

## Book Review

***Media, Technology and Copyright: Integrating Law and Economics***, by Michael A. Einhorn  
Cheltenham, Edward Elgar Publishing, 2004. ISBN 1843766574. HB £55.

Einhorn has written an important and well-judged book that casts intelligent and thorough economic analysis on some recent controversies in digital media copyright. His ‘integration’ of law and economics is here more an economic analysis of the law, but it is not the all-encompassing and imperial view of economics’ role as Lessig stated in his seminal 1998 article ‘The New Chicago School’, that neo-classical economics in its pomp would have claimed. Instead, Einhorn seeks to encourage jurists into economic literacy when considering copyright policy.

Given the propensity of European copyright and Internet lawyers to profess an even greater ignorance of economics than they actually possess, this book should be required reading for lawyers who seek to engage with the central economic purpose of copyright law: to gauge the protection of monopoly for the author necessary to reward and therefore encourage innovation, while assessing the fair use that is just for the user. Einhorn’s view is a reasonable and most careful explanation of these economic precepts, balancing his view from economics with regard for legal precedent and the economic education of jurists.

He states his point of departure immediately: ‘the tensions and contradictions of copyright now devolve into an international dialog that can be aided by the complementary disciplines of law and economics’ (at 2). As an economist, he reminds lawyers that 19<sup>th</sup> century copyright principles need dragging into the 21<sup>st</sup> century: ‘If legal and economic considerations are in balance, the legal stratum must ride atop the scientific, i.e., social procedure must in the end be based upon actual reality’ (at 3). Lest that raise the hackles of sociologists of law, the reality he is referring to is – in the context of the book – largely that of commercial copyright enforcement. His consideration is that law must recognise the complexity of the digital media system, in which regard economics must play a primary role. His political economy approach – no graphs but lots of citations here, lawyers! – permits a much broader consideration of economics than a narrow mechanistic monetary model, and a primary aim of the book is to consider non-monetary copyright arguments: open source, peer-to-peer file sharing, anti-commons in digital music, digital rights management and privacy, fair use and consumer rights.

There is plenty in the book to annoy both copyright purists and open source/creative commons proponents, but that is a strength of the book: it tackles many of the current controversies in copyright law and takes what Einhorn considers economically literate and balanced positions. Benkler and Lessig may not always (or often) agree with Einhorn, but his approach eminently succeeds in its task of engaging copyright lawyers in serious debate about the extent of economics’ imperial reach into copyright policy. In that it succeeds.

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