

The Author and The Digital Craftsman

Situating contemporary authorship in modern creativity

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Contents

Introduction 4

Chapter 1

 Forming Ideology 6

 From Writer to Author..... 6

 Lockean Theory of Property 8

 The Three Elements of Authorship 11

Chapter 2

 Legislating Ideology 12

 The Concept of Authorship within Legal Doctrine 12

 Cementing Ideology 16

 Criticism on Authorship 17

 Concluding 19

Chapter 3

 The Modern Author 20

 The Creative Fan 21

 The Creative User 23

 Transformative Imitation 24

 The Rage Comic Phenomenon 26

 The Return of the Craftsman 28

 The Copyright Paradox 29

Conclusion 33

Sources 34

Appendix 36

Introduction

When Roland Barthes called for the death of the author in a 1967 essay by the same name, he argued for the emancipation of the reader through the demystification of the authorial figure.

The author is a modern figure, a product of our society insofar as, emerging from the Middle Ages with English empiricism, French rationalism and the personal faith of the Reformation, it discovers the prestige of the individual, of, as it is more nobly put, the 'human person' (Barthes 1967, 1)

Barthes believed that the cultural and artistic importance of the author perpetuated by literary critics nullified the actual practice of literary critique. They tried to find a "correct" meaning within a creative work that could only be interpreted through the person who created it (Barthes 1967, 1). Trying to uncover a singular truth from an interpretive text and deeming the author of such importance that the text itself became almost void of any intrinsic meaning. Barthes concluded his essay saying: "to give a text an Author is to impose a limit on that text, to furnish it with a final signified, to close the writing" (Barthes 1967, 3).

At first sight little has changed, authorship as a contemporary concept is still seen as an almost divine status given to those that are considered the source and origin of an idea. While, an author most commonly refers to someone who writes, its meaning broadly encapsulates all people who create cultural texts, be it a book, film, painting, musical composition, etc. And even though authorship is given this prestige status the requirements for being considered an author are generally vague. To better understand authorship and its cultural and academic function it is necessary to get a clearer grasp of how authorship is exactly defined. By examining authorship as a historically transformative concept this can be done effectively. The first chapters of this thesis will show that through this a contemporary vision on authorship that functions according to three basic requirements: originality, individualism and ownership. These requirements will turn out to be, perhaps surprisingly, not based on a higher artistic or philosophical truth but as result of changes within media technologies, culture, economics and law.

In the age of digital technologies and the Internet, the closed and singular nature of authorship has come under considerable stress. One finds that to a certain degree, the contemporary concept of authorship seems ill equipped to describe the type of creators and creative practices prominent in (popular) Internet culture. Why is this problematic? For one, the concept of the author is still central to current copyright laws. "Authorship is copyright's ghost in the machine (...) we often continue to picture solitary authors creating original ideas ex nihilo through their intellectual labors. This picture lies at the heart of our vision of copyright" (Bracha 2008, 188). Since the widespread use of new media and digital technologies, copyright laws have had difficulties addressing the countless ways in which copyrighted material can be shared and copied. Most of these problems revolve around the materials created by the established creative industries that see their main sources of income being threatened by these new possibilities. However, new media have also become an immense source for creative content that is created outside of these established industries, herein authorship, or the elements that are supposed to describe authorship, have become difficult to pinpoint. To a certain

degree it appears we are in the midst of a transitional period wherein the outpour of creative digital content created by amateurs is starting to warrant a serious reconceptualization of our concept of the author.

In this thesis I want to address the need to redefine authorship. In order to do this I will first be examining the precise origins of contemporary (western) authorship by creating a historical overview that focuses on the interplay of the different domains that have come to form this concept of the author. When our contemporary concept of authorship has been fleshed out it can be laid next to the emerging creative practices unique to new media and digital technologies. It will become apparent that the conception of the author in the eighteenth century and the new type of creators that have emerged in the last decade are both the result of a changing media and cultural landscape which effectively redefined the creative practice and those who participate in it. Interestingly, the eighteenth and twentieth-first century seem to approach these similar situations from very different, yet recursive, ideas of what constitutes creativity. Finally, I will conclude by determining that the type of creativity enabled by new media is not only being endangered by current copyright laws, but also by a lack of serious contemplation from academics and the artists themselves.

Chapter 1

Forming Ideology

This chapter will explore the changing concept of authorship throughout the last several centuries that occurred in Europe and the United States, starting from the early eighteenth century and going through to the early twentieth century. Doing this creates a timeline that is meant to depict not only changes within the concept of authorship but also the technological, philosophical, economical and legal developments that accompanied these changes or were responsible for them. This chapter thus poses the questions: why and how did the concept of authorship change and what did this do to how we perceive creative works?

From Writer to Author

The contemporary author is conceptualized as an individual creator of original and creative ideas; the author is positioned as the source and origin of a book or idea. This excerpt from a German economic lexicon, published in 1753, shows a very different definition of a book and its creator.

Book, either numerous sheet of white paper that have been stitched together in such a way that they can be filled with writing: or, a highly useful and convenient instrument constructed of printed sheets variously bound in cardboard, paper, vellum, leather, etc. For presenting the truth to another in such a way that it can be conveniently read and recognized. Many people work on this ware before it is complete and becomes an actual book in this sense. The scholar and the writer, the papermaker, the type founder, the typesetter and the printer, the proofreader, the publisher, the book binder, sometimes even the gilder and the brass-worker, etc. Thus many mouths are fed by this branch of manufacture (Zinck, 1753, as cited in Woodmansee 1984, 1).

In the above quote it is stated that a book is used to present “the truth to another in such a way that it can be conveniently read and recognized”. From a contemporary point of view this seems a little odd, even though this definition was quite common at that point in time. Where does this difference in the definition of the book, as well as that of the author come from? In order to understand we have to look at the changing conceptual history of authorship and the causes that can be attributed to its transformation. The above quote was written half way into the eighteenth century, an important and dynamic time when trying to understand how our current vision of authorship came to be. Authors, philosophers and legislators throughout Europe and the United States at that time were beginning to demand reform for how authorship and the writing practice as mentioned in the Lexicon should be regarded. The reasons for these demands were diverse and in most instance the result of an interplay between legal, economical, aesthetic and philosophical discourses. However, before delving into authorship's transformation in the eighteenth century it is necessary to understand what authorship had meant century's prior.

