The nineteenth century witnessed a series of revolutions in the production and circulation of images. From lithographs and engraved reproductions of paintings to daguerreotypes, stereoscopic views, and mass-produced sculptures, works of visual art became available in a wider range of media than ever before. But the circulation and reproduction of artworks also raised new questions about the legal rights of painters, sculptors, engravers, photographers, architects, collectors, publishers, and subjects of representation (such as sitters in paintings or photographs). Copyright and patent laws tussled with informal cultural norms and business strategies as individuals and groups attempted to exert some degree of control over these visual creations.

With contributions by art historians, legal scholars, historians of publishing, and specialists of painting, photography, sculpture, and graphic arts, this rich collection of essays explores the relationship between intellectual property laws and the cultural, economic, and technological factors that transformed the pictorial landscape during the nineteenth century.

This book will be valuable reading for historians of art and visual culture; legal scholars who work on the history of copyright and patent law; and literary scholars and historians who work in the field of book history. It will also resonate with anyone interested in current debates about the circulation and control of images in our digital age.

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The history of the visual representation of news events is often connected to the invention of photography.\(^1\) The half-tone revolution of the early 1880s, which made it possible to reproduce photographs in print media on a mass scale, is presented as the origin of our visual age.\(^2\) However, in recent years, several scholars have argued that the founding of numerous illustrated newspapers in the 1840s might be a better starting point. From a media archeological perspective, Jason Hill and Vanessa Schwartz have proposed a contingent history of ‘news pictures’ as a separate class of visual representation.\(^3\) Photographs did not acquire their objective status because of any specific affordances of photographic technology, but because, in the nineteenth century, special

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\(^1\) This chapter is partly based on subsections of the second and third chapters of my book. Thomas Smits, *The European Illustrated Press and the Emergence of a Transnational Visual Culture of the News, 1842–1870* (London: Routledge, 2020). I would like to thank Will Slauter for his insightful comments on this chapter and the paper that preceded it. I would also like to thank him for sharing his research in the National Archives with me.


(sketch) artists, photographers, draughtsmen, engravers, editors, and publishers developed objective visual discourses and practices.  

From this perspective, the publication of the first issue of the *Illustrated London News* on 14 May 1842 fundamentally altered the relationship between publishers, the public, and the news. Although newspapers had informed readers about current events since the early seventeenth century, they only scarcely used images to represent the news. This changed when the *Illustrated London News* began to regularly depict the news to its readers on a weekly basis, becoming, as Lorraine Janzen Kooistra notes, the ‘first newspaper to make pictorial reportage its dominant feature’.  

The visual world that the London-based periodical presented to its readers quickly became successful. While it only sold 23,000 copies of its first issue, its print run quickly increased to 130,000 copies in 1855. Special supplements, such as the one concerning the Indian Rebellion of 1857, even sold as many as 500,000 copies.  

Hoping to imitate the success of the British example, European and American publishers quickly copied the format of the *Illustrated London News*. Titles modeled after the British periodical appeared in France (1843), the German state of Sachsen (1843), the Netherlands (1844), Portugal (1844), Russia (1845) and many other countries.

Despite the transnational distribution of the format, scholars have mostly studied illustrated newspapers within a national context, often using Benedict Anderson’s concept of the imagined community to connect their images to the production of national identity. However,

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popular European illustrated newspapers were distributed far beyond the national level, and their images were transnational products. A lively transnational trade in images of the news, in the form of metal copies, often called clichés, resulted in the emergence of a transnational visual culture of the news in the mid-nineteenth century.  

This chapter focuses on an important aspect of the transnational trade in images: the questions of ownership and copyright. After describing the transnational trade in illustrations of the news in general terms, it zooms in on one of the first court cases involving a transnational claim of copyright over images of news. In February 1856, John Cassell (1817–1865), the British publisher of Cassell’s Illustrated Family Paper (1852–1867), sued his rival, George Stiff (1807–1873) of the London Journal (1845–1883) for publishing images from the French illustrated newspaper l’Illustration (1843–1944) ‘to which the plaintiff claimed having the exclusive right’. Stiff defended himself by stating that the images were ‘copied from photographs publicly offered for sale in Paris’.  

