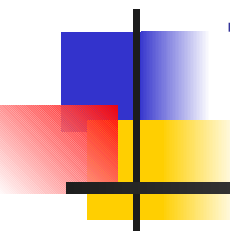


Collaborative ownership and production: an “unprotected” form of creativity?



TACD Workshop on “The Future of WIPO”
Geneva, September 14, 2004

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“Protection” of what?

- Truly protecting “works of the human spirit” [WIPO] would mean protecting the ability – the freedom – to create
- Protection of “Intellectual property” on the other hand, may often be a restriction on “Intellectual creativity”.



“Protection” of what?

- Truly protecting “works of the human spirit” [WIPO] would mean protecting the ability – the freedom – to create
- Protection of “Intellectual property” on the other hand, may often be a restriction on “Intellectual creativity”.
- It protects a specific model of creation, not creativity



The protection racket

- Protecting creativity is a balance between protecting existing creations and enabling future creations
- The balance is weighted unfairly...
- ... and assumes that enabling future creations that build upon the past reduces the incentive to create.



The protection racket

- This unfair, incorrect assumption results from treating information works as static “property” rather than as dynamic “innovation”
- Innovation requires the protection of a process of creation rather than the preservation of a state of ownership



The protection racket

- Newton stood “upon the shoulders of giants” – this is dynamic innovation, rather than static property
- Today, Newton would have to pay a license fee just to see how tall those shoulders were... forget about standing upon them!



The worth of collaboration

- Free software
- Free journals



The worth of collaboration

- Free software
- Free journals

- ... open science, etc...



The worth of free software

- Debian 2.2 GNU/Linux (2001):
 - Source lines of code: 55,201,526 (of which Linux forms under 6% – Stallman is correct!)
- If Debian was written in a software company:
 - Estimated effort: 14,005 person years
 - Estimated schedule: 6.04 years (team of 2,318!)
 - Development cost: US\$ 1,891,990,000
- Price of access to the public – and businesses!
 - Usage: Free; Copying: Free; Editing: Free