Writing in medieval Europe was a practice mostly used in order to preserve ancient wisdom. The copyist and scribe whose primary job was to preserve these important wisdoms were valued above the authors who created new work. Additionally, as most literature was aimed at a relatively small number of people, mostly courtiers, it was seen as communal property. Thus individual production, and more importantly, control over their own created work was uncommon (Boyle 1988, 631). Writing was considered a way of packaging the "truth" in a structured and understandable manner in order to correctly convey it to an audience. Unlike now, the ideas communicated in a text were considered part of the public domain, common truths, and not an author's intellectual and creative property. Furthermore, the status of the author, which we now hold in relatively high regard, was at that point almost non-existent. As the aforementioned quote shows, authors were considered equally important for working on a book as the papermakers, typesetters, proofreaders, publishers, etc. This significant lack of author-worship compared to our current standards, comes first and foremost from the way the writer of the Renaissance and neoclassical period was viewed. Here the writer was seen as a vehicle or instrument to convey existing truths and ideas, able to communicate these ideas by perfecting preexisting writing skills and techniques. The writer was therefore primarily considered a craftsman of the written word. The craftsman was seen as a very pragmatic laborer who produced materials that were meant to satisfy the audience of the court, mostly because it was one of the few ways to make a living (Woodmansee 1984, 426).

Apart from a craftsman who had to adhere to preexisting rules the writer was sometimes understood as being 'inspired'. This was used to address instances in which the writer went beyond the established craft and introduced something new or remarkably good in his writing. These moments of inspiration were considered as coming from higher forces beyond the author, for example a muse or even God. It was therefore generally assumed that in these cases the author was not responsible for his acts (Woodmansee, 427). These two elements, craftsmanship and inspiration, do not compliment each other particularly well as craftsmanship relies on the ability to learn a body of existing rules while inspiration, exclusively, referred to something outside of these rules. Nevertheless, this interpretation of authorship was kept alive well into the second half of the eighteenth century at which point more and more differing opinions on authorship began to form throughout the west.

For one, eighteenth-century theorists began departing from the preexisting concept of authorship in two significant ways. The concept of the author as a craftsman was minimized and in most cases simply discarded, while the idea of inspiration was thoroughly embraced. However, inspiration was viewed radically different from its medieval incarnation, instead of inspiration coming from external sources these theorists envisioned inspiration as coming solely from within the author. " 'Inspiration' came to be explicated in term of original genius, with the consequence that the inspired work was made peculiarly and distinctively the product- and the property - of the writer" (Woodmansee, 427).

Lockean Theory of Property

These eighteenth-century theorists accompanied their arguments with theories found in John Locke's *Two Treatises of Government* written in 1689 (McLeod 2001, 20). In it, Locke introduces the idea of natural rights, which state that all humans are, by default, naturally rational and good and that therefore they should be able to enjoy the same rights. One of the most significant rights Locke addresses is the right to property, which he explains as following:

Though the Earth, and all inferior Creatures be common to all Men, Yet every Man has a Property in his own Person. This no Body has any Right to but himself. The Labour of his Body, and the Work of his Hands, we may say, are properly his. Whatsoever then he removes out of the State that Nature hath provided, and left it in, he hath mixed his Labour with, joyned to it something that his own and thereby make it his Property (Locke 1689).

According to this sentiment, Locke envisioned property, as the result of someone's labor in combination with materials found in nature and the inclusion of something that is his own. The concept that "every Man has a Property in his own Person"; can thus be interpreted as the idea that everyone has the ability to instill property in a material of labor by including one's 'Person' or personality within the labor, thereby making it original. Around the second half of the eighteenth century this sentiment, in several different incarnations, became more and more accepted and resulted in radical changes within the authorship ideology (McLeod, 21).

Even though this Lockean way of thinking about property had many advocates in the latter half of the eighteenth century there were still groups of people within the arts who had dismissed the notion of an original authorial genius and the property claim this genius would be able to make. For example, prominent classical composers like Bach, and Mozart had openly borrowed and used the work of others. Russian composer Igor Stravinsky had even said when discussing this trend throughout history that "a good composer does not imitate, he steals" emphasizing that using other one's materials in one's own work was common place in Western classical music (McLeod, 23). Stravinsky's quote seems to also point toward the composers use of "transformative imitation" which was popular among writers, painters and poets in the late seventeenth and early eighteenth century and which meant the reusing of existing materials to create something entirely new (McLeod, 24). The popularity of the method of transformative imitation shows how the Lockean theory of property was only one among multiple conceptualization of the creative practice and the author. Locke however gave authorship a new position of importance, which obviously resonated with most authors at the time.

One of the most important theorists for changing the way many thought about authorship was the English poet Edward Young. In 1759 he wrote the essay *Conjectures on Original Composition* in which he argued for an emphasis on originality within the writing practice instead of praising the mastery of its rules and traditions, a clear stab towards the vision of the author as a craftsman (Woodmansee, 430).

Let not great examples, or authorities, browbeat thy reason into too great a diffidence of thyself: thyself so reverence, as to prefer the native growth of thy own mind to the richest import abroad; such borrowed riches make us poor. The man who thus reverences himself, will soon find the world's reverence to follow his own. His work will stand distinguished: his the sole property of them; which property alone can confer the noble title of an author, that is, of one who (to speak accurately) thinks and composes: while other invaders of the press, who voluminous and learned soever, (with due respect be it spoken) only read and write (Young 1759, 24).

Similarly to Locke, Young raises the issue of property by stating that if one creates a work that is original and distinguished it is his, for it is the result of his own mind and labor and not that of preexisting ideas. Only then is the writer able to refer to himself as an author. The author Young envisions thus needs two distinct criteria which also subsequently enforce each other: ownership (property) of one's work as the result of sufficient originality within said work. Even though Young's essay was not as influential in his own country, it reached Europe's mainland where it was met with praise. Especially in Germany Young's essay resonated, the reason for this can be appointed to the financial troubles German authors were facing at that time. Unlike England, Germany was in a transitional phase "between the limited patronage of an aristocratic society and the democratic patronage of a marketplace" (Woodmansee, 431). It is important to note that the eighteenth century showed an explosive increase in literacy. In England for instance, literacy rose from 30% in the 1640's to 60% in the mid-eighteenth century and other European countries like Germany show similar increases (Melton 2001, 82). This rise of literacy during the eighteenth century can also be seen as both fueling and reflecting the dramatic explosion of print culture during this same period (Melton, 86). Even though the German middle class was rising and with the increase in literacy the demand for reading materials equally so, the legal and economical arrangements, institutions and traditions which were meant to facilitate writers were unable to support the increase in professional authors (Woodmansee, 431). During the 1760s, for example, there were around 2000 to 3000 authors, in 1791 this number had grown to whopping 7000 (Melton, 123). Young's ideas concerning author's ownership of his own work were thus in line with the demands of the increasing number of German writers wanting a better and more stable compensation for their works. German philosophers like Johann Wolfgang von Goethe, Immanuel Kant, Johann Gottlieb Fichte and Johann Gottfried von Herder agreed with Young's sentiments and build further upon it through their own writings (McLeod, 19). Fichte, for instance, argued in the essay "Proof of the Illegality of Reprinting: A Rationale and a Parable" that an author had a proprietary claim over the *form* his or her writing takes (McLeod, 19). This meant that ideas and concepts an author conveys within a text are the common property of both the author and the reader, however, the form in which these ideas and concepts are conveyed are the exclusive property of the author. In Fichte's own words he describes this as such:

(E)ach writer must give his own thoughts a certain form, and he can give them no other form than his own because he has no other. But neither can he be willing to hand over this form in making his thoughts public, for no one can appropriate his thoughts without thereby altering their form. The latter thus remains forever his exclusive property (Fichte 1793, 3)

Fichte thus appropriated Young's stance on originality by claiming that originality lay in the form through which a common idea could be communicated. This interpretation of originality was unlike most others from that time and would remain to be in the decades following. It was different because it did not claim something intangible, like an idea, to be measurable and thus relied solely on the way in which these ideas could be expressed to determine its originality.