Cassell v. Stiff is an exemplary case in the joint history of the transnational trade in images of the news and that of copyright on visual material published in newspapers and periodicals. This chapter argues that the mid-1850s should be seen as a transitional period in this joint history: one in which new technology, most prominently photographic techniques used to copy images, and new governmental rules put the existing transnational business practices of European illustrated newspapers under pressure.

In his introduction to a recent special issue of the Victorian Periodicals Review, Will Slauter noted two gaps in research concerning copyright and nineteenth-century periodicals. First, he observed a limited focus on visual material, ‘despite the fact that the growing presence of images in print raised important questions for copyright law’. Second, he discerned the need for more study of the ‘international and colonial dimensions of copyright’ for newspapers and periodicals.  

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8 Smits, pp. 6–9.
10 Ibid.
a case which stands at the crossroads of copyright, news, visual material, new technology, new governmental regulation and transnational trade, this chapter hopes to take a first step in filling these gaps.

Trading Visual News, 1842–1860

In recent years, often aided by digital methods, scholars have pointed to the national and transnational circulation of articles in newspapers and periodicals in the nineteenth century. Focusing on ‘reprint’ or ‘scissor-and-paste’ practices, they not only underlined the intrinsically networked nature of the nineteenth-century press but also reframed our understanding of the production of news. Articles were often not original pieces but instead copied or translated from other publications. Although new methods are being developed, we have, as of yet, no viable technique which can be used to automatically trace the reprinting of images. Even without these techniques, the lack of interest in the transnational distribution of images, as compared to text, is striking, especially if we consider the fact that images seem to make for better transnational products than texts. First, in the mid-nineteenth century, images were often presented and perceived as speaking a universal language. During the World Exhibition of 1851, the Illustrated London News wrote: ‘The artist speaks a universal language […]’ Pictures, then, have a great advantage over words, that they convey immediately much new knowledge to the mind: they are equivalent, […] to seeing the

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objects themselves; and they are universally comprehended’. Second, the production of images was more expensive than that of texts. In 1885, Mason Jackson, a former art director of the *Illustrated London News*, described the production of illustrations of the news in five stages: sketching, drawing, engraving, electrotyping and printing. Every stage, from the taking of on-the-spot sketches by ‘special artists’ to the teams of engravers working round the clock in order to provide timely visual material, depended on highly skilled labor and substantial investment.

There had been a transnational market for images, in the form of woodblocks, before the nineteenth century. However, the advent of mass-media print formats, partly made possible by the invention of the steam press, and the invention of new techniques which could be used to copy images, transformed the transnational trade in images. In the 1830s, Charles Knight (1791–1873), the publisher of the famous British *Penny Magazine* (1832–1845), already sold stereotyped copies of engravings to eleven different European publications.

In order to make a stereotype, an engraving was covered with grease and brushed with a mixture of plaster, mostly consisting of gypsum. After the engraving was gently taken out, a negative matrix of the original image in plaster appeared. Subsequently, a mixture of iron and antimony was poured into the mold, leaving an exact copy of the original engraving. The more efficient process of electrotyping, which, because of its use of electric current, required less metal, enabled illustrated newspapers to sell relatively cheap copies of their engraved images on the international market. As the *London Standard* remarked in 1855:

*The quickened process of engraving, together with divided work upon blocks, and, most of all, the electro-type, in all its various forms, have*
combined to render pictorial journalism what it is at the present day, when its international character is emphasized by the interchange of clichés.\footnote{‘New Books: the pictorial press’, \textit{London Standard}, 26 May 1855.}

Crucially, up until the late 1850s, the transnational trade in images of the news required a transaction of a physical object, the stereo- or electrotyped cliché, between the original producer of the image and a foreign partner. The cliché had to be transported from the original producer to the publication that planned on reprinting it. As opposed to texts, which could be translated or copied directly from a printed copy, the need for a physical transaction between the original producer and the publisher planning on printing a cliché diminished the need for protection under law, for example in the form of bilateral or international copyright agreements. After all, copying an illustration from a printed copy always entailed the costly redrawing and re-engraving of the illustration. Copying without the use of stereo- or electrolyte technology not only made little economic sense, but was also too time-consuming for the fast-moving pace of illustrated newspapers.

