

Social Network Analysis Applied in Legal Education

Teramoto, Shinto
Faculty of Law, Kyushu University : Professor

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Shinto Teramoto
Professor of Law, Kyushu University
Attorney at law
Of counsel, Nishimura & Asahi
jshin768@gmail.com

Restructuring the framework for legal education
based on over 25 years in practice

- 1987 - Practicing as an attorney at law (specialized in venture capital financing and technology ventures)
- 2007 - 2010 Professor, University of Tokyo (JD)
- 2009 - 2011 Lecturer, Kyoto University (JD)
- 2010 - Professor, Kyushu University (LLD, LLM, JD, and undergraduate course)

What is the Essence of Legal Practice?



- To observe and describe the relevant part of the society related to the problem that your client is facing;
- To find and apply the rules to solve the problem; and
- To assess the viability of the rules and, if appropriate, adjust or modify the rules to achieve a better solution through the so-called interpretation of rules (laws and cases).

Focusing on the observation and description of the society.



- This is the starting point of legal practice.
 - ✓ Satisfactory training is not being provided to students on how to describe the relevant part of the society.
 - ✓ Conventional legal education emphasizes the teaching of existing rules and their application.

Errors are often committed by Students and less experienced Attorneys



They tend to:

- jump to a hasty choice of applying a single rule;
- limit their scope to the so-called stake holders anticipated by the chosen rule; and
- neglect any part of the society not anticipated by the chosen rule.

(Example) Negotiation over the sale and purchase of newly issued shares by a venture

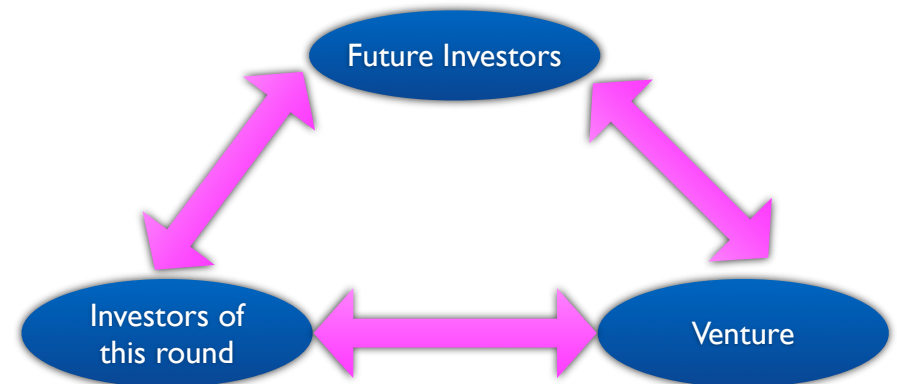
- An attorney may represent institutional or angel investors.
- Or, he/she may represent a venture that plans a fund raising by issuing new shares.



- Less experienced attorneys tend to think solely of the current relationship between the investor and the venture, and focus on achieving a higher (or lower) price per share.



Don't forget triadic relationships.



(Example) How to enforce your client's copyrights against "Karaoke" businesses?

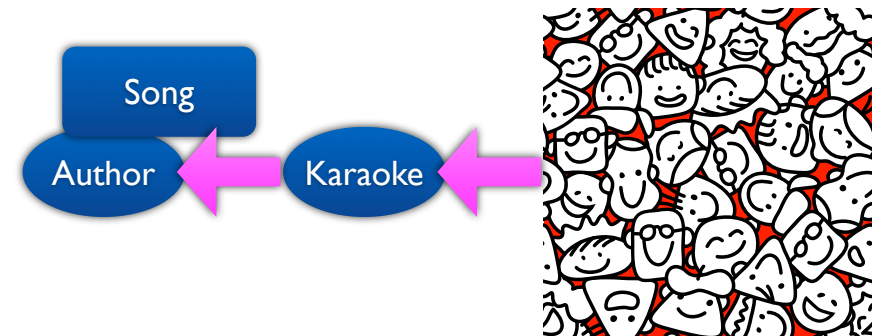
- You may represent the copyright holder of a pop song, who wants to prohibit singing the song in a certain Karaoke studio, unless the studio pays royalties to your client.



