object to false attribution) and the right of integrity. These two realities sit uncomfortably as parody is an exception only to the economic rights, not extending its reach to moral rights. Still, the author shows how they can be reconciled with respect to the large majority of 'true' parodies (those that comply with the exception requirements), with moral rights serving as an avenue to curtail abusive parodies, which, in any case, should be outside the scope of the exception.

The seventh and final chapter is dedicated to the future of parody exception in copyright law. It starts with a case study focused on the business practices in the UK music industry, where (at least part of) the actors see the parody exception as a threat to their business model. Therefore, it is perhaps not surprising that they try to hinder the practical application of the parody exception, often relying on the uncertainty surrounding the exception. In the pages dedicated to the future of the exception, the author suggests that courts can take a decisive role in lessening the exiting ambiguity by taking into account the lessons learned from human rights case law. In this respect, Jacques returns to the arguments raised in Chapter 5 and further develops how freedom of expression can assume an important role in the assessment of the parody factors, fighting against abuses and, ultimately, in the approximation of copyright laws in different jurisdictions. Jacques contends that parody should not be seen uniquely as a defence against a copyright infringement claim, but instead as a right of the parodist, that could only be curtailed if abused. Arguably, this proposal not only protects and promotes freedom of expression and cultural diversity, but also allows finding a fair balance between rightholders, parodists and the society.

This excellent work fills what was perhaps a surprising gap in existing copyright literature. It provides an admirable in-depth assessment of parody as an exception to copyright and, hence, contributes to a better understanding of the overall copyright framework, the functioning of limitations and exceptions to copyright and the relevance of human rights considerations while applying copyright.

The choice of a comparative law method is fully justified, particularly considering the influence and permeability of laws and decisions in this domain. Even where there is not an abundance of case law in respect of parody (that is particularly the case in the UK and in Australia), the author draws interesting parallels by referring to decisions in respect of other exceptions. In addition, the careful analysis of judgments allows readers to see how the law is applied in practice. In this respect, this reviewer was particularly pleased by how the book often complements the factual description of the cases with figures displaying the two works that caused the dispute.

The author dedicates this work to all the artists whose creativity can only thrive where diversity can continue to exist. This volume shows how important the parody exception is as an enabling mechanism for this diversity. In summary, and as pointed out by Paul Torremans in his foreword to this work, Sabine Jacques has written 'the' book on the parody exception.

doi:10.1093/jiplp/jpz168
Advance Access Publication 30 December 2019

Struggling with class struggles? An analysis of creative economies in the age of platform economy and social media

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Copyright Class Struggle - Creative Economies in a Social Media Age
Hannibal Travis
Cambridge University Press, 2018
ISBN 9781316645031, Softcover, pp. xi. + 221
£21.99

Copyright systems are typically classified in two main groups, based on their origins and their core elements: the utilitarian 'copyright' regime, which found its origin in England, on the one hand; and the continental European 'author's rights' ('*droit d'auteur*'/'*Urheberrecht*') regime(s), on the other. The author's rights systems are based on and are strongly connected with the natural law concept of authorship and moral rights. The 'copyright' regimes tend to focus more on economic rights, but, without doubt, the concept of authorship plays a central role in these countries too. In some sense, the ideal of authorship has historically meant some kind of 'lone wolf' mentality. The 'lonely genius', the 'individual' has always been idealized, and a great amount of authors still work alone these days. The 'lone wolf' mentality has been, however, challenged by the emergence of the 'creative industries', where the

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need for collaborative creative endeavours has grown significantly. Music and movie production, broadcasting, the development of computer programs and making of databases all need massive teamwork: from creative authors to technicians, and to producers/investors. Technological innovation has had profound effects on the *status quo* of copyright (and related rights) protection, ranging from the detrimental effects of online infringements to the outdating of the concept of neighbouring rights.[1] Technology also offers the chance for newcomers—including end-users—to affect the future of the creative industries.

