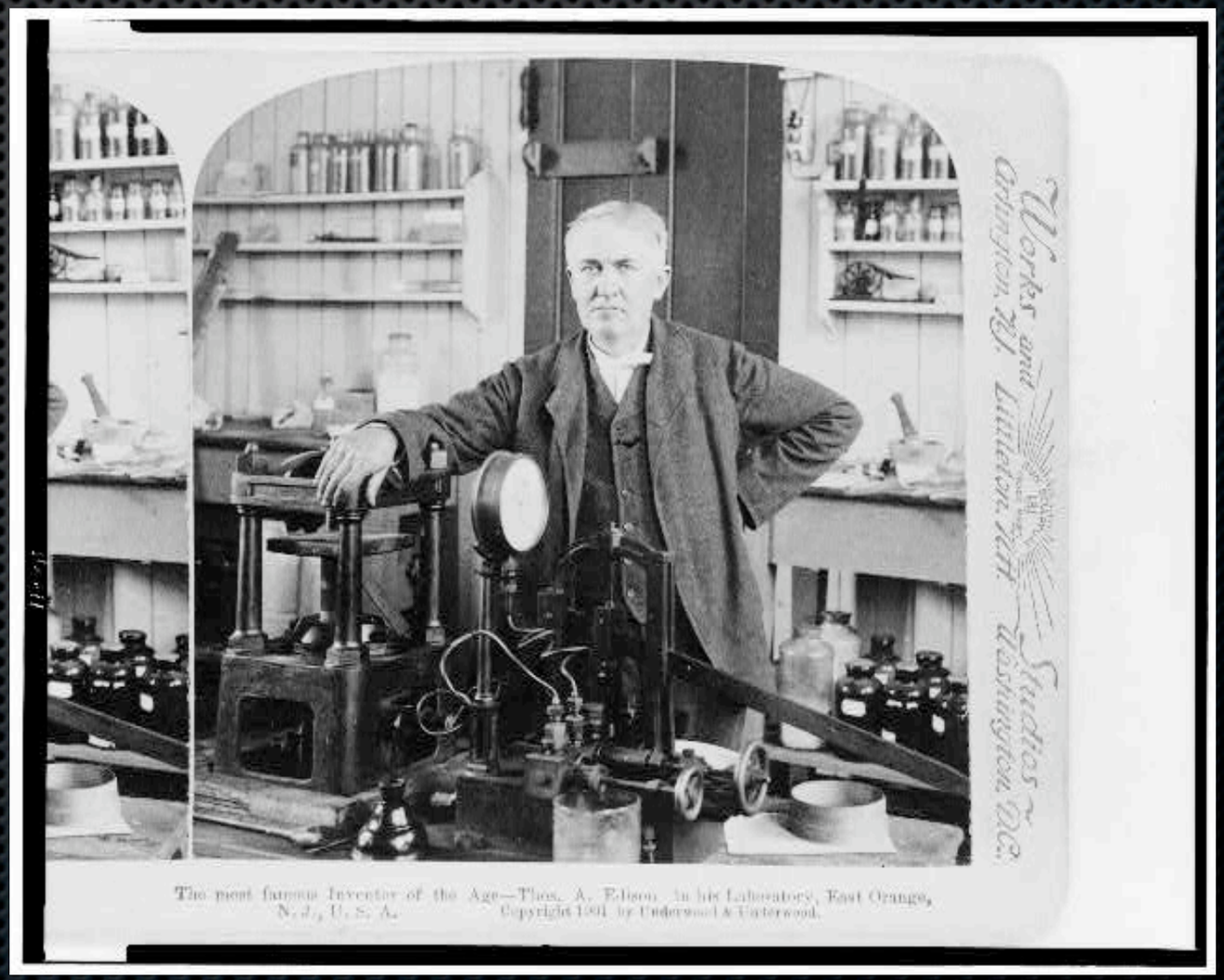
Protección internacional

- Convenio de Berna (1886)
- Convenio Universal de Derechos de Autor (1952)
- Organización Mundial de la Propiedad Intelectual (OMPI)
- Tratado de Derechos de Autor de la OMPI (1996)
- Tratado sobre Interpretación y Fonogramas (1996)
- Directivas Europeas (1989-2002)

