

May I first point out that any decision by the US on legislation in this field will affect the rest of the world, since ebooks are—through the internet—without realistic national boundaries.

Secondly, while print books are sold as "in toto" items, the content is still licensed; it is restricted by the fact there is no permission to copy that content. To alter that position is, of course, to destroy copyright altogether.

Ebooks are virtually nothing but content; there are no physical or permanent pages to hold the content, nor is there a binder or cover wrap of any sort. Thus the whole is licensed as content. The containing file is a delivery system, and in itself invisible to the eye, and not sensual to the hand. The reader, whether it be dedicated device, phone, tablet, laptop or desktop, is a receptor, and is not in any way connected to the content purchase of a licence—to read, but not make any copies.

While part of the delivery system requires the technical and temporary making of copies, in order to place a readable form of the licensed content onto a screen, and similarly to transmit from seller to purchaser, this in no way parallels the issue of ebooks in relation to First Sale Doctrine.

Since ebooks are licensed-content only, and it is easy to make copies of them, the outcome of applying First Sales Doctrine to a content only form of the writer's work is to destroy the limited individual monopolies of copyright, and deny the US Constitution in granting that monopoly and its reasons for doing so. The contribution of literature to American and world culture would cease with the consequent loss of income potential for writers.

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