Goethe argued that the writing practice was a combination of the author expressing the external world by combining it with his or her own internal world. The combination of both would create unique ideas or at least new interpretations of reality (McLeod, 20). The characterization of originality as a critical value within cultural production developed during the same time Locke's concept of personal property grew in prominence among authors, publishing houses and philosophers. "Just as Locke understood property as being created when a person mixes one's labor with materials found in nature, the author's "property" became "his" own when he stamps his personality on the work – doing this in an "original" manner" (McLeod, 21). This Lockean way of thinking about property became more and more common in the latter half of the eighteenth century and entered the legal debate in two pivotal literary property cases: *Millar v. Taylor* (1769) and *Donaldson v. Beckett* (1774).

The *Millar v. Taylor* case revolved around bookseller Andrew Millar who had bought the rights to James Thomson's poem "The Seasons". However, after the term of copyright had ended, publisher Robert Taylor began printing the poem in his own publications. Millar sued Taylor, fighting for a perpetual common law right that would essentially oppose the main copyright law of that time, the Statute of Anne. The Statute of Anne, conceived in 1710, granted the author or right holder the exclusive right to print his or her own material. However, it gave the bookseller that right for a limited term only (Lessig 2004, 87). Nevertheless, Judge Lord Mansfield controversially sided with Millar, giving the bookseller a perpetual right to control publications that were assigned to him. Millar died shortly after his legal victory and his rights to "The Seasons" were sold to a syndicate of printers that included Thomas Beckett (Lessig, 92). As history tends to repeat itself, bookseller Alexander Donaldson released an unlicensed publication of Thomson's poems. Not surprisingly, Beckett got an injunction against Donaldson and the case *Donaldson v. Beckett* drew a lot of attention throughout the country as Mansfield's introduction of perpetual rights had been controversial a decision. Eventually, Donaldson came out the winner and the short-lived idea of perpetual copyright was rejected. Now copyright was fixed for a limited time only and as a result the public domain had been born.

The Three Elements of Authorship

It becomes clear that during the eighteenth century the vision of the author transformed rather drastically from a craftsman to a creative genius. The author, as an individual, became central to the writing practice and was no longer seen as just part of a larger group of laborers. Subsequently this central figure was deemed the sole owner of his written work, if that work was justifiably original. Originality was thus used to discern substantial differences between authors and their work and also to promote developments within the writing practice. It appears that three main elements were central within the changing vision of authorship: individualism, originality and ownership (Bracha, 2008, 192). These newly formed central elements would entail substantial developments for how authorship should and could function. Thus, in order to make these conceptual changes substantial there had to be a legal overhaul to protect these newly founded values and instill these (natural) rights. As we will see in the next chapter, the eighteenth century had been a time where ideology and philosophy concerning authorship came in direct contact with the economical and legal problems the authors faced. In the nineteenth century this new ideology of authorship became reality in the form of early copyright laws, most of which we still see today.

Chapter 2

Legislating Ideology

In the nineteenth century advancements within printing technologies facilitated mass-printing of books and other written materials meeting the demands for a growing market of literate consumers. The elements of the new vision of authorship were also slowly but surely being embedded within actual copyright laws additionally. However, it became clear early on that philosophical theory does not translate itself easily into legal doctrine resulting in copyright laws which were convoluted, incomplete or even contradictory to what they were proposed to enact (Bracha, 196). For a precise overview of how these copyright laws were formed in the nineteenth century the focus in this chapter will be on how these changes took place within the United States legal system.

As the previous chapter showed, three elements became central within authorship ideology: individualism, originality and ownership. The protection or requirement of these elements were therefore also at the heart of most legal developments within copyright law. The legal cases in which these elements were advocated were, similarly to the situation in Germany, a combination of ideological and philosophical theory and economical necessity. As the vision of the author creating ideas ex nihilo perpetuated throughout the nineteenth century, authors and legislators persisted that the originality of those ideas were a suitable requirement to determine rightful ownership and legal protection. As a result many argued for an originality requirement (Bracha, 200).

The subsequent debates on how a functional originality requirement could be enforced resulted in ostensibly two types of originality cases. The first type tried to be as close to the newly formed ideology of authorship as it could by judging each individual work on how generally original it was. The second type focused only on elements found within this ideology as a requirement by for instance judging a work on its merit or novelty (Bracha, 201). For the first type this meant a rather severe and complicated process in which both the form as well as the ideas conveyed within a text would be judged on their originality. It was however difficult to determine how this judging process should be enforced and to what degree a text could be deemed original “enough”.

The Concept of Authorship within Legal Doctrine

In the 1845 case *Emerson v. Davies*, Emerson sued Davies for copyright infringement, claiming that Davies had copied a large portion of Emerson’s copyrighted arithmetic book. To rightfully determine the legal course of action, the first question posed was if Emerson’s book contained anything new or original, thus entitling him a copyright. The court held that the contents of the book were indeed sufficiently new and thus making his copyright valid. The second question was if Davies’s book actually copied the work by Emerson or if it was just similar in nature. After comparing the two works the court concluded that there was enough evidence of Davies copying or closely imitating Emerson’s work and decided in favor of Emerson (Story 1845, 1). The judge

in the case *Emerson v. Davies* was Joseph Story who had written numerous opinion pieces on how originality and authorship should be viewed within copyright law. Even though Story decided in favor of Emerson he saw that an originality requirement would be problematic for he stated that every book in literature, science and art borrows, and must necessarily borrow, and use much which was well known and used before, described by Story in the following way:

No man writes exclusively from his own thoughts, unaided and uninstructed by the thoughts of others. The thoughts of every man are, more or less, a combination of what other men have thought and expressed, although they may be modified, exalted, or improved by his own genius or reflection. If no book could be the subject of copy-right which was not new and original in the elements of which it is composed, there could be no ground for any copy-right in modern times, and we should be obliged to ascend very high, even in antiquity, to find a work entitled to such eminence (Story, 619).

It becomes clear that Story not only heavily criticizes copyrights inability to subject materials to an originality requirement; he also takes a rather bold stance against the new vision of authorship that was growing in prominence at that time.

What are all modern law books, but new combinations and arrangements of old materials, in which the skill and judgment of the author in the selection and exposition and accurate use of those materials constitute the basis of his reputation, as well as of his copyright? (Story, 619)

Story creates an image of the author, which wholeheartedly contradicts the new vision of authorship. He does this by implying that the author's merit lies not within himself but in how he is able to apply his skill and judgment in using and reusing existing materials, somewhat similar to the renaissance vision of the author as a craftsman. Story thus seems to not only reject the ideological vision of originality but to a certain degree, the romantic vision of individualism as well. It is thus made clear that an originality requirement would be difficult to enforce for determining originality is a near impossible and certainly subjective process.

