tive, perhaps, to scrutinize what in society generally, and in the historical profession specifically, encourages this type of behavior. Are these instances isolated, or are they indicative of a larger societal problem? If they are emblematic, are graduate programs doing enough to train future historians in the proper ethics of the profession so that we avoid the need for accusations and investigations appearing in the media? Wiener is convinced that he has the answer to the problem, but it seems clear that his will not be the last word on the subject.

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Copyright, Plagiarism, and Popular Culture

Copyrights and Copywrongs: The Rise of Intellectual Property and How It Threatens Creativity


Reading Siva Vaidhyanathan’s Copyrights and Copywrongs: The Rise of Intellectual Property and How It Threatens Creativity brought to mind every reason why America has become fascinated with the concept of copyright. Technology has brought the copyright issue into every home in America, and the dialogue is no longer dominated by lawyers and scholars. Even my neighbor and her 17 year old son have an opinion on copyrights, music, and the nature of ideas. Siva Vaidhyanathan’s book is for anyone interested in a matter-of-fact, absorbing cultural history of copyright in America.

Vaidhyanathan, a cultural historian, is currently an assistant professor of Culture and Communication at New York University. He has formerly taught at Wesleyan University and the University of Wisconsin at Madison. Recently he was elected as a Fellow of the New York Institute for the Humanities. Vaidhyanathan has also written The Anarchist in the Library (Basic Books, 2004), which is considered a “sequel” to Copyrights and Copywrongs. Additionally, he has appeared in many publications, including The Chronicle of Higher Education, New York Times Magazine, and The Nation.

The focus of Copyrights and Copywrongs is to present a cultural examination of the evolution of copyright, from its modest beginnings as a concept, “to promote the Progress of Science and the useful Arts,” to the present hard-line statutory scheme in the laws of United States. The book launches with a succinct history of copyright from the early English common law, through the framing of the Constitution, taking the reader right up to the present day controversy of music sampling. The book’s goal: to argue that current U.S. copyright law suffers from an overexertion of protection of ideas.

What would be most beneficial to the United States, according to the author, is a “thin” copyright protection, which is defined as “just strong enough to encourage and reward aspiring artists, writers, musicians, and entrepreneurs, yet porous enough to allow full and rich democratic speech and the free flow of information” (p. 5). Chapter by chapter, Vaidhyanathan charts the historical movement away from the “thin” copyright ideal through creative expressions such as film, dance, writing, and music. According to the author, today’s “thick” copyright laws are curbing intellectual freedom, creative expression, and education. Furthermore, the present “thick” protection is reinforcing the notion that major corporations, studios, and business enterprises “own” much of the creative past of this country.

One particular stop along the way that takes a most interesting turn is Vaidhyanathan’s discussion of Mark Twain. Twain was not only a great American author, but he was also a great American copyright adjudicator. In a portion of literary history of
which I surmise many Americans and some scholars are unaware, Vaidhyanathan outlines Mark Twain’s ever changing views on the nature of copyright in America. Even more important is Vaidhyanathan’s discussion of plagiarism through the words and letters of Mark Twain.

When Mark Twain was growing up in America in the early 1800’s, he was enthralled with the writings of the British authors. At that time, many publishing houses in England did not have agreements with American publishers. In fact, many of the British novels found on American bookshelves in that era were infringing copies of such works. Vaidhyanathan cleverly points out that British works not only carried more intellectual value than American works, they were also cheaper in price. A reader in 1853 London paid $2.50 for a copy of Charles Dickens’ works, whereas an American reader paid 6¢. Even the characters in Twain’s novels, such as Tom Sawyer, read European works like *Casanova*, bought for 50¢.

Vaidhyanathan examines how later, during the 1870’s, Twain’s works were being pirated by Canadian publishing houses. Vaidhyanathan examines many of Twain’s viewpoints regarding copyright protection, which changed at this particular time. Many scholars, Vaidhyanathan states, erroneously divide Twain’s view of copyrights as two distinct opposites formed over his literary career. Vaidhyanathan asserts, however, that Twain was “a busy, contradictory, living human being who traveled, read, and changed his views several times in his lifetime” (p. 57).

Mark Twain ended up advocating a position similar to another literary figure in American history, Noah Webster. After Congress passed the first federal copyright statute, Noah Webster went on a campaign to extend the term of copyright protection. In 1790, the term of protection was 14 years. In 1831, Webster successfully lobbied to extend the term to 28 years, and helped pass a provision that allowed an author’s widow and children to file for copyright renewal. What Vaidhyanathan reveals is that Webster wanted perpetual copyright protection, which is similar to what Mr. Twain advocated in his later years.

Again, in ironic fashion, Vaidhyanathan points out, using Twain’s letters, testimony, conversations, and unpublished writings, that Twain was a “borrower” (p. 57). Vaidhyanathan states that events Twain used in his writings were “unapologetically lifted from others” (p. 57). At a time when Helen Keller was accused of plagiarism, Twain wrote to her stating

Oh, dear me, how unspeakably funny and owlishly idealistic and grotesque was that “plagiarism” farce! As if there was much of anything in any human utterance, oral or written, except plagiarism. The kernel, the soul – let us go further and say the substance, the bulk, the actual and valuable material of all human utterances – is plagiarism. For substantially all ideas are second-hand, consciously or unconsciously drawn from a million outside sources. (p. 57)

The author draws on many of Twain’s works where he confessed to being a literary “thief,” a party to excessive influence, and a plagiarist. Vaidhyanathan reveals that Twain had created his own distinction between piracy and plagiarism: “[P]iracy was theft…plagiarism was bad manners” (p. 67). The author deftly addresses the various fine points of plagiarism and piracy, and concludes that Twain was clearly a rampant plagiarist.

