

Review: Litman, Jessica, (2001). *Digital Copyright*. New York: Prometheus Books.

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In *Digital Copyright*, Jessica Litman's ambitious work, she embarks on a review of copyright history that begins with the British Parliament's enactment of the 1710 Statute of Anne. Especially interesting in her analysis is the examination of the 21-year negotiation process which resulted in the Copyright Act of 1976, and more recently, her characterization of that same process that produced the Digital Millennium Copyright Act (DMCA) of 1998. The process upon which Congress depended, which Litman challenges, that culminated in the 1976 act and then twenty-two years later in the DMCA, can be described as a series of seemingly endless consensus seeking meetings of those with vested interests in copyright. The result? A two-hundred-some page statute drafted by copyright lawyers that is a loosely assembled, impregnable series of broad expansive rights balanced by narrow, stingy exceptions and provisions that retained the advantages of those industries who had a stake in the protections afforded by the law. Despite this apparently inclusive process, Litman's claim is that the public voice and interests are missing, as especially was the case during the evolution of the DMCA.

Digital Copyright explores the way that technology, from the printing press to the player piano, has continually prompted change in copyright law, and now is enabling the monitoring of violations by making it possible to track the use of copyrighted materials along with their permission status. This has led to a new control structure and an expansion of "protection" of copyrighted works via licensing mechanisms and a trend toward a pay per use model.

The original intent of copyright is "to promote the Progress of Science and useful Arts," however, striking a balance between that and the provision of incentives for creation and incentives, while additionally preserving the public's opportunities to read, view, listen to, learn from, and build on copyrighted works is very difficult as evidenced in this account. DMCA provides the legal authorization to do that which technology has long been able to do. The problem, as evoked by *Digital Copyright*, is that the varying industries, with the law and technical means at their side, have only considered what they have the ability to do: track, enforce, control, and capture new markets, without considering if they should do so.