

## **Controlling Voices: Intellectual Property, Humanistic Studies and the Internet**

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With a law degree and a doctorate in rhetoric and technical communication, TyAnna Herrington offers a unique perspective on intellectual property law and its impact on Internet users. Herrington, the recipient of a Fulbright grant, participated in the development of a distance learning project in St. Petersburg, Russia and has been teaching virtual classes since 1993.

In *Controlling Voices*, Herrington calls on educators to participate in the evolving development of Copyright Law as it adjusts to meet the demands of the Internet. (p.136). Evincing the title of her book, Herrington notes that those who control the dispersion of knowledge over the Internet, primarily “corporate entities and wealthy individuals,” thereby control “the reality that is our culture.” (p.126).

Herrington, a teacher as well as a lawyer proposes that educators are in a unique position to influence the development of copyright law because they are able to utilize fair use provisions. (p.82). The first chapters explain, in layman’s terms, contract law and intellectual property concepts; specifically the fair use exceptions to the Copyright Act.

In chapter four, Herrington suggests that educators and others can influence the interpretation of copyright law by joining and participating in intellectual property organizations and by using the fair use exceptions without fear of litigation. (p.82). She furthermore emphasizes that one need not be in the legal field to influence legislation. (p.83).

Herrington explains that the 1976 Copyright Act’s idea /expression dichotomy is indicative of Congress’ acknowledgement of the intangible nature of some property and

that the fair use provisions make clear “that the primary goal of the statute is to promote learning.” In the following chapters, Herrington argues that courts and lawyers, rather than focusing on the Congressional intent or the public policy behind the 1976 Copyright Act, interpret intellectual property law from a protectionist viewpoint, stemming from the English common law of copyright. (p.122). She explains that the common law moral rights or sweat of the brow doctrine indicated that an author had ownership rights in the property he or she created. (p.122). According to Herrington, this concept of property was adequate at a time when most intellectual property was tangible. (p123).

Clearly, the Internet has expanded and complicated the definition of intellectual property and Herrington proposes as a solution, a constructionist approach to interpreting copyright law. (p.145). Such an approach, evidently common among teachers and internet users, “affirm[s] that all members of society should influence the development of knowledge that controls that society.”(p.127). Advocates of this approach, hold that knowledge and consequently much of intellectual property, is created from a collaborative effort which is not exclusively owned by any one user (Id.).

In the final chapters, Herrington addresses the fallacy of the protectionist ideology. She concludes that the primary purpose of the Copyright Act was to keep knowledge in the public domain and secondarily to grant authors a limited right to their creations. Despite the fact that Herrington is a lawyer, she implies that those outside of the legal field will bring about the necessary changes in Copyright law and states that educators as creators and users of intellectual property must in essence “educate the legislature.”(p.127)

While Herrington's thesis is interesting and she is arguably well versed in intellectual property issues, she is clearly targeting an audience with a non-legal background and the bulk of her book provides a review of legal concepts familiar to most first or second year law students. She provides advice to educators on how to protect their own creations with copyright law or contracts as well as how to use others' expressions by taking advantage of the fair use exceptions.

In the final chapter of her book, however, Herrington does introduce and explain some complicated policy issues that laymen and lawyers alike would find interesting. She briskly addresses some of the copyright issues posed by the Internet and the law student or lawyer who reads this book will likely wish Herrington addressed these issues in the introduction rather than the conclusion. In sum Herrington has written an excellent book for educators in the non- legal field.