One of the most fascinating of Vaidhyanathan’s analyses is his review of an unpublished, arcane Twain work titled “The Great Republic’s Peanut Stand,” which Vaidhyanathan argues is Twain’s only dissertation on copyright law. It is a Socratic dialog between a United States senator and a “Wisdom Seeker,” who is actually Twain himself. The book examines this work in detail and reveals Twain’s final move from a protectionist copyright view to that of outright perpetual copyright protection that could be passed on through estates or heirs. Again, we return to the results that both Twain and Webster desired: perpetual copyright protection. With the relatively recent passage of the Sonny Bono Copyright Term Extension Act, Vaidhyanathan cleverly reveals that the present copyright laws are analogous to the perpetual copyright protection for which these two historical figures argued. “The Great Republic’s Peanut Stand” is an interesting work, and the book reproduces large portions of the work for readers to enjoy.
The book narrates other areas of copyright law beyond the plagiarism debate. Vaidhyanathan offers four additional chapters on the history of copyright in literature, film, and music. The author makes the content entertaining by intertwining stories of popular culture, with appearances by George Harrison, Groucho Marx, Led Zeppelin, and Pac-man, to name just a few. The book methodically examines the creative process for literature and music, most notably an interesting chapter on folk, blues, rock, and rap music. Vaidhyanathan points to humanity’s creative past, using examples to advocate his position on “thin” copyright protection, which, he argues, should be “just strong enough to encourage and reward aspiring artists . . . yet porous enough to allow full and rich democratic speech and the free flow of information” (p. 5).

In the chapter on music, Vaidhyanathan notes that in African-based cultures borrowing and building upon earlier works is not considered a violation of anyone’s “rights,” but a tribute to that initial creative process. The reader is brought to the present age of sampling, which Vaidhyanathan points out is a new cultural expression of that tribute. But, arguing against the current state of copyright law, many artists who sample portions of others’ works have been sued for copyright violation or forced to settle through arbitration to avoid lawsuits. These contemporary legal and quasi-legal actions clearly point to a dramatic shift in copyright policy. Furthermore, these events reveal a lack of the cultural understanding necessary for ideas and expressions to flourish in the United States. 4

The paperback version of the book includes the author’s afterward, which covers notable events in the field of copyright law since the initial publication of the book in 2001. Vaidhyanathan gives summaries of high profile copyright cases such as Eric Eldred’s Supreme Court challenge to the Copyright Term Extension Act and the “Gone with the Wind” parody case. The author also proposes an ominous vision of the United States educational and creative future, if the present notions of “ideas as property” are not opposed.

The book flows nicely and the author avoids the use of frustrating legal terminology. The chapters on music are concise, but it was difficult to really get a feel for the music infringement cases, unless the reader has heard the songs in question. I did find an example of the songs in a lecture given by Vaidhyanathan on November 18, 2004. Columbia University’s School of the Arts Digital Media Center has put the full lecture titled “Copy Rights and Copy Wrongs” on their website. It is available at http://www.columbia.edu/itc/soa/dmc/siva_vaidhyanathan/. In this lecture Vaidhyanathan reviews and plays many of the songs from Copyright and Copywrongs, which made it easier for me to review the author’s analyses.

This book presents an engrossing history of copyright, and the author clearly summarizes his views on the adverse nature of “thin” copyright protection. Vaidhyanathan neatly contrasts his “thin” theory with the structure currently in place, through examination of the present state of copyright, licensing and other contracts of adhesion, which prevent the free flow of ideas and information. However, one small criticism of this reviewer is that the author does not clearly state a plan of action to fight the current scheme. Vaidhyanathan’s sketch of copyright, from past to present, clearly charts the erosion of rights, but does not take the reader any further. While there are suggestions in the “Afterword” to read other authors or join grass roots movements such as “information commons,” the lack of a well outlined, organized strategy is surprising. Maybe this was done on purpose. Maybe Vaidhyanathan’s desire was to educate, alert, and release the readers to get involved before their own personal right to ideas permanently disappears. Even without a plan of action, this book does offer the average reader a fascinating history of copyright, plagiarism, and culture.

On a final note, the author, reflecting his personal notions on copyright’s true role in society, has posted a copy of Copyrights and Copywrongs in its entirety at http://homepages.nyu.edu/~sv24/. The book is available for download in full PDF format.

References


Notes


2. Siva Vaidhyanathan is not the only scholar to analyze the United States’ overreaching copyright policy. For similar viewpoints see Lessig (2001). Also, for an excellent summary of the related issues see Ginsburg 2002).

3. Vaidhyanathan writes that Twain even stated “These object lessons should teach us that ninety-nine parts of all things that proceed from the intellect are plagiarisms, pure and simple” (p. 65).

4. Vaidhyanathan’s ideas regarding music and copyright are echoed and expanded upon in a recent work by Joanna Demers (2006).

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Fundamental Values: Honesty and Academic Integrity On College Campuses Today

*Doing Honest Work in College: How to Prepare Citations, Avoid Plagiarism, and Achieve Real Academic Success*


*Understanding Plagiarism: A Student Guide to Writing Your Own Work*


If the statistics regarding the number of students who cheat are accurate, the American cheating ethos appears to be deep-rooted. In his best-selling book, *The Cheating Culture: Why More Americans are Doing Wrong to Get Ahead*, David Callahan argues that cheating has taken hold in all aspects of American life—sports, business, politics—but only rarely are cheaters held accountable. For this reason, merely presenting academic dishonesty or plagiarism as a classroom evil to be squelched is woefully inadequate for getting to the heart of the problem and may even lead to a classroom atmosphere of suspicion and mistrust.

Certainly plagiarism can be the result of misunderstanding or inexperience with integrating research sources into a student’s text, as every teacher understands. This may be especially true for students...