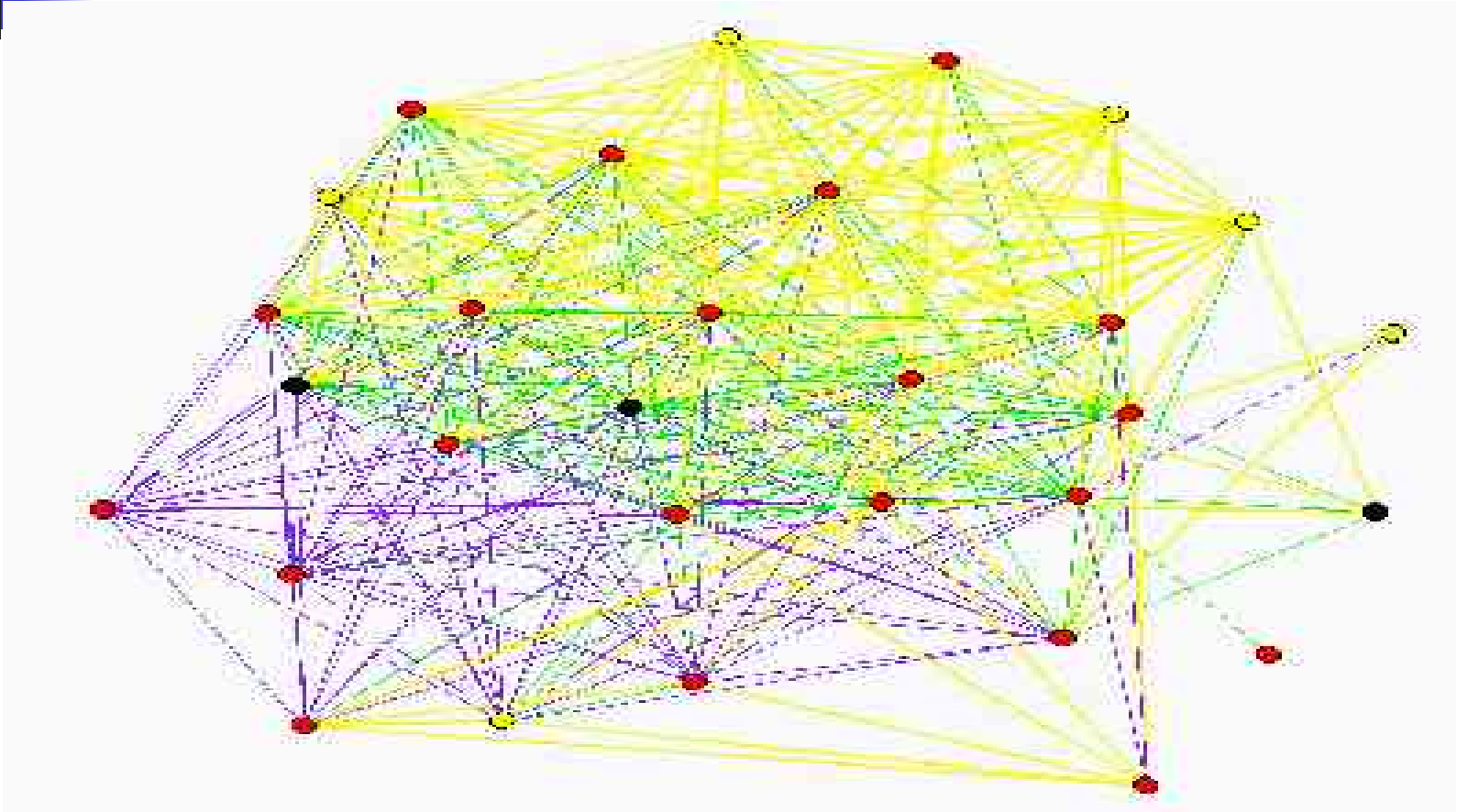
(Source: "Counting potatoes" by Gonzalez-Barahona et al; work developed further under the EU-funded FP6 project **CALIBRE** – see www.calibre.ie)