The second type of originality cases made a claim for an originality requirement based on the idea of merit. This meant that a copyright would only be given to works that provided substantial intellectual or artistic value (Bracha, 205). The 1829 case *Clayton v. Stone* posed the question if a price catalogue could be suitable for copyright protection. Justice Smith Thompson eventually denied the protection of the price catalogue for it could "not be considered a book within the sense and meaning of the act of congress" (Thompson 1829, as cited in Bracha 2008, 205). Thompson hereby referred to the Copyright Act of 1790, an act for the encouragement of learning, by securing the copies of charts, books and maps to the authors or proprietors of these copies. These rights were meant to provide an incentive to authors, artists and scientist to create original works by giving creators a monopoly of their own work:

The title of the act of congress is for the encouragement of learning, and was not intended for the encouragement of mere industry, unconnected with learning and the sciences (a price catalogue) must seek patronage and protection from its utility to the public and not as a work of science.

(Thompson 1829, as cited in Bracha 2008, 205)

Several years later Samuel Nelson, an American attorney and jurist from New York argued that an originality requirement should additionally be based on novelty (Bracha, 204). In the 1850's case *Jollie v. Jaques* regarding the copyright protection of a composition which had been adapted from an existing German song, Nelson stated the following:

The original air requires genius for its construction; but a mere mechanic in music, it is said, can make the adaptation. (...) The musical composition contemplated by the statue must, doubtless, be substantially a new and original work; and not a copy of a piece already produced, with additions and variations, which a writer of music with experience and skill might readily make.

(Nelson 1850, as cited in Bracha 2008, 204)

Nelson, like many other people at the time, seems to greatly value and praise the original (*ex nihilo*) construction of the composition and the "real genius" which is needed to be able to create it. Secondly, he states that an adaptation is unquestionably less than the original for he finds it merely the copying of mechanics and thus less valuable, contrary to for example the idea of transformative imitation discussed in the previous section. He continues to discard adaptations that add to and alter the original for the practice of doing that is evidently less than the original construction which required "real genius". Nelson thus felt that a creative work should have an originality requirement based on novelty; meaning that it should not in any way be reminiscent of an existing work for it would, as a result, diminish its intrinsic value.

The demand for an originality requirement was not based solely on the ideological shift authorship underwent during the eighteenth and nineteenth century but also largely fueled by economical incentives. An originality requirement was therefore primarily needed in order to determine the rightful owner of a creative work. This concept of owning intellectual and creative property became central to copyright law and changed copyright from a proprietors right to make an infinite amount of copies of "the particular combination of characters" (Grier 1854, as cited in Bracha 2008, 225) within the copyrighted work to actually owning said work as (Lockean) property. This new concept of copyright created significant differences in what would be protected compared to its former incarnation. For example, within the previous definition of copyright, abridgements, adaptations and translations were considered non-infringing works, because the combination of characters differed even though a works "essence" largely remained (Bracha, 226). Its not be hard to imagine that most authors did not like the idea of translations of their work being sold abroad without any financial compensation.

Bracha shows that there were two primary strategies which invoked authorships ideology to counter copyrights old structure. The first and rather significant argument was built on the notion that instead of applying copyright as an economic privilege it should be used to instate ownership of an intellectual object to its creator (Bracha 2008, 226). The former concept of copyright, protected a creative work on face value, it was thus limited to the words used and the combination of those words which were protected from illegitimate copying. What those combinations of words meant or how they could be perceived was of no importance. Ownership of an intellectual object would imply that there is a certain "essence" within it which can be obtained and owned, regardless of the form in which it is presented. Moreover there appeared to be a hierarchy between intellectual objects on the basis of originality. Original works were presented as superior while derivatives were seen as inferior (Bracha 2008, 226). In 1847 American lawyer and author George Ticknor Curtis wrote *A Treatise on the Law of Copyright* in which he combined all the arguments against the original conceptualization of copyright and defined how copyright protection should function from there on:

While the public enjoys the right of reading the intellectual content of a book, to the author belongs the exclusive right to take all the profits of publication which the book can, in any form, produce. (...) It is easy to imagine cases where, the use which a subsequent writer makes of a previous publication is apparently within the limits of the general right of selection, or citation or tacit adoption; but injury can be proved to be the effect, I know of no law, by which, consistently with the strict right of the previous author, such use can be pronounced to be admissible (Curtis 1847, 237-38).

Curtis makes it clear that copyright protection needed to protect the author from any form of intellectual property theft. The new copyright laws were therefore primarily used to give the author ownership of his intangible intellectual property while also severely restricting others from using similar material. Moreover, Curtis pushed the idea that a creative work captured a certain unique essence:

The property of the original author embraces something more than the words in which his sentiments are conveyed. It includes the idea of sentiments themselves, the plan of the work, and the mode of treating and exhibiting the subject. In such cases his right may be invaded, in whatever form his composition is clothed by translations affords only a different medium of communicating that in which he has an exclusive property (Curtis 1874, 292-93).

Talking about the "essence" of a creative work became more and more common place during the latter half of the nineteenth century. An example of this can be found in the 1879 treatise "The Law of Property in Intellectual Productions in Great Britain and the United States" written by lawyer Eaton S. Drone wherein he states the following: "The plot, the characters, the sentiments, the thoughts, which constitute a work of fiction, form an immaterial creation (...) The means of communication are manifold; but the invisible, intangible, incorporeal creation of the author's brain never loses its identity" (384-85).

As the nineteenth century came to an end a significant legal basis had been laid down upon which the new vision of authorship had been validated and subsequently protected. During the twenty-first century this vision would remain at the heart of copyright law (Bracha 2008, 196).

Cementing Ideology

Unlike the two centuries prior, the twentieth-century did little to alter the ideology of the author and mostly build further upon the vision of authorship that had been accepted. Because, apart from ideological reasons, the main driving force for authorships transformation during the eighteenth and nineteenth century had been economical and in the twentieth century most of the pressing economical problems for authors had been addressed accordingly, therefore there was little incentive to change. Moreover, the twentieth century showed a significant shift towards a more centralized culture industry, with clearly defined producers and consumers of the creative material that it produced.

