Recent innovations in information and communication technologies, especially the shift toward user-generated content on the internet, have led to an explosion of amateur creative activity. Arguably, the affordances of digital media, that is, the ability to easily sample, remix and distribute the creative works of others, have also led to changes in our conception of creative activity, with creativity viewed less as the expression of individual genius and more in terms of collaborative, peer production. However, the practice of creatively remixing digital online artifacts in this way is highly controversial, with commercial content creators frequently seeking to limit the reproduction and use of content that they have generated. This is one aspect of the more general ‘copyright wars’, which pit the creative industries (e.g. publishing, broadcasting, entertainment) against ‘pirates’ who seek to illegitimately exploit commercial intellectual property. In this paper, I examine the ways in which the regulatory discourse of copyright law is appropriated and reframed by actors implicated in the ‘copyright wars’ in order to serve their particular social and economic goals. The paper draws on a historical analysis of copyright-related texts, authored by legislative drafters, judges, policy-makers, members of the content creation industries, amateur content creators and members of the public. The analysis highlights the ways in which the legal discourse of copyright is contested: on the one hand, the discourse of copyright is appropriated and reframed in order to promote powerful institutional and commercial interests, leading to the marginalization and constraint of creative activity; on the other hand, these institutional discourses are subverted by individuals who legitimate their own creative activity through alternative framings of the very same copyright discourse.

Keywords: critical discourse analysis, creativity, copyright.