It is hard to find historical evidence of the transnational trade in images. Publishers did not advertise the fact that they obtained illustrations from foreign publications. However, besides the obvious evidence of the same images being republished in different European illustrated newspapers, a couple of cases point to the intensive business relations between different European publishers.\footnote{For more examples see: Smits, \textit{The European Illustrated Press}, pp. 91–116.} In 1847, for example, \textit{il Mondo Illustrato} (1847–1849, 1860–1861), the first Italian illustrated newspaper, provided its readers with an overview of its production costs. Its publisher Giuseppe Pomba (1795–1876) spent 8,000 lira, or roughly 315 pounds, on ‘engravings and clichés purchased from English and French newspapers’.\footnote{‘Al public Italiano’, \textit{Mondo Illustrato}, 13 November 1847.} In comparison, the production of original ‘Italian’ images was a very prominent item on the budget: ‘drawers on paper and wood’ and ‘engravers in Turin’ were paid almost 12,000 and roughly 26,500 lira respectively, while ‘boxwood for engraving, its preparation, tools and other expenses of the engraving workshop’ cost another 2,400 lira.\footnote{Ibid.}
Around 1860, some publishers were accused of using newly developed photographic techniques, often described as photoxylography, to print unauthorized copies of illustrations from other publications. In the mid-1850s, several photographers in Britain and in the United States claimed to supply — or were accused of having supplied — well-known illustrated newspapers with the technique to photographically copy images directly on a woodblock. An 1882 book about these new techniques described how they had changed the transnational trade in illustrations:

Our cheap illustrated newspapers cannot pay for wood blocks […] and a less expensive substitute is imperative. Photography stands ready to lend a hand in the dilemma. Any picture that appears in the foreign illustrated journals of sufficient interest is made to do duty again over here.

The most important consequence of the new techniques for the transnational trade in illustrations was the fact that they eliminated the necessity of exchanging a cliché between its owner and the publication planning on reusing it.

The new techniques especially altered the relationship between British and American publishers of illustrated newspapers. In 1843, the Illustrated London News could still somewhat smugly note: ‘Our own Journal, […] is got up in such an expensive form that the Yankees cannot reprint it, and the American artist would not attempt to copy our fine engravings: we are, therefore, our own cure against a reprint’. Seventeen years later, a British newspaper described how the Bostonian Ballou’s Pictorial Drawing-Room Companion used ‘a detestable invention of transferring daguerreotypes to plate for engraving’ to copy British illustrations. By that time, the photographic copying of images was already widespread. As the Worcester Journal noted: ‘The proprietors of the Illustrated London News, Punch, and other English illustrated publications, should memorialize [petition] the Senate for the protection against the Yankee robbers, who reproduce their work as original drawings’.

In 1870, an article in an American magazine discussed the large-scale copying of continental illustrations by American publishers: ‘Piracy of this kind is practised by all the illustrated papers in America, just as it is practiced by the editors and publishers of literary periodicals and books’.\(^{28}\) However, the article made an important distinction between Harpers Weekly (1857–1916), which photographed ‘the [British] Graphic upon wood-blocks, engraves and prints them as its own’, and Frank Leslie’s Illustrated Newspaper (1855–1922), which published copies of images from several European illustrated newspapers on the same page. However, by reducing the images in size, which became relatively easy using the photographic techniques, and placing them under the header ‘The Spirit of the European Press’ Leslie’s actively acknowledged its copying. In a letter to the editor of the Gentleman’s Magazine, Leslie explained that he was not guilty of piracy because nobody could own descriptions of news events: ‘We take these pictures on the same principle that the European newspapers copy out from American newspapers such American intelligence and criticism on current affairs as, it is supposed by them, may interest their readers, and vice versa’.\(^{29}\)

In the mid-1850s, the application of a range of new photographic techniques to copy images resulted in the fact that the production process of illustrations of the news alone no longer sufficiently protected publishers against the reuse of their images. The article in the Gentleman’s Magazine argued that producers of illustrations of the news could only remedy this situation by seeking legal protection under copyright law: ‘The absence of an international copyright law, places the whole of the English press at the disposal of the American publishers. And they avail themselves right merrily of everything worthy their attention’.\(^{30}\) Cassell v. Stiff is one of the first cases where internationally-operating publishers sought protection under the law for a trade that had been previously been protected from piracy by its production process.

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\(^{29}\) Ibid., 754.

