

The Continuing Evolution of Copyright Laws

In the electronic age, most of the controversy over copyright has involved the rapidly-changing field of digital technology. However, in order to understand the scope and spirit of copyright legislation, it is necessary to study the history of why and how people through the ages have wanted to protect their intellectual and artistic creations. Indeed, copyright legislation has had an intriguing history, with some of the most dramatic influences taking place in the past ten years.

According to the official website of the United Kingdom's Patent Office, authors from classical Greece and Rome were the earliest to express concern about being appropriately credited for their works. The Patent Office attributes the slow development of copyright laws to the fact that the illiteracy rate was high and there were no printing presses ("Copyright"). However, there is at least one documented case of an abbot whose Psalter had been hand copied by a visiting monk; the abbot appealed to the king, who ordered the monk to return the manuscript (Bielefield and Cheeseman 5).

The real catalyst to legislation was the invention of the printing press. However, early legislation was designed to protect publishers, not authors, against piracy: the Licensing Acts of both 1662 and 1681 in Great Britain were written to

regulate the printing business ("A History"). The 1709 Statute of Anne was England's first effort to protect the rights of authors for a fixed amount of time ("A History"). However, the fourteen-year period provided more protection to the publisher than it did to the author, who could not be paid unless the book had been assigned to a publisher ("Timeline").

Meanwhile, across the Atlantic, the colonists were expressing concern over a number of freedom-related issues. The British government had angered the colonists with the passage of various acts and taxes. One of the most loathsome was the Stamp Act of 1764, which required that anything printed ("from marriage licenses to playing cards") had to be printed on paper that had been stamped as verification that the tax had been paid (Beard and Beard 208-209). In this way, the British government could control the expression of rising dissatisfaction by the colonists.

Gimmestad relates that American Revolutionary poet John Trumbull was among the first in the colonies to feel the sting of having his work pirated. Trumbull had written a satirical poem, M'Fingal, which raised the level of patriotism and unity during the Revolution and for some time after. First published in 1782, the popular poem was immediately pirated less than four months later. Trumbull was justifiably vexed. He had assumed the

financial risk for the first printing of 2,024 copies (Gimmestad 100-102).

Gimmestad details the process by which Trumbull's concern actually effected the first significant copyright legislation in the new republic. Early in January of 1783, Trumbull wrote a moving letter to the editor of the Connecticut Courant in which he expressed his frustration about having his work pirated. Gimmestad says that "this protest by Trumbull and concerted efforts by him and his friends had their desired effect, for in the same month the state legislature passed a copyright law" (Gimmestad 102). In 1783, The Continental Congress recommended that all states pass their own copyright laws (Bielefield and Cheeseman 19). Unpublished works would not gain the legal protection of the federal government until 1978: until then they had received inconsistent protection from varied state laws (Bielefield and Cheeseman 19-20).

In the 19th century, copyright laws continued to evolve but still primarily covered printed matter. Most notably, regulations were set for international applications. Both the International Copyright Act of 1886 and the Berne Convention of 1887 were passed in efforts to ensure that authors' rights were not violated ("A History"). However, the effects were not felt worldwide because the two main parties were the United States and Great Britain. It was not until the United Nations became

involved in 1956 that legislation would have a truly international influence ("A History").

The Copyright Act of 1956, sponsored by the United Nations Educational, Scientific and Cultural Organization (UNESCO), also addressed the growing problem of copyright with respect to advances in technology ("A History"). In addition to the copyright problems caused by the growing use of photocopiers, the legislation also included films, broadcasts, and performing rights ("A History"). The 1976 revision expanded the coverage even more to include works of art, sound recordings, computer software, digital technology, and other forms of electronic media (Bielefield and Cheeseman 29).

Even with international regulations in place, there are still many copyright issues to be resolved. Interpretations of the intent of the coverage as well as how to enforce the policies have caused problems that the courts are still working to resolve. One of the earliest problems arose when technology allowed people to copy audiotapes. Next, video tapes recorders provided a means of piracy of movies. Producers thought they had solved the problem with digital technology until writable CDs and DVD copiers became available. Digital music and MP3 technology opened yet another problem area for copyright.

For example, the now-famous Napster case affirmed the rights of the artists. According to Biagi, in 1999 the Recording

Industry Association of America (RIAA) sued Napster for providing a music-swapping service on the Internet. After several appeals, the courts found Napster was liable for "vicarious copyright infringement" (Biagi 52). Napster ceased operation and aligned itself with a German company to provide a membership-based distribution system that would charge a subscription fee and conform to all copyright laws (Biagi 120). After the major recording companies "began an all-out assault, . . . MP3 agreed to pay more than \$70 million in damages to the recording companies for rights to license their music" (Biagi 53).

Biagi chronicles the influence of the Digital Millennium Copyright Act (DMCA) of 1998, which took effect at the end of October 1998, is "comprehensive legislation that begins to address the copyright issues provoked by the Internet." The DMCA brought United States copyright law into compliance with World Intellectual Property Organization (WIPO) treaties. Not only is it illegal to copy material published and circulated on the Internet: it is also illegal to "circumvent technology that protects or controls access to copyrighted materials." Further, the DMCA makes it "illegal to manufacture materials that will help people gain access to copyrighted materials" (Biagi 287).

Another interesting case was the New York Times v. Tasini, wherein the Supreme Court upheld the rights of freelance

writers. After the decision, Tasini was quoted as saying, "Once again, the legal system has come down in favor of the individual creator's rights in the digital age. Everywhere you look, the law supports creators" (Biagi 287).

These issues are all made more complex by the fact that each advance in technology seems to open up a new realm of copyright problems. Today people see legal notices hung above photocopiers. The first thing that flashes on the television screen before a videotaped movie is the FBI warning about copyright. Before they can download a piece of software, consumers must agree to follow the manufacturer's copyright policy. Legally purchased software cannot be used until the buyer breaks a seal that signifies understanding and support of the copyright. Besides the Napster problem, colleges and universities are trying to resolve the question of intellectual rights with regard to online courses. Finally, the volume of intellectual and creative works available on the web is a copyright nightmare.

Despite all of the laws, regulations, controls and warnings, copyright violations and piracy cause millions of dollars in lost revenue for the owners of intellectual and creative property. Because technology will continue to evolve, the copyright laws must continue to evolve as well. John

Trumbull may have thought he had resolved the issue back in 1783, but he had no way of knowing what the future would hold.

Works Cited

- Beard, Charles A., and Mary R. Beard. The Rise of American Civilization. Part I: The Agricultural Era. New York: MacMillan, 1930.
- Biagi, Shirley. Media Impact. Instructor's 6th ed. Belmont, CA: Wadsworth, 2003.
- Bielefield, Arlene, and Lawrence Cheeseman. Technology and Copyright Law. New York: Neal, 1999.
- "Copyright." The UK Patent Office Website. 9 Dec. 2000. <http://www.patent.gov.uk/copy/history/>. 12 July 2003.
- Gimmestad, Victor E. John Trumbull. New York: Twayne, 1974.
- "A History of Copyright." <http://www.intellectual-property.gov.uk/std/resources/copyright/history.htm>. 13 July, 2003.
- "Timeline: A History of Copyright in the United States." 22 Nov. 2002. Washington, DC: Association of Research Libraries. <http://www.arl.org/info/frn/copy/timeline.html>. 17 July, 2003.