Disowning Commodities
EBooks, Capitalism, and Intellectual Property Law

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This article explores the changing social function of commodities in the United States by exploring the conditions of possibility of electronic books, or “ebooks.” By juxtaposing the history of printed books and consumer capitalism on the one hand and the history of ebooks on the other, this article maps an emergent configuration of capitalism, technology, and intellectual property law. Together, these histories evidence how the widespread private ownership of mass-produced consumer goods has grown increasingly problematic from the standpoint of capitalist production—an understanding embedded in many, if not most, commercially available ebook texts and devices. In addition to showing how the category of “private property” is destabilized in relationship to ebooks and other digital technologies, this article strategizes how best to articulate a vital, progressive politics in light of changing material and economic conditions.

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At exactly 12:01 a.m. on March 14, 2000, Simon & Schuster began its experiment; the publishing giant released best-selling author Stephen King’s first digital electronic book, or “ebook,” the sixty-seven-page novella Riding the Bullet, on the Internet. By 11:59 p.m. on the March 15, an estimated one-half million people had downloaded the text of King’s story, prompting Simon & Schuster to declare the experiment a success: “We believe the ebook revolution will have an impact on the book industry as great as the paperback revolution of the [19]60s,” Jack Romanos, the firm’s president, boldly declared (as quoted in Kirkpatrick 2001, A1).¹ Later that year, the soon-to-

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be notorious accounting firm Arthur Anderson weighed in on the topic of ebooks, predicting that by 2005, no less than 10 percent of all books sold in the United States would be in electronic form (Kirkpatrick 2001, A1). Finally, it seemed, the dusty old era of the printed book was poised to give way to a sublime digital future.

Less than five years and a healthy dose of cynicism later, it seems clear that these heady claims about ebooks were suffused with the same millennial hopes and dreams that had helped fuel the late 1990s dotcom boom. Hindsight suggests that these claims were intended to induce, more than they were meant to describe, an impending ebook revolution. Indeed, despite Stephen King, Simon & Schuster, and Arthur Anderson’s efforts to locate themselves among (or perhaps as) the vanguard of an ebook revolution, the “revolution” has yet to reach the fevered pitch that book industry insiders had anticipated. Still, given that a best-selling novelist such as King was moved to publish an ebook at all, the unusual amount of attention Riding the Bullet garnered among readers, book publishers, and the news media, and after more than a century’s worth of efforts to create viable electronic reading devices (Striphas 2003), ebooks remain, at minimum, a techno-cultural form worth talking about.

Public dialogues about ebooks remain quite limited, however, insofar as the book industry’s uncritical boosterism is mirrored by an equally forceful—and no less narrow—cultural pessimism. Essayist and literary critic Sven Birkerts’s (1994) The Gutenberg Elegies: The Fate of Reading in an Electronic Age is probably the most widely cited text exemplifying the latter standpoint. Birkerts suggests that the growing prevalence of and reliance on information published to electronic screens has diminished the experience, and by extension the value, of reading words printed on the paper page. More specifically, he contends that the printed word’s gradual eclipse by bits of intangible electronic ephemera promises to atrophy the human capacity for “deep reading,” or the “slow and meditative” process of living deliberately with another’s words (p. 146). But the stakes of this shift, apparently, are higher still, for Birkerts believes that this realignment in the “ecology of reading” (p. 3) threatens a more fundamental shift in Western values and sensibilities:

Over the past few decades, in the blink of an eye, our culture has begun to go through what promises to be a total metamorphosis. . . . Suddenly it feels like everything is poised for change; the slower world that many of us grew up with dwindles in the rearview mirror. The stable hierarchies of the printed page—one of the defining norms of the world—are being superceded by the rush of impulses through freshly minted circuits. . . . Changes in the immediate sphere of print refer outward to the totality; they map on a smaller scale the riot of societal forces. (P. 3)
Here, Birkerts suggests that specific technologies both shape and reflect the speed, intensity, and organization of social, cultural, and intellectual life. Ebooks and other on-screen reading devices, he presumes, are part and parcel of the process by which a more “stable” and “hierarchical” way of life is lost to a more frenetic world—a world sullied by the abandonment of permanence and authority.

This quasi–McLuhanesque narrative is enticing, owing in part to the way in which ebooks and other electronic media come to stand at center stage of a grand epochal drama—nothing less than the putative shift from Western modernity to postmodernity (Birkerts 1994, 137, 192). The presence of a clearly identifiable hero (print) and the antics of a foul, disruptive villain (the electronic screen), furthermore, invite us to make relatively easy choices about which side to cheer and which one to boo. While engaging and eminently readable, Birkerts’s (1994) story thus is one-dimensional. Like McLuhan, Birkerts confers an astonishing amount of world-historical responsibility on communication and information technologies, given how they become, for him, perhaps the primary agents of change. Social unrest gets reduced to an epiphenomenon of the antagonisms among older and newer media forms. Bringing about a more just and compassionate way of life, meanwhile, essentially amounts to championing print—evidently an inherently humane form of media—rather than, say, challenging the intricate structures that both create and sustain racism, sexism, homophobia, and unconscionable economic disparity. In short, it is as though Birkerts has taken his own frustrations with ebooks and other forms of electronic media and has parlayed them into an exhilarating drama about hemispheric cultural and intellectual decline, one which, in the end, tells us little about the history and determinate conditions that called forth ebooks in the first place.

Thus, I want to take a different tack in trying to assess both the conditions of possibility and the broader effects of ebooks around the turn of the millennium, specifically by juxtaposing two histories. The first history, which encompasses the following two sections of this article, explores how the mass production and consumption of printed books became both thinkable and practicable for a majority of people in the United States. I posit this history as a synecdoche for the ways in which, in the first decades of the twentieth century, the widespread private ownership and accumulation of commodities came to be seen as socially and economically desirable from the standpoint of capitalist production. The second history, which corresponds to the next three sections, explores how this understanding of commodities came to be challenged in subsequent decades. Here, I read the emergence of ebooks in relationship to a constellation of public relations campaigns, litigation, legislative initiatives, and “new” communication and information technologies introduced roughly since 1930, which, together, have helped
to problematize the notion that a majority of people ought to own consumer goods—and perhaps even the very logic of consumer capitalism itself.

Admittedly, these histories will be somewhat disjointed, given that I want to tell two related, although not entirely congruent, stories about books, ebooks, capitalism, and U.S. consumer culture. Rather than a traditional, linear history, what follows is best imagined as a “sedimentary” history—one that accumulates gradually and unevenly. Each section might be thought of as a layer that overlaps partially with and conditions each of the others. Reading through these layers, there emerges a narrative about the social function of commodities in the United States and how that function has changed from the late nineteenth to the early twenty-first centuries. By juxtaposing the history of printed books and consumer capitalism on the one hand and the history of ebooks on the other, I tell a story about an emergent, perhaps even insurgent, configuration of capitalism, technology, and the law; I question existing strategies for how best to resist this nascent set of relations; and finally, I point to an alternative, hopefully more forward-looking framework, in which I suggest that the best way to struggle against these relations may not be to resist them per se but rather to seize upon them.

If You Build Them . . .

The late 1920s and early 1930s were a critical turning point for the U.S. book industry. After a year of relatively sluggish sales in 1928, there emerged a general accord among industry insiders that the second half of 1929 would bring a vigorous and sustained upturn. Their confidence was bolstered after initial reports showed modest sales gains in the first half of 1929 but was shattered in October when the stock market crash propelled the country into economic depression. Although some members of the book-publishing industry persisted in believing that the downturn would be short lived and pressed on accordingly (Tebbel 1978, 72–73), others who sensed the severity of the crisis scrambled to figure out how to avoid financial catastrophe.