The Parties

Cassell v. Stiff involved three periodicals, two published in London and one in Paris, and four publishers. Started in 1843, the French periodical *l’Illustration*, the first continental imitator of the *Illustrated London News*, was the illustrated newspaper of the French-speaking, world-wide *beau monde*. The *London Journal*, started in 1845, and Cassell’s *Illustrated Family Paper*, started in 1853, each targeted a mass audience with a cheap price and a combination of news, penny fiction and ‘popular’ illustration. Especially during the Crimean War (1853–1856), the two periodicals and their publishers were fierce competitors, hoping to profit from the huge interest in everything related to the war, and an almost insatiable public appetite for visual material relating to it.

After publishing copies of British images in the early 1840s, *l’Illustration* started to produce its own illustrations on a large scale at the end of the decade. The engraving firm ABL, a joint venture of the Paris-based British engraver John Andrew and the French engravers Jean Best and Isodore Leloir, produced the majority of these images. Because of their quality, the French illustrations were in high demand. As a result, *l’Illustration* increasingly sold electrotyped copies of its images all over Europe. In 1863, Paul Schmidt, a German printer who worked in Paris, noted in a trade journal: ‘*L’Illustration* provides *clichés* from its woodcuts for two centimes per square centimeter and *galvanos* for three centimes, and sells them for roughly 40,000 Fr. a year in total’. The publication also sold the ‘exclusive right’ to buy its illustrations to publishers in other countries. As we will see, this meant that publishers wishing to print *l’Illustration*’s images, like Cassell, had to pay the French periodical for exclusive rights in their respective countries.

In contrast to the venerable *l’Illustration*, the *London Journal* and Cassell’s have received considerably less scholarly attention. Most studies

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have focussed on popular fiction in both publications.\textsuperscript{34} In both cases, the substantial and sustained publication of images of the news has mostly been overlooked. This is especially surprising for Cassell’s, because, as Andrew King noted, the periodical was explicitly designed to ‘look like a version of the \textit{ILN [Illustrated London News]}, comprising the same newspaper-sized page [and] the same extravagant size of illustrations on its front pages’.\textsuperscript{35} While the second or new series of Cassell’s started in 1857 certainly focused on fiction, the three volumes of the first series (December 1853–December 1856) were centred on a single news event: the Crimean War. Around fifty percent of all the illustrations and articles in the first three volumes concerned the war, while many other images were indirectly related to it.\textsuperscript{36}

The \textit{Illustrated London News} was not the only example for Cassell. The business model of his periodical, which focused on selling high volume and maintaining low cost, was partly an imitation of the \textit{London Journal}. Its publisher George Stiff, who worked as a foreman for the engravers of the \textit{Illustrated London News} in the mid-1840s, started his career in 1843 by publishing the \textit{Illustrated Weekly Times}, a cheap imitation of the famous illustrated newspaper. Although this venture quickly failed, the \textit{London Journal}, which Stiff started in 1845, became a tremendous success, selling close to 500,000 copies a week in the mid-1850s.\textsuperscript{37}

It seems that Cassell’s was especially started to ride the wave of interest in the Crimean War with high-quality images of the news. Its circulation quickly rose from around 150,000 copies after its launch in 1853 to an astonishing 500,000 copies at the end of 1854. These numbers are even more significant if we contrast them to the 150,000 copies that the \textit{Illustrated London News} sold each week, or the 50,000 copies sold by

\begin{footnotesize}
\begin{itemize}
\item[\textsuperscript{36}] Smits, p. 131.
\item[\textsuperscript{37}] Johnston-Woods, p. 351.
\end{itemize}
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The Times each day in the same year. Based on these figures, it could be argued that Cassell’s was the most important shaper of the image of the Crimean War in Britain, meaning that no other (illustrated) news publication reached a comparable audience.\textsuperscript{38}

During the Crimean War, Cassell’s constantly outperformed its main competitor the London Journal. As King noted, it reported and depicted events earlier than the Journal, with larger cuts, and even ILN-type supplements. […] The prints in Cassell’s recall the urgent sense of immediacy characteristic of the ILN much more successfully than the Journal’s new attempts at the same.\textsuperscript{39}

