

Copyright and the Cybernetic Circuit

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Over the past three decades, a substantial body of scholarship has accumulated demonstrating that copyright's current structure entails legacy assumptions regarding the nature of authorship and originality. It has become commonplace in copyright scholarship to acknowledge that copyright doctrine incorporates notions of a "romantic author" who produces original texts from the force of his own genius. Equally routine is the recognition that such constructs foster a poor fit between copyright law and new communication technologies that increasingly reveal the role of the reader in creating textual meaning. Copyright law, it is argued, has neither kept pace with the development of new media nor with our changed understanding of authorship.

Here I hope to open a new though related thread in this conversation, questioning whether copyright's legacy assumptions may also incorporate particular classical expectations regarding narrative. As new media and forms of expression have evolved over the past several decades, so have theories of narrative; in particular, computer games and other interactive texts have generated new theories regarding the interaction between reader, content, and technical system in what Friedman famously termed the "cybernetic circuit." Using the opinions of two prominent American jurists as a window into the underlying structure of copyright, I argue that copyright law entails a view of narrative that has not kept pace with our understanding of the text. The gap between copyright's embedded assumptions and the evolution of narrative theories exposes both something of where copyright has been and something of where it should be going.