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Peter Baldwin. *The Copyright Wars: Three Centuries of Trans-Atlantic Battle.* Princeton: Princeton University Press, 2014. 552 pp. $35.00 (cloth), ISBN 978-0-691-16182-2.

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Conflicts over copyright have long been at the forefront of attention for those who worry about the structure and implications of cultural policy. The advent of digital and Internet technologies has not changed this, except perhaps to intensify the debates and increase their public visibility. In general the terms of these arguments are taken to be well understood, and their various camps well defined. On the one side stand the so-called content industries and bodies claiming to represent professional authors, musicians, and artists. Associations like the Recording Industry Association of America (RIAA) and the Motion Picture Association of America (MPAA) are aligned with the Association of American Publishers (AAP) in adopting a maximalist line on both legislation and enforcement. On the other stand a more diverse and variegated range of combatants, including many creative artists, who point out that originality is never absolute or completely *de novo*, and that protecting monopoly rights for past creators cannot be done without constraining the possibilities for those in the present and future. These have been able to make common cause with technology companies like Google to fight back against the expansionary claims of the pro-copyright forces. The parties confront each other constantly over issues of the period, extent, and (above all) practical implications of copyright law and enforcement both nationally and internationally. For todayâs digital activistsâpeople like Cory Doctorow, Siva Vaidhyanathan, Kembrew Mcleod, and Clay Shirkyâwhat is at stake is nothing less than the possibility for a free society in our and future generations.

Peter Baldwinâs book on the âcopyright warsâ tackles many aspects of these struggles, and it covers a lot of ground that will already be familiar to readers interested in their history. But this is not just another run-of-the-mill survey of well-trodden terrain. Baldwin has a case to makeâan original and counterintuitive argument that could, if accepted, change the shape of conflicts over intellectual property (IP) in general. Among activists skeptical of IP policies, one of the most widely shared convictions is that the relentless expansion of intellectual-property rights worldwide is principally a consequence of US pressure. With each new round of trade negotiations and each new regional free-trade treaty, it seems, the term of copyright is extended and the intensity of IP enforcement is reinforced, all apparently at the behest of American government and industry interests. Since the 1980s this has become a shibboleth of the globalization debates. Baldwinâs contention is that with respect to copyright, at least, the claim is fundamentally misconceived. What has really happened, he argues, is that Anglo-American legal norms have suffered a profound *defeat* in this period. The extension of copyright terms in particular amounts to the ascent into dominance of a quite different legal and moral system, originating in Continental Europe and upheld in defiance of American conceptions. If he is right, then the way in which we see the politics of globalization in the information economy needs to be radically revised.

At the center of this argument lies the distinction between copyright per seâthe artificial legal construct at the heart of British and American cultural policyâand so-called *droits dâauteur*. The latter are not artificial but naturalâ*rights* in the strong senseâand they derive from Franco-German ideals articulated principally in the eighteenth century. As the romantic era saw it, literary and artistic creators imbued their works with some inalien-

able element of themselves, emanating from their individual identities, and this necessarily implied that they retained some âmoral rightâ over those works even after they were commercially sold. This right, indeed, could not be sold; it was a sheer impossibility. The fact is fundamental. Copyright in the Anglo-American legal tradition was and is a temporally limited protection grounded in statute law; hence its term can be drastically changed, and has been over the years (from fourteen years in 1710 to the life of the author plus seventy years at present). Authors almost always sell it to publishers or their equivalent. Authorial right in the Continental European tradition is essential to the nature of creative work and is both inalienable and sempiternal; it has no chronological limit. Baldwinâs contention is that as the term of protection has increased in our generation, it has effectively relegated the commitment to a temporal limit to near-irrelevance, moving much closer to the norms of the Continental Europeans. Far from structuring todayâs creative economy worldwide, copyright has practically ceased to be copyright at all.

The basic terms of this analysis are not contentious. That moral rights and copyright are incompatible in a deep-seated, conceptual sense is generally acknowledged. The legal literature on international copyright has dealt at length and in sophisticated detail with the history of efforts to reconcile the two (notoriously, by always leveling up to the longest, strongest, and broadest option). What are significant here are, first, the claim that moral rights are effectively colonizing Anglo-American trade policy, and, second, the history of those rights that underwrites this claim. This history will probably be substantially new even to readers relatively well acquainted with copyright debates. It begins in the eighteenth century and hits its stride with the Berne Convention in the late nineteenth. But the pivotal moments occur in the mid-twentieth century, when totalitarian regimes adopted policies with regard to authorship that sought to express its collective character in relation to national culture. The Fascists in Italy were especially active in trying to design legal structures surrounding authorship. In the wake of World War II, this memory of totalitarian intervention produced a backlash that entrenched authorsâ rights in European jurisprudence, particularly in Germany and France. Baldwin makes use of sources in all these countriesâ languages that will be largely new to the Anglophone community. Thanks to this, he is able to bring a valuable and genuinely new perspective to bear on the topic. The central claim is likely to prove controversial, and the chain of causation Baldwin adduces is not straightforward. But his re-politicizing of European authorial law is, I think, plausible in broad terms. The case he makes for it is certainly compelling.

Having said that, it is sometimes necessary to adopt a tolerant view in reading Baldwinâs book. For all that his narrative about Continental European cultural politics is novel and consequential, it is surrounded by much that is not especially novel and not particularly incisive. The bookâs opening is representative: it begins with no less than four scene-setting anecdotes, when selecting one would have resulted in a punchier introduction. This kind of repetition occurs throughout. It certainly adds to the workâs air of importanceâa five-hundred-page tome carries a literal heft that a two-hundred-pager may not. But it also vitiates the argument and distracts the reader from what is really important about the text. It does not help that when he departs from his core narrative Baldwinâs text often takes on a dutiful flavor: in explicating courtroom exchanges he recites unremarkable and repetitive legal nostrums rather than zeroing in on significant departures; this becomes more repetitious than it needs to be. And his accounts of the broad processes of digitization and globalization are surprisingly conventional given the objective of the book as a whole. Indeed, the book is oddly bland when it comes to the question of the cultural practices that the two different legal systems may facilitateâthe question, that is, of what difference they ultimately make. Readers looking for information on eighteenth- and nineteenth-century copyright history, or for an interpretation of the new information economy, will find those things here. However, other authors have treated them more thoroughly and originally. Yet it would be a shame for this to detract from the bookâs own contribution, which is real and substantial. Readers so inclined can safely skip forward to chapters 5-8, which contain the core of the bookâs original argument.

In the end, this is an important book that deserves the attention of readers interested in cultural policy, globalization, and IP debates. The argument it makes is significant and deserves to be addressed, not so much by historians as by legal experts, digital activists, authorities in international politics, and even negotiators engaged in the nitty-gritty of trade diplomacy (the US Trade Representativeâs response to it would be interesting to see). It is history with current and future consequence. In that light, too, Baldwinâs central contention deserves to be extended and tested further. For its implicit targetâthe conventional activist view that the eternal strengthening of IP rules results from US-inspired copyright expansionismâis one that has arguably arisen by reference more

to patent and trademark issues than to those of copyright. Leading protagonists like James Boyle perhaps care much more about genes, biodiversity, and pharmaceuticals than about modernist novels, and for good reasons. If Baldwinâs argument is to have the impact it deserves, it will need to prove salient to that related but distinct legal field. Quite possibly it will, although currently there is not really a clear equivalent to the *droit dâauteur* in patent or trademark law. Copyright is arguably the easy case; the hard case remains to be made.