Everyone agrees: copyright law is expanding. While the proposition is more often asserted than argued, the sense of copyright’s expansion is pervasive, if ill-defined. The only question for most copyright scholars is how to prune it back.

But this view of copyright as undergoing some sort of quantitative accumulation is tragically misguided. It relies heavily on an intuitive sense of expansion, supported by a disparate set of legislative enactments, some anecdotal evidence, and a few centuries-old trends. But it implicitly assumes the rest of the copyright universe has been relatively stable as copyright law has been expanding. This assumption is false. The technological barriers that used to keep realms of creative activities separate have rapidly eroded over the last four decades. Copyright law isn’t expanding; the copyright universe is collapsing.

This is more than simply a battle for best metaphor. The view of copyright as expanding or collapsing has important consequences for determining the correct response. If the problem is expansion, then the answer is to roll it back. But if the problem is an erosion of barriers, rolling back recent legislation that attempts to shore up those barriers only makes the problem worse. Modern copyright scholarship, focused as it is on rolling back an expansion that is not occurring, risks being stuck on the sidelines as the greatest shift in information technology since the printing press passes by.

The view that copyright law is expanding sees technological change as the cause of a reaction from copyright owners but otherwise exogenous to the copyright landscape. Copyright skeptics thus ironically look backwards for a solution, imagining a reversal of the clock, just as many copyright owners do. The technological changes underway do not simply undermine the scope of owners’ rights, however; they also undermine copyright limitations as well. Fair use, first sale, and personal use are all part of the same system. And that system is collapsing.