However, being the cheapest, most newsworthy and most popular illustrated publication in Britain did not mean that the content of Cassell’s flagship publication was particularly British. In 1854 the cheapness of Cassell’s left the reviewer of the Kerry Examiner and Munster General Observer, a provincial newspaper in the Southeastern Irish city of Tralee, confused.\textsuperscript{40} How was Cassell able to supply his readers with beautiful illustrations ‘of many of the scenes referred to in the present war between the Russians and the Turks’ for only a single penny?\textsuperscript{41} The answer to this question is simple: he bought electrotyped clichés from images first published in l’Illustration.\textsuperscript{42}

The Case

On 2 February 1856, articles appeared in several provincial British newspapers, discussing Cassell v. Stiff.\textsuperscript{43} Cassell sued Stiff to restrain him from ‘publishing certain numbers of his journal, containing views of the

\begin{flushleft}
\textsuperscript{38} Smits, p. 131. \\
\textsuperscript{39} King, p. 100. \\
\textsuperscript{40} ‘Cassell’s Illustrated Family Paper’, Kerry Examiner and Munster General Observer, 31 January 1854. \\
\textsuperscript{41} Ibid. \\
\textsuperscript{42} King suggests that Cassell’s illustrations were made by former employees of the Illustrated London News. While some images were indeed made by the engravers he mentions, the vast majority, 295 of the total 361 illustrations of the war, were bought from l’Illustration. Furthermore, many articles concerning the war were word-for-word translations from the French periodical King, p. 100; Smits, p. 156. \\
\end{flushleft}
Paris exhibition, on the ground that they were copied from sketches in the French paper, *L’Illustration. Journal Universelle*, to which the plaintiff claimed having the exclusive right.\(^{44}\) According to newspaper reports, Stiff defended himself by stating that he copied the illustrations of the Paris exhibition ‘from photographs publicly offered for sale in Paris and that none of the sketches in question were copied by him from the French paper referred to’.\(^{45}\)

King correctly sees the case as one of the fronts in a fierce battle for control of the penny market between Cassell and Stiff in the mid-1850s. He notes that the ‘judge accepted Cassell’s case without even listening to Stiff’s defence’.\(^{46}\) However, a report on the case in *The Times* suggests the opposite outcome. Vice-Chancellor William Page Wood, the judge in the case, ‘without calling on the counsel for the defendants, said that the question was far too doubtful a one for an injunction till the plaintiff’s right had been tried at law’.\(^{47}\) In other words, Cassell had asked the judge to issue an injunction banning the sale of issues of the *London Journal* that contained illustrations copied from *l’Illustration*, prohibiting the same journal from using copies of illustrations from the French periodical in the future, and giving Cassell the right to a part of the profits of the sale of the issues containing the French illustrations. Furthermore, Cassell also demanded that Stiff pay all the legal fees. However, VC Page Wood refused to issue the injunction but allowed Cassell to establish his claim through trial in a court of law.\(^ {48}\)

What was the exact nature of the deal between Cassell and French publishers, which enabled him to provide his readers with high-quality images of the Crimean War? We can piece together the specifics from various reports of the court case. In June 1855, Cassell paid Armand le Chevalier and Jean-Baptiste-Alexandre Paulin, the then-publishers of the French publication, for the exclusive right to reproduce material from *l’Illustration* in the United Kingdom.\(^ {49}\) An article in the *Art Journal*

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\(^{45}\) Ibid.


\(^{49}\) Kay and Johnson, *Reports of Cases*, II, p. 279.
(1850–1880) notes that Cassell paid the French publishers the heavy sum of 12,500 francs, or around 500 pounds, annually for the exclusive right to publish in Britain all texts and illustrations first appearing in *l’Illustration*. The British publisher claimed that this agreement entitled him to the ‘exclusive right and liberty of printing, publishing and translating, and selling within the dominions of her said present Majesty’ to all the ‘original articles and papers, prints, drawings, woodcuts therein respectively from time to time appearing’ in *l’Illustration*.