Distressed, Simon & Schuster, Harcourt Brace, and several other major New York book publishers contacted public relations doyen Edward L. Bernays, the “father of spin,” in 1930 to strategize how best to inject new life into the faltering U.S. book industry. In addition to attacking the book industry’s price structure, which, at the time, relied heavily on a volatile low-price/high-volume sales formula (Bernays 1965, 485–86), Bernays proposed a novel idea for inspiring people to buy more books in spite of the economic downturn. As Bernays’s biographer Larry Tye (1998) has written,
“‘Where there are bookshelves,’” [Bernays] reasoned, “‘there will be books.’ So he got respected public figures to endorse the importance of books to civilization, and then he persuaded architects, contractors, and decorators to put up shelves on which to store the precious volumes” (p. 52).

Today, accumulating printed books and shelving them in one’s home may seem like mundane facts of life, at least among those economically enfranchised enough to do so. In the first decades of the twentieth century, however, those activities could not be assumed; they needed, rather, to be learned. Still, much as Bernays and his biographers may have believed that the publicity industries were singularly responsible for persuading builders, homeowners, and others of the virtues of accumulating books and storing them at home, the emergence of these activities in the decades leading up to the Second World War cannot be reduced to spin alone.

In March 1929, an article published in *American Home* magazine titled “Housing Your Books” had suggested that “‘books’ and ‘home’ are indissolubly linked in the minds of most people.” Thus, the article stressed, books “should be housed with loving care and one should find room to accommodate them at all costs” (Harmon 1929, 566). Despite its call for books to be shelved in private homes “at all costs,” however, *American Home* was sensitive to the fact that its advice appealed to a class of not unlimited means. The article therefore reassured readers that they should take pride in shelving any and all books, even well-worn mass-produced editions. “If we can have our favorite [books] rebound when they look really disreputable, we are fortunate,” the article observed, “but a moderately worn appearance lends flavor to a book.” It continued,

> If you want your books around you, you must have proper receptacles for them. While the covers of the books may be ever so worn, if they are attractively housed, the effect will be pleasing. Certainly you, yourself, will be far better satisfied when surrounded by your old favorites than if you had a most harmonious array chosen solely for good binding and designed to please the eye but quite devoid of anything within. (Pp. 527, 566)

The article concluded by suggesting that bookcases, particularly the built-in variety, would allow homeowners “to introduce a little touch of modernism” into their residences (p. 568).

Likewise, in a November 1929 article in *The Publishers’ Weekly*, Joseph Wharton Lippincott (1929), president of the National Association of Book Publishers, described built-in bookcases as a “growing fad” in the United States (p. 2157). He even anticipated some of Bernays’s later maneuverings, when he exhorted his colleagues in the book industry to capitalize on the emergent trend:
We are profiting at the moment from the need for books in individual homes built during the past few years. . . . Now is the time to get behind it and keep going! . . . The problem is twofold: how to get all those who build new houses and who own old houses, to understand the value and ease of putting in as many as possible of these modern conveniences [i.e., bookshelves]; and how to bring the consequent business into the bookstore. (P. 2160)

Lippincott’s remarks are striking not only for what he said but equally important for what he did not say—about private homes, built-in bookshelves, and the value of printed books. Rather than stressing the presumed literariness and/or the pleasures of reading particular titles, Lippincott enjoined his colleagues to consider how built-in bookshelves could facilitate the mass accumulation of printed books largely on the basis of their formal characteristics and their capacity as a whole to add flare to modern home décor.

Taken together, the Bernays story, the *American Home* article, and Lippincott’s strategizing roughly trace out the key discursive parameters within which home bookshelf construction became both thinkable and practicable in the United States between the two World Wars. Put differently, they evidence the political, economic, technical, and social relations these seemingly banal furniture fixtures embody. Built-in bookshelves represented, at minimum, a particular orientation to history, modernity, and its attendant ideologies of progress and convenience; the allure of plenitude and respectability, which could be realized not only through the consumption but perhaps just as important through the accumulation and display of printed books and other mass-produced commodities; and a growing (middle) class consciousness.

In more abstract terms, the boom in home bookshelf construction around 1930 emerged from a confluence of changes which, in the first decades of the twentieth century, helped to redefine the private home from a space of moral and spiritual uplift to one focused increasingly on “domestic leisure.” As Lynn Spigel (1992) has noted, beginning around the turn of the twentieth century, builders, decorators, and a nascent group of middle-class homeowners began refiguring the architecture, especially the interior spaces, of private homes to accommodate all kinds of “secular pleasures,” many of which had been barred from the homes of the Victorian elite just a few decades earlier (p. 18; see also Ohmann 1996, 141–42).

The campaign to install bookshelves in homes in the United States in the 1930s was part and parcel of this shift in at least three ways. First, it represented the culmination of a critical passage in the sociology of books and reading. Around the turn of the twentieth century, the Victorian custom of reading scripture aloud at home began giving way to a radically different domestic pastime, solitary reading, and a literary genre, the novel, which
Victorians incessantly had fretted over for arousing “sensational” responses in readers (Bernays 1965, 486–87; Spigel 1992, 15). The installation of bookshelves in private, middle-class homes, in other words, indexed the home’s passage from a site dedicated primarily to strengthening one’s moral and spiritual fiber to one increasingly suffused with worldly pleasures. Second, the campaign to install built-in bookshelves squared nicely with a general reduction in the size of new homes built in this period. The costs of incorporating the latest “modern” conveniences (e.g., plumbing, electrical wiring, and appliances) into new homes often compelled building contractors to cut costs elsewhere. Because superfluous square footage typically was among the first items to be excised (Spigel 1992, 21), built-in bookshelves offered a means for using domestic space more efficiently. Finally, home bookshelf construction might be interpreted as the bibliographic counterpart of efforts to domesticate electronic media. By housing gramophones, telephones, radios, and, later, television sets in fine pieces of cabinetry, the nascent home electronics manufacturers sought to render them consonant—functionally, aesthetically, and ideologically—with domestic space and existing furniture (Spigel 1992, 24, 29; Hartley 1999, 99–107). Built-in bookshelves, similarly, offered a means for integrating an “older” technology, printed books, more or less seamlessly into the home.

Not everyone, however, was encouraged to engage in home bookshelf construction and, thus, the accumulation and display of mass-produced printed books. The periodicals that were instrumental in helping to publicize these practices, including American Home, House Beautiful, Popular Mechanics, and Woman’s Home Companion, among others, both appealed to and provided a key source of identification for a very specific group of people—a mostly white, increasingly suburban, professional middle class. As Richard Ohmann (1996) has shown, this burgeoning group secured its place in U.S. society in part by producing “useful knowledge.” Through the development and implementation of advertising, public relations, and related forms of knowledge work, the middle class carved out a niche for itself by engaging in work practices designed to modulate the “growth of culture” (Veblen [1899] 1994, 6) or to regulate and rationalize the hitherto mysterious connections between capitalist production and consumption (p. 163). In other words, the professional middle class frequently targeted members of its own class with its knowledge work, thereby instructing (and reproducing) itself, as it were, in a highly specific understanding of and practical relationship to an ever-expanding array of mass-produced commodities.

