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Reducing Copyright and Promoting Creation

"Copyright in its current form has become an impediment to creation for most individuals, not a call to the pen or paintbrush."[1]

    Big Copyright Versus the People is an insightful and eye-opening critique of the current copyright laws. The author, Martin Skladany, advocates through *Big Copyright Versus the People* for a change in the current copyright laws. He explains the current copyright laws only protect major content providers' ("Big Copyright") urge for profits but causes the public to detrimentally suffer from overconsumption and stifles creation.[2] *Big Copyright Versus the People* serves as an important and helpful guidance towards improving copyright laws as well as the general welfare of society.

    The Associate Professor of law at Penn State's Dickinson Law School, Martin Skladany has a vast amount of knowledge of intellectual property.[3] He graduated from Yale Law School, has a M.P.A. from Princeton University and has a M.Phil from the University of Cambridge.[4] At

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[1] MARTIN SKLADANY, BIG COPYRIGHT VERSUS THE PEOPLE: HOW MAJOR CONTENT PROVIDERS ARE DESTROYING CREATIVITY AND HOW TO STOP THEM 3 (Cambridge Univ. Press, 1st ed. 2018).
[2] *Id.*
[3] *Martin Skladany*, PENNSTATE DICKINSON LAW, *archived at* https://perma.cc/G8M9-S82V (listing more of Martin Skladany's publications over the years).
[4] *Id.*

Dickinson's Law School, Martin Skladany teaches and has taught Copyright, Internet Law, Introduction to Intellectual Property, Property, and Trademark.[5] Further, he has published twelve articles including the recent "Macro Aid: Applying Microcredit's Group Liability Principle to Foreign Aid."[6] He also has been involved in research pertaining intellectual property's effects in developing countries.[7]

Big Copyright Versus the People delves into the copyright laws in the United States. There are two major parts to the book: "Theory" and "Practical Proposals to Change."[8] "Theory" investigates how Big Copyright "captures" profits through using copyright laws, how copyright laws lead to an overconsumption problem, and how important creativity is, while "Practical Proposals to Change" offers different ways the government can tackle the issues that comes with the current copyright laws.[9]

The portion of the book labeled "Theory," focuses on how Big Copyright is successful in keeping copyright protections.[10] This happens through several means: (1) Big Copyright lobbies Congress to push for greater copyright protections; (2) Big Copyright methods for capture includes propaganda, monopolizing, and seeking international protection of intellectual property; and (3) Big Copyright uses harms of capture and also stifle creation.[11] *Big Copyright Versus the People* states that the harms of captures are caused because current copyright laws stifles innovation and creativity by preventing creators from borrowing past work.[12] The book explains that copyright laws are too broad; and instead of motivating creativity like it was intended to do,

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[5] *Id.*
[6] Martin Skladany, *Macro Aid: Applying Microcredit's Group Liability Principle to Foreign Aid,* L. & DEV. REV. (2018); *see also* Skladany, *supra* note 3.
[7] Skladany, *supra* note 3.
[8] *See* Skladany, *supra* note 1, at 17, 113 (marking the beginning of part 1 and part 2).
[9] *See* Skladany, *supra* note 1, at 17, 113.
[10] *See* Skladany, *supra* note 1, at 17.
[11] *See* Skladany, *supra* note 1, at 22-43.
[12] *See* Skladany, *supra* note 1, at 39.

it stops individuals from creating.[13] Further, excessive copyright causes overconsumption which is leading to overconsumption of media, which can be detrimental for the public's health.[14] Overconsumption of media is an addiction and Big Copyright exploit this addiction for larger profits.[15] Copyright laws also decreases artistic production.[16] The author takes on a supply-and-demand analysis on what would happen if copyright law were to be reduced.[17] *Big Copyright Versus the People* asserts that copyright laws can be made reasonable again by (1) reducing the law to its origins; (2) reduce the scope; (3) limiting the law to a set amount; (4) combining previous policies, such as registering with the U.S. Copyright Office; and (5) create bright-line rules for Copyright fair use doctrine.[18]

