



The Copyright Dispute: A Transnational Regulatory Struggle

Leonhard Dobusch & Sigrid Quack





Research Context: Institution Building Across Borders

- > **Research interest:** preconditions, processes and mechanisms of institutional regulation beyond national and supranational statehood
- > **Research focus:** participation of non-state actors, and the interaction of intended and emerging institution-building in the transnational realm
- > **Research group:** very interdisciplinary; different regulatory fields such as private labor regulation, environmental protection standards or micro finance.



Research Questions

- > Which preconditions, processes and mechanisms facilitate transnational institutional experimentation by non-state actors, leading to mutually shared rules with a relatively high binding character? Which factors prevent this?
 - How do issue fields of transnational rule-setting become over time structured by organizational actors and their interorganizational relations?
 - Under which conditions and by which means can civil society actors, such as associations, professions, social movements, or unions influence transnational rule-setting and institution building?
 - Which arguments and ideas do these actors mobilize to convince others to accept certain rules and third party control of rule-following?
 - How does the local rootedness of actors affect their ability to experiment and mobilize?

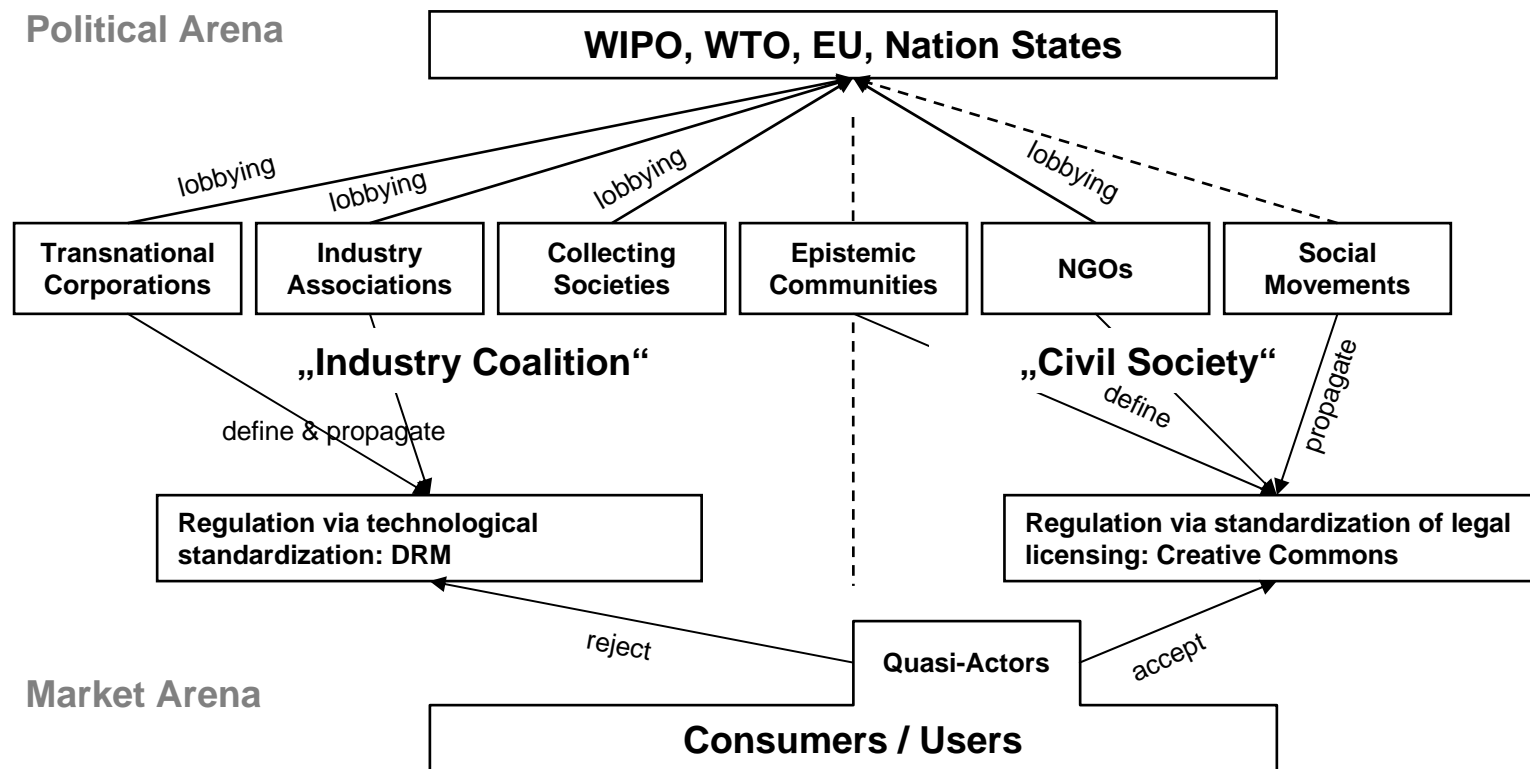


Transnational Copyright Regulation: Public vs. Private Authority

- > Copyright regulation as an *"issue field"*: actor-oriented, dynamic version of organizational fields
- > Regulatory battles in political and market arena: conflict, complementarity and paradoxical relations of regulatory initiatives
- > Why copyright field?
 - Long history of transnational regulation (no *"tabula rasa"*)
 - Dynamic development during the last 20 years (*"digital revolution"*)