In 1899, Thorstein Veblen ([1899] 1994) aptly coined the phrase “conspicuous consumption” to describe this emergent praxis, given how middle-class people, periodicals, and social institutions of the late nineteenth and
early twentieth centuries incessantly articulated commodity ownership and display to possibilities for social advancement. Insofar as “property . . . becomes the most easily recognised evidence of a reputable degree of success as distinguished from heroic or signal achievement” for middle-class people, Veblen wrote, “it becomes indispensable to accumulate, to acquire property, in order to retain one’s good name” (p. 19; see also Radway 1997, 162). Where an older, landed aristocracy’s social and cultural capital had derived largely from patrimony and elite education, the nascent U.S. middle class saw the accumulation and display of private property—particularly mass-produced consumer goods—as necessary conditions for acquiring capital of its own.4

This is not to suggest, however, that printed books merely provided elaborate window dressing for middle-class people in the interwar years. Much as printed books were meant to be accumulated and displayed, so too were they meant to be read. The reading of books never has been an innocent activity, and indeed, the reading of mass-produced printed books in the interwar years was no exception. As Janice Radway (1997) has shown in her study of the Book-of-the-Month Club, reading became an especially privileged activity in this period. The burgeoning “consumer-oriented and information-dominated” economy of the early twentieth century required large numbers of workers proficient in the reading, sorting, processing, and passing along of information. Doubtlessly, these skills could—and would—be acquired during one’s formal education. Regular contact with mass-produced printed books at home, moreover, made it possible for middle-class people, or those who aspired to middle classness, to rehearse and refine these skills during their leisure time as well (p. 197).5 Thus, the drive to install bookcases in private homes reaffirms Lynn Spigel’s (1992) observation that “the modern notion of leisure as a set of secular activities . . . served as a distinct counterpart to work” (p. 23). The shelves embodied a specific middle-class habitus, which was expressed in and through knowledge work and the collapsing of labor and leisure.

The built-in bookshelves campaign might be read, therefore, as contributing to a complex social pedagogy, whereby a growing U.S. middle class lived the transition from a more producer-oriented to a more consumer-oriented economy. It also might be read as a synecdoche for ways in which, in the interwar years, this group simultaneously became subject and object of its own efforts to routinize consumption by championing, above all, the virtues of accumulating, displaying, and putting to use large quantities of printed books, along with myriad other industrially produced commodities.6 In this story, the widespread private ownership of mass-produced printed books was crucial to the professional middle-class’ formation and professionalization, its entry into modernity. More specifically, its ability to carve out a socially and economically distinctive niche for itself in the
United States turned on its ability to own and consume mass-produced printed books—a practical relationship to capitalism which, later in the twentieth century, would come to be seen by some as less a help than a hindrance to the task of expanding capitalist accumulation.

**Flight From the Right to Copy**

In addition to these political, economic, technical, and social determinations, a key enabling condition of this régime of privately owned, mass-produced printed editions was a relatively thin, or at least thinly applied, U.S. copyright doctrine. Antedating the built-in bookshelves campaign by more than fifty years, this doctrine provided a legal framework within which such a campaign could become both thinkable and practicable.

In contrast to the present day, where intellectual properties and intellectual property laws are among its leading exports, the United States refused to sign onto or abide by any international copyright treaties until March 1891. The U.S.’s position thus diverged sharply from that of its European counterparts, virtually all of whom had acceded to various copyright unions in the preceding decades (Vaidhyanathan 2001, 50). Between 1830 and 1890, U.S. legislators, jurists, publishers, printers, typesetters, booksellers, and other interested parties responded to European pressure on the United States to establish international copyright agreements by appealing ceaselessly to the language of civic republicanism. International copyright treaties, opponents claimed, would militate against the creation and flourishing of a vibrant U.S. reading public, thus confounding the American democratic project by restricting citizens’ access to information (p. 51). Doubtless, these appeals reflected a genuine belief in the value of *civitas*, inasmuch as they offered an expedient way for the burgeoning U.S. book industry to protect its interests. Either way, despite the best efforts of European (mostly British) diplomats and writers—Charles Dickens and other highly influential figures among them—to persuade the U.S. government and people to see the virtues of extending copyright protections to foreign works, the U.S. Congress rejected no fewer than five copyright treaties in the second quarter of the nineteenth century alone (p. 51).

Until 1891, therefore, U.S. publishers, printers, and booksellers were relatively free to produce, distribute, and sell their own (some would say “pirated”) editions of foreign works to U.S. readers. By refusing to extend copyright protection to foreign titles until this time, the U.S. government de facto absolved U.S. publishers of any responsibility of remunerating foreign copyright holders for the works they reproduced. Domestically produced editions of foreign books flourished, typically selling for just a fraction of the price of imported European editions (Vaidhyanathan 2001, 50). Together with the explosion of dime novels, inexpensive romances, and
cheap reprint series, a truly mass-book industry began to emerge in the United States beginning around the middle of the nineteenth century. At the time it was, as Ohmann (1996) observes, “one of the few capitalist industries grounded in piracy” (p. 23).

From a legal standpoint, weak international copyright protections, coupled with innumerable acts of publishing “piracy,” helped make possible the mass ownership of printed books in the United States. Inexpensive libraries thrived so that, by 1877, U.S. readers could select from among at least fourteen different book series (Vaidhyanathan 2001, 53). Yet this praxis would not achieve its fullest expression until the first half of the twentieth century, crystallizing, for example, in the built-in bookshelves campaigns of the 1920s and 1930s. Indeed, the U.S. book industry’s development in the second half of the nineteenth century, though intensive, remained uneven. “It achieved some of the methods of mass culture early,” Ohmann (1996) states, “but failed to consolidate them into a stable and controlled enterprise with enduring relations to the public” until the first decades of the twentieth century (p. 23).

Between 1850 and 1891, the U.S.’s hands-off approach to international copyright produced not only an explosion of printed books but also a bevy of book publishing houses. Among these publishers were the Harper Brothers and other firms that today constitute the center of the book industry, in addition to other, lesser known firms that have been all but forgotten. The U.S.’s persistent refusal to sign on to international copyright agreements empowered these upstarts to challenge the practical oligopoly, and thus the financial well-being, of already established firms such as Henry Holt and others. The former did so mainly by underselling the latter since, in addition to refusing to pay royalties to foreign authors and publishers, they typically refused to abide by the informal agreements—the so-called courtesy principle—that had kept the prices of books produced by more established firms artificially high. Older publishing houses responded in kind by slashing their prices, leading to the collapse of the “courtesy” system by the end of the 1870s (Vaidhyanathan 2001, 52).

As far as the more established publishing firms were concerned, the ultracompetitive environment ushered in by this new crop of book publishers destabilized the book industry. As such, they found themselves forced to rethink their position on the U.S.’s stance toward international copyright. If the success of this putatively reckless group of upstarts hinged on its ability to produce and sell large quantities of printed books, and if their doing so depended on the U.S.’s refusal to recognize foreign copyrights, then it followed that tightening copyright would return stability to the book industry. Put differently, established book publishers such as Henry Holt, book industry insiders such as Richard Rogers Bowker, and other well-entrenched parties (e.g., authors such as Mark Twain) reasoned that
the U.S.’s accession to international copyright now represented a necessary condition—no longer an impediment—to maintaining their oligopoly (Vaidhyanathan 2001, 54). Thus, the passage of the 1891 copyright agreement stemmed largely from a loosely coordinated, and no doubt highly expedient, effort on the part of already established U.S. book publishers to protect their interests from insurgent competition (Vaidhyanathan 2001, 52–55; Ohmann 1996, 24). The U.S.’s accession in 1891 to international copyright did not represent a Copernican revolution in its stance toward protecting foreign works, in other words, inasmuch as it expressed the declining marginal utility of the discourse of civic republicanism relative to the development and consolidation of industrial capitalism.

Perhaps more important, international copyright allowed industrial capitalists, publishers, and authors as a whole to use the law to legitimize a growing obsession with how, where, and among whom printed books circulated and could be reproduced. Thus, they were empowered to scrutinize these processes with a newfound level of interest and authority. This scrutiny only intensified in the twentieth century, as the locus of economic life shifted further from production to consumption, or better yet, to establishing a stronger synergy between these hitherto relatively autonomous spheres.

Confessions of a “Book Sneak”

The campaign to install built-in bookshelves in private homes and the U.S. book industry’s slouching toward international copyright speak to a contradiction at the heart of the “growth of culture” in the United States. This process depended, on one hand, on cultural producers and intermediaries finding creative ways to stimulate the widespread consumption of mass-produced consumer goods, printed books chief among them. On the other hand, the growth of culture also depended on their finding new ways to regulate the disposition of these goods, given their increased availability. Yet the events leading up to the passage of the 1891 copyright legislation suggest that, at least in the case of this particular measure, delimiting and regulating the activities of other cultural producers was of primary importance to those championing the legislation. The movement to problematize and regulate how consumers disposed of mass-produced cultural goods—printed books specifically—would crystallize only around 1930, following another book-industry price war, and come to a head a few decades later with the proliferation of photocopy technologies.

