

Ryan Kraski

## Pay-to-Play

How the United States' Collective  
Patrimony Has Been Locked in an  
Ivory Tower, Beyond a Paywall



Nomos

**Nomos Universitätsschriften**

**Recht**

**Band 986**

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**The Deutsche Nationalbibliothek** lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data are available on the Internet at <http://dnb.d-nb.de>

a.t.: Köln, Univ., Diss., 2021

ISBN 978-3-8487-7194-3 (Print)  
978-3-7489-1226-2 (ePDF)

#### **British Library Cataloguing-in-Publication Data**

A catalogue record for this book is available from the British Library.

ISBN 978-3-8487-7194-3 (Print)  
978-3-7489-1226-2 (ePDF)

#### **Library of Congress Cataloging-in-Publication Data**

Kraski, Ryan

Pay-to-Play

How the United States' Collective Patrimony Has Been Locked  
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278 pp.

Includes bibliographic references.

ISBN 978-3-8487-7194-3 (Print)  
978-3-7489-1226-2 (ePDF)



Onlineversion  
Nomos eLibrary

1st Edition 2021

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*Dedicated to the memory of Uncle Frank*



## Prelude

This dissertation was submitted in 2020 to the Faculty of Law at the University of Cologne and successfully defended on January 7, 2021. All observations, conclusions and citations contained herein are current as of this disputation date and all viewpoints, opinions or conclusions expressed are my own.

While researching on the topic of copyright, I became fascinated with its protection of “authorship,” and what this word truly means. In the US legal context, an author is an originator who produces a creative work. Going further, a comparable German term *der Schöpfer*, can be translated into English as “author,” “originator,” or, in the theological context, “The Creator.” Regardless of how mundane or momentous any new work may appear to be, authorship is a profound undertaking. Authorship entails devising new ideas in the immaterial realm, formulating them into words or other means of expression, and fixing the expressions into a tangible medium. When new works are conceived, new worlds are created and uncharted territory is forged. Authorship can be a remarkable gift to others; it gives a grip on the complexities of the world. Using previous works as a springboard, future authors may take hold, engage with, and expand upon them. Along these lines, it is my hope that this thesis will provoke thought on the issues presented, guide subsequent research, and invite new, creative theories by future authors, creators and *Schöpfer*.

## Acknowledgments

I look back on the doctoral process with nothing but the warmest feelings. Much of this dissertation was devised and drafted in the early *Kölner* mornings with the sun slowly rising above my courtyard, a family of *Mauersegler* performing their daily airshow outside my window, and always with a freshly brewed cup of coffee within reach.

For their unending support throughout this project, my heartfelt gratitude goes out to:

Paul S. McGrath, Christopher Atzbach, Mayor Matthew Rudzki, Dr. Sezer Dogan and Dr. Joseph DiSarro for their friendship as well as the many amusing, insightful and stimulating conversations.

Past and present colleagues including Marie Pflüger, Michelle Quindeau, P. Matthew Roy, Lukas Plenk, Dr. Leopold Thon and Yvonne Siebenhaar for their immense amount of support, which makes the adventure of living in a foreign country a continuous pleasure, along with their guidance that makes every day a learning experience.

My fellow Doktoranden Saskia Münster, Dr. Marek Prityi, Dr. Ricardo Kerkhof, Dr. Jakob Bünemann and Deginet Wotango Doyiso for being a source of inspiration, making writing labs and seminars enjoyable, and the many Thanksgivings and 4th of Julys celebrated together.

Prof. Kirk W. Junker for his extensive guidance as my doctoral supervisor, engagement with my work, feedback, and mentorship.

Mom, Dad, my brothers, and the rest of my family, from whom the pandemic has kept me away for over a year; I am extremely privileged to have always had their unconditional support and interest in all my endeavors.

And, finally, this work would not have been possible without the companionship and support of Mareike Plenk, who brightens all my days.