It is important to note that, since its foundation in December 1853, *Cassell’s* already contained many copies from *l’Illustration* but that both publications only deemed it necessary to formalize their agreement in the summer of 1855. This discrepancy of eighteen months can mean two things. It is possible that, before June 1855, *l’Illustration* sold copies of its illustrations to more than one British publication. In this scenario, hoping to get an edge over a prominent competitor, Cassell paid the French publishers to acquire exclusive access to their illustrations. In the second scenario, Cassell noticed, or was alerted to the fact, that Stiff had started to print unauthorized copies of illustrations from *l’Illustration*. In other words, using photographic techniques himself, or relying on the services of others, Stiff published copies of the illustrations without paying the French publishers. The last scenario seems the most plausible. As Slauter notes, in the summer of 1855 fear of unfair competition reached unprecedented heights, following the decision to abolish the stamp duty — a tax of one penny per issue on publications that sold for less than six pence and contained news. Cassell’s efforts to seek protection for his visual news can be seen as a part of a broader legislative push by London newspapers to enact a special copyright for news in general.

According to the bill of complaint filed at the Court of Chancery on 19 December 1855, Cassell discovered on 1 November 1855 that the *London Journal* had published illustrations that were copied from *l’Illustration*. The bill specifically mentions the issues of the *London Journal* of 25 Augustus, 15 September, 29 September, and 3 November. Some images

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50 ‘Copyright in Engravings’, *Art Journal*, 1 March 1856.
51 Kay and Johnson, II, p. 280.
were ‘exact copies’ and even included the names of the French artists and engravers, who often signed their work in the lower-left and right corners of the illustrations. However, other images were ‘reduced in size, and others being altered or varied in merely a colourable manner, and the names or designations affixed to such pirated prints, (...) being altered or varied in merely a colourable manner’. The reference to the altered sizes of the illustrations suggests that Cassell claimed that Stiff, or the parties he bought the illustrations from, used photographic techniques to transfer the French illustrations onto new woodblocks. As the practices of Frank Leslie mentioned earlier suggest, it was relatively easy to alter the size of illustrations using photographic techniques.

The description of the case in the Art Journal suggests that the VC Page Wood, did not immediately grant an injunction because he argued that ‘the question of construction on these Copyright Acts, in connection with the facts, were much too doubtful to be decided upon a motion for an injunction, until the plaintiff had established his legal right in action’. Cassell needed to prove that he had legal title, or ownership, over the images in question, that he had adhered to the provisions of the law, and that Stiff’s actions constituted an infringement of copyright. As a result of the transnational dimensions of the case, these three elements were hard to prove. The description in the Art Journal referenced these difficulties, noting that the judge had especially ‘grave doubts upon the 15th. and 16th. Vict., c.12, sec. 7’. Here the judge referred to the International Copyright Act of 1852.

In the history of copyright legislation, the 1852 act, which was based on the French-Anglo Copyright Treaty of 1851, is primarily discussed in relation to translations of literary works. The treaty served as a model for several bilateral copyright agreements: for example between the United Kingdom and the German city-state of Hamburg (1853)

53 Kay and Johnson, II, p. 280.
54 ‘Copyright in Engravings’, Art Journal, 1 March 1856.
55 Ibid.
Ronan Deazley notes that several provisions in the 1851 treaty between the United Kingdom and France ‘sought to delineate certain uses of protected work that would not otherwise be considered to be unlawful’. Article 5 of the treaty, which provided that ‘articles extracted from newspapers or periodicals published in either of the two countries, may be republished or translated in the newspapers or periodicals of the other country, provided the source from whence such articles are taken be acknowledged’ and subject to a right of the author to specifically forbid the republication of the same, is especially important here. When this provision of the treaty was incorporated in domestic legislation — the 1852 act — the British legislature considerably changed the substance of Article 5, making a distinction between ‘political’ and ‘non-political’ material in newspapers and periodicals. Foreign articles containing ‘political discussion’, could always be reprinted in Britain, regardless of ‘whether the authors had “signified his intention of preserving the copyright therein”’. This meant that foreign authors could only claim copyright on articles that were of a ‘non-political’ nature.

Cassell hoped to use the 1852 act to protect his exclusive right to reproduce images from l’Illustration. To do so, he not only had to prove that these illustrations were ‘non-political’ in nature, which would allow the French publishers to lay claim to their copyright; the plaintiffs, Cassell and the French publishers, also had to satisfy what Deazley calls a ‘series of considerably burdensome practical and legal conditions’. First, the owner of the original work had to signify ‘his Intention of preserving the Copyright therein, and the Right of translating the same, in some conspicuous Part of the Newspaper or Periodical in which the

58 Deazley, ‘Commentary’.
59 Ibid.
60 Ibid.
61 Deazley.
same was first published’. This first provision explains the message that had started to appear on the front page of *l’Illustration* since the summer of 1855: ‘Regarding international treaties, the editors reserve the right of reproduction and translation abroad’. Second, within three months after the publication abroad, a copy of the original work had to be deposited at Stationers’ Hall. The description of the case in the *Art Journal* notes how Chevalier and Paulin travelled to London to register the copyright and deposit the most recent issue of *l’Illustration* at the Stationers’ Company. And, finally, the person claiming the copyright had to exercise his right by publishing the work in the UK within three years after the registration and deposit; otherwise, the work would fall into the public domain.