„The Copyright Scene“: two coalitions, two arenas



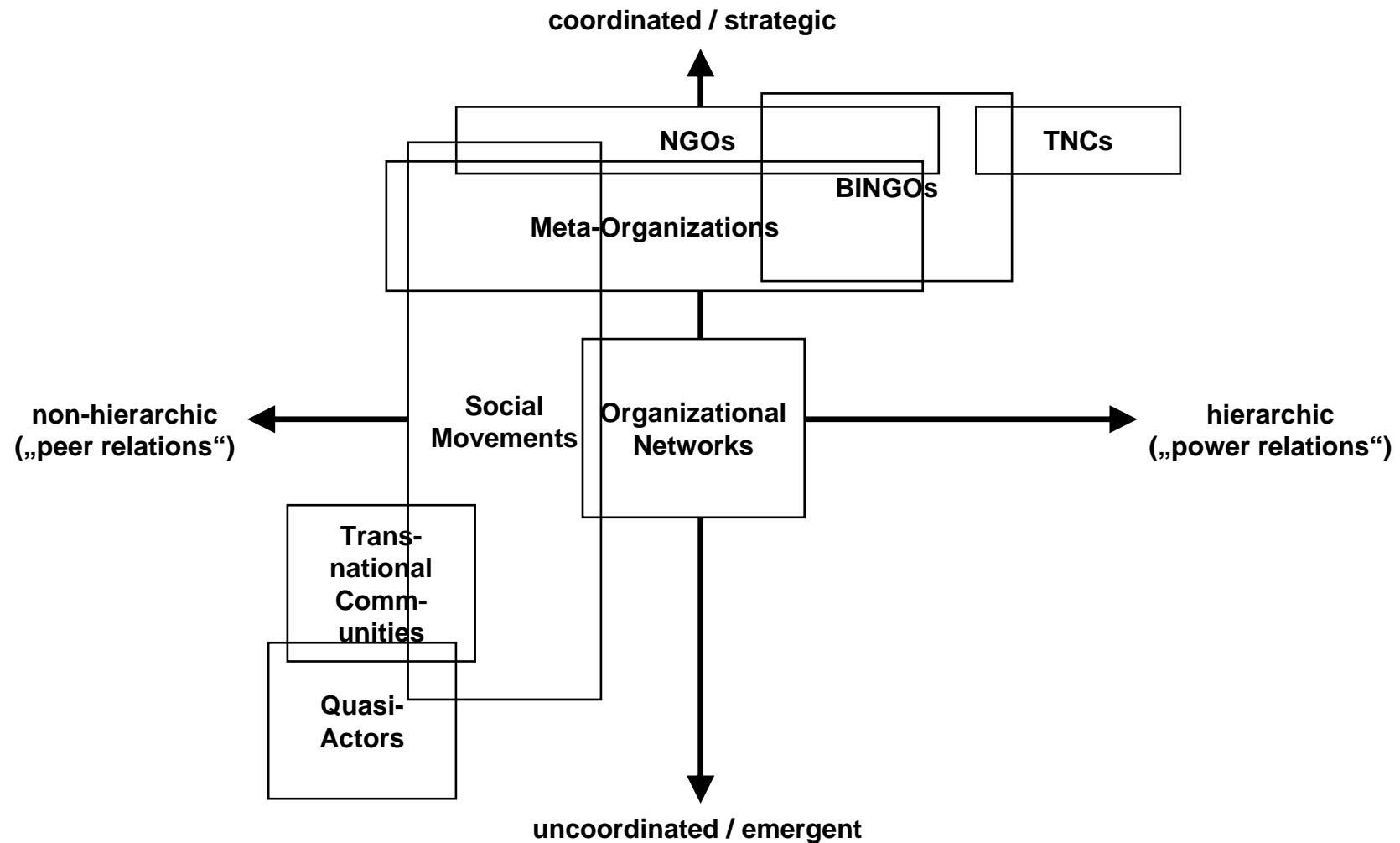


Field Level Lessons:

- > **Mode of regulations:** private regulation in spite of (or even: because of) strong public regulation
- > **“Dialectics of private governance” (Teubner 