
Piracy is the friction between proprietary claims. It is a friction that is perhaps intrinsic to all property, in so far as one person’s exclusive control of anything has the potential to provoke envy and challenge in another, and it is certainly inseparable from the literary or intellectual sort with which we now generally associate the term. Far from being the simple matter of owner and thief to which it is often reduced, piracy is the contest between two or more kinds of owner who are actuated by different principles – the primacy of creation, the dissemination of knowledge, the purity of substance, the resistance of domination, the sanctity of the home – all of which possess a weight that cannot be dismissed. Recuperating a score of definitive struggles over the control of copies from seventeenth-century England to the present-day United States, Adrian Johns’s new book relentlessly reveals that when piracy erupts it does so with mutual accusations of expropriation. For every unscrupulous reprinter, there is a greedy monopolist; for every robber, a robber baron: piracy is in the eye of the beholder. What this signals is that the relation of creativity to commerce is not natural. It is provisional, forged out of a clash of opposite views in moments of systemic crisis, and it is still evolving, as everyone from the mp3-filesharer to the pharmaceutical CEO knows.

The history of piracy, then, is the history of the collisions of interest that have defined the ways in which created or invented works of all sorts legitimately circulate in society. By studying this history we will be able to frame policy to guide us out of the current crisis of intellectual property – policy based on a balanced understanding of all relevant positions and practices rather than on the alluring precept of authorial ownership alone.

The breathtaking achievement of this book is its scope. Johns expertly anchors his theme, the yin-yang of property and piracy, in early-modern England and compellingly prosecutes it through the eighteenth, nineteenth, and twentieth centuries right down to the Google Books Settlement of October 2008. The completion of an analysis that comprehends such a span while offering striking new insights and sustaining a high scholarly standard is a dizzying feat. It is impossible not to applaud. For example, chapter 6, “Of Epics and Orreries,” an account of the creation of copyright, inevitably travels well-trodden terrain, but it interprets afresh the lapse of the
Press Act in 1695, the original copyright statute of 1710, the ensuing debates over literary property, and the vindication of the statute by the House of Lords in their decision in Donaldson v. Becket (1774). An important legacy of this famous struggle between the London monopolists and the Edinburgh pirates is the concept of expression, which was first articulated by the eminent eighteenth-century lawyer, William Blackstone: not an idea itself but the expression of an idea is individual and therefore ownable. Johns argues that this pivotal concept originated in the culture of mechanical invention ("projecting") that was dazzling Londoners at that time with public demonstrations of air pumps, model solar systems, music boxes, and other automata. Opponents of literary property argued that a work of literature was no different than a machine. Both should be private (i.e., patented or copyrighted) for a limited time only, and then thrown open to the public. But proponents of literary property, such as Blackstone, pointed out a contrast. To copy a wonderful machine, such as an orrery, required mastery of the ideas behind it, and anyone accomplishing this useful feat proved a right to do so; to copy a wonderful text, such as an epic poem, on the other hand, was a matter of common labour requiring no knowledge of its ideas at all. Limiting an inventor's monopoly (i.e., instituting a patent) was therefore suitable and fair for scientific projects, but not justifiable for literature, the style – or expression – of which was at once noble and hard-won and yet vulnerable to ignorant copying. On this basis, the pro-property camp argued for the common-law (i.e., perpetual) ownership of literary works. They lost the case in 1774, but out of the flames of dispute arose the concept of expression, which would become the cornerstone of modern copyright law. In this way, by ambitiously bridging the gap between the history of literature and of science, between current events and history, between the bibliophile and the computer geek, and so on, Johns impressively rewrites the history of intellectual property. The landmarks are familiar but the path is new.

As far as method is concerned, this is a history of ideas, and the historicization of intellectual property is one of its chief strengths. In chapter 10, "Inventors, Schemers, and Men of Science," Johns ascribes the coining of the term to David Brewster, a Scottish naturalist who became embroiled in the Victorian patents debate. Brewster had undergone the Byzantine process of acquiring a patent for his invention (the kaleidoscope) only to look on powerlessly as others seized it and turned it into a household toy. Denouncing both them
and the patent bureaucracy itself as pirates responsible for the decline of British science, he became a passionate advocate of reform. The passage of a new act in 1852 only intensified the debate, and by the following decade it seemed likely that laissez-faire economics would convince Britain to abolish patents altogether, substituting at most some form of compulsory licensing. Brewster now found himself on the conservative side of the issue, arguing for a salvaging of patents in order to protect true men of science from exploitation by schemers and rapacious industrialists. In a barrage of essays in the Scientific Review, he exalted copyright as the model, espousing the Romantic view that science, technology, and literature were diverse manifestations of one impulse – human creativity – and therefore should be governed by one policy – “intellectual property.” The 1874 election of the Conservatives under Disraeli extinguished the possibility of abolition, and as patent and copyright reform proceeded along less radical lines, the fundamental similarity between them entrenched itself. The idea of intellectual property now took hold in earnest, and it entailed not only supreme respect for the creator and his or her “natural” rights but also the standardization of them across geopolitical space during the ensuing century of mass production and international trade.

