
In 1989, the United States joined the Berne Convention for the Protection of Literary and Artistic Works. Established in 1886, the Berne Convention assumed that such works were a form of property and that their creators and owners had a right to protection. Berne required signatories to provide strong standards for copyright and treat authors from all member nations in the same way they treated their own nationals. Over time, Berne expanded authorial rights to adaptations, musical arrangements, films, architecture, choreography, photographs, and translations.

For a century, Peter Baldwin, a professor of history at the University of California, Los Angeles and at New York University, points out, the United States, far more than its counterparts in Europe, had balanced encouraging authorial creativity (and appropriate remuneration) against enhancing the public good through the diffusion of knowledge. Given a paucity of domestic authors and a cheap print revolution, circulating foreign works without compensating the authors (instead of imposing a "tax on knowledge") was not only permitted but encouraged. The result, Baldwin writes, "was possibly the most freewheeling and exuberant content cornucopia ever."
By the 1980s, however, the United States had become the world's leading exporter of intellectual property, generating a $1.5 billion trade surplus. "We have gone from the biggest pirate in the world to the biggest victim of pirates," Secretary of Commerce Malcolm Baldrige proclaimed: strengthening protection of copyright "is in our self-interest." And so, to conquer new markets the United States moved from setting significant limits on intellectual property rights to strong support of them, in, for example, the Trade Related Aspects of Intellectual Property Rights (TRIPS) agreement of 1994, and the World Intellectual Property Organization (WIPO) Treaty of 1996.

In *The Copyright Wars*, Baldwin traces the debates over intellectual property in the United States and Europe across three centuries. Although he acknowledges that digital techniques of reproduction in the 21st century have undermined the Berne consensus, Baldwin suggests that the fundamental questions have not changed. Do authors have extensive "inherent" and "natural" rights to their works? If so, what are they and for how long should they apply? Or should society set the terms of intellectual property "rights" in accord with its determination of the public interest?

Baldwin is not a gifted writer. His prose is awkward and he repeats himself. Particularly distressing to most of his readers, I suspect, is his tendency to step on the chronological framework of his book. That said, Baldwin has made superb use of Primary Sources on Copyright, a collection of materials dating from 1450-1900, assembled under the supervision of Professors Lionel Bently and Martin Kretschmer. And Baldwin has provided an often fascinating account of debates over intellectual property, including the defense of the moral rights of authors in Fascist Italy and Nazi Germany.

Most important, Baldwin makes a compelling case that although claims to intellectual property have strengthened over the last three hundred years, they do not rest in nature. Intellectual property is, in fact, "a contingent, socially created right, in thrall to what the lawmakers of the day" decide it is.

Clearly, Baldwin supports policies that facilitate the diffusion of knowledge. He laments the "allergic" reaction in Europe and America to Google's plan to digitize the world's books: the aggrieved parties, he writes, would "have been better off rushing to participate." Baldwin lambasts the "rapacious" publishers Reed Elsevier, Springer, and Wiley, whose monopoly on English-language scientific publications has driven up journal subscription prices and gutted university library budgets. And he seems to sympathize with the "radically consumerist" Pirate Party in Sweden, "a gaggle of ill-mannered young hackers," who believed that the internet could establish "the greatest public library ever," and in 2009 won 7 percent of the vote in the Swedish European parliamentary elections, "largely on a platform of refusing to pay for downloads."

Baldwin wonders whether the raft of recent intellectual property legislation testifies "more to rights owners' frustrating inability to hold on to their property than to the actual enforceability of their claims." After all, he concludes, "historians commit few sins worse than assuming that the recent story they narrate has ended." Much of what he has written in *The Copyright Wars*, he adds, "will be outmoded -- no doubt by publication date."
The notion of "the independent author," moreover, is a myth. As early as 1976, a survey indicated that only three hundred writers in the United States could make an adequate living from advances and royalties. Most producers of content, these days, are salaried professionals.

Fortunately, disseminators -- "rights holders" like Disney -- are less and less shielded by the good will extended to authors. Having lost the battle to Berne in the 1990s, Baldwin suggests, the traditional vision of copyright as fundamentally subordinate to public service "has returned as an aspiration." And "the battle between author and audience continues."