1998):** apolitical character vs. re-politization
- > **Organizational forms:** different characteristics and resources correspond with regulatory logic on different levels

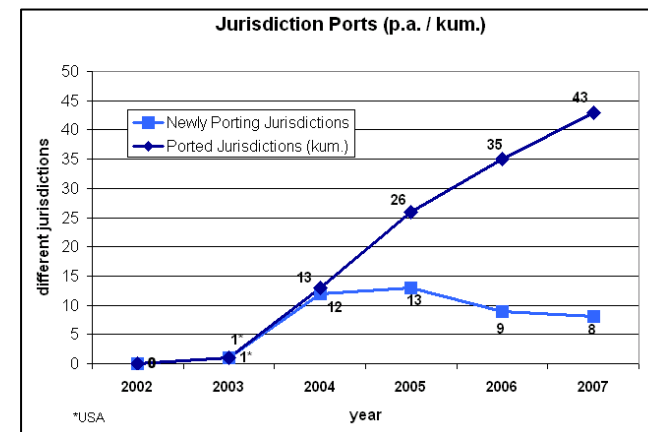
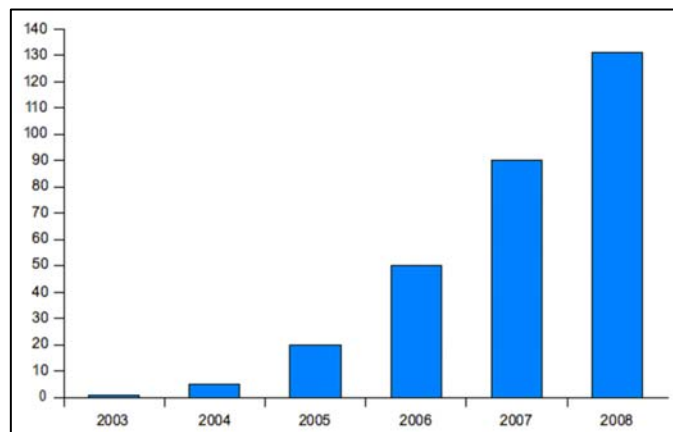


