

## **Moral Panics and the Copyright Wars**

By William Patry

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*Moral Panic and the Copyright Wars*, by William Patry, is a nonfiction account of the current battle that major copyright corporations are waging to continue to strengthen copyright law. Patry focuses the book on the idea that copyright law has left its original purpose of protecting authors' interest and promoting innovation and instead is used today by copyright corporations in order to control current market conditions that allow them to make money. The commentary on the copyright law situation in the United States demands a sweeping change in the current law and falls just short of demanding the abolition of the idea of copyright.

William Patry is considered one of the leading experts in copyright law. He currently acts as Senior Copyright Counsel at Google Inc. Before his time with Google, he spent over twenty years practicing or teaching copyright law, including being counsel of the copyright council for the U.S. House of Representative Committee on the Judiciary. Before this book, Patry had previously written an eight-volume treatise on copyright, as well as a separate treatise on the fair use doctrine.

The book begins with Patry making it abundantly clear that he wrote the book outside of his responsibilities at Google, and that the opinions in the book are by no means the stance of Google or any of their affiliates. This being stated, it is no wonder that Patry works for Google because his views on copyrights would certainly be beneficial to Google's ability to provide services as a major search engine.

Patry begins his discussion of the copyright wars with its current status. He describes the current battles between major copyright corporations, those companies who own the copyrights of most of the intellectual property that has been created, and essentially the internet and the opportunities of free information it provides. The book discusses that these large copyright corporations use litigation as a business model, when in fact litigation is the breakdown or lack of a business model.<sup>1</sup> By using litigation instead of innovation to further industries such as music and entertainment, copyright corporations are holding on to obsolete technology instead of embracing new ones. Patry gives the example of the entertainment industry's reluctance, or more appropriately their fighting tooth and nail, to accept videocassettes as a medium that would bring the industry into a new age of success.<sup>2</sup> Originally the idea that general consumers would be able to watch movies and record television shows from the comfort of their home seemed a downright travesty to the entertainment industry. It was not until the industry was dragged kicking and screaming that they finally woke up to the idea that the new technology would actually increase, and perhaps save, their industry instead of dooming it.

After stating the lines drawn in the sand, Patry gives background information of how the copyright wars began. He begins this discussion with the idea that metaphors are the key to the copyright industry's fight against innovation. He shows that metaphors, especially their repetition, provide a power tool in framing and discussing an argument.<sup>3</sup> The book next provides a historical background of copyright law and its origin. Patry attempts to disprove the three most commonly thought of origins to copyright: the utilitarian/consequences origin story; the labor origin story; and the natural rights and geniuses excuse for copyrights.<sup>4</sup> Instead of these origins,

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<sup>1</sup> WILLIAM PATRY, *MORAL PANCIS AND THE COPYRIGHT WARS*, 26 (Oxford University Press, Inc.) (2009).

<sup>2</sup> PATRY, *supra* note 1, at 142.

<sup>3</sup> PATRY, *supra* note 1, at 59-60.

<sup>4</sup> PATRY, *supra* note 1, at 61.

false belief in which have brought to the bringing of continually more powerful copyright laws, Patry offers that intellectual property is a social relationship.<sup>5</sup> By creating stringent laws that prohibit the idea of freely sharing and using others works and ideas to advance ones' own, society is rejecting the natural order of things and retarding the education process that copyright claims to protect.<sup>6</sup>

The book then brings together the ideas of metaphors and copyright law, and shows how the copyright industry has framed issues in the past and present to create moral panics among the public. These moral panics, such as the entertainment industry with videocassettes or the music industry with Napster, frame the copyright industry as the victim of those wielding this seemingly unexplainable and illegal technology.<sup>7</sup> In the case of Napster, this led the music industry to bring lawsuit against over 30,000 consumers, most of which were younger than twenty-five.<sup>8</sup> Patry argues that this sort of behavior is not protecting anyone or anything besides the interests of the copyright corporations. The authors that they claim to protect would be better benefitted by allowing new technologies to help others gain access, and use new technology to create further works. The book makes the point that innovation in itself is creative destruction, and that by creating legislation such as Digital Millennium Copyright Act, Congress is essentially thwarting the innovative process instead of nurturing it.<sup>9</sup> The only people who benefit from these acts are the copyright corporations, as Patry shows that only nine percent of record sales actually go to the artist. Instead of embracing such mediums as digital transfers of music, the copyright corporations still attempt to hold on to their old ways of compact discs and other obsolete mediums. Finally, Patry points to South Korea and Japan as successful models of

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<sup>5</sup> WILLIAM PATRY, MORAL PANCIS AND THE COPYRIGHT WARS, 102 (Oxford University Press, Inc.) (2009).

<sup>6</sup> PATRY, *supra* note 1, at 124

<sup>7</sup> PATRY, *supra* note 1, at 142

<sup>8</sup> PATRY, *supra* note 1, at 8

<sup>9</sup> WILLIAM PATRY, MORAL PANCIS AND THE COPYRIGHT WARS, 169 (Oxford University Press, Inc.) (2009).

copyright law, and makes the point that in places where a government monopoly is blatantly abused over a long period of time in areas that are meant to serve the public, this monopoly is taken away.<sup>10</sup>

*Moral Panics and the Copyright Wars* is a relatively easy read. The design of the book leading off with current issues such as the topics of Google and YouTube grab the reader's attention. Furthermore, Patry constantly brings in examples and other expert scholars on his multitude of topics to strengthen his argument. In fact, one of the only flaws with the book could be that at points it seems as if the book is more a compilation of other scholars' works instead of Patry's own knowledge and opinion. Overall, the book accomplishes its goal to enlighten the reader of the intricacies of copyright and the war being waged in the industry. Though the book takes a hard stance against the almost free reign copyright is given in the United States at the moment, it should appeal to any scholar who has an interest in furthering their background and understanding of copyright law.

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<sup>10</sup> PATRY, *supra* note 1, at 199.