The U.S. Copyright Act would however see two major revisions in the twentieth-century. The first revision was in 1909, this bill would primarily broaden the scope of protected works to all work of authorship, and also extend the term of protection to twenty-eight years and a one-time renewal period of 28 years. The second big revision was made in 1976, since the last revision in 1909 upcoming technological developments and the possible impact these technologies had on what might be protected by copyright needed be addressed. Television, radio, sound recordings and film would be included by extending copyright to automatically protect “original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the use of a machine or device” (1976). This meant that copyright protection would be automatically given to these works and did not require any formal acts by the creators of said work as opposed to prior copyright laws. More precisely, these ‘works of authorship’ would include:

1. Literary works
2. Musical works, including any accompanying words
3. Dramatic works, including any accompanying music
4. Pantomimes and choreographic works
5. Pictorial, graphic and sculptural works
6. Motion pictures and other audiovisual works
7. Sound recordings

Before 1976, works would fall under copyright law protection through the act of publication, unpublicized works needed to be registered through a Copyright Office. After 1967 works did not need to be registered to obtain federal copyright protection; therefore it was made a lot easier for all sorts of authors to protect their works. The length of protection was also extended further as the act provided a single term for the life of the author plus an additional 50 years, later extended to 70 in 1998 (1976). Additionally the Digital Millennium Copyright Act was added to the U.S. Copyright Act and came in to effect in 1998. This act was a response to the

increasing spread and use of the Internet and criminalized the spreading and production of technologies which were intended to bypass DRM (Digital rights management). DRM is used to control the access of copyrighted work on the internet, ideally making it unavailable for unwanted uses (Lessig 2004, 117).

Criticism on Authorship

The image of the author formed in the eighteenth century had become common in the twentieth century and as a result the author itself had become an important figure within the creative arts. Because, if the ideas found within an authors work were unquestionably his own creation he himself was deemed an important figure, perhaps even more so than what he wrote. This way of thinking perpetuated the idea of author worshipping, where the work is held in high regard because of the author who has produced it. As been addressed in the introduction of this thesis Roland Barthes questioned the importance the author in his essay "The Death of the Author". Barthes gives a similar, albeit broader, perspective on the matter as to what has been discussed in this thesis thus far:

The author is a modern figure, a product of our society insofar as, emerging from the Middle Ages with English empiricism, French rationalism and the personal faith of the Reformation, it discovered the prestige of the individual, of, as it is more nobly put, the 'human person'. It is thus logical that in literature it should be this positivism, the epitome and culmination of capitalist ideology, which has attached the greatest importance to the 'person' of the author (Barthes 1967, 1).

Barthes shows that the author's contemporary incarnation is relatively recent and the result of fundamental changes within society. However, he argues that the importance of the author undermines the actual beauty of the writing practice:

Writing is that neutral, composite, oblique space where our subject slips away, the negative where all identity is lost, starting with the very identity of the body writing (...) The image of literature to be found in ordinary culture is tyrannically centered on the author, his person, his life, his tastes, his passions, while criticism still consists for the most part in saying Baudelaire's work is the failure of Baudelaire the man, Van Gogh's his madness, Tchaikovsky's his vice. The explanation of a work is always sought in the man or woman who produced it, as if it were always in the end (Barthes 1967, 1).

Barthes argues that by positioning the author as a central determining factor within a written work we limit the way we are able to interpret said work as we are confined by the author's person. Writing, Barthes states, is all about stripping away identity by constructing meaning through a medium in which only language acts and not "the body writing". Furthermore Barthes determines that this language is only able to act if it is read, the reader is therefore an essential elements for determining a text meaning not the author, "A text's unity lies not in its origin (author) but in its destination (reader)" (Barthes 1967, 3). Therefore Barthes comes to the

conclusion that the importance of the reader can only be understood through the death of the author within the creative arts.

Ten years later Michel Foucault continued Barthes train of thought in his essay "What Is an Author?" Instead of simply stating that the author has become too prominent within literature Foucault questions the basic assumptions of authorship and the relevance of authorship as a whole. He does this by approaching the author from a social, cultural and psychological perspective. In doing so, he comes to describe four characteristics of the "author function", or the author as a function of discourse.

The first characteristic of the "author function" is that they are linked to legal system. Foucault states that determining a works authorial origin came from the possible need to punish the author in cause of unlawful and often blasphemous works.

Speeches and books were assigned real authors, other than mythical or important religious figures, only when the author became subject to punishment and to the extent that his discourse was considered transgressive (Foucault 1977, 124).

The second characteristic of the "author function" is that it doesn't affect all texts equally; this can be interpreted in different ways. A scientific text and a literary text for example treat the importance of the author differently, as the former relies more on scientific facts the author becomes of less importance to the overall contents of the text. In literary texts however the author becomes more central as the ideas brought forth in the text are, especially in the contemporary vision of authorship, solely that of the author. The second way in which we can interpret this characteristic is that throughout history the same types of texts have not always required authors. "There was a time when those texts which we now call "literary" were accepted, circulated and valorized without any question about the identity of their author" (Foucault 1977, 125).

The third characteristic of the "author function" is harder to grasp than the previous two; it refers to the process of attribution of a text to an author. Foucault describes that this process is not formed through simply attributing a text to an individual but the result of a "complex operation whose purpose is to construct the rational entity we call an author" (Foucault, 127). For example, in the 1988 article "The Search for an Author: Shakespeare and the Framers" James D.A. Boyle argues how the perception of authors has changed the way we interpret their works, and perhaps more importantly, how we determine a works artistic validity. At the time Boyle wrote his article there was a controversy concerning the true identity of Shakespeare, the question was posed if Shakespeare was actually the author of the works that had been attributed to him. The method used to determine if Shakespeare was truly the author used the meaning of a text to "identify" the author (Boyle 1988, 2). However logical this process of attribution may sound it does not address that the aspects of Shakespeare we have designated as an author, are projections we have created through our handling of his texts (Foucault 1977, 127). Meaning that we take aspects of texts by Shakespeare to create the image of Shakespeare the author, this process is therefore determined by time, place and discourse. Shakespeare the author therefore becomes a constructed and transformative entity and the process of attribution becomes

equally varied. The final characteristic Foucault describes is that the term "author" doesn't refer to the actual individual. The author is a part of the individual, an alter-ego of the actual writer.

The main thing Foucault establishes by determining the characteristics of the "author function" is that it operates differently depending on time and place. Subsequently, the "author function" provides a framework through which the concept of the author can be examined and questioned. Moreover, it gives a convincing argument for the temporality of the concept of authorship, which due to its transformative past can be deemed far from stable. Foucault concludes by romanticizing a future wherein there is no longer need for the author, and the work is able to speak for itself, a similar sentiment to that of Barthes.

Concluding

At the start of these chapters the question was posed *why and how did the concept of authorship change and what did this change do to how we perceive creative works?* By going back several centuries we came to find that authorship changed quite drastically throughout the eighteenth and nineteenth century as the result of cultural, technological and philosophical changes which were fueled by the economical and legal troubles authors were facing during that time. As such, the eighteenth century can be characterized by ideological changes while the nineteenth century cemented this changing ideology with significant alterations within the legal system, creating such things as copyright and the public domain. The twentieth century continued these changes further by including more and more under the umbrella of authorship and copyright protection. However, criticism on authorship domination within the creative arts also grew, as some people felt that the author became too significant in the process of interpreting and valuing creative works. The next chapter we will explore the ways new media and digital technologies are changing how creativity and authorship function.