Organizational Forms of Regulatory Non-State Actors



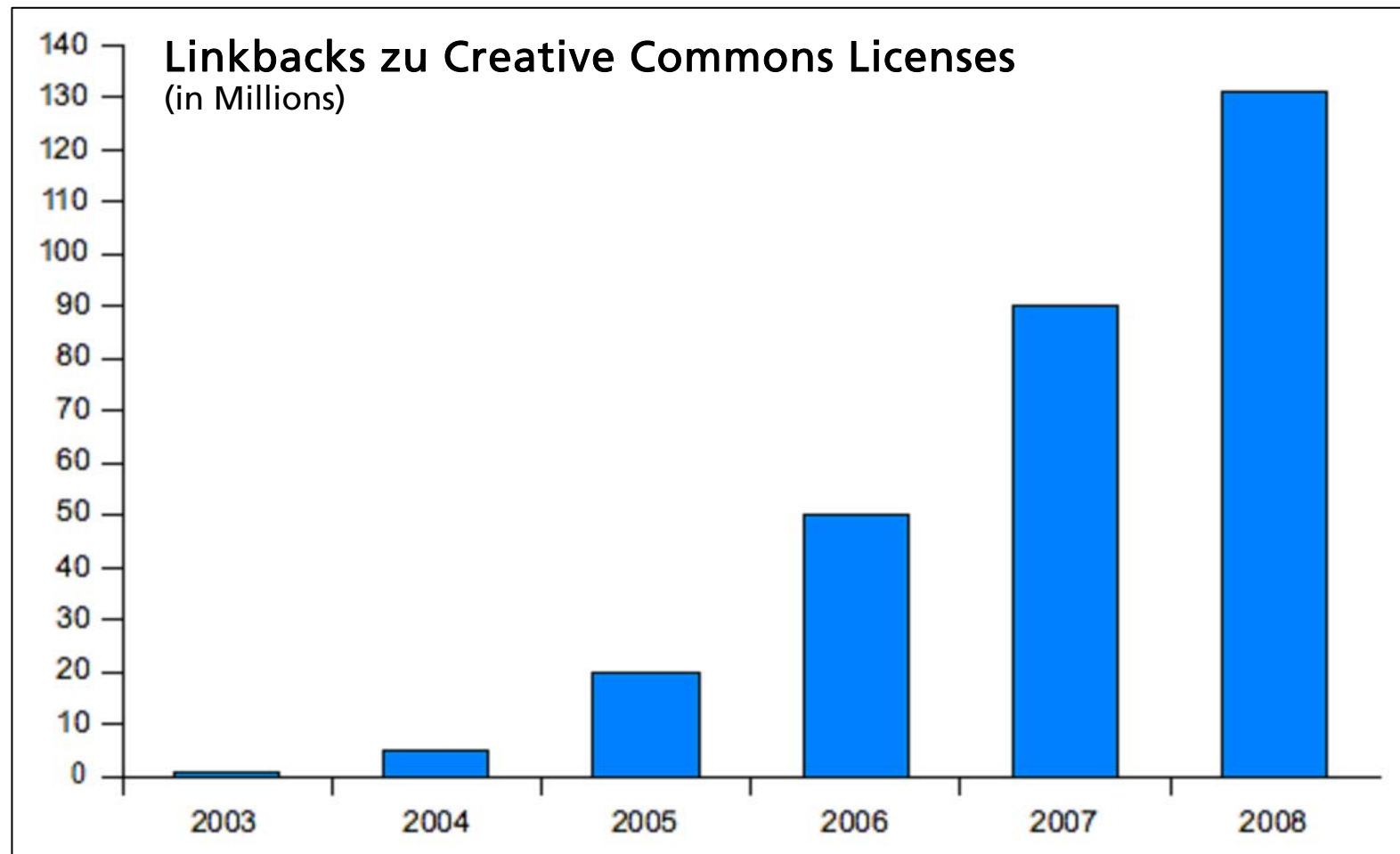
Creative Commons: Internationalization & Diffusion

- > Strong and fast growth of license usage: linkbacks to Creative Commons licenses as a diffusion proxy
- > License porting as a growth strategy: adapting licenses to local jurisdictions together with local partner organizations ("affiliates")
 - 42 jurisdictions by the end of 2007
 - over 60 different affiliates