Status Quo

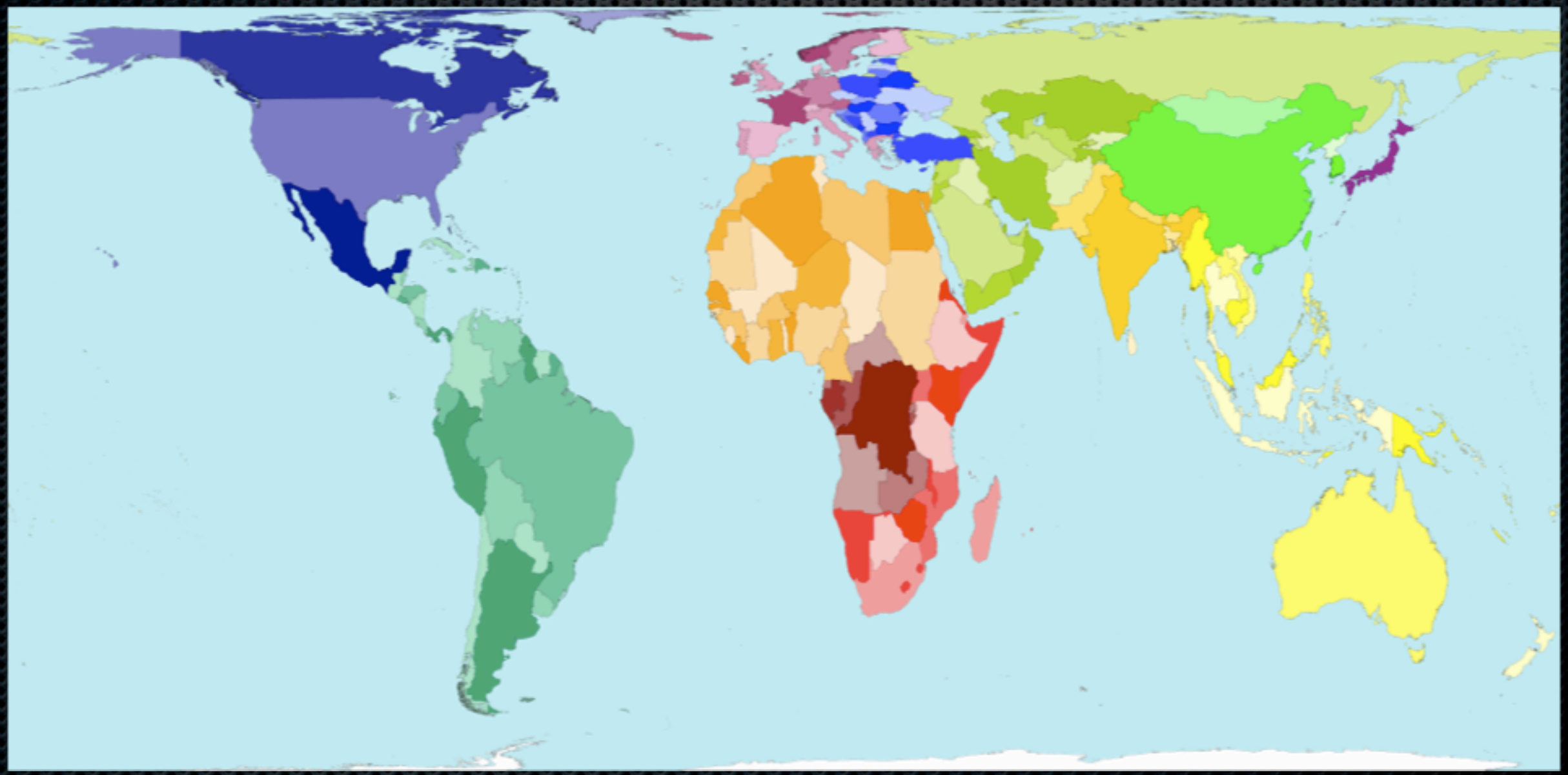


El mito de la individualidad

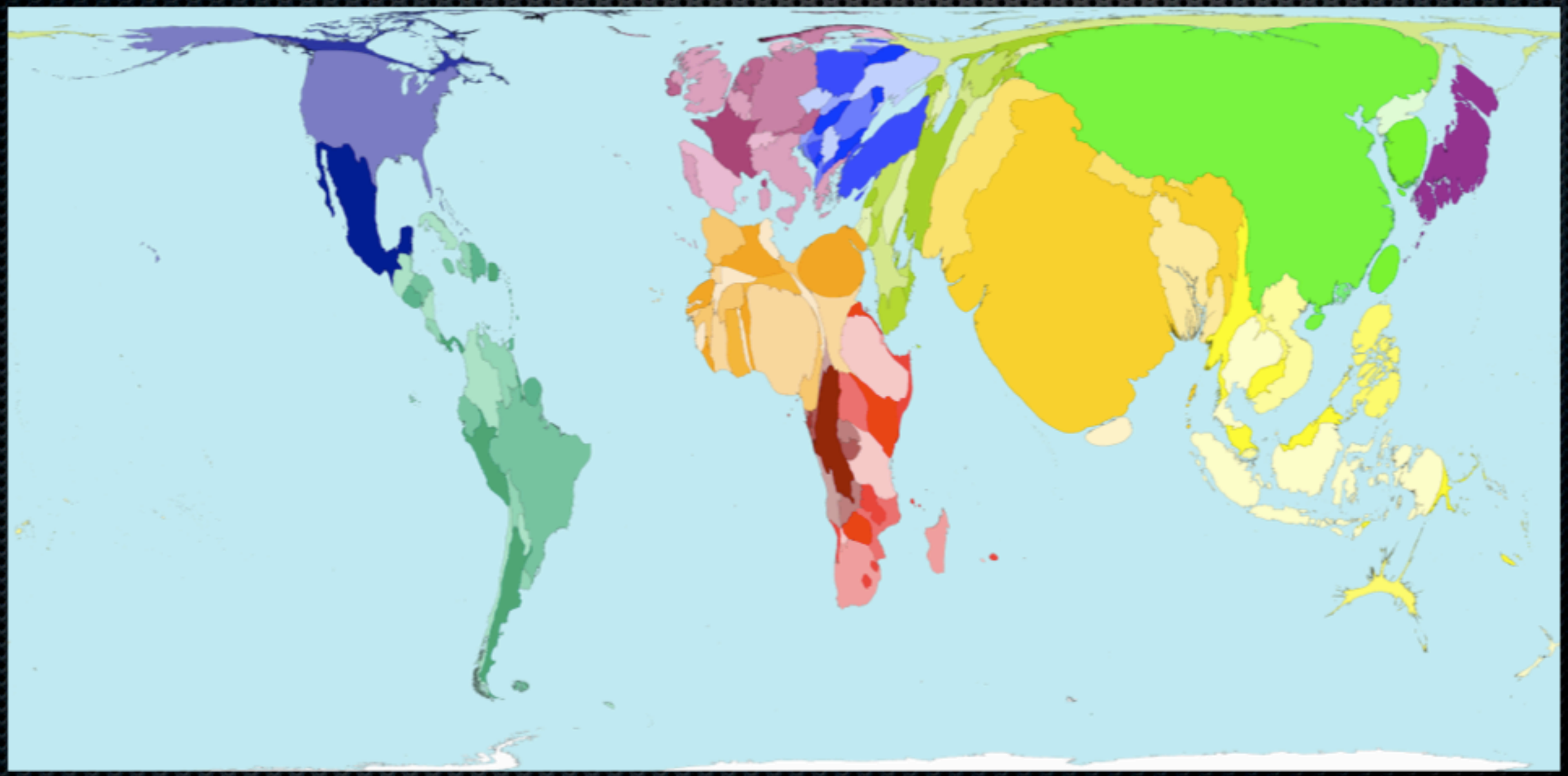


La realidad

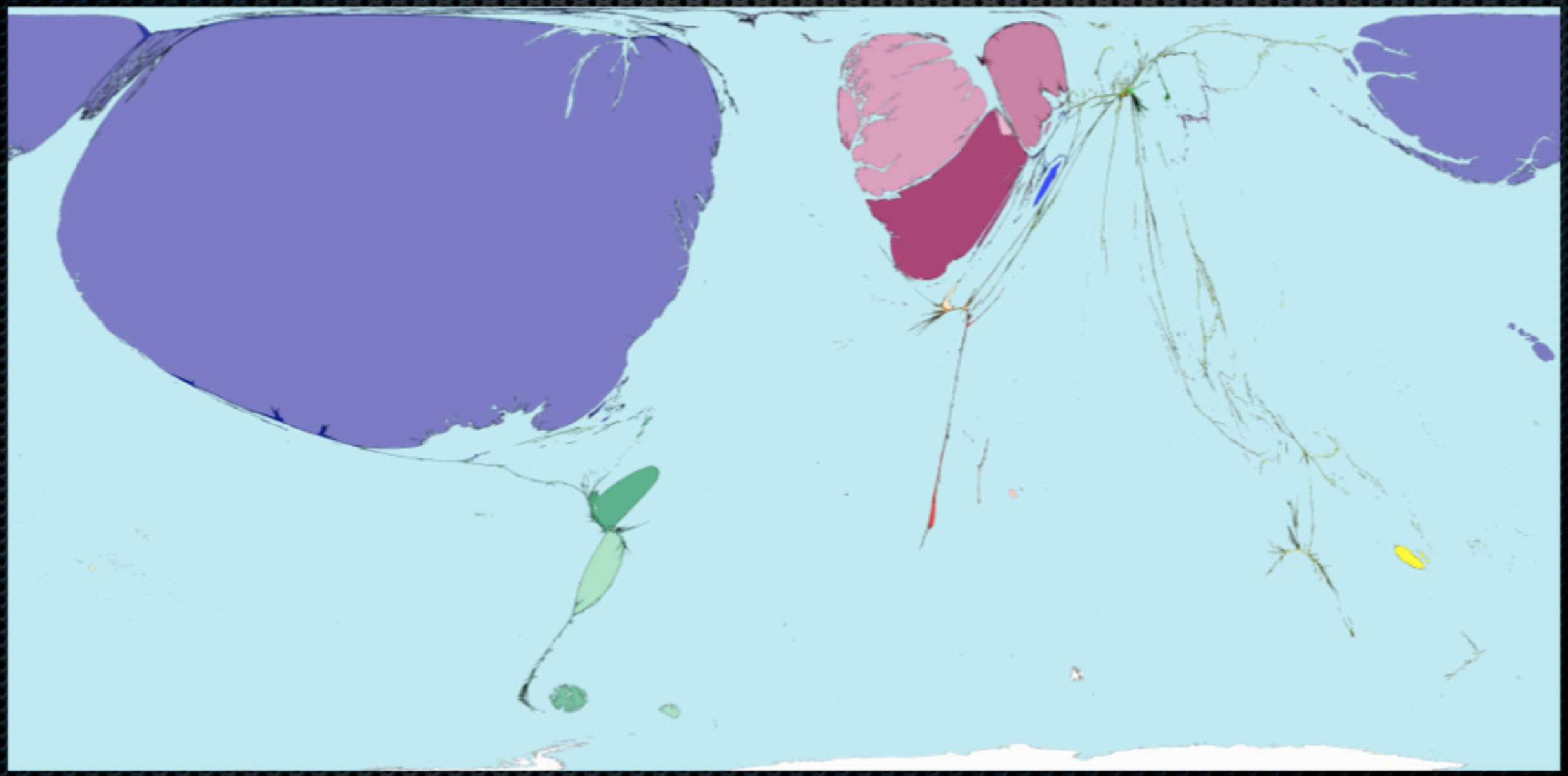
¿Quiénes ganan?



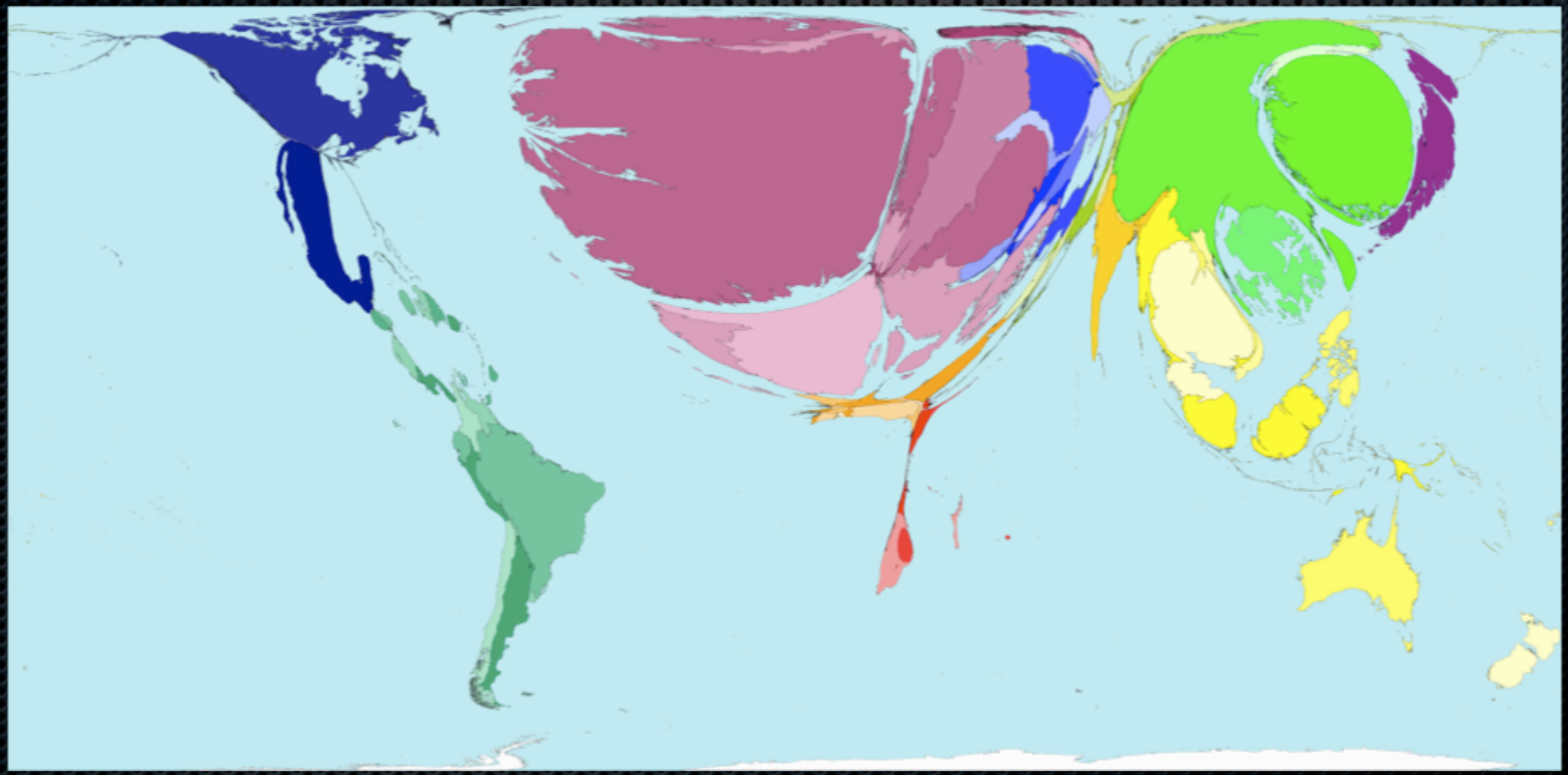
¿Quiénes ganan?



