

Book Review: The End of Ownership: Personal Property in the Digital Economy by Aaron Perzanowski and Jason Schultz

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*How has the digital era changed notions of ownership? In **The End of Ownership: Personal Property in the Digital Economy**, Aaron Perzanowski and Jason Schultz explore how digital products are typically licensed rather than owned and defend the continued importance of personal property in the digital economy. While Christopher May is somewhat frustrated by the exclusive focus on US law and the lack of engagement with political economy, there are interesting details in this book for those looking to reflect on how digital content delivery has transformed notions of ownership.*

***The End of Ownership: Personal Property in the Digital Economy.* Aaron Perzanowski and Jason Schultz. MIT Press. 2016.**

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There can be little doubt that the way we consume a range of information goods has been transformed by digital content delivery. However, as the authors of *The End of Ownership: Personal Property in the Digital Economy* argue, this transformation has also much more quietly shifted and changed the way we own (or indeed *do not* now own) the content we pay for.

Really, I should have liked this book as it deals with issues about which I have been thinking for many years, paralleling (without citation) [the arguments I previously made](#) about digital rights management (DRM). However, as I have pointed out in [reviews on this site](#) and elsewhere, despite the global reach and de-territorialisation of the new/digital economy, US-based writers often imply that little of interest or significance happens outside their own country. Thus, the account this book offers of the important development of intellectual property law in the virtual/digital domain recognises some historical precedents in copyright and patent law in the history of English law, but this concern is limited to its early history in the seventeenth and eighteenth centuries; for contemporary legal developments, there is only US law to worry about! On one level, one might accept that US law has been instrumental in shaping digital economic developments, but equally, as the debates about privacy and Google's requirement to exercise a '[right to be forgotten](#)' suggest, developments in European law have also had some impact.

Leaving aside this myopic analytical approach, what do Aaron Perzanowski and Jason Schultz tell us about the digital and/or '[sharing](#)' economy? At the heart of their analysis is the distinction between the exhaustion of rights in the world of physical products and the domain of the digital. This is to say, the argument is built on the difference between your rights as a consumer subsequent to purchasing a physical artefact and your (lack of) rights when such a transaction takes place digitally. So, once you have bought a physical book, the rights of the copyright owner in its physical form are exhausted. Hence, for centuries there has been a thriving market in second-hand books with no ability of copyright owners (publishers or authors) to control this secondary market. Likewise, for all sorts of goods from music recordings to technological products, once sold in their physical form the initial rights are exhausted and the new owner is able to use, dispose or do what they want with their purchase (within other social and legal limits, of course). However, as the authors point out, this is very much not the case in the digital realm.





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Despite the often deployed language of consumerism ('buy now', 'own this new...'), the authors point out that in the digital economy, there is a distinct lack of ownership rights accorded to the 'purchaser' by the seller. Rather, in most cases, it turns out that ownership is actually a form of conditional lease. The authors spend most of the book detailing a range of examples of how this plays out in the contemporary economy. For instance, their account of the highly detailed (and seldom read) End User License Agreement (EULA) parallels and cites Margaret Radin's careful and detailed analysis of how unread license agreements allow unfair terms to be spread around the digital economy, leaving users with fewer rights to decide on the use of their 'assets' than they might have supposed.

Elsewhere, the authors examine cases of e-books that were suddenly repatriated to their seller when a copyright issue arose as well as the question of who owns digital libraries when their user dies. Indeed, this is a book that is full of interesting, albeit almost exclusively US-focused, examples of how the sharing economy undermines older ideas of ownership. For those working in the field of digital political economy, the book provides a useful store of anecdotes to enliven accounts of particular developments. Unfortunately, it remains relatively light on critical analysis.

While the authors conclude that the old system of individualised property rights served the old economy well, and as such what is needed is legal action to move the 'sharing economy' (back) to this preferred ownership model, there is little discussion about how this might happen other than through judicial activism, which is to say the book really lacks any account of political agency. In my own discussion of these issues, I deployed Karl Polanyi's notion of the double movement to argue that there was a clear normative move to reject through non-compliance the sorts of shifts that Perzanowski and Schultz focus on. Here we might identify organised 'piracy' through peer-to-peer sharing sites, but also the challenge mounted by open source/open access activists to the proprietary models on which much of the business described in this book rests. Likewise, usage of sites like Academia.edu and other research communication portals has offered researchers opportunities for widely (and freely) disseminating formally copyrighted versions of their own work, forcing journal publishers to adopt a range of compromises on what versions of publications might be shared and when. Thus, lurking behind the authors' account in places is the recognition that consumers have not been merely dupes taken for a ride by the sharing economy, but have at times adopted practices of resistance that have prompted strategies of compromise and the rebalancing of rights.

The difficulty is that this is neither foregrounded in the account nor is the question of how the new economy, the sharing economy, might represent a site of potential social domination or exploitation *and* a realm of potential challenge. The authors do not locate their various examples and sectoral accounts within a wider understanding of the manner in which the new economy might be developing, driven not only by technological innovation but also by corporate interests with specific strategic aims around profit-maximisation and market control.

Thus, while there is much of interest in the details set out here, the failure to see beyond the USA and the lack of an overarching view of the political economy of these developments undermine the contribution this book could make to a key contemporary debate about what the sharing economy might imply. That the authors are lawyers might go some way to explaining why there is limited political economy here, although there is also little in the way of developed analysis of the manner in which corporations have sought to shape the law. However, they must be aware that the digital economy, almost by definition, cannot be limited to one state, and thus the myopia as regards the developments discussed renders this account not only analytically lightweight but also frustratingly parochial.

Christopher May is Professor of Political Economy at Lancaster University, UK. His most recent book is *Global Corporations in Global Governance* (Routledge, 2015) and he is currently editing *The Edward Elgar Research Handbook on The Rule of Law* (2017). He has published widely on the interaction between law and political economy, wrote the first independently authored study of the World Intellectual Property Organisation and some years ago wrote *The Information Society: A Sceptical View* (Polity Press, 2002). [Read more reviews by Christopher May.](#)

Note: This review gives the views of the author, and not the position of the LSE Review of Books blog, or of the London School of Economics.

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