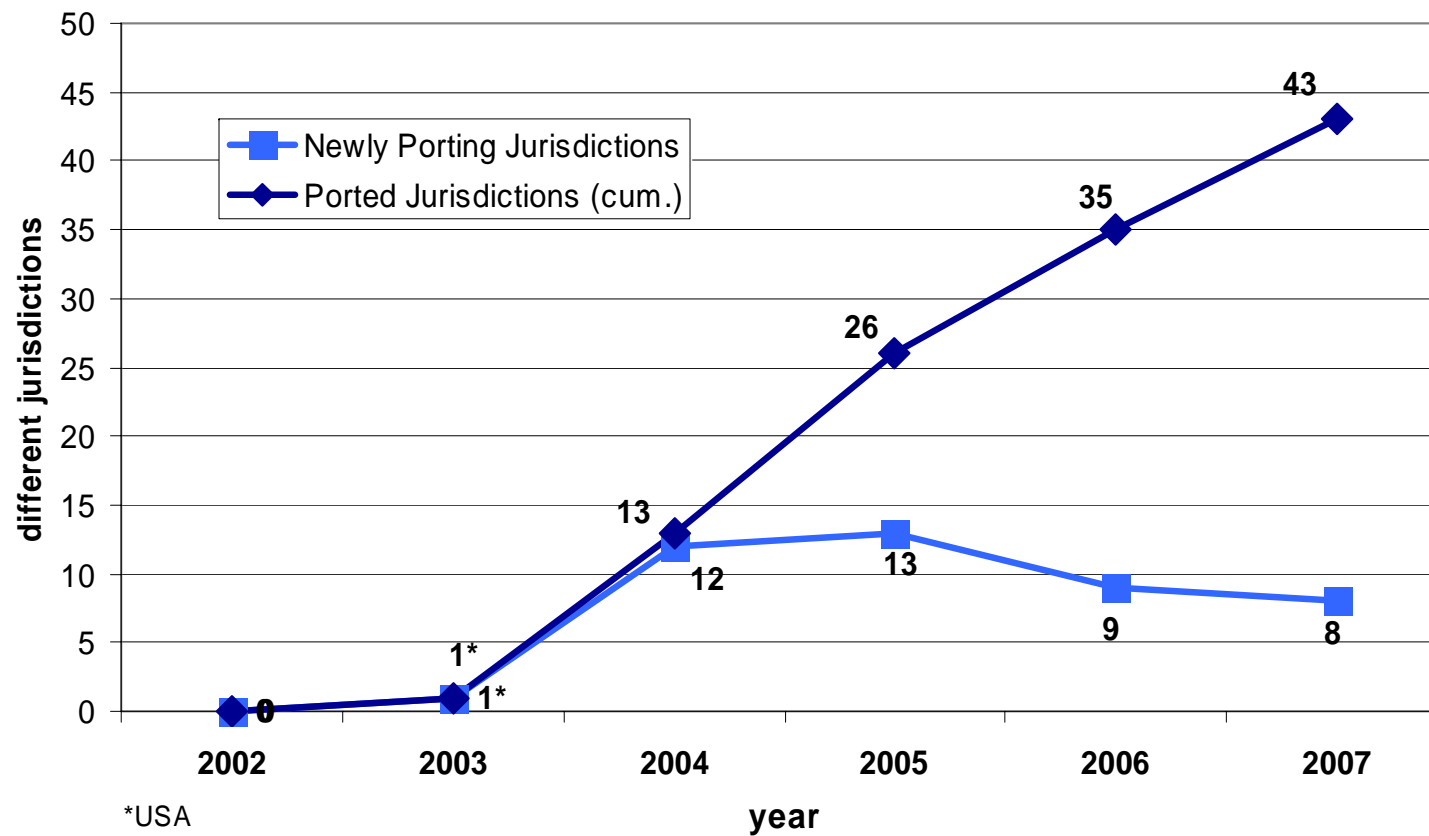
Creative Commons: Internationalization & Diffusion





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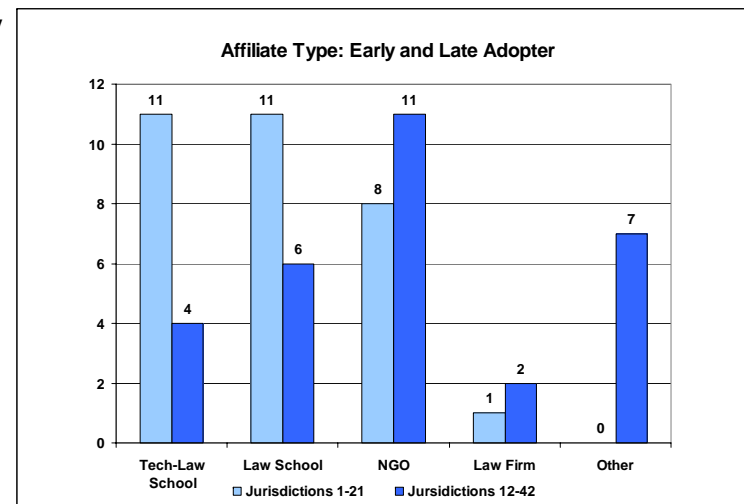
Jurisdiction Ports (p.a. / cum.)