In addition to prompting the campaign to install built-in bookshelves in private homes, the 1929 stock market crash also compelled some book publishers to rethink their pricing policies as a strategy to stimulate sales. The book industry of the 1930s, while no doubt vaster and more highly
differentiated than the book industry of the late nineteenth century, in some respects still resembled its earlier incarnation. Just as before, a throng of upstart publishers, together with an emergent crop of book distributors and booksellers, threatened the oligopoly that older and more established firms had (re)secured around the turn of the twentieth century. Among the former were publishing houses such as Simon & Schuster (founded in 1924), Farrar & Rinehart (founded in 1929), and Doubleday, Doran, & Co. (founded in 1927, following the merger of two older houses, George H. Doran & Co. and Doubleday). Together, they announced in May 1930 that they would reduce the price of all of their new hardcover fiction books to just one dollar so as to compete with remainders and proliferating cheap reprint series. In doing so, they hoped to respond to book buyers’ growing perception that printed books ought to be genuinely inexpensive, not merely affordable (Bernays 1965, 484–85; Tebbel 1978, 458).

Perhaps it is no surprise that so-called old-line publishers recoiled at the move (Bernays 1965, 489). Led by Alfred A. Knopf (also a relative upstart, though a bit older, beginning work in 1915), a small group of senior representatives from Harcourt–Brace, Harper & Brothers, Horace Liveright, Inc., and other major publishing firms of the time again turned to Edward L. Bernays in the hopes of fighting the dollar-books campaign with public relations. As Bernays (1965) recalled in a memoir, he proposed a two-pronged offensive: first, “to convince the public and the price-cutting publishers that dollar books were not in the public interest”; and second, to “increase the market for good books” (p. 485). With regard to the first part of the strategy, Bernays formed the Book Publishers Research Institute in the summer of 1930, a front from which he and his colleagues could carry out quasi-scientific research on, and issue professional-sounding reports about, the well-being of the U.S. book industry. The institute’s first “study” was nothing short of a fait accompli, finding that dollar books would propel all segments of the industry into an economic tailspin, beginning with the “death of six thousand book retailers” (p. 485).

Among Bernays’s more intriguing strategies to “increase the market for good books” was his organizing a contest in spring 1931, sponsored by the Book Publishers Research Institute, “to look for a pejorative word for the book borrower, the wretch who raised hell with book sales and deprived authors of earned royalties” (Bernays 1965, 488). Bernays apparently drew inspiration for the contest from another term similarly introduced into the American English lexicon in 1924, “scofflaw” (from 2003 Oxford English Dictionary, http://www.library.ohiou.edu:2099/entrance.dtl), which originally referred to a “lawless drinker” of illegally made or illegally obtained liquor (Bernays 1965, 488). To judge the contest, Bernays convened a panel of three well-known New York book critics, Harry Hansen (of the New York
World-Telegram), Burton Rascoe (formerly of the New York Herald-Tribune), and J. C. Grey (of the New York Sun). Among the thousands of entries they considered were terms such as “book weevil,” “borrocole,” “greader,” “libracide,” “booklooter,” “bookbum,” “bookkibitzer,” “culture vulture,” “greeper,” “bookbummer,” “bookaneer,” “blifter,” “biblioacquisiac,” and “book buzzard.” The winner? “Book sneak,” entered by Paul W. Stoddard, a high school English teacher from Hartford, Connecticut (New York Times 1931, 27; Bernays 1965, 488).

Despite his best efforts to popularize the new term, even Bernays (1965) eventually conceded that “book sneak” never garnered the lexical or cultural cache of “scofflaw” (p. 488). Nevertheless, both the contest and the term remain significant historically since both illustrate how, by the early 1930s, the proliferation and circulation of mass-produced printed books among consumers could be posed as a problem by cultural producers and intermediaries (and apparently even some school teachers!). Indeed, the contest was emblematic of the contradiction of mass culture that I mentioned earlier and more specifically of the folding of consumers into that network of relations and regulations. In this case, Stoddard was rewarded with a library of fifty printed books, a testament to the enormous productive capacities that had facilitated the “growth of culture” for the better part of a century, precisely for concocting a term meant to stigmatize one result of that process, namely, the custom of passing along printed books for free among friends, family, colleagues, and acquaintances.

The emergence and popularization of photocopy technologies further conditioned and intensified the problematic status of printed book ownership in the United States. Although the earliest photocopy technologies were developed in the United States around the turn of the twentieth century (Luther 1959, 97), the technologies were slow to catch on. Of course there are myriad social, economic, and political determinations that would explain the gradual uptake; another, more purely technical reason had to do with the nature of early photocopy processes. For those even aware of the technology, photocopy generally was perceived to be relatively slow, messy, and often unpredictable, far less useful or interesting than offset printing, except perhaps among a handful of curious engineers. Indeed, only after the Second World War would photocopy begin to be viewed as a socially useful technology, following engineer Chester Carlson and others’ experiments with photoconductivity during the interwar years. Basically, Carlson’s process for duplicating images combined an electrical current and dry chemicals, which, in contrast to earlier wet processes, would drastically shorten the time it took to reproduce high-contrast black-and-white images on plain paper (Flatow 1992, 111–18; Schwartz 1998, 229–41). Photocopiers became widespread and commercially successful in the late 1950s,
following the introduction of the Copyflo and subsequent generations of fully automated copiers by the Haloid (now Xerox) Corporation.

Less than two decades later, concerns about the ease, speed, and quality with which copyrighted materials could be reproduced crystallized in the passage of the 1976 Copyright Act, the first major overhaul of federal copyright law since 1909. The 1976 act was especially careful in redefining the scope of fair use, given the proliferation of photocopiers and other technologies capable of reproducing or retransmitting copyrighted materials (e.g., magnetic tapes, audio or video cassette recorders, cable television systems, etc.). The legislation also was instrumental in leading to the establishment of the Copyright Clearance Center (CCC) in 1978, a body representing a consortium of U.S. publishers. The CCC grants individuals and institutions permission to reproduce copyrighted printed materials, on the condition that they agree to pay royalties to the copyright holder. Nationwide, some 90 billion pages were estimated to have been photocopied in 1979 alone (Schwartz 1998, 237), leading many major U.S. corporations, libraries, and universities to turn increasingly to the CCC for duplication rights and prompting publishers to pursue alleged copyright violations more vigorously and extensively than they ever had in the past.

The practice of photocopying the contents of printed books thus came under fire in the 1980s in a series of lawsuits testing the new federal copyright statute. They began with a 1980 lawsuit brought by eight book publishers against the Gnomon Corporation, a photocopying outfit servicing major American colleges and universities. The publishers alleged having purchased from Gnomon shops some nine thousand copies of material culled from three hundred different copyrighted books—copies for which they received no royalties. The Gnomon case was followed three years later by another, higher profile suit brought by nine book publishers against New York University, ten of its faculty, and a local off-campus copy shop, the Unique Copy Center. The suit alleged impropriety on the part of these parties for “engaging in the unauthorized and unlawful reproduction, anthologizing, distribution and sale of the publisher’s [sic] copyrighted work” (McDowell 1982, 1). And later, in 1989, a group of eight book publishers filed suit against Kinko’s, taking issue with its longstanding refusal to pay royalties for reproducing copyrighted materials and anthologizing them into academic course packs.