Chapter 3

The Modern Author

The previous chapters focused on the historical conceptualization of the contemporary author by examining authorship in Europe and the United States throughout the last several centuries. It became clear authorship underwent drastic transformations during this time through ideological, philosophical, and legal reform. Perhaps more importantly, this process of situating the author as a transformative concept made it apparent that our current view on authorship is not as much a philosophical or artistic "truth". Rather, it is a contemporary, and more importantly, temporary conceptualization of the ever-changing practice of artistic creation. With this realization it becomes apparent that the concept of authorship should not be used to define the practice of artistic creation, rather, it should be the other way around.

With this in mind it becomes clear that during the seventeenth, eighteenth and nineteenth century changes within the concept of authorship also occurred as a result of advancements within media technologies that transformed the practice of artistic creation for the writer and the distribution of their work. Because of these developments, cost-efficient printing became an option and thus meeting the demands for a genuine market of written material became an actual possibility. Apart from media technologies, literacy was an important requirement for such a market to actually be sustainable. As has been shown, there was an explosive increase in literacy in eighteenth century Europe and the United States. As the market grew, writing became profitable, enabling people to become authors and resulting in an incredible increase in professional writers throughout the west. The concept of the contemporary author is thus the product of a changing and interconnected media landscape and audience; As a result they transformed both who was an author and the author's creative practice during the eighteenth century. This in return changed the authorship discourse, which was later cemented through legal reform during the nineteenth and twentieth century.

Similarly to the developments in the eighteenth century, we are now at a point where the explosive rise of new media and digital technologies are fueling the most fundamental changes of the last decade. In a variety of ways they have transformed and introduced new forms of communication, entertainment, etc. Moreover, these digital technologies have enabled the digitalization of all current and most previous forms of knowledge, art, and culture. Through this process of encoding, most cultural objects have been made easily accessible, distributable and transformative without fear of deterioration or loss of the original (Knobel and Lankshear 2008, 28). These developments have thus opened up new ways of (re)producing media by users with little additional effort or cost. Similar to the rise in literacy during the eighteenth century people are developing the skills to creatively interact with all the culture artifacts that have become available. We are currently experiencing a rise in media literacy because of how accustomed the younger generations have become with new media and the intensity with which they interact with them.

This chapter will focus on the possibilities of forming new conceptualizations of the author and authorship as a result of the fundamental changes in the creative practice through the use of digital technologies and new media and how these show recursive similarities to the changes examined in the eighteenth century. Additionally, this chapter will explore the different ways in which these new types of authors are currently creating digital cultural objects and the possible legal problems they face under current copyright laws.

The Creative Fan

One way new media have changed the way we are consuming older media, like television and film, is through the rise of amateur productions and reimagining's. In his book *Convergence Culture*, Henry Jenkins shows the creative and collaborative power of fan communities on the Internet through a series of diverse case studies. Throughout these case studies, Jenkins explores the idea of a *participatory culture* enabled by new media technologies that he defines as a culture with:

1. Relatively low barriers to artistic expression and civic engagement.
2. Strong support for creating and sharing one's creations with others.
3. Some type of informal mentorship whereby what is known by the most experienced is passed along to novices
4. Where members believe that their contributions matter
5. Where members feel some degree of social connection with one another (at the least they care what other people think about what they have created) (Jenkins 2009, 7).

New media have made it possible for a participatory culture to emerge as new digital technology can be used both for consumption as well as digital (re)production. Additionally the ease with which these digital productions can be distributed online has significantly lowered any significant barriers which were previously unavoidable. In *Convergence Culture* Jenkins focuses on how collaborative fan communities are able to create and add to existing media, be it television shows, movies or books. Jenkins describes that this has become possible through the process of convergence in which previously medium-specific content moves towards a state in which this same content is accessible through multiple media channels. Because of the digital technologies that formed this convergence culture the consumer becomes more empowered and is able to act as a consuming producer. As a result of this, the dynamic between the consumer and the producer drastically begins to change. For one, producers now both try to accommodate as well as, to a yet undefined degree, compete with the consumer. Nevertheless, Jenkins shows that this dynamic can be very valuable; Google Maps for example shows how both parties can benefit from an open and accessible platform. When Google Maps was launched with an open API (application program interface) a large number of users were able to tinker with the enormous amount of data Google had gathered and made accessible. This resulted in the expansion of Google Maps functionality and as of today there a millions of different ways in which this software is being

used outside of Google's direct control. However, it is important to note that even though new media almost enable these amateur modifications and alterations by design they have never been limited to them. For example, the influence early amateur radio-hobbyist had over the overall development of radio technology shows that most commercial products have always been approached by a certain segment of the population who are willing and able to expand on those products (Schäfer 2011, 79).

However, Jenkins focuses on the different ways in which this changing dynamic between producer and consumer affects artistic objects. Thereby examining how fan communities react when they are able to become active rather than passive viewers, readers and / or listeners. In the book, Jenkins provides an interesting insight into this subculture by quoting a self-proclaimed "active fan".

What I love about fandom (a subculture composed of fans who share a common interest) is the freedom we have allowed ourselves to create and recreate our characters over and over again, Fanfic (fan fiction) rarely sits still. It's like a living evolving thing, taking on its own life, one story building on another, each writer's reality bouncing off another's and maybe even melding together to form a whole new creation (...) I find that fandom can be extremely creative because we have the ability to keep changing our characters and giving them a new life. We can change their personalities and how they react to situations. We can take a character and make him charming and sweet or cold-blooded and cruel. We can give them an infinite, always-changing life rather than the single life of their original creation (Jenkins 2006, 267)

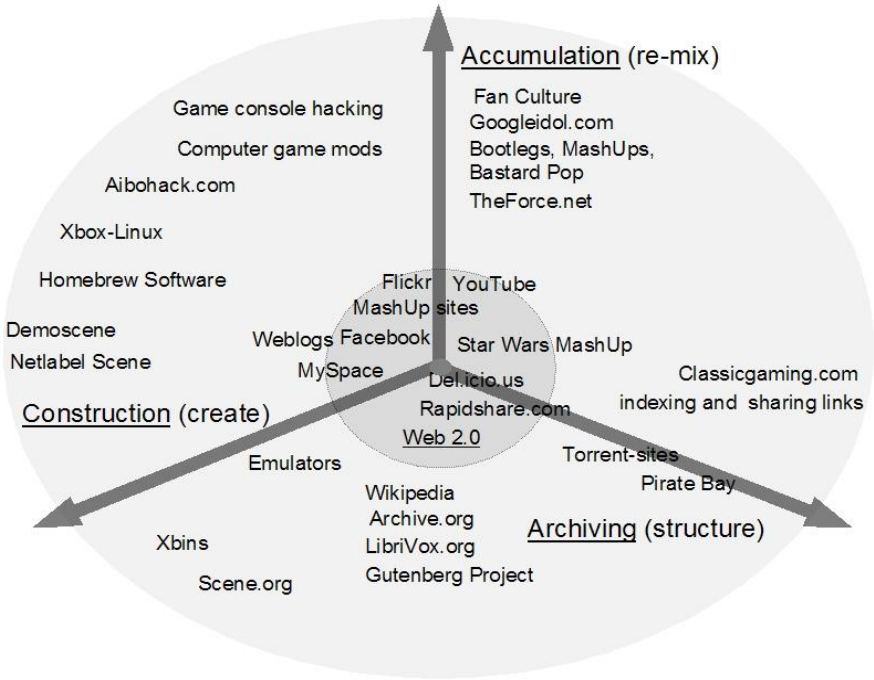
The above quote reveals several remarkable aspects about the nature of fan fiction. For one, the freedom with which these fan authors are able to explore the characters they have come to love, filling in possible blanks the original source material left out or changing existing elements of the character. These fans have no qualms drastically altering that which they are passionate about because it only adds to their experience of the original without devaluing the source material that they are building upon. This is an interesting perspective on actively consuming cultural artifacts as it explores the creative richness the alteration of existing artifacts can provide. These fans seem to reject the idea of a definitive version of the artifact, which for profit reasons is commonly portrayed as a "limited good" by commercial parties, because the artifact is in no way actually or physically limited. Moreover they value the insights and creativity the process of transformation provides.