- A performance right entitles the copyright holder to demand others to stop the "public" performance of his/her copyrighted work.
- However, the manager and employees of a Karaoke studio are not singing the songs.
- Each customer is singing alone or with a very limited number of friends.
- It seems that nobody is singing "publicly."

The first step of the solution

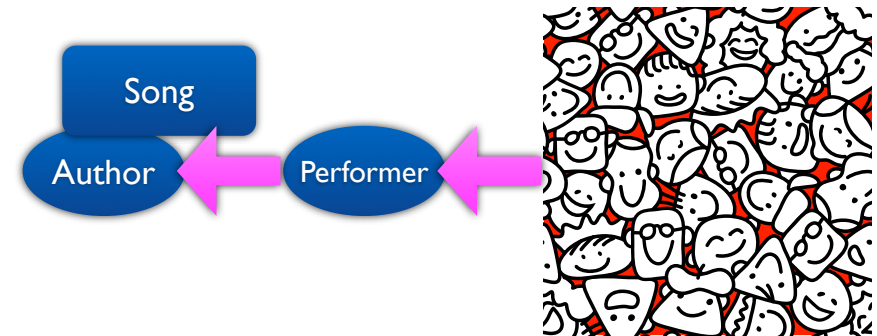
- Observe the relationship between actors surrounding a Karaoke studio, and describe it.



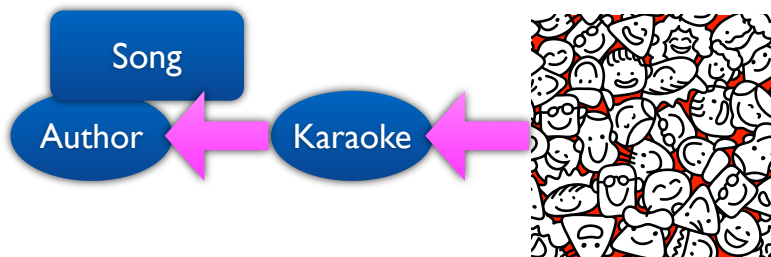
- Unspecified and/or many persons can access and enjoy a song through singing, thanks to Karaoke studios providing musical accompaniment and the display of song lyrics.

The second step of the solution

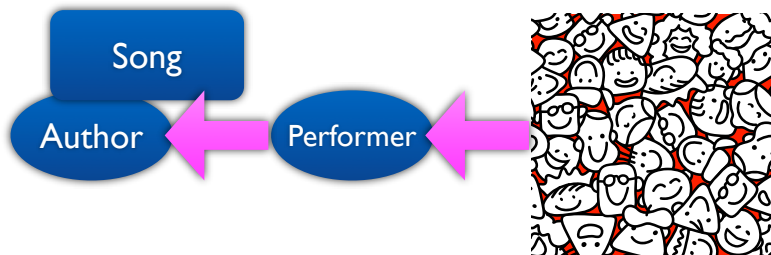
- Check if a similar social relationship is anticipated by any existing law.



- A performance right anticipates that unspecified and/or many persons can access and enjoy a song thanks to a performer who sings the song.



The social relationship surrounding a Karaoke studio has much similarity with that surrounding a public performer.

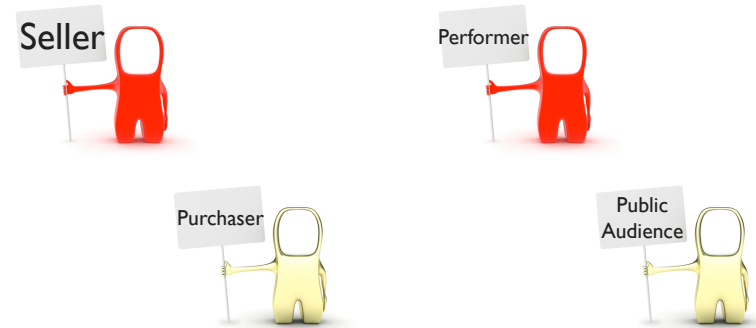


The third step of the solution

- In the “Karaoke” society, consumers are singing.
- In the “performance” society, a performer is singing.
- Consider how to deal with this difference.