Except in the case against NYU, in which the parties settled out of court on terms favorable to the publishers, the courts upheld the constitutionality of the 1976 copyright statute. In all cases, the photocopy outfits were enjoined from reproducing copyrighted material from books and other sources without first seeking clearance from the CCC and/or paying royalties directly to the copyright holders. These decisions, clearly, eroded the
concept of fair use by restricting how the consumers of printed books could and could not dispose of the property they had purchased.

These cases coincided with a renewed and intensified interest on the part of the book industry with respect to the circulation of books among consumers. When Publishers Weekly reported in July 1983 on the status of the pass-along book trade, it did not need to hold a contest to establish that the sharing of printed books posed a significant problem from the standpoint of capitalist production; fifty years after the coining of the term “book sneak,” that much, apparently, could be assumed. Thus, Publishers Weekly reported on the results of a Gallup poll, in which respondents were asked to disclose what they did with printed books once they had finished reading them (Wood 1983, 20). Although many of those surveyed indicated holding onto their books, more than half reported loaning or giving them to friends and relatives, donating them to charity, or selling them. In light of these results, the periodical reaffirmed what Bernays, fifty years earlier, had posited as the economic consequence of the pass-along book trade: “the fate of a book after it is sold is an important one for the book industry, reflecting as it does the possibility of lost sales” (Wood 1983, 20). The circulation of printed books among consumers, in other words, was a growing source of consternation among book publishers.

The report coincided with the beginnings of a legislative initiative in the U.S. Senate, at the behest of the Author’s Guild of America, to convene a national commission to explore the feasibility of establishing a public-lending right in the United States (Fields 1983, 15–16). Public-lending rights vary from country to country, but in general, they are designed to remunerate authors, and sometimes publishers, for the circulation of printed books and other intellectual properties to library patrons, under the assumption that books loaned from libraries imply lost sales in the retail market and a corresponding decline in authors’ royalties and fees. In countries where public-lending rights exist, federal governments customarily provide compensation in the form of direct payments of royalties to authors, contributions to social welfare programs benefiting authors (e.g. pension plans), and other schemes. Yet the initiative to study and establish a public-lending right in the United States barely got off the ground. It died in committee with the adjournment of the 98th Congress in 1984, owing in no small part to poor timing. With the Reagan-era dismantling of the welfare state already well underway, the possibility of providing federal funds to authors seemed excessive and quixotic to many legislators. Still, despite its failure, the movement to establish a public-lending right in the United States may be significant when considered alongside the book industry’s response to the pass-along book trade. Both express a growing anxiety about the disposition of printed books following their initial sale and purchase.
Taken together, the litigation challenging the unrestricted photocopying of copyrighted books, publishers’ growing fears about the pass-along book trade, and the movement to establish a public-lending right in the United States signal a shift in attitudes toward the economic and cultural value of printed books and other mass-produced commodities. The reading of these books may have helped to prepare middle-class people to be productive in a consumer-based, information-oriented economy earlier in the century, and that very well may still continue to this day. Toward the end of the twentieth century, however, those very same books seem to have grown increasingly problematic from the standpoint of capitalist production. In the case of the pass-along book trade, library loans, and professional photocopying, printed books continue to produce surplus value following their initial sale and purchase. By circulating among associates and/or through used-book shops, yard sales, copy shops, and the like, this additional surplus value circumvents publishers and authors altogether. The litigation surrounding the issue of photocopying begs the question, moreover, of what it means to “own” printed books and other mass-produced commodities.

The larger issue at stake amid all of these considerations is the morphology of capitalism. “Book sneaks,” Xeroxing, copyright overhaul, the CCC, public-lending rights, and a throng of costly lawsuits: what unites these is the very same obsession that both resulted in and was expressed by the U.S.’s affirmation of international copyright a century earlier, namely, the fear that, once purchased, books would circulate without restriction, leading to unrestrained copying and to who knows what. This history suggests the beginnings of a shift away from consumer capitalism as it traditionally has been understood, where the widespread private ownership of mass-produced commodities not only was desirable but in fact was a necessary condition of capitalism’s continued well-being. Polarity reversed, unrestricted commodity ownership becomes in this emergent regime an impediment to capitalist accumulation.

Dead Books and Disappearing Digits

In 1983, Publishers Weekly printed a rhapsodic essay titled “A Look Into the Book of the Future.” The piece begins with the author expressing his discomfort with rising paper and labor costs in the book publishing industry, coupled with his fretting about how these factors seem to “jeopardize the long-term survival of the book as a major element of modern civilization” (Shneour 1983, 48). The essay then goes on to ponder alternative book-publishing and distribution systems. The so-called book of the future that emerges by the end of the piece resembles something akin to those produced by on-demand publishing systems, albeit with a significant twist:
Imagine . . . that in your living room beside the television set there is another black box with a rectangular slit in front of it. . . . On the shelf nearby is a row of books of different sizes and colors. Pull one off the shelf and observe with surprise and puzzlement that all the pages are blank. These volumes are, in effect, blank visual tapes of sorts, onto which it is possible to impress a text that can be read like a book and erased after use. . . . Even when they are not erased, it is probable that the printed contents of these books will not be permanent. There are many reasons for this, not the least of which is its commercial impact. After a period of time, perhaps one to three months, the text will have faded, and would have to be reprinted for another one- to three-month period. (P. 48)

In this passage, *Publishers Weekly* anticipates a future that diverges from the dominant relations of commodity ownership that I have described in preceding sections. Gone are the printed editions destined for long-term display on middle-class bookshelves. Gone, too, are the editions that could be passed along indefinitely among friends, family, colleagues, and acquaintances. These volumes, *Publishers Weekly* predicted, would be replaced by ephemeral editions in which the printing eventually would fade, implying, in effect, that in some indeterminate future, one would not own printed books but lease their contents. Although *Publishers Weekly*’s speculations appear to have missed their mark in many respects, less than a decade later, the technological and economic possibilities of disappearing text would begin to be realized with respect to digital electronic reading devices or ebooks.

William Gibson is probably best known as the author of numerous cyberpunk novels, most notably *Neuromancer*. Yet Gibson also authored a lesser known, limited edition work called *Agrippa (A Book of the Dead)*, which bore an uncanny resemblance to the so-called book of the future. Released in 1992, it was “an electronic book designed to disappear as soon as it [was] read” (Baker 1992, 28). *Agrippa*, more accurately, was a hybrid work consisting of digital and electronic text encoded on a 3.5-inch computer diskette and a collection of printed materials, all contained within a highly stylized package designed to degenerate upon exposure to air and visible light. The disk contained not only the story of *Agrippa*, “a poetic effusion about [Gibson’s] father, who died when he was very young” (Baker 1992, 28) but also something more: encryption algorithms designed to ensure that the digital text would disappear as it scrolled down readers’ computer screens for the first and only time.20

*Agrippa* was a perfectly logical endeavor in light of the legislative initiatives, litigation, and technologies of reproduction that, collectively, had disturbed the cultural and economic value ascribed to mass-produced commodities in the first half of the twentieth century. Once accessed, it was
improbable that Agrippa would circulate in the pass-along book trade. Like the so-called book of the future, embedded technology undermined the possibility of the text’s persistence and thus forestalled its public circulation. Similarly, Agrippa’s electronic text sidestepped the question of lending rights, because it would vanish before libraries could catalog it, much less loan the book to more than one patron. Finally, Agrippa posed a novel solution to the related issue of reproducibility, because its built-in encryption algorithms prevented the text’s duplication.

Agrippa admittedly is something of an extreme case, in that it is the only electronic book thus far created to disappear after a single use (at least within the limits of my research). Yet the technology used to encrypt the text has become fairly common among commercial software and hardware developers anxious to regulate the dissemination of digital ebook content. Microsoft, for example, requires all users of its Reader ebook software to “activate” the program upon downloading it. According to the guide accompanying the software, “Many publishers require the highest level of copy protection for their eBooks [sic],” which “requires that you activate your Microsoft Reader before you can purchase these eBooks” (Microsoft Reader Team 2001, 48). In addition to prohibiting the passing along of most ebooks from one reading device to another, “activation” prohibits readers from copying and pasting text from so-called owner exclusive titles into other applications (pp. 47–48). By “activating” Microsoft’s Reader software, in other words, one cedes to ebook publishers, Microsoft, and other interested parties much of one’s ability to circulate, dispose of, and reproduce the encrypted ebooks one has purchased.