When considering all this it is remarkable to see how some commercial producers are doing the exact opposite. For example, legendary director and creator George Lucas, most know for the *Star Wars* and *Indiana Jones* series, has repeatedly altered the original three *Star Wars* films, changing elements within the movies and going so far as to make the original source material unavailable for consumers. Compared to the fan communities who try to explore the same material through different visions and voices, making it more complex and diverse without taking anything away from the original, Lucas's alterations seem unnecessarily limiting and destructive.

The participatory culture found in fandom, shows the dynamic relationship commercial cultural artifacts can have with its consumers and how in turn these consumers are able to become producers of non-commercial, and often transformed, cultural artifacts. Jenkins's exploration of the different ways in which participatory culture can function is unfortunately limited to commercial products; he therefore does not address popular media content that has no commercial goal. Even though the web has become a immense source of non-commercial media content. The producers of this content, and the way in which the consumers of said content interact, gives great insight in how creativity and collaboration are able to go hand-in-hand.

The Creative User

In the book *Basterd Culture!* Mirko Tobias Schäfer examines the increasing amount of user participation enabled by new media and digital technologies. Throughout the book Schäfer adds several important nuances to the concept of user-generated content by discerning three different domains of overlapping labor practiced by Internet users. These three different categories are: accumulation, archiving (or organizing), and construction.



Figuur 1 the three categories of internet labor (Schäfer 2011, 49)

"Accumulation" addresses "all the activities that revolve around popular media content and products, for the most part initially developed by corporate companies" (Schäfer 2011, 46). This category is most linked to the practices of fan communities researched by Jenkins as seen earlier. Moreover, accumulation is most linked to the practice of 'remixing' in which existing materials are combined, changed and adapted. Controversially these types of activities often fall under the restricting terms of the Digital Millennium Copyright Act. Because of this, the domain of accumulation is often the cause for confrontations between users and copyright holders.

"Archiving (or organizing)" addresses the activities where users "store artifacts, build online data collections and reorganize cultural resources and knowledge bases" (Schäfer 2011, 47). The internet is filled with websites which archive and organize an astounding variety of artifacts and knowledge. Some examples include, *The Gutenberg Project* which tries to archive all texts available within the public domain and websites such as *The Pirate Bay* which try to archive and make available media artifacts which are copyright protected, in turn this often leads for the most popular of these kinds of websites to be prosecuted by the companies which hold those right.

As opposed to Jenkins's case studies in *Convergence Culture*, which focuses on the amateur reproduction of content created by established industries, the category of "construction" addresses digital user productions that occur outside of these established culture industries. "In the field of web design, many developers collaborate in informal and non-monetary-based networks on a global scale to produce resources and production means that are exploited at a local level in 'creative industries'. (...) Deeply rooted in Internet media practices, these designers are aware of the need for cooperation" (Schäfer 2011, 48). Schäfer goes on stating that these three categories can be observed separately but "have extended the established culture industries and form a new and complex set of relations between producers and consumers" (Schäfer 2008).

Transformative Imitation

In the first section of this thesis the concept of "transformative imitation" was brought up to describe the practice of reusing existing materials to create something entirely new. The method of transformative imitation was popular amongst musicians, writers, poets and painters during the seventeenth and eighteenth century. In music the method was used "to turn preexistent music by another composer into a distinctive expression of (one's) own compositional voice" (Zohn and Payne 1999, 548). Even though this concept was popularized over three hundred years ago it seems to perfectly address the type of creative practices made possible by new media and digital technologies today. Moreover, the sheer variety and amount of transformative imitations indicates that this practice can be considered one of the most common ways of creative expression on the Internet. Music remixing for example has not only flourished because new media technologies have created numerous tools with which users can (re)create and alter music but because they have also provided the platforms on which this music can be distributed. An example of this is Soundcloud.com, the world's leading social sound platform on the Internet, which gives a professional music artist space to share their music freely while also enabling an easy form of communication with their audience. Users are able to "follow" certain artist, which alert them of newly released songs and updates. More importantly, the free and open music culture soundcloud.com creates has motivated millions of amateurs to share their own music and to remix the music available on the website. This process of transformative imitation through remixing and the innovatively reusing of existing materials have produced wildly different and experimental music. Moreover, the new types of genres that have come out of this remixing have subsequently become part of the material that is remixed.

In the article "Remix: The Art and Craft of Endless Hybridization" Michele Knobel and Colin Lankshear describe this process of ongoing remixing as "endless hybridization" wherein each remix expands the possibilities of

future remixes ad infinitum. Knobel and Lankshear use the word "hybridization", borrowed from biology, as it captures two distinct ways through which remixing occurs. The first is hybridization through a consistent process of remixing within the same medium like the type of music remixing found on Soundcloud.com. The second is hybridization through "interbreeding", the mixing of two elements of a different order. In the remixing practice this occurs when materials from different media are mixed together (Knobel and Lankshear 2008). A well-known example of this is the creative practice of "machinima" where video games are used as a narrative tool to create cinematic stories. The *Red vs. Blue* web series for instance uses the *Halo* videogames to create a comedic ongoing story about the soldiers who populate the game. Another example is the music put together by John D. Boswell, known more commonly under his YouTube account "melodysheep". Boswell has created a series of music videos named "Symphony of Science" in which he uses old and new audiovisual material of different documentaries and television series about astronomy, physics and biology. By taking excerpts from famous physicist like Stephen Hawking, Neil deGrasse Tyson, Richard Feynman and Carl Sagan, he creates unique science oriented songs. Boswell describes the goal of the project "to bring scientific knowledge and philosophy to the public, in a novel way, through the medium of music" (Boswell 2009). With millions of views spread out over a dozen of songs Boswell's goals can be considered a success and it has also inspired others to create similar novel videos.

