

Honor Among Thieves*

How 19th Century American Pirate Publishers Simulated Copyright Protection

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June 8, 2021

Abstract

From 1790 to 1891, the United States prevented foreign authors from obtaining domestic copyright protection, implicitly subsidizing a domestic reprinting industry. With foreign works a “free” and unprotected resource, American publishers created a system of voluntary norms, known as “trade courtesy” to create and enforce pseudo-property rights in uncopyrighted foreign works, simulating the effects of legal copyright protection. This paper analyzes this system using the Bloomington School’s institutional design principles to understand its effectiveness and pitfalls in managing the commons of unprotected foreign works in 19th Century America.

JEL Classification: H41, K29, N40, O34

Keywords: Copyright, intellectual property, literary piracy, publishing, economic history

*I thank Vlad Tarko and Elana Safner for helpful comments. All remaining errors are my own.

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