Behind Creative Commons: Epistemic Community and/or Social Movement?

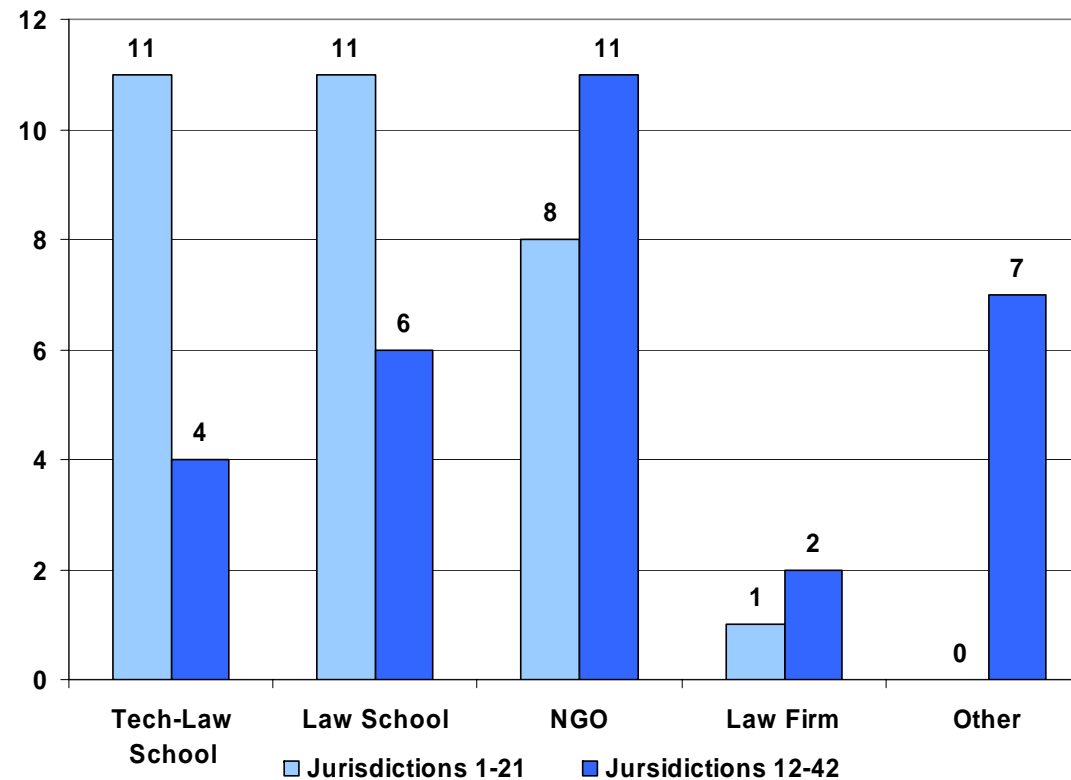
- > **Founding phase:** (epistemic) community of professional lawyers, often with information technology background
- > **First internationalization phase:** builds heavily upon lawyers involved in Free/Open Source Software licensing
- > **Second internationalization phase:** license users from diverse (professional) backgrounds join the Creative Commons community and lead to an increase in affiliate diversity





Behind Creative Commons: Epistemic Community and/or Social Movement?