The book by Hannibal Travis addresses such new challenges of our social media age—and the responses of the legislature and of the creative industries. More precisely, as Professor Travis notes, '[t]his book is about the ways in which different communities within an economy articulate their interests in new creative possibilities, and in controlling new expressions of ideas.'[2] To tell this story, Travis opted for a multidisciplinary approach, and combined copyright law (theory and practice) with legal theory (with a remarkable focus on the Chicago School and the Critical Legal Studies), legal sociology and economics. Travis borrows the definition of 'class struggles' from Herbert Marcuse, who defined class struggles as the tensions 'between those who own little or no property and those who own the product of labor as property to a degree that their ownership rights serve as a bottleneck on further labor, because labor requires capital to thrive'.[3] In this sense, Travis focuses on 'copyright class struggle' as 'the fight to define the relations of creative production insofar as they shape the distribution of the fruits of creativity, including ideas'.[4]

Two 'IP disparities' are discussed in Part I. First, the flexible use of the concepts of authorship and ownership is addressed. Authorship has been historically (and globally) attached to human creators; still, ownership interests can be separated from the creator in multiple ways. Investors in creative activities, and employers or commissioners of creators are granted significant protection through assignments. One can also think of the fiction of initial ownership for employers or commissioners. Corporate ownership of IP assets is declared to be a reason for the struggle of classes in the field of copyright law.[5] Travis spends considerable time with the discussion of the work-made-for-hire doctrine in general, and—more specifically—its partially unconstitutional nature. He does not limit his analysis to the critique of the work-made-for-hire doctrine, but also offers three separate ways to solve the tensions around it, or at least to re-balance authors' interests. These three optional routes are implied assignment, joint authorship and equitable ownership.[6] Secondly, the author takes an external glimpse on patent law in the social media age, and shows how the changes to the rules related to patent enforcement in the USA have deepened the tensions between classes, or as he states, between 'the Rich and the Middle Class'.[7]

Part II is dedicated to 'IP liberties'. The author lists various instances for the clash of class interests in copyright law. For example, corporate enforcement of valuable copyrights (e.g. the protection of the Superman character) against individual users (e.g. a schoolteacher); micro-copyrights versus micro-infringements of copyrights (e.g. the overprotection of fragments of protected subject matters and the chilling effects on sampling or fan fiction); the use of overlapping and often unclear rules against the 'resource-poor author[s]'; and the tensions between the financial interests of various authors.[8] Again, Travis does not limit his analysis to the critical evaluation of the imbalances of class interests, but puts forward some notable suggestions to solve such struggles. Namely, he recommends the introduction of a new law for transformative uses (based on French and Canadian experiences)[9] and a simplified version of the fair use doctrine in US law.[10] Interestingly enough, these proposals resemble the European Union closed list of limitations and exceptions. This proposal serves to contrast the opinion of several European scholars, who have instead recommended the introduction of a (European-tailored) fair use doctrine to ease the tensions that stem from the less flexible closed list of limitations and exceptions.[11]

This Part also devotes significant attention to the Beijing Treaty. It mainly focuses on the effects of the new international norms on performers' and end-users' liberties (or freedoms) regarding the participatory culture. As

1 P. Bernt Hugenholtz, 'Neighboring Rights are Obsolete' (2019) 50(8) IIC - International Review of Intellectual Property and Competition Law 1006.

2 Hannibal Travis, *Copyright Class Struggle - Creative Economies in a Social Media Age* (CUP 2018) 4.

3 ibid 7.

4 ibid 13.

5 ibid 36–48.

6 ibid 49–55.

7 ibid 56–93.

8 ibid 97–131. With respect to the latter, Professor Travis notes that 'the system that supports some authors' higher incomes suppresses other musicians' and authors' incomes, as their noninfringing and fair use works are rejected by publishers or studios as being infringing copies or derivatives'. ibid 127. This seems to be confirmed by Edward Lee's empirical paper on musical fair use cases: Edward Lee, 'Fair Use Avoidance in Music Copyright Cases' (2018) 59(6) Boston College Law Review 1873 (this paper was published after Professor Travis submitted the manuscript of his book.)