The problem of passing along and reproducing printed books not only has been embedded in technological artifacts like Microsoft Reader; recent federal legislation, too, embodies this concern. In 1998, the U.S. Congress unanimously approved the Digital Millennium Copyright Act (DMCA), a sweeping piece of legislation that, among its many provisions, prohibits “end-users” of copyrighted materials from bypassing encryption systems and/or distributing information that might permit others to do so. One of the first tests of the DMCA occurred in July 2001, when the FBI arrested Russian computer programmer Dmitry Sklyarov during a trip to the United States. The FBI alleged that he had written Advanced eBook Processor for his employer, ElcomSoft, a program that permits users of Adobe Systems’ ebook software to circumvent the program’s protections against copying electronic books. Sklyarov was released five months later, only after agreeing to testify against his employer in exchange for immunity from prosecution (Lee 2001a, C4; see also Levy 2001; Lee 2001b). His arrest and ElcomSoft’s subsequent prosecution underscore what the New York Times, one year earlier, had called the book publishing industry’s “ultimate nightmare,” namely, “that digital books will go the way of digital music:
circulating for free over the Internet, at the mercy of pirates and hackers” (Kirkpatrick 2000, C1)—or go the way of printed books, for that matter, which one likewise can reproduce and redistribute relatively easily.

As anyone who has photocopied a chapter illegally out of a printed book knows, the trouble with—or maybe the best part about—intellectual property (I.P.) law is that while multiple parties maintain a controlling legal interest over the disposal of a specific intellectual property, that interest is not always practical or enforceable. While I.P. law unquestionably carries a significant degree of prohibitive force, it provides a legal remedy only after acts of duplication have occurred. It does not, perforce, forestall acts of duplication. Put another way, I.P. law does not protect so much against the process of duplicating copyrighted materials but rather redresses the result of duplication (Stearns 1999, 9).25 Digital encryption, on the other hand, prohibits the duplication and circulation of ebooks before acts of duplication can occur—in extreme cases by erasing the ebook after a single use. Digital encryption thus allows authors, publishers, and others to monitor and regulate the disposition of ebooks in ways that exceed existing intellectual property laws.26

In this way, intellectual property law arguably troubles the juridico-economic category of “private property.” As the litigation surrounding the photocopying of printed books suggests, I.P. law allows multiple parties to exercise a limited legal interest over the social life of commodities. One does not “own” most printed books outright, given how copyright law places limits on how book buyers can dispose of these objects after their purchase. Another way of putting this would be to say that intellectual property law implies that commodity ownership remains more or less shared, despite the mediating exchange of money. Digital encryption, furthermore, embodies and intensifies this emergent sociality of ownership, given how the technology allows multiple parties to establish and maintain not only legal but also practical control over the social life of ebooks and other forms of digital information.

As I discussed in the preceding section, the specific regime of consumer capitalism that came to define U.S. political-economic and cultural life in the first three-quarters of the twentieth century has found itself increasingly called into question at century’s end. Given how today’s most popular, commercially available ebook hardware and software allow cultural producers to micromanage the disposition of ebook content, these technologies are symptomatic of, and indeed further, the tense and uneven process of unworking (or at the very least decentering) the constitutive relations of consumer capitalism. The emergence of these and related technologies thus raises all sorts of questions, the most urgent of which is how best to articulate a vital, progressive politics in light of these changing material and economic conditions.
Back to the Future?

The emergent constellation of political-economic, juridical, cultural, and technological relations to which ebooks belong typically and justifiably provoke concerned responses among Left-leaning cyber and legal critics. Three alarming and interrelated trends, they argue, flow from the confluence of tighter I.P. laws and the embeddedness of digital encryption in mass-produced consumer goods: first, the accelerated fencing off of the (knowledge) commons; second, the gradual transfer of private property from ordinary people to multinational media conglomerates and other enfranchised interests; and finally, the dampening of human creativity, resulting from intensified restrictions on the circulation and public use of signs.27

Lawrence Lessig’s (2001) *The Future of Ideas: The Fate of the Commons in a Connected World* is perhaps the clearest exemplar of this position. Recent developments in I.P. law and digital technology, Lessig claims, have ushered in “a world [in which] a smaller number get to control how resources . . . are deployed.” He continues, “This change has consequences. It will entrench the old against the new. . . . And it will stifle creativity that is outside the picture of the world that those with control prefer” (p. 236). Siva Vaidhyanathan (2001) arrives at a similar set of conclusions in *Copyrights and Copywrongs: The Rise of Intellectual Property and How it Threatens Creativity*. Intellectual property law and jurisprudence have grown increasingly “thick” in the last half century (p. 8), his research shows, thus jeopardizing creativity by limiting people’s access to and borrowing of information—the raw material of cultural production (p. 2). The result, he fears, will be “a global ‘pay-per-view’ culture” (p. 181) in which people no longer will be able to purchase consumer goods but instead must lease them from “copyright rich” corporations (p. 82; see also Frow 1997, 102–217; Jaszi 1998, 4; Rifkin 2000; and Boyle 2002). In more abstract terms, both Lessig and Vaidhyanathan believe that the generalized accumulation of mass-produced consumer goods is beginning to give way to a new set of relations, something like a new feudalism in which only a powerful minority owns property, real or otherwise.

For these and other like-minded critics, the strategy for contesting the emergent constellation of legal, economic, technical, and social relations that ebooks embody is relatively straightforward in theory (which is to say nothing of practice). Lessig (2001) puts it succinctly when he states, “Go back” (p. 258). By this he means to advocate for a return to limited copyright terms and for legislation barring encryption technologies whose protections exceed those of existing I.P. law (pp. 256–58). Vaidhyanathan (2001) similarly argues for a return to relatively “thin” or “leaky” I.P. protections, such as those that predominated around the turn of the
twentieth century. Such a return, he believes, would spur human creativity both by increasing the public availability of signs and by loosening the legal-cum-technical apparatus large corporations rely on to exclude nascent cultural producers from the public realm (p. 145). Both Lessig and Vaidhyanathan, in other words, seem to be proposing the restoration of precisely the kind of legal apparatus that helped to secure the widespread accumulation of printed books and other commodities, and thus the rise of the U.S. middle class, in the late nineteenth and early twentieth centuries. Theirs is, indeed, a common-sense solution to an incredibly complex problem: if the social relations of ownership apparently were more favorable to a majority of people in a previous historical moment, why not do everything we can to resuscitate the legal protections that helped constitute those relations in the first place?

Without diminishing the importance of contesting new developments in I.P. law and digital technology, the history of books, ebooks, and the changing social function of commodity ownership all suggest that this strategy of return is flawed on at least three levels. First, at the most practical level, it seems highly unlikely that a rollback in I.P. law is bound to happen anytime soon—this despite the best efforts of digital-rights advocacy groups like the Electronic Frontier Foundation. Given the unanimity with which the U.S. Congress passed the DMCA in 1998, and given the courts’ almost unilateral refusal in the last twenty-five years to uphold I.P. rights in any way that obviously reflects the interests of the people (e.g., Slack 1984; Gaines 1991; Boyle 1996; McLeod 2001; Radin, 2001), it seems clear that reinstating a thin or leaky I.P. system is incongruous with the general mood of legislators and jurists.28

Relatedly, and at a more structural level, the strategy of return seems somewhat out of step with an insurgent constellation of relations that, in the past fifty years or so, has challenged the relations of commodity ownership secured in the first half of the twentieth century. It is worth remembering that the juridical apparatus Lessig, Vaidhyanathan, and others want to rescue was both cause and effect of a historically specific (modern) political-economic project, namely, the attempt to coordinate capitalist production and consumption vis-à-vis the creation of a professional middle class. While it is clear that the social relations of commodity ownership emblematic of this period continue to dominate today, what it also clear is that these relations have been problematized relentlessly since Bernays’s “book sneak” campaign in the 1930s all the way down to ebooks and the DMCA. That the conditions determining the social function of commodity ownership have shifted should raise serious doubts about returning to a legal apparatus specific to a moment in which widespread commodity ownership could be more or less taken for granted as socially desirable. “Leaky” I.P. law indeed may by an anachronism.
Finally, at a more theoretical level, the common-sense strategy of going back absolves these critics of the perhaps messier work of mapping more fully the contemporary context and devising strategies for intervention specific to it. Why not try to identify and take advantage of the possibilities that this emergent constellation of relations opens up rather than writing it off from the outset?

