Conceptions in the Code: How Metaphors Explain Legal Challenges in Digital Times

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Conceptions in the Code: How Metaphors Explain Legal Challenges in Digital Times aims to highlight the importance of understanding and appreciating the use of metaphor in legal language. Larsson uses Lakoff and Johnson's Conceptual Metaphor Theory (CMT) (1980b) and applies it to the 2009 Swedish lawsuit against the founders of The Pirate Bay, where four men behind the website were convicted and found jointly liable for damages of roughly €3.5 million. As a result, not only does Larsson highlight the differing metaphors used by the prosecution and defence, but also how this relates to differences in cognitive framing and, ultimately, how this may have affected the outcome of the case. Whilst this book does make a significant contribution to the field by highlighting the importance of metaphor within applied contexts, it is at times unfortunately simplistic in its analysis, lacking data, and often repetitive to the reader.

The book is spread across eight chapters, starting broadly with an overview of CMT and associated terminology, before gradually discussing the metaphorical manifestations of copyright and potential alternatives. Towards the end, it also discusses historical interpretations of copyright, and invites the reader to consider how the changing landscape, both socially and technologically, has made copyright such a controversial issue.

The book's introductory chapter begins with an interaction from The Pirate Bay case in which the defendant, Peter Sunde, after being asked when he first met the other defendants *in real life*, replies that he does not use this phrase as he believes "the internet

is real". Larsson uses this snippet of the case to demonstrate the central argument of the book: not only are metaphors pervasive in legal language, but there are conflicting metaphorical narratives that condition our conceptions of events. Larsson continues by saying that without metaphors we have "no concepts for new phenomena" (p.3), giving the examples of *networks*, *desktop* and *the cloud*. Larsson views metaphor as a prerequisite for understanding the law, arguing that metaphors can be conscious efforts, such as in literary prose, but that they can also be subconscious efforts that affect our conceptions without our awareness. It is this second type of metaphor that Larsson sets out to uncover and explore.

In chapter 2, Larsson discusses the need to demystify digital metaphors in legal language and, to do this, introduces various technical terms: CMT and the concept of *source* and *target* domains, *metaphorical embodiment*, *skeuomorph*, and *conceptual path dependence*. Larsson discusses how skeuomorphs recycle information by mapping the old onto the new but that this can have the negative effect of locking in a particular understanding of a new concept that may misrepresent it. An issue here is that, in laying out the theoretical tools he plans to use, Larsson's framework seems somewhat cherry-picked, and it appears to exclude very relevant theory. For example, in the same year as CMT, Lakoff and Johnson (1980a) discuss their ACTIVE-PASSIVE metaphor typology, introducing notions such as conventionalisation, and then a few years later, metaphor death (Lakoff, 1987). Although the fact that people can lose awareness of a metaphor's original mapping (meaning) is mentioned several times by Larsson, a large body of directly relevant literature does not appear in his analysis.

Chapter 3 sets out to demonstrate how legal metaphors such as *law* and *justice* are so heavily embodied that they need to "borrow from a spatial, bodily, or physical prototype in order to be conceptualised" (p. 55). It focuses on three embodied metaphors: LAW AS OBJECT; LAW AS VERTICAL RELATION; LAW AS AREA. To investigate this, Larsson uses the Google Ngram viewer to search for the frequency of key terms. Larsson discusses how embodied metaphors can either be (near) universal or culture-specific and gives the apt example of an internet *browser*. He suggests that for Anglo speakers this is just one of many meanings, but for non-Anglo English speakers, its main (if not only) sense is its metaphorical usage as something that lets one use the internet.

Larsson then carries out the Ngram analysis by searching phrases related to two metaphors: *beneath* the law and *body* of law. The purpose is to show how conceptual links of abstract law to tangible reality have increased. Ngram, as Larsson notes, comprises books from 1800-2000 but its use is largely problematic. Larsson looks at the relative frequencies of the terms but does not consider looking at the textual metadata or the dispersion of the terms. For example, it would be an important finding if these terms were to appear more in literature than legal texts (or vice versa). Further, these graphs show nothing of the meaning of the phrases themselves, showing only how often they are used and not how they are used to construct meaning. Larsson might have also benefited from utilising a freely available general language corpus to go beyond frequency to understand how a search term is used and the types of meaning it may co-occur with (see Mouritsen, 2017 where this is applied to the courtroom).

Chapter 4 sets out to investigate, through a survey taken by 86,000 respondents, how metaphors used by file-sharers themselves conceptualise copyright, focusing on how conceptions of copyright vary between American and French language settings.

In sampling the data, Larsson comments that the US dataset is twelve times the size of the French one. Whilst there is no perfect solution to such a problem, Larsson decides to remedy this disparity by matching the US data to the character count of the French corpus, which does not account for varying response length. The most frequent words within each survey are the expected function words such as *have*, *but* and *not*, yet Larsson removes them claiming they are of "less analytical relevance" (p. 92). Instead, he then gathers "a top list of the concepts that are of clear relevance to copyright and file-sharing [as they display] more interesting traits" (p. 92). Larsson doesn't provide details on the classification scheme used, which raises potential concerns that only results pertaining to his theoretical preconceptions have been chosen (i.e. unconscious bias may have affected his selection process).