Why did VC Page Wood refuse to grant Cassell an injunction after the initial hearing in the case? As mentioned above, it was especially the seventh section of the act that made him hesitant. This section explicitly deals with the distinction between ‘political’ and ‘non-political’ material in newspapers and periodicals, so one might wonder whether the judge was concerned that illustrations of the news could be considered ‘political’ material. If they were of a political nature, then the French publishers, and Cassell by extension, could not have established their rights under the 1852 act.

From a published report of the case, it becomes clear that VC Page Wood did not focus on the distinction between political and non-political content. In his ruling, he first argued that Cassell and his French partners had sufficiently signified their ‘intention of preserving the copyright’ of *l’Illustration* in Britain. However, he believed that Cassell had failed to ‘comply with the requisitions of the act’. He and his French partners only registered the latest issue of *l’Illustration* in June 1855, which did not contain any of the illustrations in question, and, on the basis of this single entry, claimed copyright on the material in all subsequent issues. As Slauter notes of national copyright, both the Copyright Act of 1814

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63 ‘Vu les traites internationaux, les éditeurs se réservent le droit de reproduction et de traduction à l’étranger’: ‘Frontpage’, *l’Illustration*, 4 August 1855.
64 Kay and Johnson, II, p. 284.
65 Ibid.
8. Illustrations of News in the Mid-Nineteenth Century

and the Literary Copyright Act of 1842 only required the first issue of a periodical to be registered in order to ‘enjoy the benefits of the statute for all subsequent numbers’.\(^\text{66}\) Considering the fact that *l’Illustration* had been published since 1843, the judge argued that, in this case, the first issue as meant in the act could only mean the first number of *l’Illustration* published after the act came into effect in 1852. However, the French publishers had only registered one issue in the summer of 1855 and, as a result, could claim copyright only for this specific issue and not for subsequent issues.

This ruling must have left Cassell confused and angered, not only since he had gone to great lengths to meet the criteria of the act, but also because the description of the case in *The Times* notes how he had in fact tried

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\text{to cause an entry to be made in the registry-books of the Stationer’s Company of the four numbers of the periodical *l’Illustration* from which the alleged piracies had been taken, but such an entry had been refused by the company as being unnecessary.}\(^\text{67}\)
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However, Vice-Chancellor Wood stated that ‘the public’ could not

\[
\text{be bound if there is any neglect at the Stationers’ Hall as to registration. [...] if there be any neglect to register, the remedy of the publisher must be against the parties causing such neglect. It cannot affect those who are thereby kept in ignorance of the existence of the copyright.}\(^\text{68}\)
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In other words, Cassell was free to sue Stationers’ Hall, but their mistake would not be taken into account in his case against Stiff.

VC Page Wood did not grant Cassell an injunction, but allowed him to press forward with a trial in order to establish his case. This seems to have been his intention, which is not surprising considering the trouble he already went through. However, it also seems that Stiff managed to successfully stall the proceedings. After the hearing at the end of January, VC Page Wood granted Stiff’s lawyers an extra fourteen days to prepare their arguments. Several additional two-week extensions were