## Table of Contents

List of Abbreviations	13
Introduction	15
A. Exigence	18
I. Definitions	20
II. Why Focus on Universities and Copyright Law?	24
B. General Structure	28
C. Questions Presented	29
D. Methods	29
E. Literature Review	33
F. Contributions of this Research	34
Part I: Universities	36
A. Background and Development of the American University	38
I. Early European Societies and Universities	38
II. The Emergence of the American System	42
B. Society's Expectations and University Privileges	47
I. University Privileges	48
II. Privileges in the US	50
C. University Objectives as Seen in the Curriculum	52
I. The Early Curriculum in Europe	53
II. The Developing Curriculum in the Americas	54
D. The Various Types of Students and Their Expectations	57
I. The Professional Pathway	59
II. The Mobility Pathway	59
III. The Social Pathway	60
E. How Form Affects Substance: University Finance	61
I. The Funding Schemes	62
II. Negative Outcomes of Federal Funding	65
III. How Finance Affected the Various Types of Universities	68

*Table of Contents*

F. The US' Third Sector: Nonprofits	73
G. Nonprofit and University Governance	76
I. The Third Sector	76
1. Overcoming Contract Failure through the Nonprofit Form	78
2. The Non-Distribution Constraint	80
II. The Nonprofit Tests	84
1. The Organizational Test	85
2. The Operational Test	86
3. The Private Inurement Test	86
III. Enforcement Remedies	87
1. Safe-Harbor	88
2. UBIT Taxes	89
IV. State Regulation	90
V. Federal Regulation	94
H. Assessment of Universities	95
I. Access	96
1. Access Statistics	97
2. Campus Diversity	97
3. Access and University Type	99
4. The Outcome of the HEA's Student Lending	101
II. Education	102
1. Education Statistics	102
2. The Focus of University Instruction	104
3. Free Speech Protections on Campus	108
4. How the University Types Influence Each Other	110
III. Research	112
1. Research Statistics	112
2. Research Universities	113
3. The Types of Research	114
IV. Certification	118
V. Social Mobility	120
VI. Conformity with Nonprofit Principles	124
1. Commercial Operations	124
2. Compensation	131
3. Capital Accumulation	138
I. Private, Nonprofit Universities and the Public Benefit	140
J. Private, Nonprofit Universities' Legal Structuring and the Public Benefit	141

K. How Can Private, Nonprofit Universities be Improved through the Law?	142
Part II: Copyright	145
A. Introduction	145
B. History	150
C. The Means and Ends of US Copyright	158
D. Copyright Explained	165
I. Various Exceptions to Copyright	169
II. International Law and Copyright in the US	182
III. Alternatives to Copyright	184
1. Open Access	185
2. Creative Commons Licenses	187
3. Pirating	188
4. Technical Barriers	188
E. Assessment of Copyright Law	189
I. Access—Rings of Regulation	189
1. The Core of Copyright Protection	190
2. The Effects of Fair Use Codification	191
3. Campus Policies	192
4. How the Rings of Regulation Affect Access	193
II. The Three Sectors as Gateways to Knowledge	194
1. The Governmental Sector	195
2. The For-Profit Sector: Paywalls	196
3. The For-Profit Sector: Free Access	201
4. The Nonprofit Sector	204
5. The Pirates	206
III. Production Function Assessment	209
1. The Production Function and the Different Types of Works	211
2. The Production Function and Academic Works	214
IV. Structural Function Assessment	215
1. Structure in the Print Era	216
2. Structure in the Digital Era	222
3. Universities as a Structural Alternative to Copyright	223
4. Alternative For-profit Structures	225
V. Expressive Function Assessment	230
F. Copyright Law and the Public Benefit	238

*Table of Contents*

G. How Can Copyright be Improved Through the Law?	239
Part III: Summary	245
Conclusion	254
Works Cited	259

## List of Abbreviations

AAU	The Association of American Universities
CC	Creative Commons
DMCA	Digital Millennium Copyright Act of 1998
FIRE	The Foundation for Individual Rights in Education
GST	General Systems Theory
HEA	Higher Education Act of 1965
IP	Intellectual property
IRC	Internal Revenue Code
IRS	Internal Revenue Service
MOOCs	Massive open online courses
NCAA	National Collegiate Athletic Association
NDEA	National Defense Education Act of 1958
Sallie Mae	Student Loan Marketing Association
TEACH Act	The Technology, Education and Copyright Harmonization Act
TRIPs	The Agreement on Trade-Related Aspects of Intellectual Property Rights
UBIT	Unrelated Business Income Tax
US	United States
WCT	The World Intellectual Property Organization Copyright Treaty

