Copyright for Blockheads: Envisioning the Future

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“No man but a blockhead ever wrote except for money.” This quote from James Boswell’s The Life of Samuel Johnson captures the notion that the incentive for creators is money. This concept underlies United States copyright law: Creators will not produce works unless for remuneration. Copyright enhances this incentive to create by providing a monopoly to control the distribution and use of a work. Recent scholarship, however, has questioned the incentive theory underlying copyright law, identifying groups of creators who are not motivated by external incentives. Scholars compose one of these groups, and would qualify as “blockheads.” This paper explores changes in copyright law that would best address concerns of scholars. It considers these changes in the context of a shift to open access as a distribution model for scholarly works. It also discusses whether changes are needed when there may be other means to address these concerns. There are continuing calls for reform of copyright law, most recently from the Registrar of Copyrights. It is unclear when change will come. Envisioning a future for copyright that meets the needs of scholars provides the groundwork to advocate for and respond to any proposed changes that will affect scholarly works.