Furthermore, in Table 4.3, Larsson presents the results of how often US and French respondents upload files to file-sharing sites, and in Table 4.4, he presents results on whether respondents use a VPN to protect their anonymity. In the former table, raw figures are presented followed by the percentages in parentheses, while in the latter the opposite is the case. Larsson includes a column indicating whether differences between results are statistically significant or not, but these are problematic. First, Larsson does not clarify if the statistical test uses the raw or the percentage data and, as these switch, there is no way of knowing which one was used. Further, Larsson's binary classification of results being either *significant* or *not significant* means the results are being treated equally yet the reader does not know to what degree the significance varies. Finally, Larsson does not specify the statistical test used for these binary classifications of significance.

Chapter 5 focuses on how the role of *copy* within *copyright* is perceived by both industry and the wider society, and how the definition of *copy* in an older analogue context is very different to what we have now in a digital context. This difference is explored in relation to the 2009 Swedish case against The Pirate Bay. Here, Larsson uses a similar model for valuing *copy* to that suggested by the American plaintiffs in the court case, in order to calculate the total value of an entire BitTorrent site. If we treat digital copies the same as analogue copies (as was the case within the court case), the total value of illegally downloaded music, films, and television series from a popular BitTorrent site similar to The Pirate Bay can be calculated at approximately €53 billion. Whilst the route by which this figure was derived was methodologically dubious (i.e. Larsson makes a "reasonable assumption" that 80% of television series downloads are the whole season, and 20% are a single episode), this clearly makes the intended point that differences in metaphorical manifestations offer different valuations.

Chapter 6 is a strength of the book, investigating the extent to which The Pirate Bay can reasonably be described as a *platform*, a *storage site*, or a *bulletin board*. After problematizing the concept of *copy* in Chapter 5, this chapter intends to be a metaphorical and conceptual analysis of the entire lawsuit, pointing out the many struggles to define and label The Pirate Bay as an entity. For example, is it a platform whereby users simply utilise the infrastructure? Is it a mere place of storage? Each metaphor used to describe the website comes with its own set of assumptions, schemas, and expectations. Each one also differs slightly in whether actors have an active or passive relationship to the file-sharing, thereby opening up a whole host of debates around responsibility, blame, and data stewardship.

Chapter 7 examines the place of copyright regulation against the backdrop of rapid societal changes that have come about through digitalisation. The chapter draws upon Karl Renner's classical texts about cognitive theory, CMT, and embodiment. The bottom line here is that whilst the law is seen as a fixed entity, used as a barometer by which to gauge behaviour, Renner instead argues that social norms, technological development, and changes in social structure create social and cognitive reinterpretation of the law. For example, whilst the law may not have changed for hundreds of years, the context around the law is in constant fluctuation, and this alters how the law is interpreted.

Finally, Chapter 8 offers a summary of the whole book and concludes.

It is worth noting here that Larsson describes his book as something of a remix: each of the main chapters are based upon published journal papers and then expanded upon to fit the broader remit of the book. Whilst this is an unproblematic approach in principle, in practice, it has meant that particular elements have been repeated in later chapters when they have already been adequately addressed earlier on. Not only are short quotes repeated (e.g. on both p. 47 and p. 103), but entire concepts have been defined and explored as if they were new to the reader, when in reality there has been a whole chapter dedicated to them previously (e.g. the case of *embodiment* and *skeuomorphs*). If treating this as some form of handbook, whereby readers are invited to dip in and out of each chapter at their leisure, then this is less intrusive, but when reading the whole text in a linear fashion, as one assumes that is the writer intended, this is often jarring.

On a related note, it is not clear who the intended audience of this book is or should be. Larsson suggests in Chapter 1 that "this book is not based at the heart of a unilateral scientific discipline [and it] moves between several disciplines" (p. 24). He further suggests that it should be of interest to those working within the sociology of law and cognitive science, but, despite drawing on metaphor and corpus linguistics, curiously, he leaves those working within linguistics out of the intended audience. One would expect that a book which claims to apply such a widely-known linguistic analytic framework like CMT to a context like this would be aimed at linguists, but that is clearly not the case. In fact, it may be that an intended strength of the book is rather its downfall.

Overall, this book does offer a contribution to fields with an interest in the sociology of law, digitalisation, and copyright. Furthermore, it makes a highly convincing argument that metaphor is important within copyright law, and the book is a clear example of why linguists are so well-suited to provide support on such issues. However, from a (forensic) linguistic perspective, the analysis carried out would benefit from more data and a more rigorous methodological framework to really explore how metaphors operate within the language of the law.

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