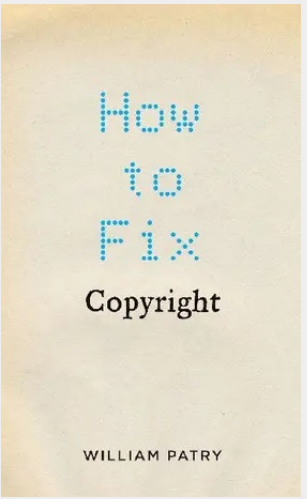
Patry

How to Fix Copyright



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Prescriptive and forward-thinking rather than descriptive and lamenting. International in scope, discussing common copyright issues faced in the global arena and not just the U.S. Recognizes the power of modern consumerism, making it not only concurrent but relevant. The arrival of the Internet was revolutionary, and one of the most tumultuous developments that flowed from it--the upending of the relatively settled world of copyright law--has forced us to completely rethink how rights to a work are allocated and how delivery formats affect an originator's claims to the work. Most of the disputes swirling around novel Internet media delivery systems, from Napster to Youtube to the Google Book Project, derive from our views on what constitutes a proper understanding of copyright. Who has the right to a work, and to what extent should we protect a rights holder's ability to derive income from it? Is it right to make copyrighted works free of charge? One of the central figures in this decade-plus long debate has been William Patry, who is now the lead copyright attorney for Google. In How to Fix Copyright, he offers a concise and pithy set of solutions for improving our increasingly outmoded copyright system. After outlining how we arrived at our current state of dysfunction, Patry offers a series of pragmatic fixes that steer a middle course between an overly expansive interpretation of copyright protection and abandoning it altogether. We have to accept that we cannot force people to buy copyrighted works, but at the same time, we have to enforce laws against counterfeiting. Most importantly, we have to look at the evidence--what furthers creativity yet does not deny protection to those who need it to create? We should also reject the increasingly strident (and, he argues, ill-informed) denunciations of delivery systems: Google Booksearch and DVRs are merely technologies, and are not the problem. Throughout, he stresses that we need to recognize that the consumer is king. Law can only solve legal problems, not business problems, and too often we use law to solve business problems. Practical yet prescriptive, How to Fix Copyright will reshape our understanding of what the real problems actually are and help us navigate through the increasingly complex dilemmas surrounding authorship and rights in our digital age.

Do copyright laws directly cause people to create works they otherwise wouldn't create? Do those laws directly put substantial amounts of money into authors' pockets? Does culture depend on copyright? Are copyright laws a key driver of competitiveness and of the knowledge economy? These are the key questions William Patry addresses in How to Fix Copyright. We all share the goals of increasing creative works, ensuring authors can make a decent living, furthering culture and competitiveness and ensuring that knowledge is widely shared, but what role does copyright law actually play in making these things come true in the real world? Simply believing in lofty goals isn't enough. If we want our goals to come true, we must go beyond believing in them; we must ensure they come true, through empirical testing and adjustment. Patry argues that laws must be consistent with prevailing markets and technologies because technologies play a large (although not exclusive) role in creating consumer demand; markets then satisfy that demand. Patry discusses how copyright laws arose out of eighteenth-century markets and technology, the most important characteristic of which was artificial scarcity. Artificial scarcity was created by the existence of a small number gatekeepers, by relatively high barriers to entry, and by analog limitations on copying. Markets and technologies change, in a symbiotic way, Patry asserts. New technologies create new demand, requiring new business models. The new markets created by the Internet and digital tools are the greatest ever: Barriers to entry are low, costs of production and distribution are low, the reach is global, and large sums of money can be made off of a multitude of small transactions. Along with these new technologies and markets comes the democratization of creation; digital abundance is replacing analog artificial scarcity. The task of policymakers is to remake our copyright laws to fit our times: our

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