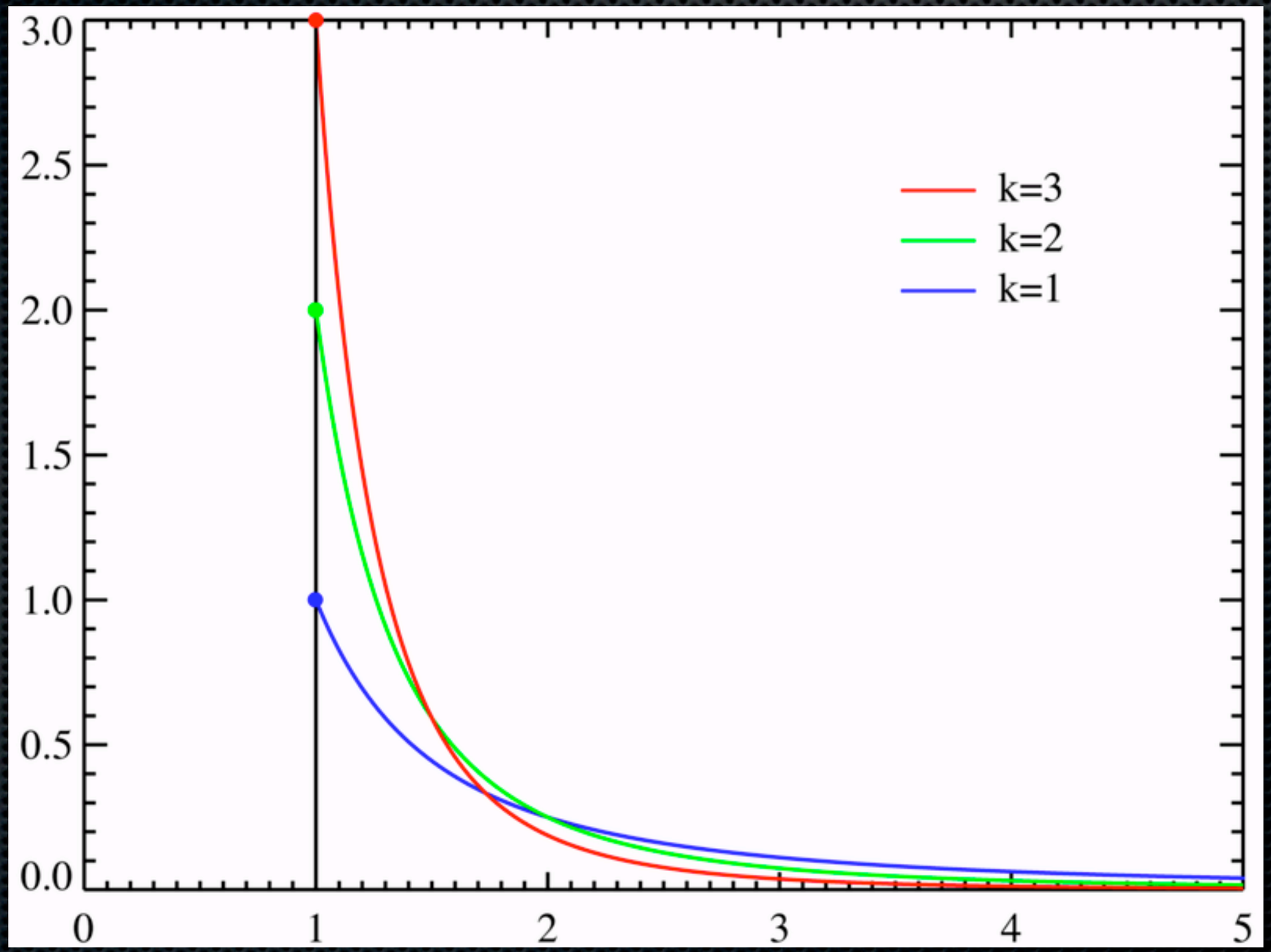
¿Quiénes ganan?



¿Quiénes ganan?



Distribuciones de Pareto



Alternativas

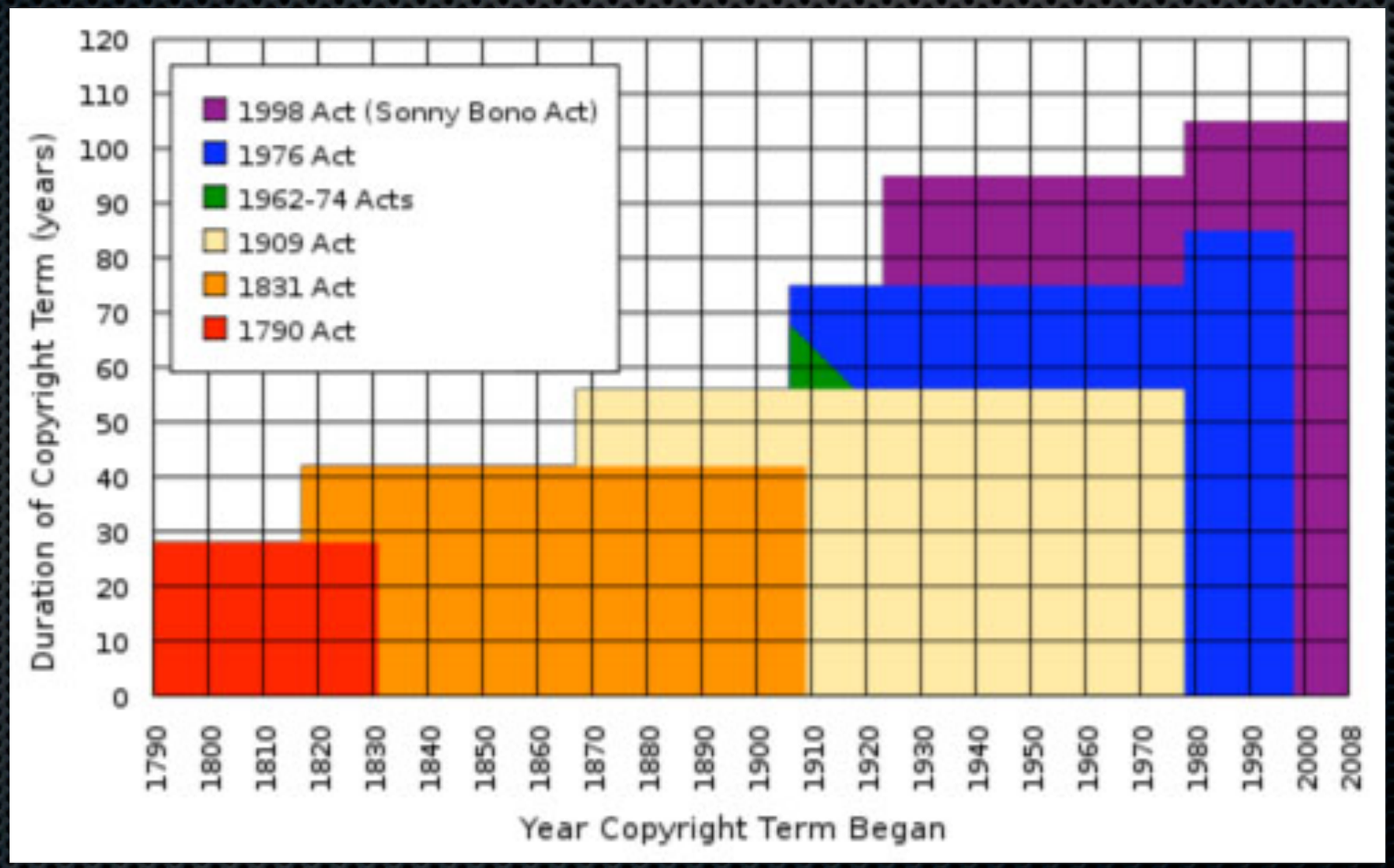
Teorías de reforma a derechos

Maximalismo

Abolicionismo

Minimalismo

Duración de derechos



Protección tecnológica y contractual

¿Un mundo sin copyright?

Minimalismo

- Reformas legislativas que devuelvan el poder a los usuarios.
- Un nuevo paradigma de creatividad en línea.
- Licenciamiento abierto.

