

As an author of nearly 25 books and counting, all of which are available in electronic formats, some of which are ONLY available in electronic formats, I am appalled that it is even being considered that "First Sale" trumps copyright.

Do you intend, for example, to extend this concept past books and into the areas of music, television, and film, of video games, of software and applications, where downloaded media can be passed on from electronic reader to electronic reader, *ad infinitum*? I can readily envision a hue and cry being raised from those particular industries over the matter, and the writing of books is no different. This material is our (the creators') intellectual property; we have the same right to control of it that a filmmaker, a musician, a software programmer, has. This is not a case of "separate industry, separate rules." It is a case of "similar format, same rules." The film industry, the music industry, the software industries, all defend their proprietary property against piracy — the unauthorized sharing of intellectual content — vigorously, **with the aid of the Federal government**; why, now, should authors be treated differently?

Let me reiterate that in different terms: According to the film, music, and software industries, *piracy is the sharing of intellectual content without the permission of the content's creator*. In trumping electronic copyright with electronic First Sale doctrine, you would be authorizing what, in these other industries, would be defined as piracy.

The situation is, briefly, thus: Whereas in the case of a print book, the book cannot be given away and kept at the same time, that is **not true** of electronic media. It is quite possible for the original purchaser of the book to **keep** a copy and **still give away — or even sell — as many copies as s/he wishes**. Given the state of electronic media today, this could be as easy as tapping devices together or sending an email or text share. This process can multiply the number of "given-away" ebooks into the thousands, very very quickly.

Each of those free ebooks with my byline is, quite literally, money stolen from me, the intellectual property owner. It is money taken out of my pocket, it is food taken off my table and out of my cupboards.

Let us look at an argument *reductio ad absurdum*. Let us assume that not only is the First Sale doctrine applied to all ebooks, but it is also applied across the board to all electronic creations — film, television, music, games, applications, all software. Amazon alone has **125,000 ebooks just in the mystery/suspense/thriller genre!** They have nearly **six thousand new movie** releases in the **last 90 days!** They have over **seven thousand new mp3 album releases** in the same timeframe! They literally have millions of electronic offerings in books, films, and music albums combined. That does not count television or single song files. Nor does it count smartphone apps, or electronic games, or any other kind of software.

Tell me: How long would it take you to watch six thousand movies? If we assume an average runtime of an hour and 45 minutes, that's 10,500 hours of viewing time. That's 437.5 days of continuous viewing. If we add 10 hours a day in order for you to eat and sleep, that's 620 days! **Nearly two years of doing nothing but eating, sleeping, and watching films.** Now let's factor in

the albums. If the average album has a play time of 1:15, that's 8875 listening hours. The same calculation we did with the films yields 524 days of listening! That's well over 3 years of eating, sleeping, watching, and listening already.

Now let's say that it takes the average person two normal days (a typical weekend — no work) to read a book. (This accounts for variances in reading speeds, as well as in book lengths. Most people take longer to read a typically-sized novel.) That's a quarter of a million days to read **ONLY** the mysteries, thrillers, and suspense books just on Amazon! That's nearly **seven hundred YEARS**. That's eight and a half lifetimes, just of reading material. **IN ONE GENRE**. And Amazon lists 32 more — where one of those genres is simply "nonfiction." If the mystery genre contains an average number per genre, that's over 23,000 years' worth of reading material.

Why bother to write any more?

No, seriously, think for a moment: There's already tens of thousands of times over more material than anyone could ever possibly read in a lifetime, just waiting to be downloaded and read. All for free. Why should anyone bother to buy anything new? If everyone had access to all of the ebooks in existence for free — and with the First Sale plan, they would — then why would there be a need for authors? For a publishing industry? And what if we expanded our model to music and films older than 90 days? What would that do to those industries?

We've just looked at the *reductio ad absurdum* argument. Now let's get realistic for a moment. I submit that the ultimate result of such a doctrine for electronic books is that the industry would go belly-up. Oh, certainly not immediately, but very quickly the industry would begin to suffer financially, as fewer and fewer people bothered to purchase ebooks, but instead "borrowed" from friends. Some publishers and authors might even pull all their ebooks from the market, and revert entirely back to print books. Many authors would severely limit their writing, or even quit altogether, to take another job in an effort to bolster falling income. Sales would drop along an accelerated curve. The result would be that we would see a growing collapse of the ebook market. For those authors who publish nothing but ebooks, such a collapse would be catastrophic, and frankly it wouldn't do the industry any good in general — because most mainstream publishers would still have invested in both, and the collapse of the ebook market would severely hurt them financially. The final result may well be, as I said, the financial collapse of the entire publishing industry.

As an author, I already know of a couple of people who have acquired so many ebooks that they have filled up the storage space on more than one device — and they aren't buying any more books, period. Yes, you read that right — neither electronic, nor print. They know, and will tell you, that they already have more books than they can ever possibly read, and they don't want to get any more. What happens when that "two or three" becomes "most of the people I know"? What happens when those full devices are full of books for which they didn't have to pay? What happens when the definition of a best-seller becomes a few hundreds, or even tens, of copies?

I submit to you that it is impossible to treat electronic media like print (or celluloid, or vinyl) media because the handling is completely different. The ramifications are too great. First Sale doctrine cannot, **must not**, be applied to electronic media, or it will be the ruin of every industry who produces electronic media, and the financial devastation of every creator involved.

**Stephanie Osborn**

**Interstellar Woman of Mystery**

See all my books at <http://www.Stephanie-Osborn.com>

"Sometimes our hopes and dreams do not go the way we planned, but we must never let despair overcome us. We have to try and we have to care. We must never give up when we still have something to give. Nothing is really over until the moment we stop trying."

~Jeremy Brett

"Sometimes you gotta say what's in your heart... And you have to stand for what you believe. No matter what."

~'Dr. Michael C. Anders,' *Burnout: The mystery of Space Shuttle STS-281*