

## ABSTRACTS

The combination of the Internet and digital technology presents copyright law with a digital dilemma. As a result, many of the copyright law and related practices that have evolved in the world of physical artifacts do not work well in the digital environment. Proposals to solve existing legal problems resulting from a digital dilemma generally suggest so called 'Maximalist course' or 'Minimalist course'. The former, self-described 'copyright optimists,' argue that copyright law should be extended and modified to allow copyright holders to control all distribution and use of digital information. The latter, critics counter that exceptions to copyright should be recognized under the fair use doctrine for certain uses of digital information. In response to effort to expand copyright, the critics primarily rely upon some fundamental or overriding public interest.

In Copyright's Paradox, Neil Weinstock Netanel, who has criticized 'Maximalist course,' shifts the focus and the debate away from economics to its roots in constitutional law. The key elements are, on the one hand, the First Amendment: "Congress shall make no law abridging freedom of speech or of the press." On the other hand, Article 1 of the Constitution giving Congress the power to enact laws to "promote the progress of science and the useful arts" — thereby creating the Copyright Law. The First Amendment protects free speech. The Copyright Law restricts it. At first glance, it is a complete paradox.

Therefore, why has that happened? What values and practices does the copyright-free speech conflict put at stake? How should the conflict be resolved? These are the principal questions this book seeks to answer. On the basis of First Amendment values as fundamental principle, Netanel argues that copyright should be transformed by how it can promote social discourse and expressive diversity in a democratic civil society, and he presents a blueprint for how that can be accomplished.

**Keywords** : Copyright's Paradox, free expression, free speech, First Amendment, creative appropriation, paracopyright, orphan works, property rule, liability rule