9 Travis (n 2) 133.

10 ibid 135.

11 See especially P. Bernt Hugenholtz and Martin Senftleben, *Fair Use in Europe: In Search of Flexibilities* (Amsterdam, 2011) <https://ssrn.com/abstract=1959554> accessed 26 November 2019. Most recently, see Tito Rendas, 'Advocate General Szpunar in Spiegel Online (or why we need fair use in the EU)' (2019) 14(4) *Journal of Intellectual Property Law & Practice* 265.

Travis notes, '[c]opyright inquisitions against remixes and mashups could be toxic to use freedoms once excessive user censorship by social media platforms meets the proscriptions against communicating, hyperlinking to, and quoting from performances.'[12] At the same time, finding a just solution to balance the interests of users, performers and intermediaries (platforms) is a painful, but urgent, task. As Travis correctly stresses in this chapter, those are not necessarily the actors and musicians whose interests prevail the best.

Part III is titled 'Pirate's Dilemmas'. Here, the focus is on two distinct 'dilemmas' that ineffectively seek to address social demands for media consumption in the digital age. Chapter 6 discusses the options for law enforcement in the Internet age. Here, we can read about the failed statutory proposals of SOPA (Stop Online Piracy Act) and PIPA (Protecting IP Act) in the USA; as well as the responsibility and liability of Internet service providers' and social media platforms. Chapter 7 offers a deep insight into the Google Books Project; or, more precisely, into its origins. The single relevant critique of this reviewer comes here. The Google Books case was concluded in 2015,[13] that is, three years before the book was published. Yet, it is presented in the book as a pending issue.

In sum, this book reminds one of various great 'storytelling' monographs on US copyright (and its recent history).[14] Here, we read about the copyright history of the social media age in a very inspiring way. Although the book has a focus on the USA, and therefore it might be a bit less relevant for a European audience, this is not a weakness of the monograph. Indeed, European audience can get a deep and smooth, well-researched analysis of contemporary US copyright struggles. The book also allows one to travel both in time and space (back to the 18th-century England), and across various subject matters. The glimpse on patent law might look less relevant to copyright scholars, but it inherently (or *a contrario*) allows the readers to understand problems that are present in copyright law as well. The reasons behind the long and costly patent suits[15] make it easier to understand why reviewing the idea of remedies for small claims in copyright law is an important issue in the USA.[16] This reviewer believes that the greatest challenge to copyright law in the social media age is what Travis formulates as follows: '[t]he premise of governments [in the Internet age] seems to be that the law must preserve the concentrations of economic power that preceded search engines.'[17] The logical question that stems from the above statement— something that this book seeks to answer—is simple enough: is preserving the *status quo* possible?

doi:10.1093/jiplp/jpz171
Advance Access Publication 31 December 2019

12 Travis (n 2) 149.

13 *The Authors Guild, et al. v Google, Inc.* (2nd Cir 2015) 804 F.3d 202.

14 To name a few inspiring examples here: Lawrence Lessig, *Code and Other Laws of Cyberspace* (Basic Books 1999); Paul Goldstein, *Copyright's Highway - From Gutenberg to the Celestial Jukebox* (rev edn, Stanford UP, 2003); Jessica Litman, *Digital Copyright* (Prometheus Books, 2006); William Patry, *How to Fix Copyright* (OUP, 2011).

15 Travis (n 2) 73–76.

16 See especially United States Copyright Office, *Copyright Small Claims - A Report of the Register of Copyrights* (September 2013) <https://www.copyright.gov/docs/smallclaims/usco-smallcopyrightclaims.pdf> 26 November 2019.

17 Travis (n 2) 208.