Affiliate Type: Early and Late Adopter





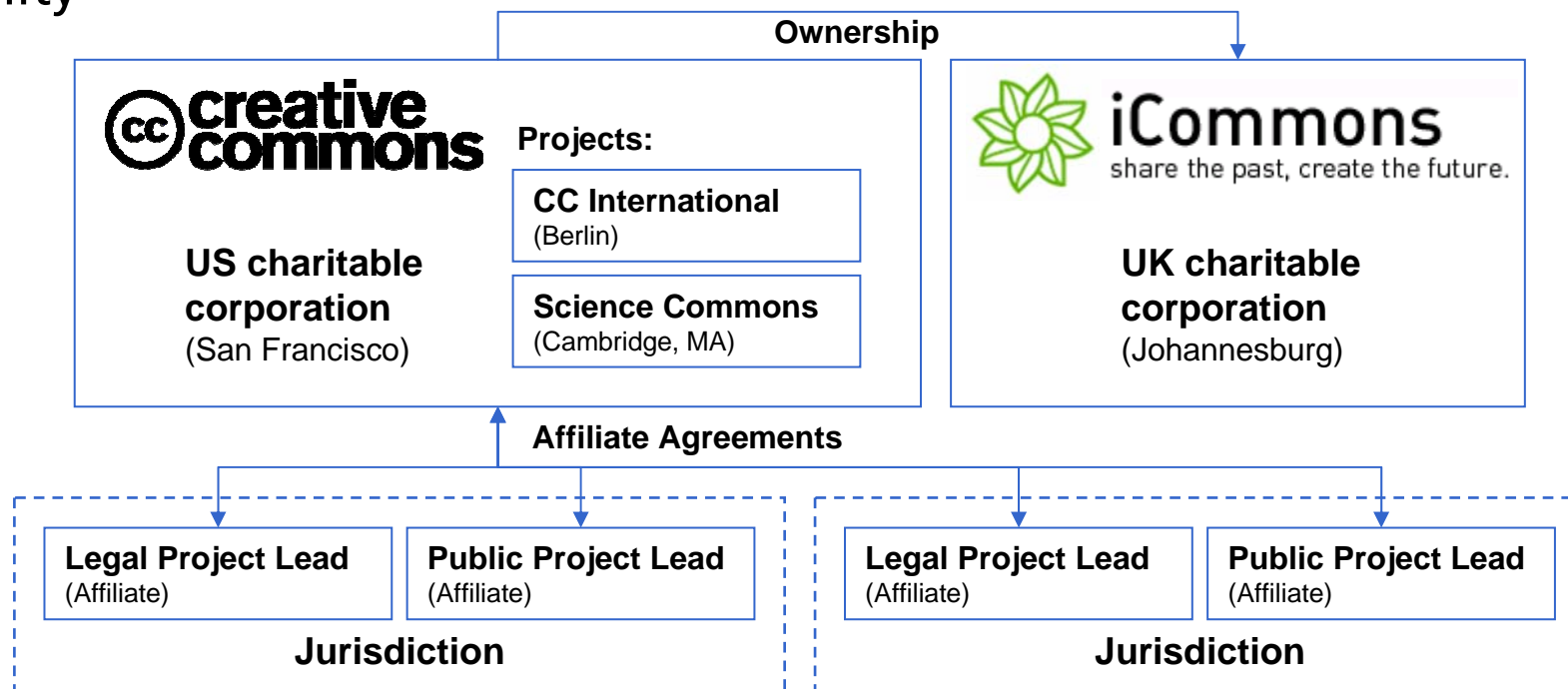
Social Movements vs. Epistemic Communities

	Epistemic communities	Social movements
Common political project	Yes	Yes
Shared interests	Yes	Yes
Shared principled beliefs	Yes	Yes
Size	Limited	Large
Boundaries	Relatively clear	Fuzzy
Internal heterogeneity	Low	High
Causal beliefs	Consensual	Disputed or absent
Knowledge base	Shared	Not necessarily shared
Means of changing the world	Persuasion by facts and arguments	Persuasion and pressure by action and framing



Creative Commons: Strategic Agency of Core Actors

- > **Conflict of goals:** Creative Commons as a provider of legal licenses vs. Creative Commons as a platform for political activism
- > **Core group of actors:** Formal split for preserving the community's unity





Conclusions

- > Challenge of overlapping organizational forms in one regulatory endeavor: synergies and threats
- > Distinction of different organizational types is difficult but fruitful: actors seldom belong to *only* one type, even though they predominantly can be assigned to either of them
- > The role of formal organization and conflict for community development: community management is conflict management



Thank you for your attention.
Contact: dobusch@mpifg.de