



(RE) PENSER LA PROPRIÉTÉ INTELLECTUELLE

QUESTIONS FONDAMENTALES ET NOUVEAUX ÉCLAIRAGES

La balance des intérêts en droit d'auteur: un concept approprié ?

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La conférence aura lieu en langue anglaise



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.

Abraham Drassinower is Associate Professor at the Faculty of Law, Chair in the Legal, Ethical and Cultural Implications of Technological Innovation, and Director of the Centre for Innovation Law and Policy at the University of Toronto Faculty of Law. He joined the Faculty of Law in 1999, held a Postdoctoral Fellowship in the Department of Political Science at the University of Toronto (1993-1995) and lectured principally on political philosophy at York University (1993-1995) and at the University of Toronto (1995-1998). He served as a Law Clerk to Mr. Justice John C. Major of the Supreme Court of Canada (1998-1999). Professor Drassinower's interests include property, intellectual property, legal and political philosophy, critical theory, and psychoanalysis. He has published in the areas of charitable trusts, unjust enrichment, intellectual property, and psychoanalysis and political theory. He is currently working on a book on the public domain in copyright law.