

## **WikiOrder without WikiLaw? Creating Content without Reward or Repute**

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### **ABSTRACT:**

The critical question for intellectual property continues to be how to give individuals appropriate incentives to produce what, in essence, are public goods. In general, U.S. law has created rights of exclusion and propertization that can be enforced judicially. In contrast to this traditional conception, the Internet creates the possibility of new ways of generating content. In particular, Wikipedia demonstrates the “social production” possible by diffuse, financially uncompensated individuals. As posited by Yochai Benkler, coordination can emerge from networked individuals who produce due to what he terms “sociological” rewards of status. As posited by Lior Strahilevitz, cooperation may be the result of a kind of Internet sleight-of-hand – “charismatic code” may provide a distorted picture of fellow, semi-anonymous, diffuse users as in fact being one’s “friends” after a fashion, with whom one wants to maintain a good reputation.

We present another account to explain how financially uncompensated, diffuse, semi-anonymous individuals can produce content in the absence of traditional intellectual property incentives. In particular, we look at over 350 disputes generating arbitration cases since English-language Wikipedia started its own arbitration procedures in 2004. We present descriptive statistics showing that the inquiry in these cases focuses on user comportment more than content, and the remedy tends to focus more on collective policing of future behavior of the disputants. Qualitative evidence suggests that the result of the English-language arbitration system is to foster greater engagement with the community by creating a “republic of judges.” Given Wikipedia’s aim of creating “neutral” content via a collective, open dialectical process, the system channels disputes back into discussion and participation. The dispute resolution system’s online jiu-jitsu actually provides a constitutive function for the community. As a result, users who self-select into the Wikipedia project and its dispute resolution process generate content and social order via their own taste for debate and participation. Thus, despite the lack of financial reward or preexisting community, the Internet’s low transaction costs plus a constitutive dispute resolution system process helps generate WikiOrder without WikiLaw, and Internet content without IP law.