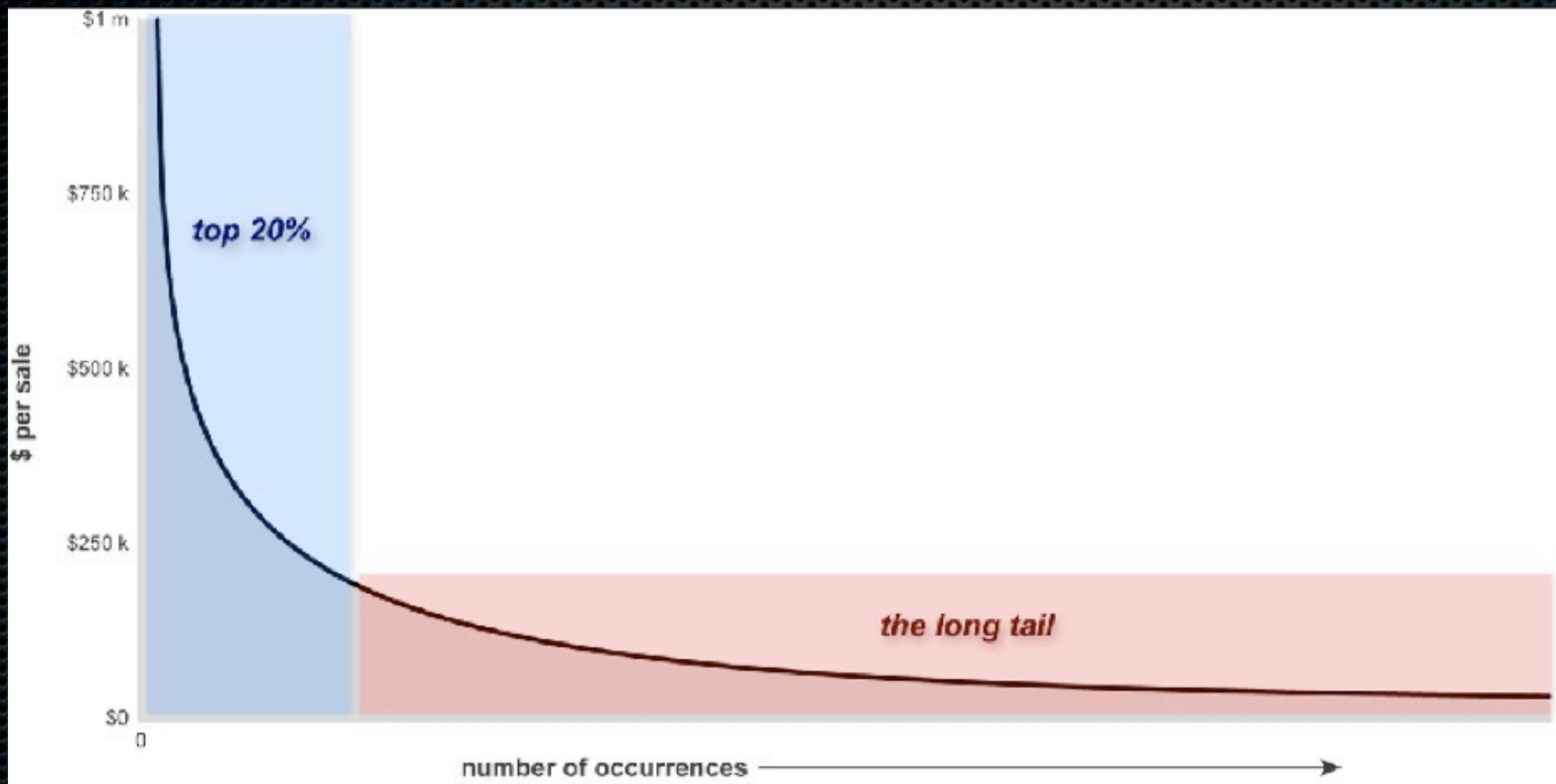
Web 2.0

Web 1.0	Web 2.0
Solo lectura (RO)	Lectura / escritura (RW)
Jerárquico	Orgánico

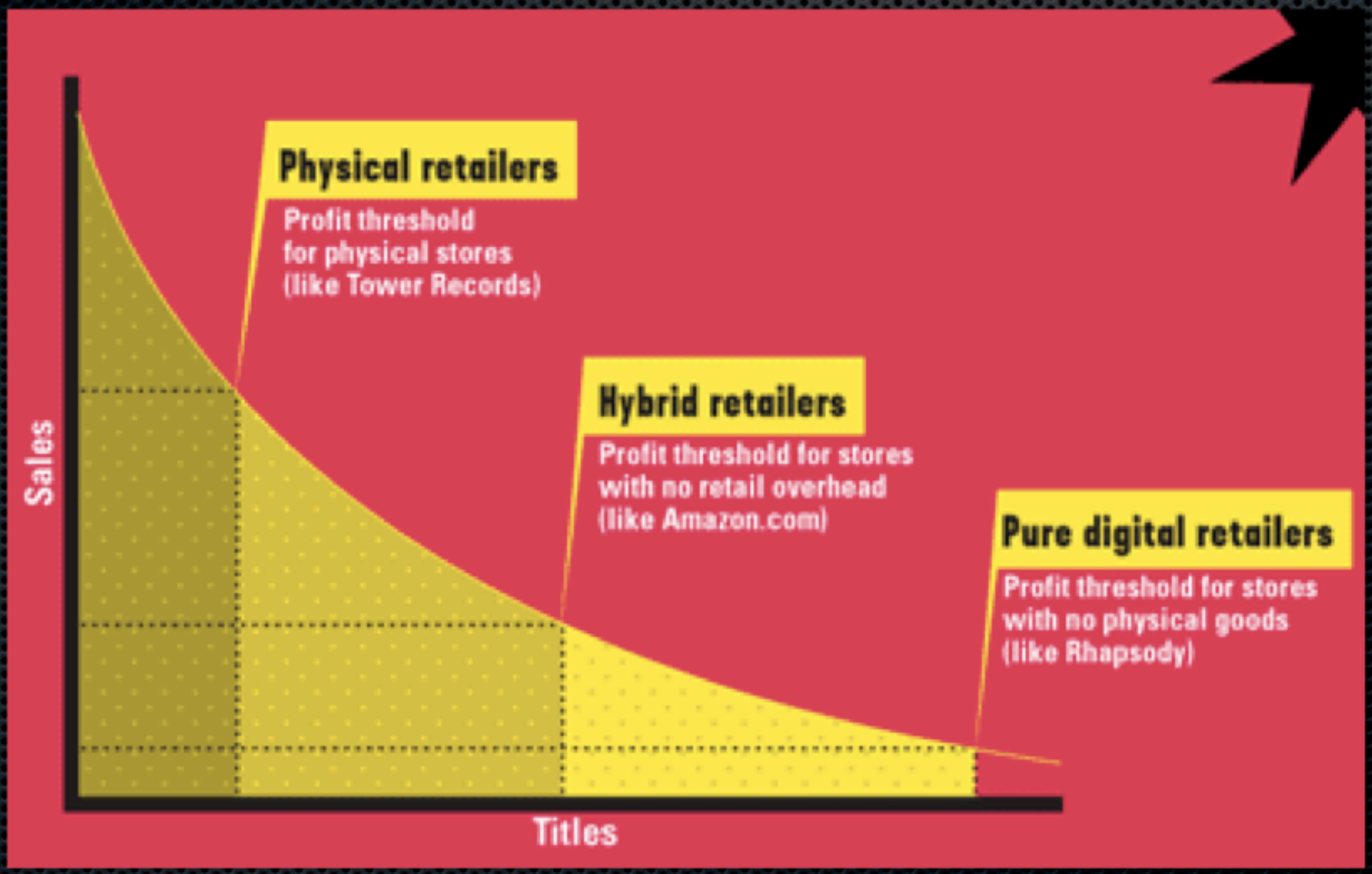
El usuario es el productor

- Blogs
- Flickr
- YouTube
- Redes sociales
- Wikipedia
- Twitter

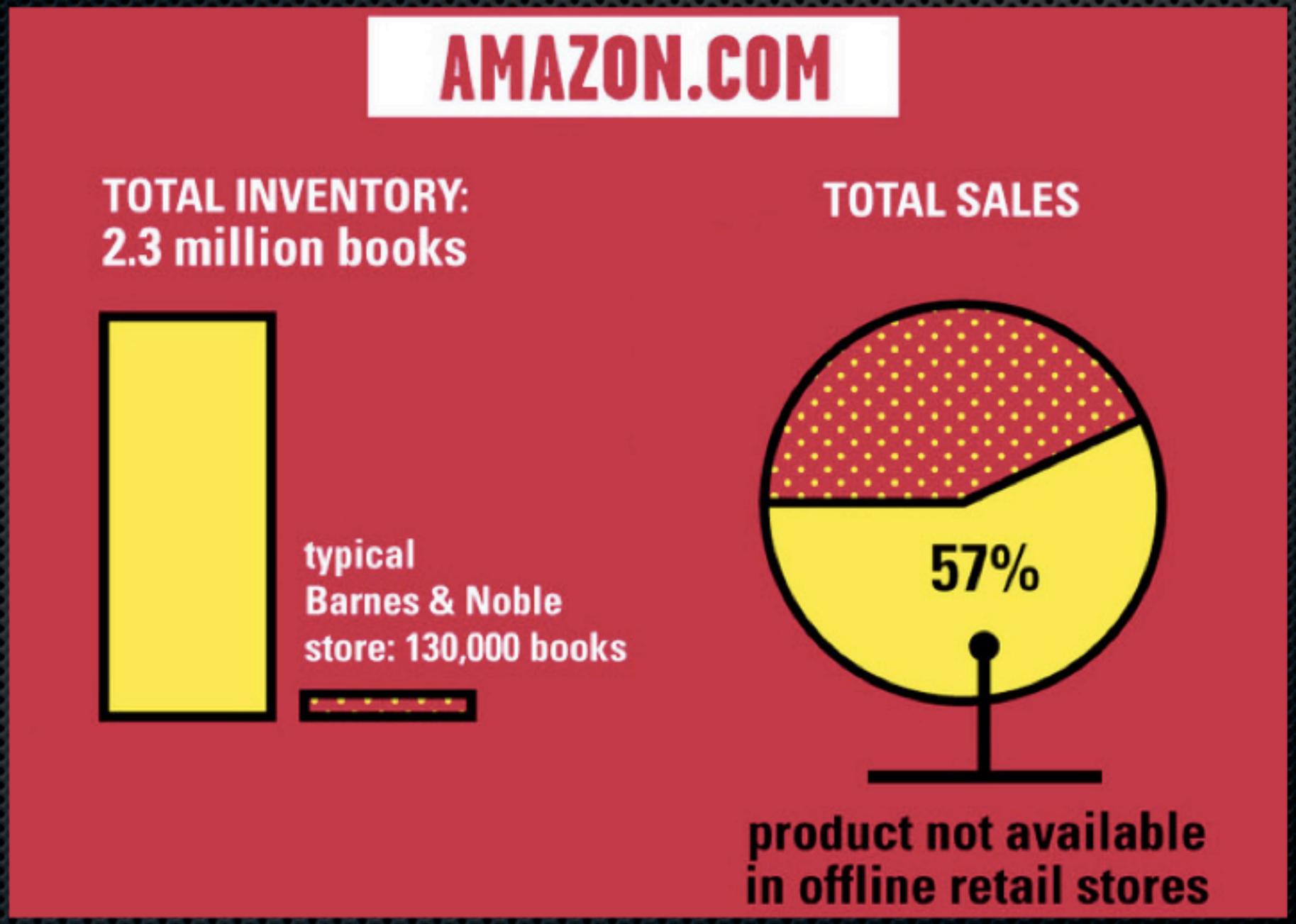
La larga estela



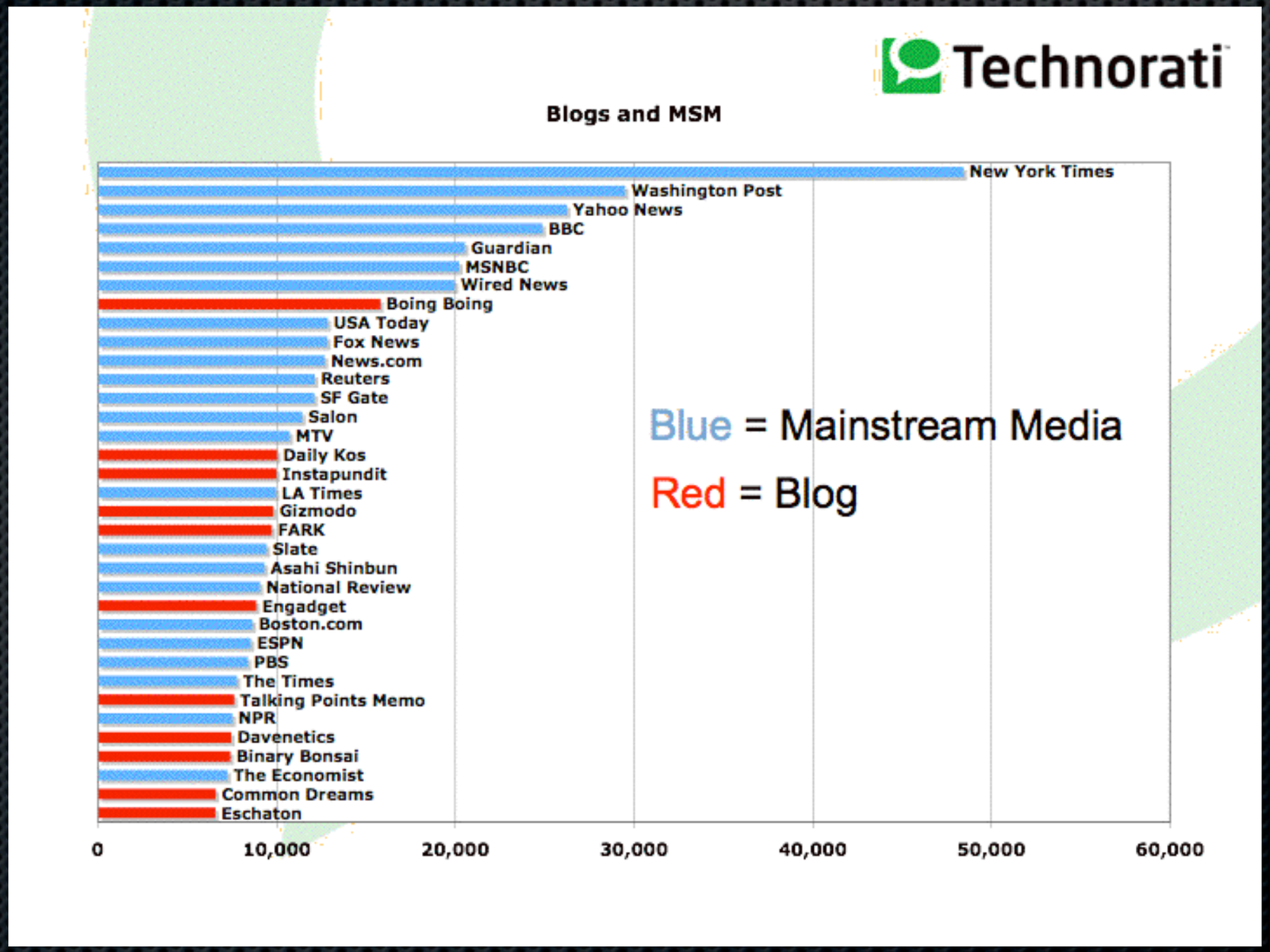
La larga estela



La larga estela



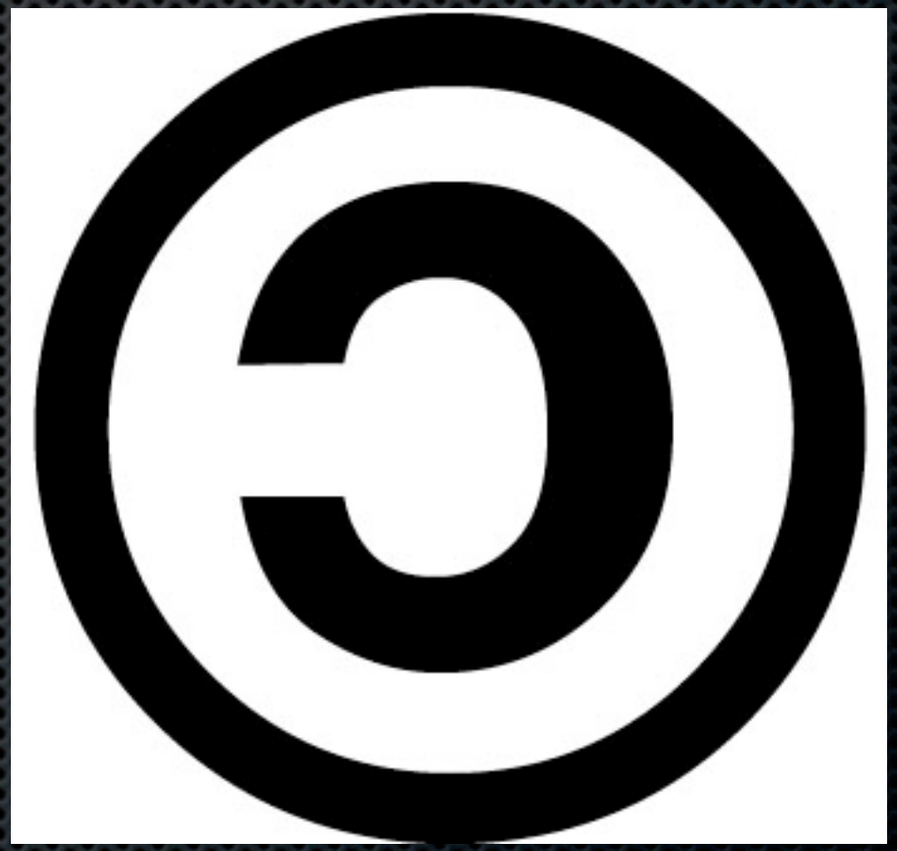
La larga estela en medios de información



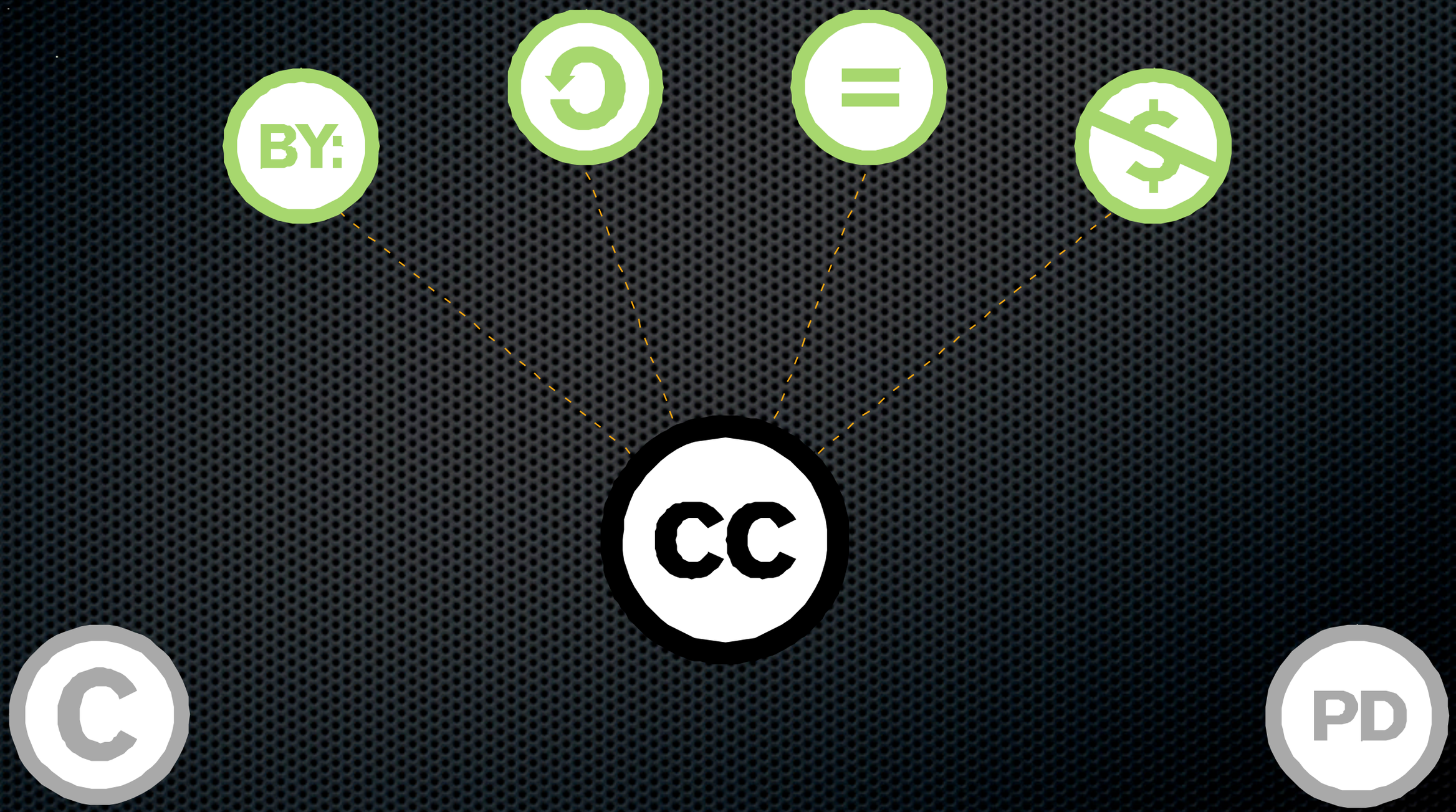
Creative Commons

Algunos conceptos

- Derechos de autor
- Licencia
- Contrato
- Copyleft



Gama de derechos



Cuatro elementos

Reconocimiento: Todos los certificados de CC permiten copiar y distribuir una obra, siempre que se de crédito al creador de la misma.
El autor puede incluir a estos otros elementos:

No comercial: los licenciatarios pueden utilizar la obra para fines no comerciales.

No Derivados: el trabajo no puede ser modificado.

Compartir Igual: el trabajo puede ser copiado, modificado y distribuido, si el autor libera los derivados bajo la misma licencia.

Tipos de licencia

BY		Reconocimiento
BY-NC		Reconocimiento - No Comercial
BY-SA		Reconocimiento - Compartir Igual
BY-ND		Reconocimiento - No Derivados
BY-NC-SA		Reconocimiento - No Comercial - Compartir Igual
BY-NC-ND		Reconocimiento - No Comercial - No Derivados

Generador de licencias

Choose License