- If you can explain that the major role of copyrights are to control the intermediary activities between the author and the consumer, it is not a material issue who sings.
- You can enforce the performance right against the manager of Karaoke studio.

Attributes of actors given by laws.



- The laws give attributes to the actors, and then, intervene with the relationship between such attributed actors.

Forget about attributes

- However, attributes given to actors may cause prejudice and make you fail to observe and appropriately describe the society.
- Lawyers have to develop the skills to observe and describe the relevant part of society without being prejudiced by the attributes of actors.

Why SNA?



- The key concept of Social Network Analysis is to deem each actor as a vertex (or, node) on a network graph, and observe and describe the relationship between the respective pairs of vertices.
- Learning the basic concept of SNA helps lawyers to develop their skills to describe the relevant part of the society.

An example of the lesson of SNA

- The following is an example of the slides used in a class on intellectual property laws to teach the students basic SNA.
- The students are requested to describe the relationship between six actors using a network graph.

Anna is good at singing and writing songs.

- Anna always writes funny songs, and sings these songs to Bob.
- Bob really enjoys Anna singing funny songs.



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Cindy goes on a date with Bob.

- Cindy has no direct contact with Anna.
- Bob is always singing his favorite songs in the car when he goes on a date with Cindy.
- Almost all of Bob's favorite songs are originally created and sung by Anna.
- Cindy also becomes attached to Anna's songs that she has learned from Bob, and she sometimes sings the songs when she goes on a date with Bob.



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Bob and Dann.

- Dann is a colleague of Bob at their office.
- Bob and Dann often go for a drink after work.
- Bob always sings Anna's songs when he is in a good mood after drinking.
- So, the melodies of Anna's songs stick to Dann's memory.



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Dann and Elena

- Dann is humming the melodies of Anna's songs, but he modifies or mutilates them funnily, when doing yard work in his backyard.
- Elena, Dann's partner, hears Dann's humming Anna's songs in the backyard.



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Anna, Elena and Fujiko.

- Anna and Elena are members of an amateur band, where Anna is the songwriter and vocalist, while Elena plays an electronic piano, and Fujiko plays an electronic guitar.
- They perform the songs of Anna.



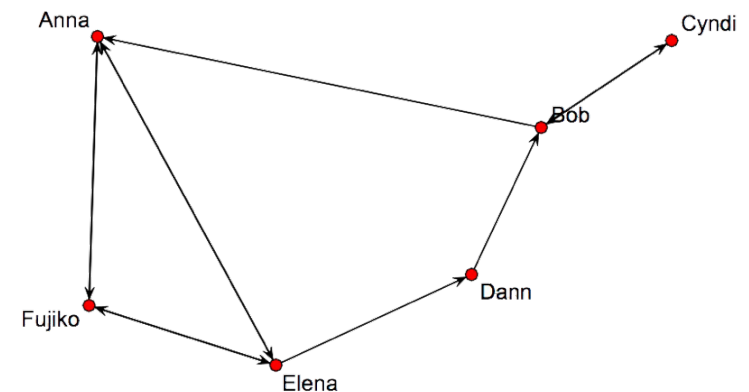
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Draw a chart showing the relationship among Anna, Bob, Cindy, Dann, Elena and Fujiko.



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Draw a chart showing the relationship among Anna, Bob, Cindy, Dann, Elena and Fujiko.



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The effects of lessons using SNA

- Although the size of the society is very small and their relationships are not complicated, such work imposes on students a certain degree of stress.
- However, after going through such lesson, the students can develop their skills to describe a more complex society (such as a music distribution network using a cloud computing service, or social network services) and provide a legal solution to the problems raised in such a society.
- Application of SNA will promote effective legal education.

Reference

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Thank you.