Standing on shoulders

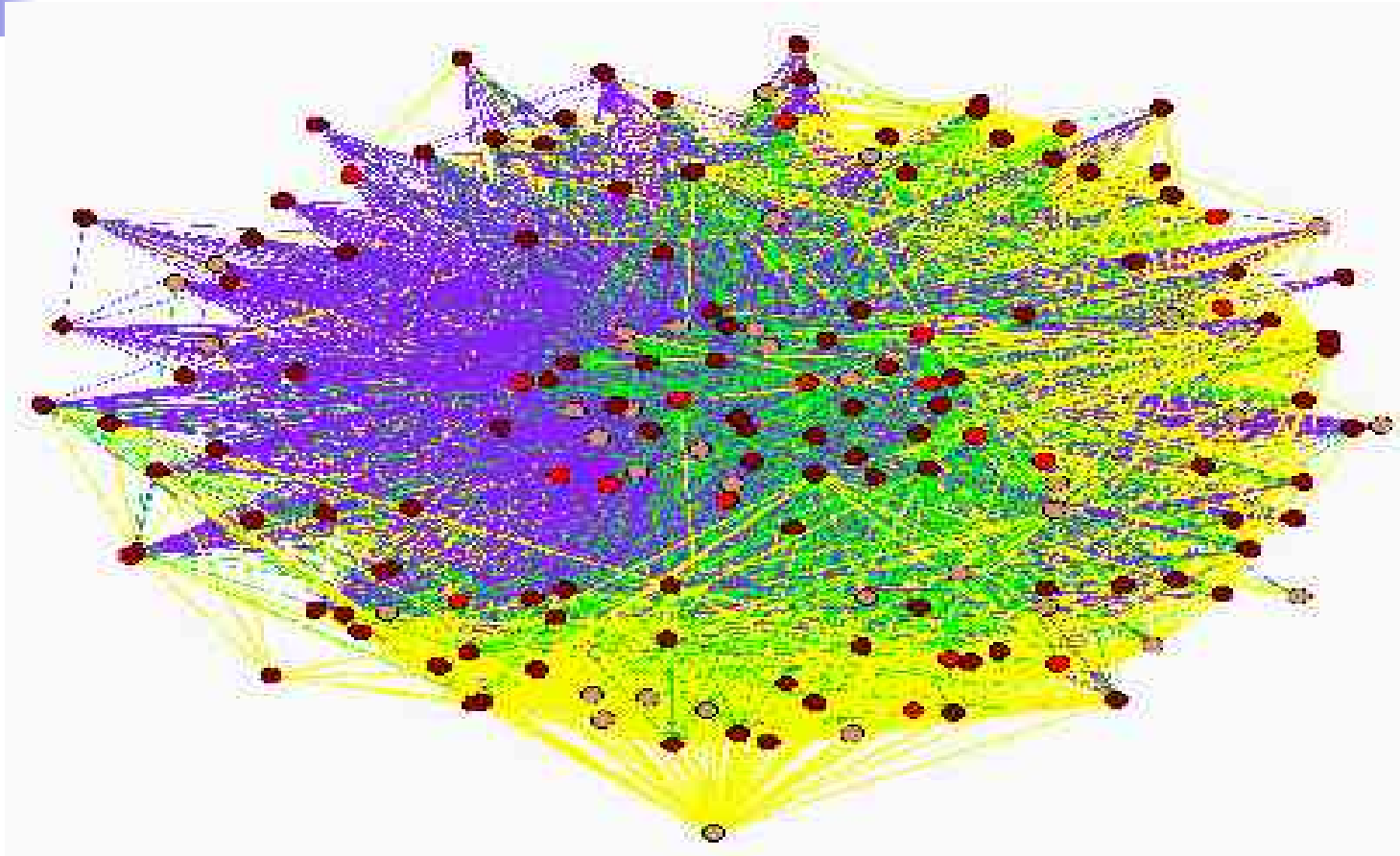
- Debian – the largest distribution of GNU/Linux
– builds upon the work of over 10 000 individual programmers.
- Each of them build upon the work of others, without barriers to collaboration
- Result: a complex interaction of creators and a rapid, continuous form of innovation
- Shoulders can be, and are stood upon

Standing on shoulders



Linux kernel 1.0 – links between modules (1994)

Standing on shoulders



Linux kernel 2.5.25 – links between modules (2002)



First Monday – open journal

- Peer-reviewed academic journal on the socio-economics, law and technology of the Internet started in 1996, published by Munksgaard
- Ownership transferred to founding editors in 1999



