

The History and Politics of Copyright Law

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About Me

I'm a freshman at the College of Engineering. I'm a native New Yorker, my intended major is Computer Science, and I'm passionate about open source and social justice. Naturally, I have my own views on copyright, but I'm going to stick to the facts as much as possible.

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Copyright Basics

What is Copyright?

- Set of exclusive rights
- Granted to the author of a work for a limited period of time
- Meant to promote creativity

Basis of Copyright in the U.S. Constitution

“[The Congress shall have Power] To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”

—Article I, Section 8, Clause 8

Limitations on Exclusive Rights

- Fair use/Fair dealing
- First-sale doctrine
- Works by the U.S. government cannot be copyrighted

Origins of Copyright Law

Prehistory

England, 1476-1709

- Printing press arrived in England in 1476
- King Richard III valued literary works
- But after that, England moved to censor books, especially books promoting Lutheranism
- Eventually granted the Stationers' Company a monopoly on printing from 1556 to 1695
 - Unpopular because it failed to protect authors and gave the government considerable power to censor works

Statute of Anne

United Kingdom, 1710-1842

An Act for the Encouragement of Learning, by Vesting the Copies of Printed Books in the Authors or Purchasers of such Copies, during the Times therein mentioned.

- Replaced the printing monopoly and censorship system
- The author of a book had the exclusive right to print it for 14-28 years
 - Registration and multiple deposits at the Stationers' Company were required for copyright protection
- Act also banned foreign works except Greek and Latin classics
- Writers such as Jonathan Swift and Daniel Defoe touted copyright as a novel mechanism for incentivizing authors to share their knowledge

Copyright Comes to America

United States, 1783-1790

- The American economy was largely agrarian, so copyright was not a priority
- Initially established by states
- James Madison and Charles Pinckney proposed the copyright and patent clause in the Constitution
- Jefferson supported the freedom to share and remix, so he proposed adding limits on copyright and patent terms to the Bill of Rights
 - *Monopolies may be allowed to persons for their own productions in literature and their own inventions in the arts for a term not exceeding – years but for no longer term and no other purpose.*
 - But this provision was not added
- The majority of works published between 1790 and 1799 were not registered for copyright protection