With a Creative Commons license, **you keep your copyright** but allow people to copy and distribute your work provided they give you credit -- and only on the conditions you specify here. If you want to offer your work with no conditions, choose the public domain.

Allow commercial uses of your work? (more info)

- (•) Yes
- ( ) No

Allow modifications of your work? (more info)

- (•) Yes
- ( ) Yes, as long as others share alike (more info)
- ( ) No

Jurisdiction of your license (more info)

Generic

Tell us the format of your work:

Other

Click to include more information about your work.

Select a License

Código Humano

creative commons

Attribution-Non-Commercial-Share Alike 2.5 UK: Scotland

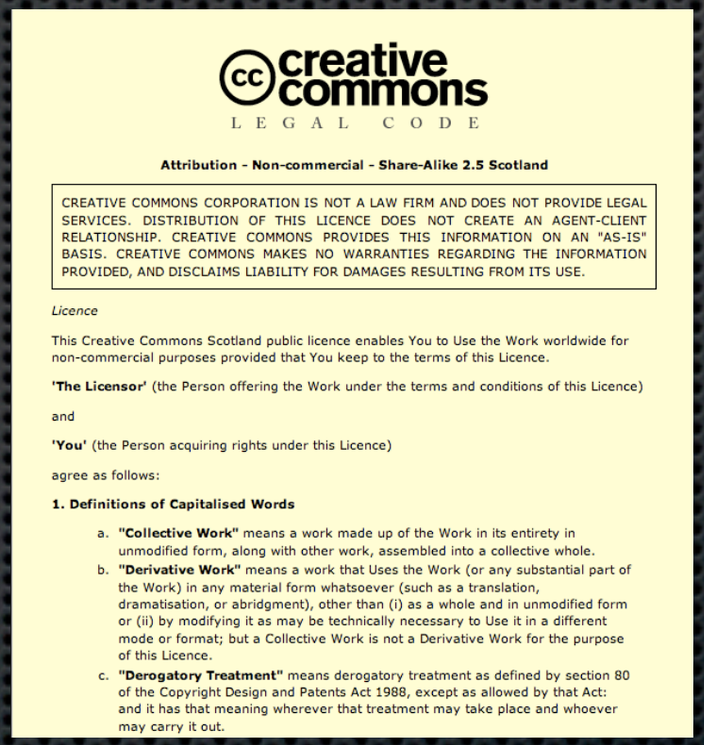
You are free:

- to copy, distribute, display, and perform the work
- to make derivative works

Under the following conditions:

- **Attribution**. You must give the original author credit.
- **Non-Commercial**. You may not use this work for commercial purposes.
- **Share Alike**. If you alter, transform, or build upon this work, you may distribute the resulting work only under a licence identical to this one.

Código legal para abogados



creative commons
LEGAL CODE

Attribution - Non-commercial - Share-Alike 2.5 Scotland

CREATIVE COMMONS CORPORATION IS NOT A LAW FIRM AND DOES NOT PROVIDE LEGAL SERVICES. DISTRIBUTION OF THIS LICENCE DOES NOT CREATE AN AGENT-CLIENT RELATIONSHIP. CREATIVE COMMONS PROVIDES THIS INFORMATION ON AN "AS-IS" BASIS. CREATIVE COMMONS MAKES NO WARRANTIES REGARDING THE INFORMATION PROVIDED, AND DISCLAIMS LIABILITY FOR DAMAGES RESULTING FROM ITS USE.