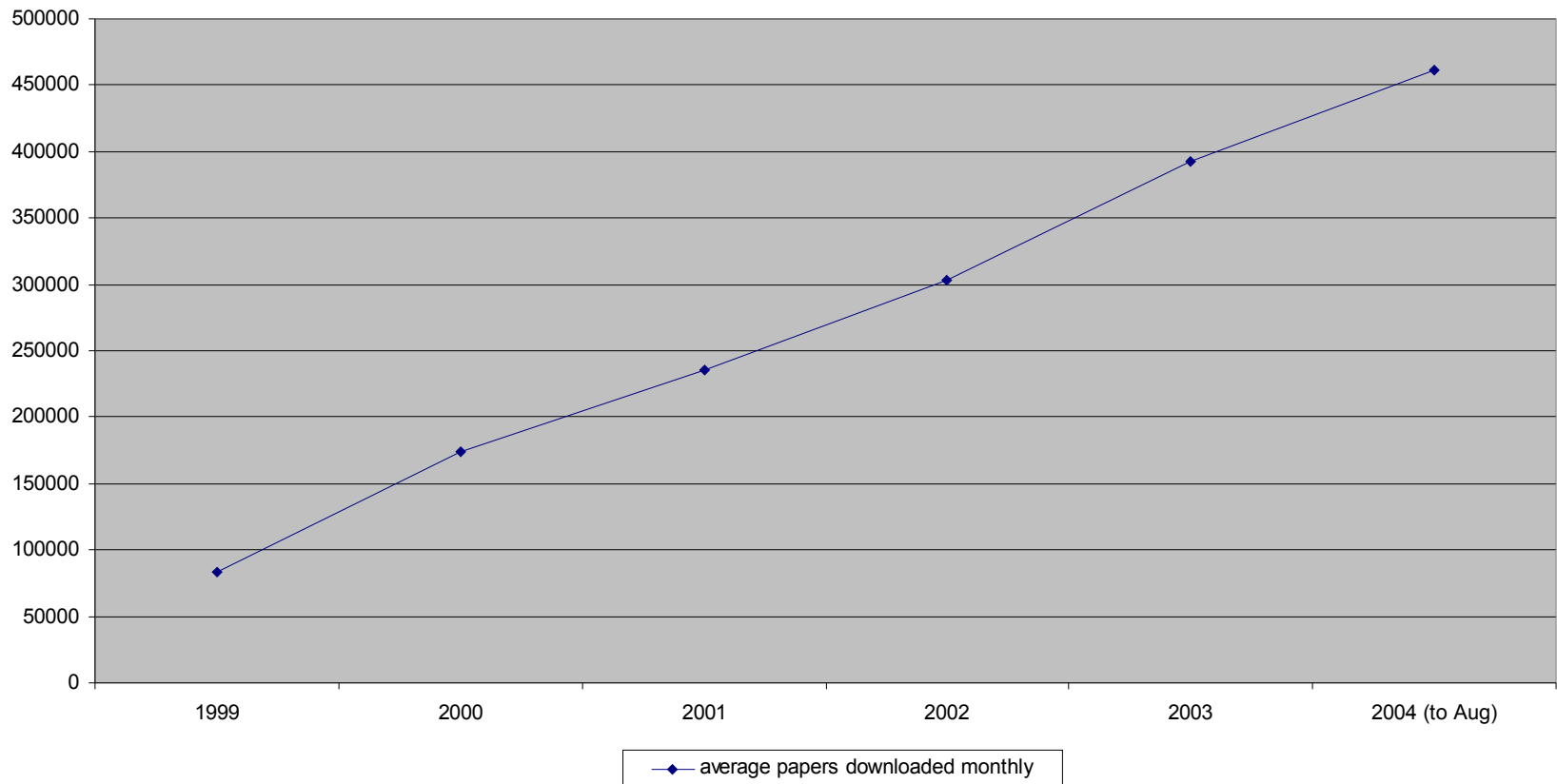
First Monday – open journal

- “Zero-revenue” operation, not just zero-profit
- Probably the most widely read peer-reviewed academic journal on-line
- Read in 200 countries
- Average papers downloaded monthly, 2004 (to August): 460,928



First Monday – open journal

statistics for First Monday - www.firstmonday.org





Protecting collaboration

- Collaboration requires protection
- Protecting collaboration protects innovation
- Protecting creation as static “property”, though, restricts collaboration, and may restrict innovation as well



Protecting collaboration

- Contrary to the USPTO view, open collaboration results in “works of the human spirit” that can be protected
- This is the protection of freedom for creativity – Debian works thanks to copyright, and the GPL (copyleft!)
- This is copyright, but treated very differently from WIPO traditions



Protecting collaboration: WIPO!

- WIPO should be open to and promote alternative systems to the rights “protection racket”, especially collaborative ownership and production.
- Foster creativity, protect innovation, encourage freedom and growth – don’t blindly protect “intellectual property”