Let me provide a brief example to illustrate what I mean. As I discuss above, Lessig, Vaidhyanathan, and other critics rightly are bothered by the ways in which ebooks and other digitally encrypted technologies have been articulated to the project of calling forth a new feudalism with respect to property relations. The ephemerality of the so-called book of the future and William Gibson’s *Agrippa (A Book of the Dead)* would suggest to these critics that ownership may be becoming more or less the exclusive provenance of publishers, software and hardware developers, media conglomerates, and other powerful interests. Private property, from this standpoint, is being consolidated upward.

Without denying that this consolidation is occurring, I want to offer a more tempered and perhaps counterintuitive reading of these developments. Recent I.P. law and jurisprudence, along with the emergence of digitally encrypted ebooks and other technologies, have helped to engender a somewhat unusual transformation in the social relations of commodity ownership. More than ever, multiple parties can exercise both legal and practical control over the social life of specific commodities, suggesting that, despite the mediating exchange of money, commodity ownership in effect is increasingly shared. Ironically, a more intensive process of positing objects and ideas as property very well may open the possibility of challenging the very concept of private property itself. As Jane Gaines (1991) rightly has noted, “The expansion of the category of property within legal doctrine meant that ‘property’ threatened to completely lose its significance as a distinct legal [and I would add political-economic] category” (p. 114).

Perhaps, then, we should take a cue from Kembrew McLeod (2001), who trademarked the phrase “freedom of expression.” After becoming the exclusive owner of the phrase in the eyes of the U.S. government, McLeod, a practitioner of cultural studies, staged a hoax in which he filed suit against the publisher of a fictitious punk rock magazine of the same name. Before exposing the hoax as such, he ironically proclaimed in the news media the absolute right of protecting his phrase from misuse. More recently, McLeod filed (a legitimate) suit against AT&T, after the company borrowed “freedom of expression” for a cellular telephone campaign without asking his permission. The point of the suit, which was reported on in the *New York Times* and the *Chronicle of Higher Education* (see Ives 2003, C4; Kandyba 2003, 8), was to highlight the absurd lengths to which the
capitalist right to private property has been extended in the last fifty years and to use I.P. law to expose capitalism’s contradictions. Why not use I.P. law in this absurdly comical and more affirmative vein? That is to say, why not use it to challenge the insurgent set of relations of commodity ownership that I have described throughout this essay rather than longing plaintively for a return to a moribund set of legal protections?

Conclusion

At the outset of this article, I mentioned how, for at least a decade, public conversations about ebooks have tended to move back and forth between two seemingly opposite, yet structurally related, positions, one naively optimistic, the other stolidly pessimistic. Those on either side of the debate have raised serious questions about the value of specific technologies and their relationship to the experience of reading. Yet they have not gone far enough in exploring the history and determinate conditions leading to the emergence of ebooks. I hope that this essay begins to show just how much gets obscured when discussions about, say, the phenomenology of printed book and ebook reading precede, even supercede, a dedicated analysis of structure, context, material conditions, and processes of change in relationship to ebook technologies. Indeed, having historicized ebooks, now might be an appropriate time to pose the question of reading again, albeit in different terms. If the reading of printed books was part and parcel of building the skills base necessary to the efficient functioning of consumer capitalism, then what role, if any, might ebook reading serve in an economy in which information grows ever more central while the widespread private ownership of commodities grows ever more problematic?

A judicious and thoroughgoing answer to that question obviously will have to wait for another time. To return to matters at hand, the imbricated histories of printed books, ebooks, and consumer capitalism clearly evidence how, why, and to what extent the social imperatives of commodity ownership have shifted in the United States during the past seventy-five years. The contours of these histories, incidentally, are not altogether unique. They strongly resemble those of music and video publishing (see Johns 2002), and mapping the consonances and dissonances between and among them might yield an even clearer picture of the changing nature of capitalist accumulation. In any event, the historical layers I have excavated here point to the gradual and as yet incomplete emergence of a new and contradictory conjunction of the law, capitalism, culture, and technology, in which the very category of “private property” is destabilized precisely as it is extended to encompass ever more objects and ideas. These historical layers point, in other words, to a nascent regime of capitalist accumulation,
where an expanded yet increasingly exclusive class of rentiers actively challenges the generalized ownership of mass-produced commodities.

More important, these layers also and already point beyond this regime. Getting to this beyond will require a complex and deliberate politics appropriate to the tenor of the times, an integral component of which will have to be a generous appreciation for and deployment of the absurd in relationship to property law, intellectual or otherwise. This journey will require, relatedly, a deeper and more theoretically nuanced appreciation for the ways in which struggles that appear to be primarily legal in nature nevertheless may call for creative forms of cultural and political-economic intervention alongside more traditional legal or legislative remedies. So why ebooks, now? Because ebooks offer a valuable way in which to explore the history and constitutive relations of contemporary capitalism, how possibly to go about transforming those relations, and how then to begin to engender a more economically democratic, sustainable, and just society.

Notes

1. King’s (2000) novella was encrypted to prevent its being printed, duplicated, or e-mailed, the significance of which I explore in later sections of this article. Note that I have modified the spelling of ebooks in this quotation from “e-books” to “ebooks” to reflect the spelling that I will use throughout this article.

2. In 2001 alone, three major ebook publishers and distributors folded, including AtRandom, iPublish, and MightyWords; RCA sold fewer than 40,000 of its ebook readers, despite their being highly publicized; and Stephen King discontinued writing his next ebook, The Plant, after the number of those who downloaded chapters from his Web site without paying, by his estimation, grew too high. On the other hand, the University of Illinois’s Project Gutenberg (established in 1971) and the University of Virginia’s (UVA’s) Etext Library, both of which allow free plain-text (ASCII [American Standard Code for Information Interchange]) downloads of ebooks in the public domain, continue to flourish. UVA’s Etext Library registered more than 3 million downloads in 2001 alone. Barnes & Noble, Amazon.com, and other booksellers, meanwhile, continue to feature ebooks on their Web sites (see Rose [n.d.]; Reid [2000a]; and Reid [2000b]).