Licence

This Creative Commons Scotland public licence enables You to Use the Work worldwide for non-commercial purposes provided that You keep to the terms of this Licence.

'The Licensor' (the Person offering the Work under the terms and conditions of this Licence)

and

'You' (the Person acquiring rights under this Licence)

agree as follows:

1. Definitions of Capitalised Words

a. **"Collective Work"** means a work made up of the Work in its entirety in unmodified form, along with other work, assembled into a collective whole.
b. **"Derivative Work"** means a work that Uses the Work (or any substantial part of the Work) in any material form whatsoever (such as a translation, dramatisation, or abridgment), other than (i) as a whole and in unmodified form or (ii) by modifying it as may be technically necessary to Use it in a different mode or format; but a Collective Work is not a Derivative Work for the purpose of this Licence.
c. **"Derogatory Treatment"** means derogatory treatment as defined by section 80 of the Copyright Design and Patents Act 1988, except as allowed by that Act: and it has that meaning wherever that treatment may take place and whoever may carry it out.

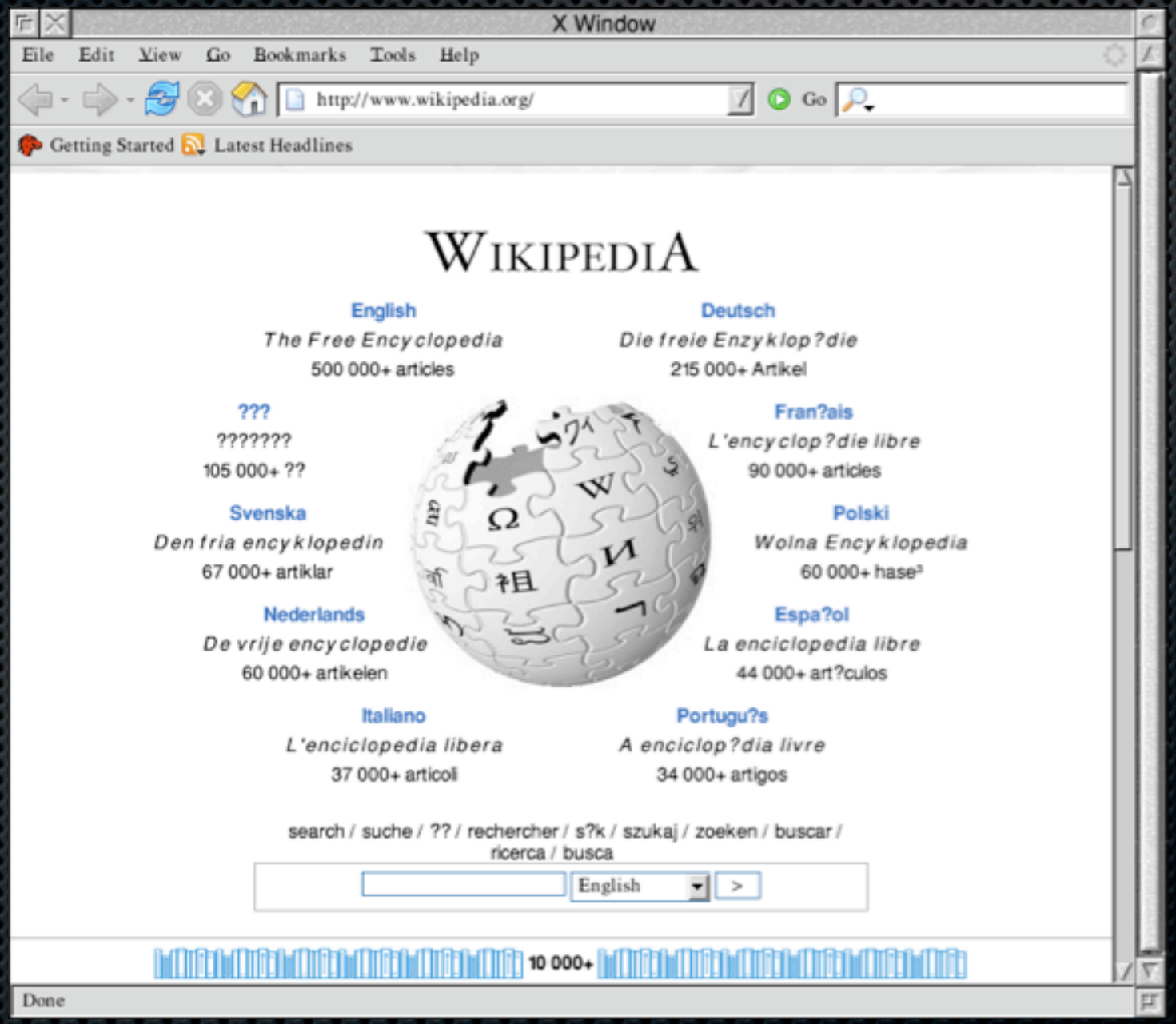
Código digital para máquinas

```
<a rel="license" href="http://creativecommons.org/licenses/by/2.5/scotland/">
<img alt="Creative Commons License" style="border-width:0" src="http://i.creativecommons.org/l/by/2.5/scotland/88x31.png" />
</a>
<br />This work is licensed under a
<a rel="license" href="http://creativecommons.org/licenses/by/2.5/scotland/">Creative Commons Attribution 2.5 UK: Scotland License</a>.
```

Otras opciones

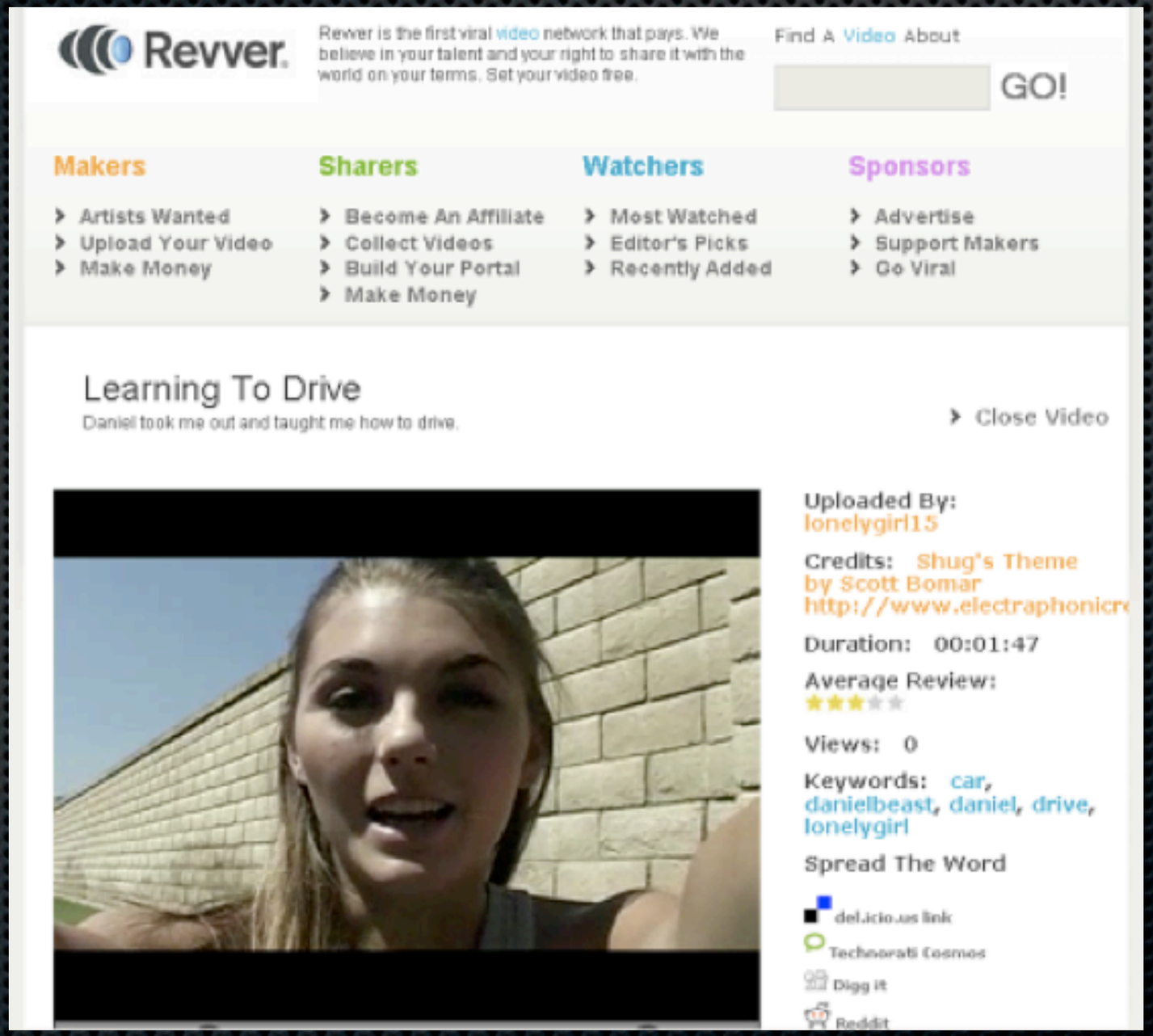
- CCPlus: CC+ es una licencia CC + otra licencia.
- CC0: “Afirmación” unilateral que renuncia todos los derechos de autor y conexos, a lo máximo permitido por ley.
- ccREL: Creative Commons standard Lenguaje de Expresión de Derechos para medadatos automatizados.
- Science Commons: Establece un marco de acceso a trabajos científicos.

