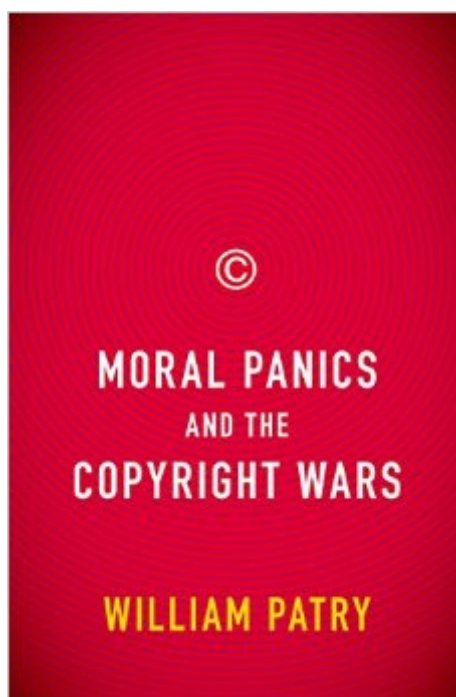


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Moral Panics And The Copyright Wars



Synopsis

Metaphors, moral panics, folk devils, Jack Valenti, Joseph Schumpeter, John Maynard Keynes, predictable irrationality, and free market fundamentalism are a few of the topics covered in this lively, unflinching examination of the Copyright Wars: the pitched battles over new technology, business models, and most of all, consumers. In *Moral Panics and the Copyright Wars*, William Patry lays bare how we got to where we are: a bloated, punitive legal regime that has strayed far from its modest, but important roots. Patry demonstrates how copyright is a utilitarian government program--not a property or moral right. As a government program, copyright must be regulated and held accountable to ensure it is serving its public purpose. Just as Wall Street must serve Main Street, neither can copyright be left to a Reaganite "magic of the market." The way we have come to talk about copyright--metaphoric language demonizing everyone involved--has led to bad business and bad policy decisions. Unless we recognize that the debates over copyright are debates over business models, we will never be able to make the correct business and policy decisions. A centrist and believer in appropriately balanced copyright laws, Patry concludes that calls for strong copyright laws, just like calls for weak copyright laws, miss the point entirely: the only laws we need are effective laws, laws that further the purpose of encouraging the creation of new works and learning. Our current regime, unfortunately, creates too many bad incentives, leading to bad conduct. Just as President Obama has called for re-tooling and re-imagining the auto industry, Patry calls for a remaking of our copyright laws so that they may once again be respected.

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Customer Reviews

Full disclosure: I work, and have for years, for content creators. I therefore believe that content creators should have the right, among other things, to place conditions upon the uses made of their creations. I believe this because this is their bargain: I will make things if you will let me choose how they will be used. Because I believe this, I'm good at my job of protecting content creators, and I have a commercial interest in preserving the law as it stands. I'll try to review objectively, but you should know that before I start because it's going to be a bias. Patry works on the other side: for a company that has made its money by taking and aggregating content made by other people. It is also a company that has found a way to protect its IP through a monopoly: the monopoly in this case just happens to be a patent and not a copyright. Patry would have you believe that, although this is his background, it doesn't affect his conclusions. If that were true, he shouldn't have his job, because he would be a hypocrite in his daily life. I don't think he's a hypocrite: I think he really believes what he's saying and reasonable minds can certainly believe this too. You just need to keep in mind as you read that he has a commercial interest in having the law end up the way he advocates in this book. Patry's analysis of the law and how it has developed is excellent. He has obviously done his homework and knows the historical development of copyright. These sections will provide you with an outstanding overview of the literature and the history, and will save you literally thousands of pages of reading to get you to the same place.

As I study "intellectual" "property" "rights" with a view to writing something sometime, I am obliged to read the best works on the topic. I keep coming across references to a work by one William Patry, a copyright lawyer. Now note that designation, not "intellectual" "property" "rights" lawyer, or patent lawyer (although he is one), merely "copyright lawyer." In fact, he bills himself (and no doubt his clients) as the "most prolific scholar of copyright in history." He also defines himself as a centrist on the topic of copyrights. In his book he is given to such citations as "the greatest speech ever given on copyrights". Which, of course, the most prolific scholar would be in a position to assess the greatest speech, wouldn't he? Well, talk about an opportunity to get in some serious

lawyer-bashing. This guy leaves himself wide open. And since he is pro-copyright, he is necessarily to me an implacable enemy. I should make clear, as a content-creator, I am against all copyrights, patents, trademarks, etc. It is the only rational position for a creative person to take. Now, having said that, the book is probably the best thing written on copyrights, ever. He is probably the most prolific scholar of copyright in history. The thing is a stunning tour de force. It's a mere 200 pages of content, and I am only through page 84, but I must pause and report. Only at page 84 and he has destroyed all arguments for "intellectual" "property" "rights". And I mean he catalogs each one that is used today, traces the history of the argument, and destroys them. All of them. He examines the pro-IPR data regarding the losses incurred by industry.

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