3. I employ Veblen’s ([1899] 1994) terminology with some trepidation, because his historical narrative and understanding of “culture” are heavily mortgaged to an ethnological-evolutionary framework with which I am uncomfortable. In Veblen’s text, “culture” is what you get when “primitive” societies emerge from the long slumber of barbarism. As numerous postcolonial scholars have observed, such a distinction served, and continues to serve, as one of the primary justifications for colonial racism. Still, given the intensity of Veblen’s critique of turn-of-the-century U.S. consumer culture, it seems plausible to suggest that he perhaps was more skeptical about “the growth of culture” and its effects than might first be inferred from the text’s evolutionary overtones.
4. A confusion sometimes arises with respect to the history and class connotations associated with the category “conspicuous consumption,” one that’s worth clarifying here. Veblen ([1899] 1994) acknowledges that both an older, landed aristocracy and the emergent bourgeoisie of the nineteenth century distinguished themselves in part through the consumption and display of fine clothing, jewelry, furniture, and other such accoutrements. It might be tempting to suggest, therefore, that what truly set the middle-class of the early twentieth century apart from these groups was less their emulating ostentatious practices of consumption than their accrual of specific professional skills, knowledges, and so forth. While I agree that establishing a professional identity was a key component of the constitution of the U.S. middle-class, I maintain that this group’s consumption of mass-produced commodities nevertheless was a necessary counterpart to this process. Indeed, as Veblen shows, what distinguished the aristocracy and bourgeoisie above all was not their ability to consume as much as their ability to evidence freedom from work—what Veblen calls “conspicuous leisure” and what consolidated these groups into a “leisure class” (see esp. pp. 23–62). “Conspicuous consumption” thus was a specifically and definitively middle-class practice as far as Veblen was concerned.

5. Indeed, one could write a whole history of the ascendance of the liberal arts in this period, bearing in mind how capitalism needed workers trained in the specific skills base of a liberal arts education. Such a history would challenge seriously any claim that a liberal arts education was not, in itself, a form of vocational training.

6. It is important to emphasize the unevenness of the growth of consumer culture and “conspicuous consumption” among working people in the United States. This unevenness is particularly evident in Veblen’s ([1899] 1994) passages on servants (cooks, housekeepers, domestic caregivers, etc.), who, like commodities, mark the supposedly superior social standing of their employers by freeing the latter from specific labors (pp. 36–42). To the extent that people of color historically have constituted much of this servant class, it seems reasonable to assume that they typically were excluded from the emergent commodity culture described by Veblen. His remains, in effect, a profoundly white history.

7. For an excellent discussion of the relationship of print and republicanism in the United States, see Warner (1992).

8. As Vaidhyanathan (2001) notes, “A London reader who wanted a copy of Charles Dickens’s *A Christmas Carol* would have to pay the equivalent of $2.50 in 1843. An American Dickens fan would have to pay only six cents per copy” (p. 50).

9. These included subscription book clubs (e.g., the Book-of-the-Month Club, the Literary Guild, etc.), department stores (which often sold new books as loss leaders), and cigar and drug stores (where the sale of inexpensive mysteries and remaindered books flourished; see Bernays 1965, 484).

10. The report on the results of the contest published on May 8, 1931, in the *New York Times* lists the winning entry as “booksneaf” (p. 27). Bernays’s (1965) memoir, on the other hand, lists the winning entry as “book sneak” (p. 488). I suspect the discrepancy may stem from a typographical error in the *New York Times*.

11. Of course, an abundance of technologies capable of reproducing printed materials existed prior to the advent of photocopiers. These included, among other devices, the mimeograph, ditto, and even carbon paper. As Hillel Schwartz (1998)
has shown, however, these technologies tended to be used for what might be described as more private purposes (e.g., keeping copies of letters and other important documents on file). Photocopiers, too, certainly fulfilled this function, but as Schwartz argues, they facilitated a more widespread or public dissemination of documents as well (p. 238). As McLuhan observed, photocopiers would allow “all men [sic] to become publishers” (Schwartz 1998, 238).

12. One study, the King report, which examined photocopying practices among library staff, library patrons, and private corporations from 1980 to 1981, determined, “Of library patrons interviewed, the largest percentage, just over 29%, said they had photocopied all or parts of books on one to three occasions within the previous six months. More than 26% claimed more than six times, less than 19% four to six times, and 24% hadn’t photocopied at all. The greatest percentage of those averaging at least once a month were in federal libraries, where nearly 40% said they had done so. In corporate libraries, just over 23% claimed that average” (Fields 1982, 19).

13. Basic Books, Inc., CBS Inc., McGraw-Hill, Inc., Nelson-Hall, Inc., Prentice-Hall, Inc., Princeton University Press, and John Wiley & Sons, Inc. v. The Gnomon Corp. and Adam Carley, individually and as President of the Gnomon Corp., Copyright L. Dec. 25,145 (D. CT 1980).

14. Basic Books, Inc., Harper & Row Publishers, Inc., John Wiley & Sons, Inc., McGraw-Hill, Inc., Penguin Books USA, Inc., Prentice-Hall, Inc., Richard D. Irwin, Inc., and William Morrow & Co., Inc. v. Kinko’s Graphics Corp., 758 F. Supp. 1522 (S.D.N.Y. 1991).

15. In the case of the Kinko’s decision, the U.S. District Court ruled in 1991 in favor of the publishers, ordering Kinko’s to pay damages in the amount of $1.9 million (Reid 1991, 14). No damages were awarded in the Gnomon case.

16. According to the poll, 37 percent of those surveyed loaned their books to friends or relatives, 20 percent gave their books to friends or relatives permanently, 10 percent donated them to charity, 9 percent traded their books for other books, and 5 percent of respondents sold their books once they had read them. Fifty-three percent of respondents reported keeping their books. The results of the survey total 134 percent because, the article notes, many respondents reported engaging in more than one activity with their books (Wood 1983, 20).

17. In the case of the United States, the specific terminology used was “author’s lending royalty,” a deliberate name change emphasizing author entitlement over public welfare (Mitgang 1985, 17).

18. Public lending rights already existed in Britain, Australia, New Zealand, West Germany, the Netherlands, Denmark, Norway, Sweden, Iceland, and Finland by 1983, and a similar provision, called “Payment for Public Use,” was passed in Canada in 1986. In Britain in the early 1980s, authors could “receive government-funded royalties of up to $7,500 based upon the records of a representative group of libraries” (Fields 1983, 15). Authors and publishers shared royalties in the Australian model of public lending rights.

19. Print-on-demand refers to a broad range of just-in-time delivery systems for printed books, in which book buyers make requests for editions that are printed while the buyer waits. Note how the general model that the author references in this essay to some degree already is in place in the music industry, where some songs downloaded from the Internet will erase after a specified length of time or after a prescribed number of playings.
20. Since the initial release of *Agrippa* in 1992, the text has become widely available on the Internet, apparently as a result of both illegal hacking and its official release to a series of online bulletin boards in the mid–1990s.  

21. *Details* magazine reported, “Ashbaugh is gleeful about the dilemma [*Agrippa*] will pose to librarians. To register the book’s copyright, he [sic] must send two copies to the Library of Congress. To classify it, they must read it, and to read it, they must destroy it” (Edwards 1992).  

22. Notwithstanding the possibility that someone might possess a substantial technical knowledge and expertise to crack the code illegally, which apparently did happen. See note 20, above.  

23. In a stunning decision, ElcomSoft was acquitted in December 2002 of having violated the Digital Millennium Copyright Act. Although the jury found that the Advanced eBook Processor program indeed violated the statute, it nevertheless determined that ElcomSoft’s violation of the law was not willful.  

24. By intellectual property law I refer to a juridical framework consisting of copyright statutes, patent laws, publicity rights, and attendant case law.  

25. Stearns’s (1999) discussion specifically addresses the relationship of plagiarism and copyright, and as such, I have adapted her argument.  

26. “Protection by technology can often reach far beyond the protection of the law” (Lessig 2001, 256). Peter Jaszi (1998) calls this new set of legal-cum-practical controls “paracopyright” (p. 3).  

27. For excellent examples of work inventorying how cultural producers resist these kinds of restrictions, see Coombe (1998) and McLeod (2001).  

28. Among the most recent examples is the U.S. Supreme Court’s six-to-three ruling in January 2003, which upheld the constitutionality of the Sonny Bono Copyright Term Extension Act of 1998. Basically, the law extended the term of copyright by twenty years, so that copyright protection now lasts for seventy years beyond the life of the author.  

29. My sense, however, is that the answer may be tied to the recent growth of so-called knowledge work and the emergence of critical thinking as an increasingly important and indeed marketable skill taught in the humanities.

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