Copyright para la Web 2.0

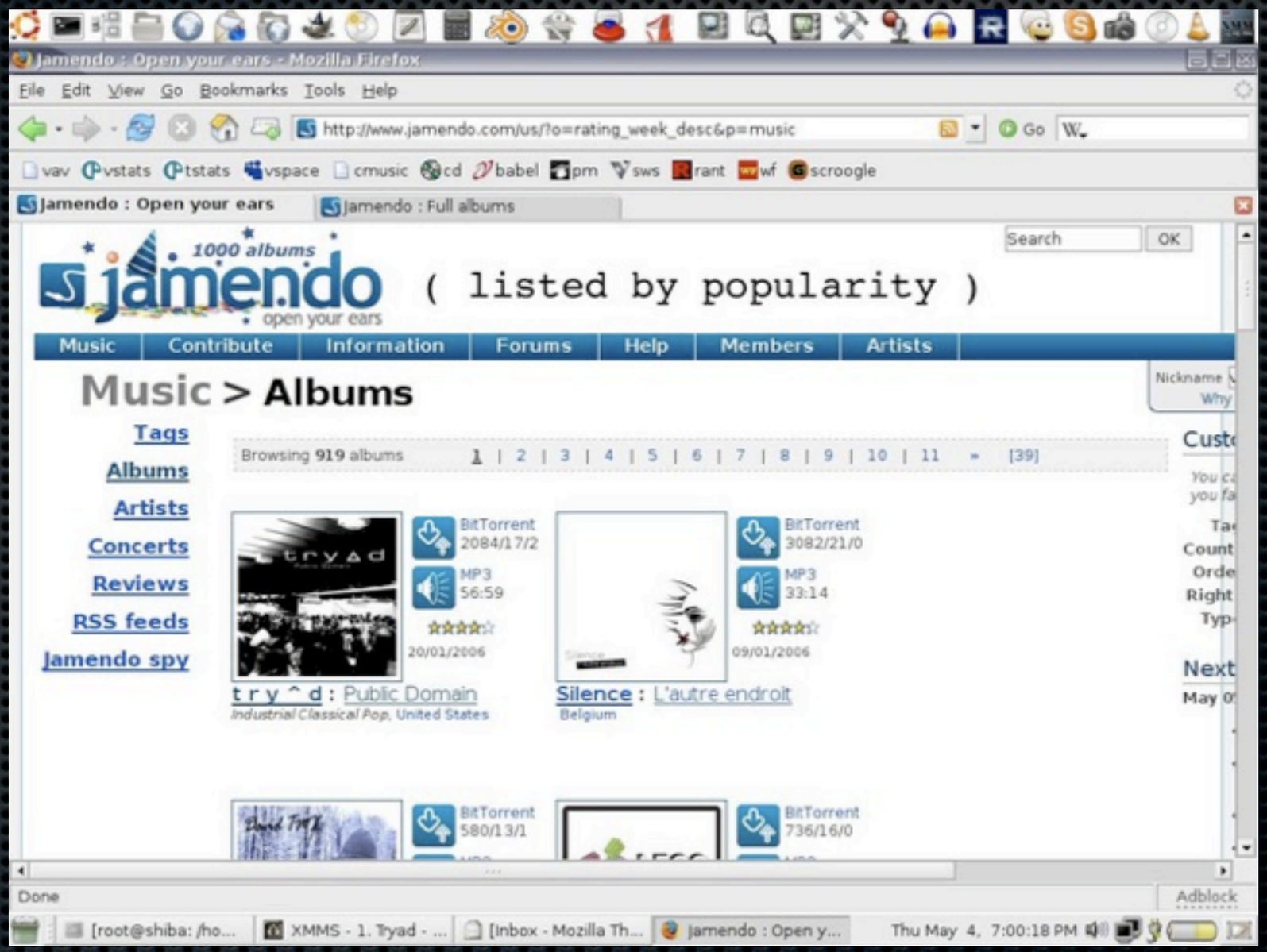


Copyright para la Web 2.0

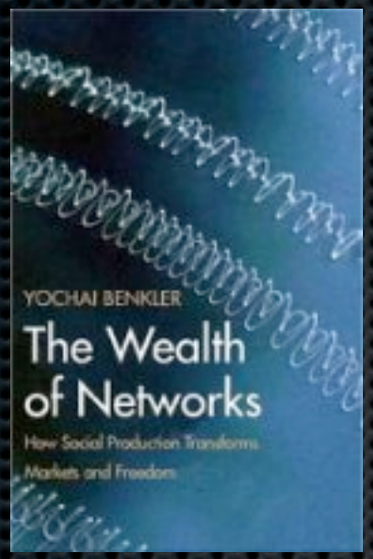
Copyright para la Web 2.0

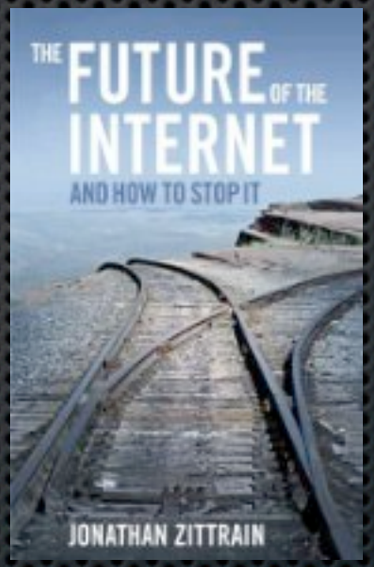


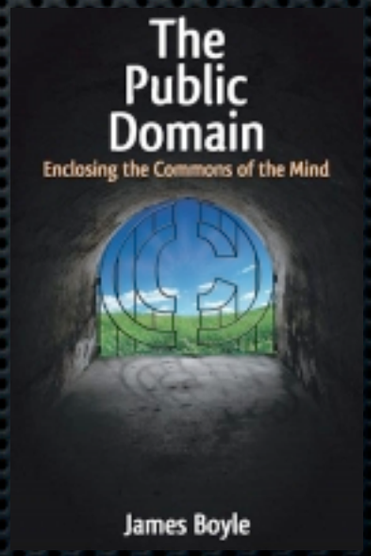
Copyright para la Web 2.0



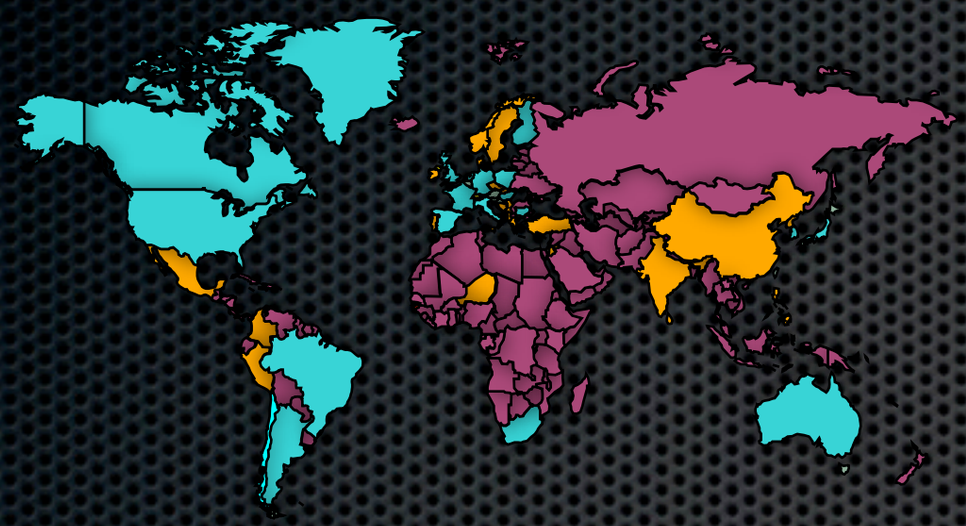
Libros bajo Creative Commons

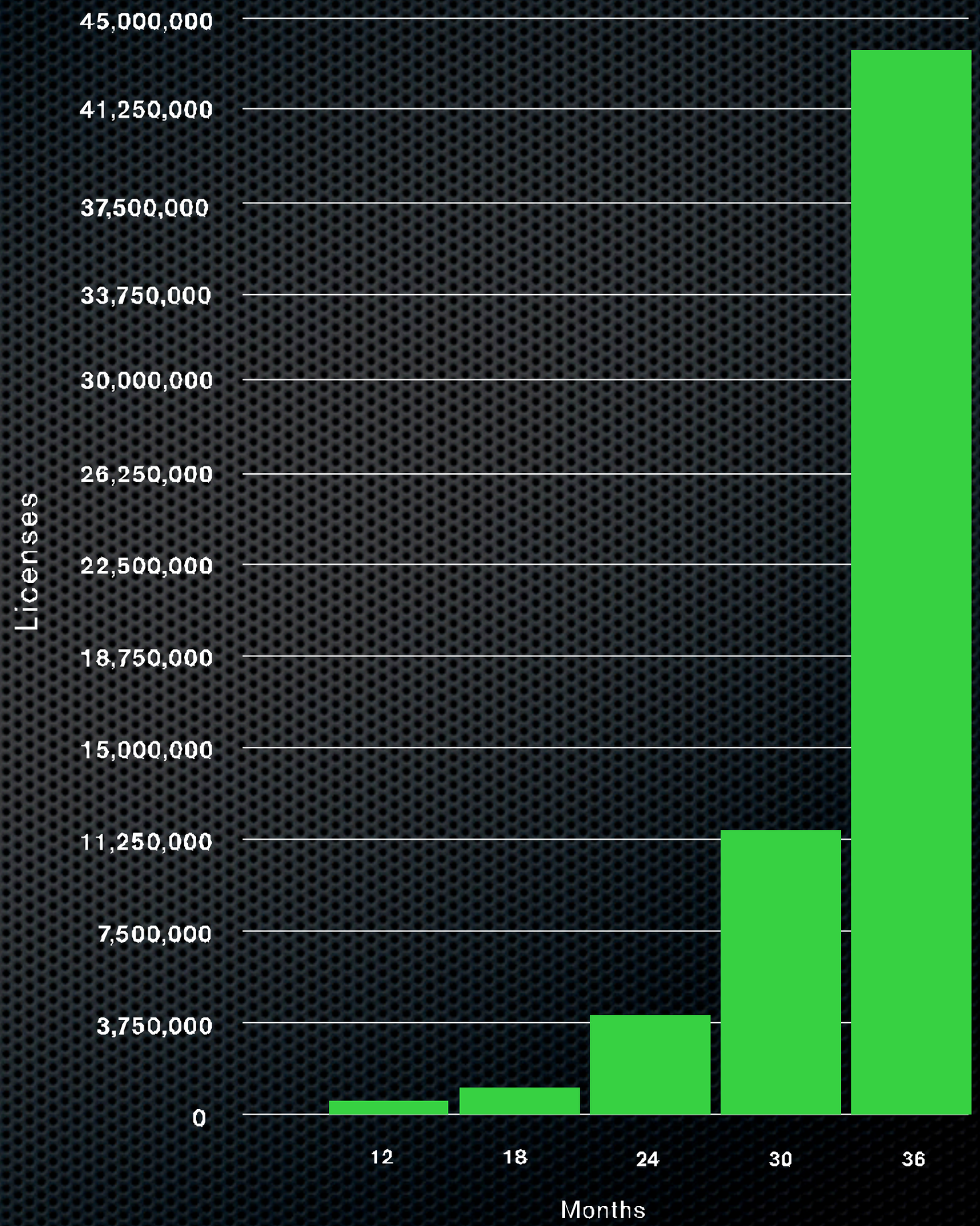






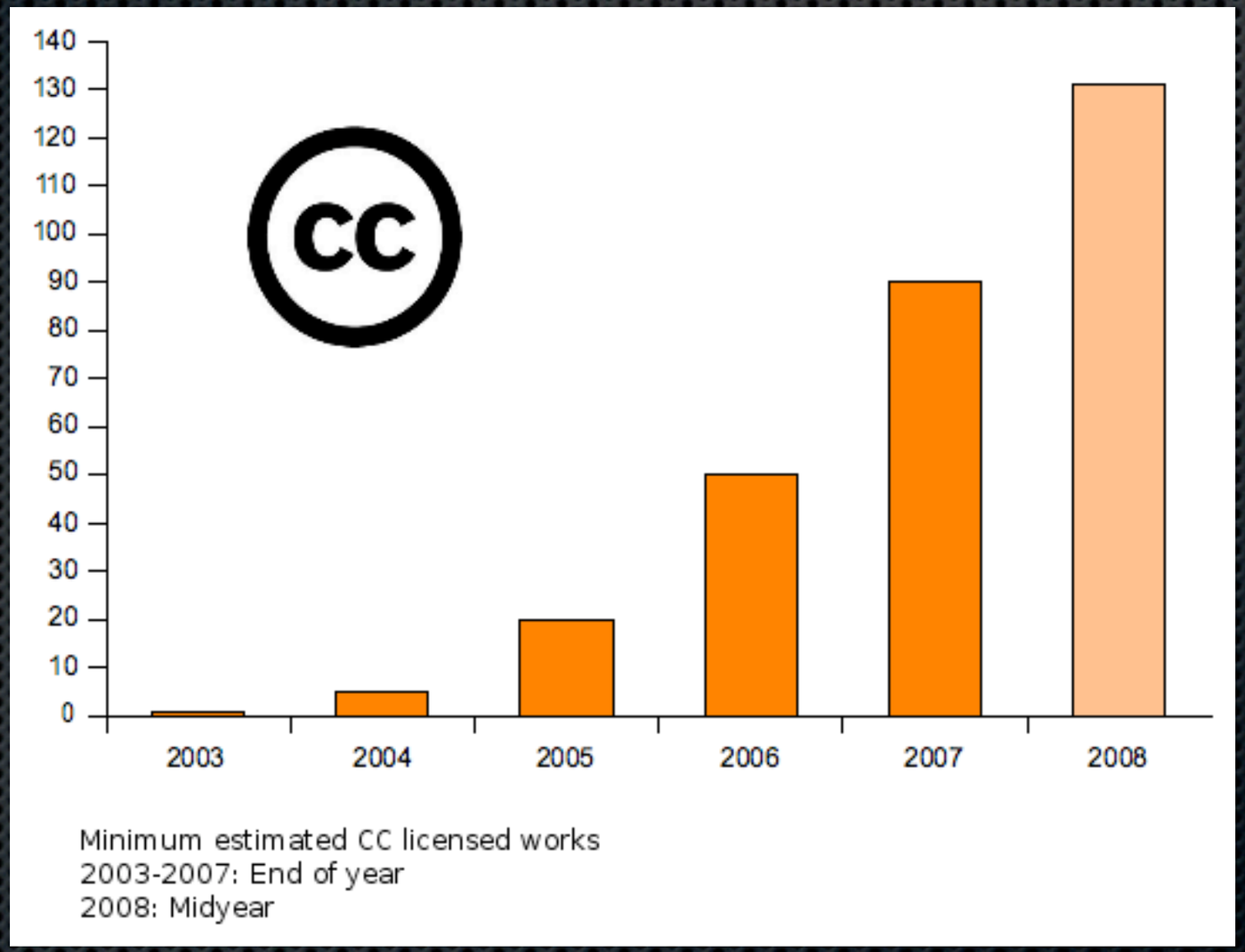
Licenses in use



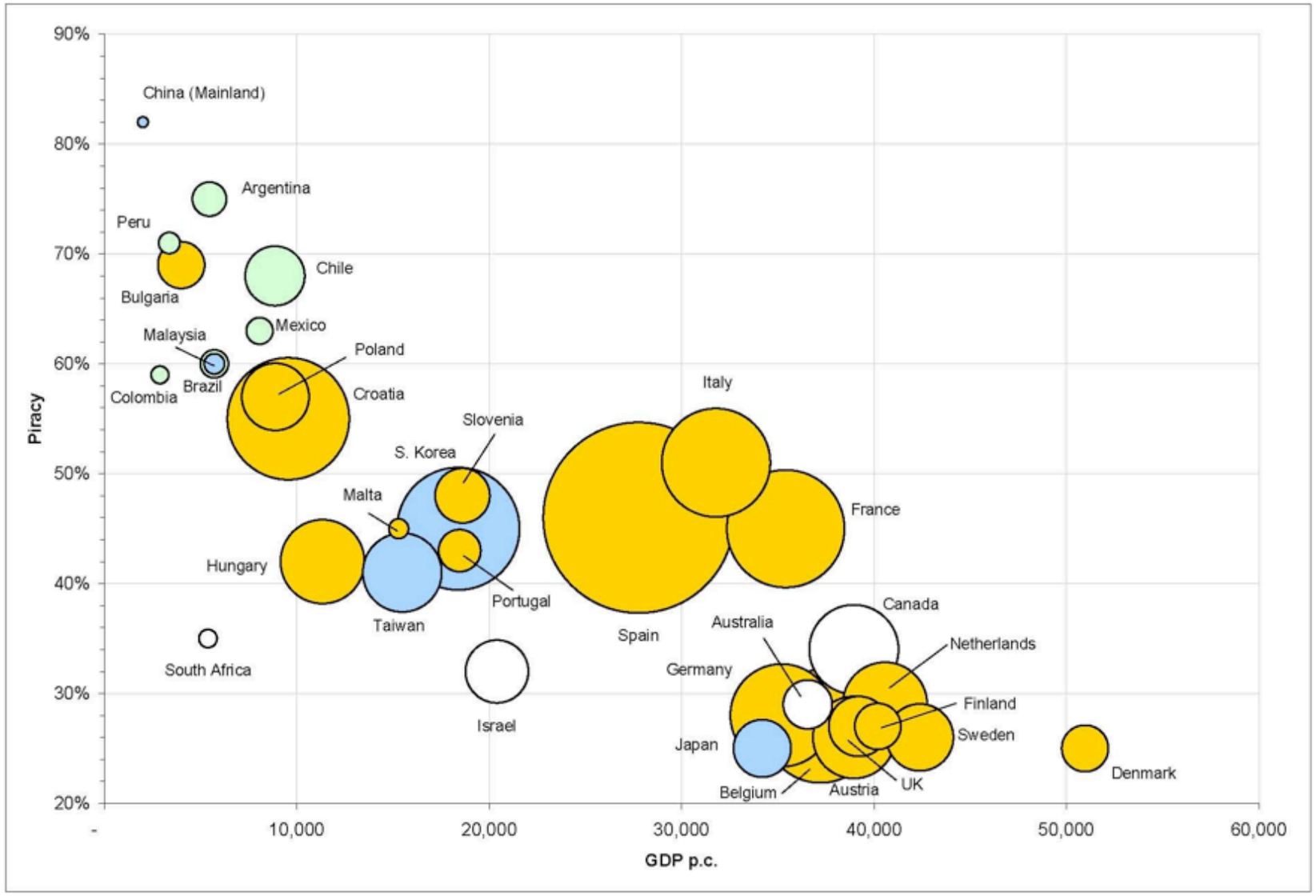


creative commons