But over the course of the twentieth century, it became clear that there was one place that would consistently resist pervasion by the universal of intellectual property – the home. The piracy of sheet music exploded circa 1900, thanks to the advent of photolithography and to late-Victorian piano mania, which saw millions of instruments purchased by the rising middle-class. In attempting to eradicate it, the established music publishers discovered that its flourishing domestic production network made it peculiarly resistant to prosecution, because the home, traditionally the sphere of patriarchal morality, was above arbitrary search and entry. Desperately, they resorted to private detectives and thuggish vigilantism, and until the securing of a tough new act in 1906 they even abandoned intellectual property (civil law) as the grounds of action in favour of conspiracy charges (criminal), which penetrated the home much more potently, albeit controversially (chapter 12, “The First Pirate Hunters”). However, society was not sympathetic to the invasion of the private space of child-rearing by creators’ rights, whatever the guise, and as more and more technology moved into the home over the course of the twentieth century the tension between these two kinds of property – domestic and intellectual – increased. In the landmark case of
Sony v. Universal (1984) the Supreme Court of the United States ruled that home taping, recording television programs on video cassettes for the purpose of watching them later or even collecting a library of favourites, was fair use (chapter 15, “The Pirate at Home and at Large”). In what emerges as the climax of the book, Johns shows that even the defining technology of our day, the networked personal computer, owes as much to a private, anti-establishment culture of free experimentation, home use, and sharing as it does to corporate research and development. The decisive moment in the rise of Microsoft may well have been the piracy of Bill Gates’s first programming code by San Francisco–area hobbyists (chapter 16, “From Phreaking to Fudding”). In short, home piracy is so widespread and fundamental to the twenty-first-century information society that it is forcing us to revisit the Romantic, creator-centric theory of intangible property. New relations between creativity and commerce are being forged. Already, intellectual property seems a thing of the past.

Piracy will be one of those books around which a whole community forms. The daring of its argument, poised at the crux of the paradox that both ownership of and liberty with text is what generates knowledge; its cinematic turns, such as the escape of Mathew Carey, the father of American reprinting, from Ireland at the end of chapter 7; its cryptic titles of chapters, which thus demand to be read; its sheer weight – all announce a great work of the mind, and people driven by curiosity of all sorts will gather and meet on its black-and-white fields. But a history of ideas cannot do everything. A flying narrative reveals the shape of continents, but some readers will miss the plodding specification of dates on which precise lines of causality are more easily mapped. (For example, was the Homebrew Computer Club founded in 1972?) Chapter 3, “The Piratical Enlightenment,” reconceives the Enlightenment as a function of piracy, and Johns lists a number of authors whose fame appears to have been caused at least in part by unauthorized editions of their works, but instead of opening onto a Darntonian description of the books and printers responsible, the chapter narrows to a reading of what two contemporaries, the Marquis de Condorcet and Immanuel Kant, thought about piracy. Their ideas are fascinating; are they also representative, and what was their impact? A conclusion of this magnitude, regarding the role of piracy in an epoch-making cultural transformation, is worth a more bejewelled proof. Finally, Johns’s decision to date the “invention of piracy” to Richard Atkyns’s 1664 attack on the Stationers’ monopoly
will be controversial (chapter 2). He intends to correct what he sees as the anachronistic projection of intellectual property by William St. Clair and others back onto previous ages, but could not the practice of piracy have substantially existed before this word was used to describe it? These and other such questions indicate the gravity of Johns’s achievement and the seriousness with which it will be received.

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This book begins well enough. The editorial introduction is as neat a summary as we could hope to find of what happened in book publication in the long nineteenth century, from Russia, through Europe, to Britain, and across to North America, with a nod in the direction of overseas colonies. It discusses publishing practices and machinery, the distribution of books, circulating libraries, readers, and reading. It is a clear explanation of the revolution, indeed revolutions, that took place in nineteenth-century publishing. As background to an undergraduate course in Victorian literature, this 15-page introduction would work well, and its list of references would help an inexperienced student on his or her way.

The volume is divided into five sections. “National Publishing Structures” has four essays on the United States, France, and Russia, including classic essays by Michael Winship and Frédéric Barbier. “International Trade” includes essays on copyright, the Chace Act, and the International Scientific Series. “Publishing Practices,” rightly the longest section, has essays on printing, authorship, book pricing, and the ever-useful 1994 Simon Eliot essay on patterns and trends in British publishing from 1800 to 1919, unfortunately very poorly reproduced here in pale, minuscule format. “Distribution” includes one of my long-time favourite book history essays, on railways and newspapers, what in Britain would popularly be called “anorak” stuff – nothing to do with windproof jackets, and everything to do with a narrow, and even obsessive focus. The term was often originally applied to trainspotters, but is now in much wider circulation. The