\[^{66}\text{Slauter, ‘Introduction’, p. 587.}\]
\[^{67}\text{‘Cassell v. Stiff and Vickers’, The Times, 25 January 1856.}\]
\[^{68}\text{Kay and Johnson, II, p. 287.}\]
granted in February, March, and April 1856.\textsuperscript{69} Following this period, the trail in the archive goes cold. Cassell might have dropped the case or settled the matter out of court. In addition to stalling the case, Stiff also started several countersuits, in what King describes as a ‘clear quid pro quo’.\textsuperscript{70} In one of them, Stiff claimed that Cassell’s contained a copy of an illustration of the main building of the 1857 Art Treasures of Great Britain Exhibition in Manchester, which had originally appeared in the \textit{London Journal}. The tables had turned. A newspaper description of the case noted how Stiff complained of ‘the practice in this country of using copies of engravings published in France, which, in fact, were borrowed from English journals, the proprietors of which had a copyright in them’.\textsuperscript{71} Now it was Cassell’s turn to claim that he had bought the illustration in Paris, having been assured ‘that these representations ... were original, and not derived from an English work’.\textsuperscript{72} However, because the illustration was originally produced in Britain and national British copyright law did not involve the same burdensome formalities as the 1852 International Copyright Act, the judge granted Stiff an injunction.\textsuperscript{73}

\textbf{Conclusion}

John Cassell’s success as a publisher of books and periodicals was to a large extent based on his contacts with foreign publishers, authors, artists, and engravers. A contemporary biography notes how he often travelled overnight to Paris to ‘see a number of friends and transact business with artists and engravers’.\textsuperscript{74} Another biography remarks that he often visited Paris ‘where he was well known, and where he was thus enabled to effect a very considerable business in the exchange and purchase of illustrations for his various works’.\textsuperscript{75} After Cassell died in 1865, his wife remembered how several French friends, including Jean

\textsuperscript{69} Kew, The National Archives, Chancery, Entry Books of Decrees and Orders, C33/1033 fol 387v; C33/1034 fols 602v, 607v, 672.
\textsuperscript{70} King, p. 100.
\textsuperscript{72} Ibid.
\textsuperscript{73} ‘Stiff v. Cassell’, \textit{The Times}, 18 March 1856.
\textsuperscript{74} Holden Pike, \textit{John Cassell} (London: Cassel and Company, 1894), p. 108.
\textsuperscript{75} Henry Curwen, \textit{A History of Booksellers, the Old and the New.} (London: Chatto and Windus, 1873), p. 272.
Best of the engraving firm that supplied *l’Illustration*, members of the influential Hachette publishing family, and Michel Lévy the owner of *l’Univers Illustré*, came to pay their respects at his funeral in London.\(^{76}\)

On the basis of the 1852 International Copyright Act, Cassell and his French partners tried to protect one of their arrangements formally and claim the right to exclusive use of French illustrations of the news in Britain. However, according to VC Page Wood, they failed to comply with the requirements of the act. The court case shows that the 1852 act was designed to provide copyright protection in Britain and France for (translations) of literary works, including non-political articles and illustrations in newspapers and periodicals. However, the provisions concerning the distinction between political and non-political material as well as the formalities required by the act were discouraging to say the least. VC Page Wood interpreted them in such a way that it became unpractical to claim exclusive use over content in any foreign periodical that was started before 1851. After all, if the very first issue of a publication could not be registered, the act apparently required registering every single issue at Stationers’ Hall.

*Cassell v. Stiff* sheds light on an important transitional phase in the history of visual news culture. First, it underlines the fact that Cassell and his French partners had to resort to copyright laws, which had always been focussed on texts, to protect their agreement in the first place. In the 1840s and early 1850s, illustrated newspapers were protected from unauthorized reuse by their production process. Because publishers had to exchange money for *clichés*, the transnational trade of illustrations always necessitated contact and a physical transaction. *Cassell v. Stiff* shows that some publishers already started using photographic techniques to copy illustrations in the mid-1850s. It is likely that Stiff, who was always looking to cut costs, was an early adopter of these new techniques. This explains the fact that Cassell only claimed copyright and started to pay the French publishers for exclusive rights in the summer of 1855, more than three years after the International Copyright Act was approved by Parliament and eighteen months after he started publishing French illustrations of the Crimean War.

\(^{76}\) Curwen, p. 272.
Moreover, *Cassell v. Stiff* shows that, around 1850, the history of reproduction techniques and new laws on copyright jointly shaped the trade in illustrations. This chapter demonstrated that we can only truly understand this history from a transnational perspective. The pirating of illustrations of news often went unnoticed, because publishers were careful to copy only foreign illustrations. This is not only true for contemporary readers, but also for historians studying the nineteenth-century illustrated press. We often assume that images of the news were produced for a certain periodical, because we fail to look beyond national borders.

**Bibliography**


8. Illustrations of News in the Mid-Nineteenth Century