In the next major section, "Practical Proposals for Change," the author provides different proposals on how to change the current copyright laws.[19] This includes pressuring Big Copyright, ignoring Big Copyright, or cooperating with Big Copyright.[20] When pressuring Big Copyright, Skladany suggests the use of technology unions, copyright trolling Congress, a national security copyright task force, and copyright-free zones.[21] For Ignoring Big Copyright, he offers a common exchange, individuals can archive, assign, and license to help an "online ecosystem" of creativity.[22] Other recommendations the author makes is creating copyright collective funds, entertainment consumption trackers, free grant, copyright-free festivals, and public domain awards.[23] In the last proposal, cooperating with copyright, Skladany offers a tiered

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[13] *See* Skladany, *supra* note 1, at 39.
[14] *See* Skladany, *supra* note 1, at 61-67.
[15] *See* Skladany, *supra* note 1, at 58.
[16] *See* Skladany, *supra* note 1, at 85-87.
[17] *See* Skladany, *supra* note 1, at 90-108.
[18] *See* Skladany, *supra* note 1, at 108-111.
[19] *See* Skladany, *supra* note 1, at 113.
[20] *See* Skladany, *supra* note 1, at 115, 162, 214.
[21] *See* Skladany, *supra* note 1, at 115, 162, 214.
[22] *See* Skladany, *supra* note 1, at 167.
[23] *See* Skladany, *supra* note 1, at 179-208.

revenue-based copyright regime would consist of (1) a "fixed, nonrenewable copyright term of ten to fourteen years;" and (2) "one-year copyright term that could be indefinitely renewed as long as the work is successful enough to meet or exceed a revenue threshold."[24]

Big Copyright Versus the People takes an important look into the copyright laws and the negative influence of Big Copyright in allowing for overconsumption of media and stifling technology. Technology has become a prevalent part of people's everyday lives, and noticing its unknown consequences is often difficult to do. This informational and easy-to-read book is eye-opening to the effects of technology and the influence of current copyright laws on the use of technology. Martin Skladany counters the current state of copyright laws in "Theory" and supports the conclusions with statistics and scientific knowledge. He also provides multiple proposals that considers three different options the government might have when addressing Big Copyright. Using these proposals, the author then provides "Practical Proposals for Change."

Skladany's analysis of his three "Practical Proposals for Change" are highly developed in reasoning. With the goal of increasing creativity and reducing overconsumption, all three of the proposals provide possible avenues that the government can take in improving copyright laws. He further not only considers the benefits of each of these different ways of approaching each proposal, but also details the possible limitations or harms that can arise from using them as well. For example, within Skladany's Ignoring Copyright Proposal, he offers a "commons exchange" where artwork can be passed on from one person to another.[25] He states that some of the benefits from this common exchange will allow more websites that often die without the support of institutions to instead continue to exist, institutional adoption will lower transaction costs when transferring copyright works, adopted works will evolve to different degrees, and it will

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[24] *See* Skladany, *supra* note 1, at 217-18.
[25] *See* Skladany, *supra* note 1, at 165-69.

motivate more people to create.[26] However, he addresses that the limitations comes from the fact that competition in software will not allow art to be able to thrive in; and some of the possible concerns he mentions are that there might be copyright trolls and it that is difficult for free software projects to know if a code is being stolen.[27] Throughout all of the possible avenues, Skladany develops a thorough investigation of the cost-and-benefits for adopting each plan. Additionally, this book seeks to provide an explanation for the possible solutions, but the author addresses that the current proposals might not be practicable in its current form and will need to be experimented to determine the correct methods of solving the issues pertaining Big Copyright.

Although the *Big Copyright Versus the People* seems to focus its audience on students, professors, and overall academia, its straightforward explanations make it easy to read beyond academia. Furthermore, the goal of the book is eye-opener on the issues of copyright to the people, not merely to law officials. *Big Copyright Versus the People* was enjoyable, eye-opening, and convincing.

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[26] *See* Skladany, *supra* note 1, at 170-73.
[27] *See* Skladany, *supra* note 1, at 173-79.