



## (RE) THINKING INTELLECTUAL PROPERTY

FUNDAMENTAL QUESTIONS AND NEW PERSPECTIVES

### From Distribution to Dialogue: Remarks on the Concept of Balance in Copyright Law

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*Abstract: Few propositions are more frequently asserted in contemporary copyright discussion than the proposition that copyright is a balance between authors and users - a balance (as some like to say) between the incentive to create and the imperative to disseminate works of authorship. The paper argues (a) that the concept of balance cannot support the weight it is asked to bear in copyright jurisprudence, and (b) that we should think of copyright less as a "balance" between authors and users than as a "dialogue" between authors and users. In short, "dialogue" is a metaphor more appropriate than "balance" to structure our interpretation of copyright law and of its purpose. On the basis of the idea of dialogue, the paper offers an understanding of certain copyright exceptions rather as user's rights integral to the copyright system, and a concept of the public domain less as a matter of values or weights to be placed on a balance, than as a site of and condition for a network of communicative acts in which both authors and users participate.*

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