Crecimiento mundial



Uso de CC v piratería



http://pml.wikidot.com

Sin embargo...

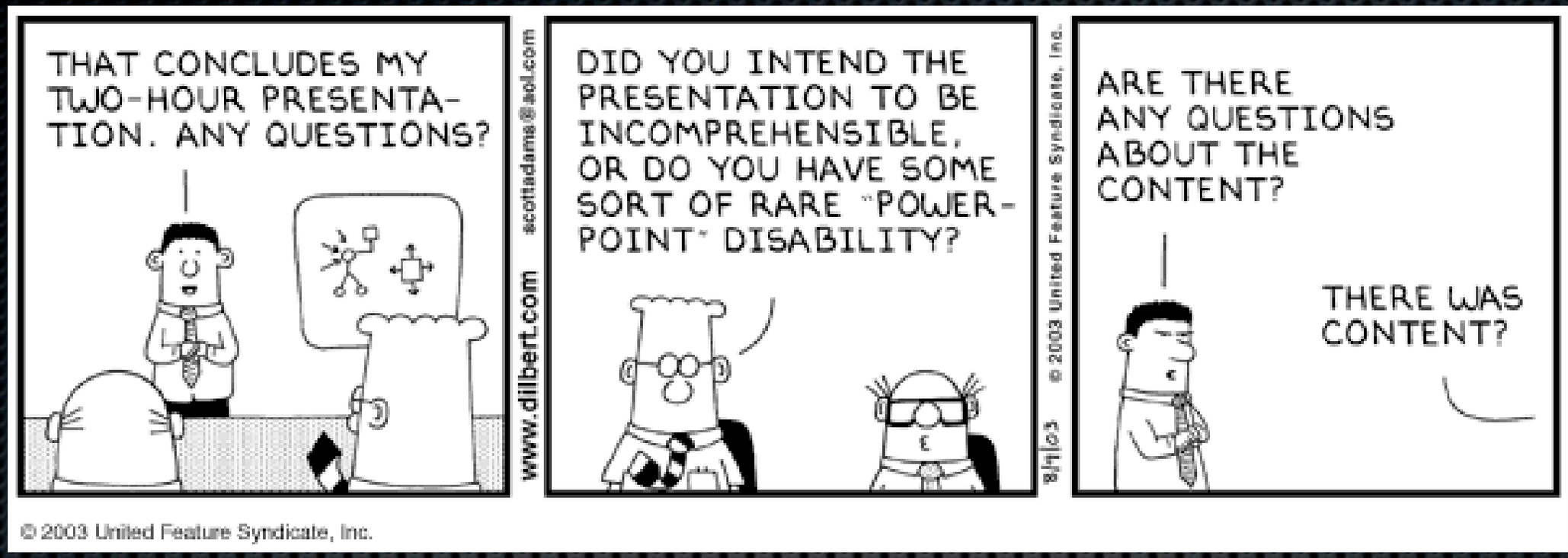
IF YOU HAVE A
BUSINESS CARD
YOU HAVE BEEN
THERE TOO LONG
Are you with us
or what?

Sin embargo...

Sin embargo...

DUMP YOUR
PEN FRIEND
FREE TEXT VIRGIN TO VIRGIN
Are you with us or what?

Concluyendo...



© 2003 United Feature Syndicate, Inc.

a.guadamuz@ed.ac.uk

Attribution-Non-Commercial-Share Alike 2.5 UK: Scotland

http://creativecommons.org/licenses/by-nc-sa/2.5/scotland/