Another example of the way amateur productions can be used to add to professional productions is through "modding". In the graph displaying the three categories of Internet labor, computer game modding is placed between the category of construction and that of accumulation and Schäfer dedicated a large portion of his book on this type of (digital) labor. One of the most interesting aspects of modding is the collaborative nature most modding communities exhibit. Some extensive and complex mods are for instance created by a number of different people within a community working towards a finished product that everyone is able to use. Other types of users use already completed projects and build upon them or combine them to create other and more complex mods. Since the release of Schäfer's book mods have become more easily accessible for everyday consumers through digital gaming distribution platforms. One of the prominent of these platforms is Steam by the Valve Corporation, which now has now begun making user created mods directly available through their digital service. Valve, known for highly acclaimed games such as the *Half-Life* series and the *Left 4 Dead* series have always been great supporters of modding and have benefited greatly from extensive mods that build upon their games. The acclaimed tactical first-person shooter *Counter-Strike*, for instance, was developed as a *Half-Life* mod, Valve later acquired the rights to the game in 2000 and began selling it as a stand-alone game.

Schäfer's aforementioned categories of labor by Internet users provide an excellent framework through which the rage comic phenomenon can be further explored. Rage comics started in the category of construction as the initial production of the comics occurred outside of the established media industries. As more rage comics were being created the practice of construction shifted to include that of accumulation, rage comics themselves became popular (noncommercial) media content and new creations of rage comics and rage faces contributed to the further establishing and developing of this content. Appropriation is essential, as contributors must use existing elements within their own content to qualify it being a rage comic. If appropriation is used creatively it has the ability to be transformative. Rage comics, at least in its most popular days, seemed to be a practice in the art of making different things using the same elements. Making unique and interesting combinations were applauded and "upvoted/liked".

Furthermore, the category of archiving / organizing can be used to describe certain activities within the rage comic culture. As more and more rage comics were created it became important to archive and organize them. This was fundamental for the continuation of rage comics as most of these comics are explicit or implicit reactions to or additions on previously submitted posts. Being able to easily link to previous comics therefore became an integral part of the rage comic practice and the way in which rage comics were consumed. At the start of 2009 the social user-content aggregator website reddit.com launched the "subreddit" named [reddit.com/r/FFFFFUFUUUUUUUUUUUU](https://www.reddit.com/r/FFFFFUFUUUUUUUUUUUU) or more conveniently referred to as F7U12. A subreddit is a user created platform on the website reddit.com meant for a specific type of content or topic. The subreddit F7U12 is entirely devoted to ragecomics and unlike rage comics' origin site 4chan.net, reddit saves all of its submissions. Because of this, all rage comics that have been submitted to the site since 2009 have been archived. This has shown to be very important for the continuing evolution of rage comics as users gained easier access to older content upon which they could build or take from.

Perhaps one of the most interesting aspects of rage comics is the complete lack of ownership. There are currently millions of rage comics circulating the web that were created by millions of different user. Almost all of these rage comics have no discernible signature or name referring to the creator of that comic. Within the rage comic culture the original author is neither given nor questioned, his work is judged solely by its intrinsic value, creativity and the way it can be reproduced. These types of creators don't view themselves as the sole inspiration or authors of their work, they approach rage comics as a form of creative expression without the ideological constraints posed by the concept of the contemporary author. Moreover, rage comics are only a small segment of these types of creative expressions, which in most popular media and academia are commonly referred to as "memes". Categorizing this material as "memes" seems understandable at first as an Internet meme refers to concept or idea that is spread throughout the Internet. However, it fails to address the unique and remarkable aspects of these types of cultural artifacts and the variety found throughout them. Especially in academia it is important to emphasize these differences and correctly examine their intrinsic qualities to better understand these creative practices.

The Return of the Craftsman

The eighteenth and twentieth-first century show some interesting similarities as both periods are dealing with media developments that drastically alter the established creative practice. However, it seems these developments are fundamentally different in that they both indirectly advocate an, to some degree, opposing understanding of the creative practice and the position of the author herein.

In a 2007 presentation about *Laws that Choke Creativity* Lawrence Lessig shows how the twentieth century was predominantly a read-only culture, wherein only a small part of professionals were producing creative content while most other people were solely in the position to consume this content. "Never before in the history of human culture had (creativity) been as professionalized (or) as concentrated" (Lessig 2007). Creativity was consumed, but the consumer was not a creator. The first decade of the twentieth-first however, is marked by a rise of decentralizing media outputs as users gained the ability to easily and freely create and distribute creative material through a variety of open media channels. Moreover, most of these users (re)create and remix cultural artifacts nonprofessionally, anonymously and collaboratively as has been shown in the previous examples. Lessig describes this shift as transitioning from a read-only to a read-write culture, "wherein people participate in the creation and recreation of their culture" (Lessig 2007). The increase of user-generated content enabled by digital technologies shows how there now is a culture "where people produce for the love of what they're doing and not for the money" (Lessig 2007). Lessig emphasizes that this paradigm shift is powered by the younger generations because they have been brought up with these enabling technologies, while those who oppose this mindset have been brought up without them. These two conflicting mindsets are constantly clashing, resulting in growing extremism on both sides. "Technology has made these kids different; we (adults) can't make our kids passive again, only pirates" (Lessig 2007). Lessig refers here to Internet piracy, which has become so matter-of-fact for the younger generations that they are constantly and continually living their lives against the law. Further strengthening copyright will in turn combat the environment created by the remix culture, worsening this unhealthy state of affairs.

The way in which users are now interacting with creative material and the type of things they are able to create brings to mind the craftsmanship ideal discussed at the beginning of this thesis. Unlike the concept of authorship, which firmly connects the author to his individual and original work, craftsmanship solely refers to a person who creates with a level of skill. The concept of craftsmanship then seems much more liberal in its approach towards what qualifies a creator while also leaving out the restricting requirements of originality, individuality and ownership found in authorship. The types of creative practices that are most popular on the Internet require the user to interact with new media and existing materials. Music remixing for instance requires not only the skill to make music but also to deconstruct and reconstruct existing sounds.

In the first section of this thesis a claim made by Attorney Samuel Nelson was used to show how making adaptations of existing works was generally viewed in the late nineteenth century: "The original air requires genius for its construction; but a mere mechanic in music, it is said, can make the adaptation". Nelson's claim was meant to negate the intrinsic value of an adaptation for it was only an altered reconstruction of existing

material, providing nothing substantially new. Currently, these types of reconstructions are everywhere as users begin to develop the skills to not only consume existing creative materials but to utilize them as well. Nelson negatively refers to these users as “mere mechanics in music”, craftsmen if you will, for not sticking to the originality requirement of authorship. He thereby immediately discards the value of transformative imitation and the remix, sticking to the idealized image of the author, which was forming at that time. Currently, it seems we are entering an age where most Internet users are acquiring the skills, and media literacy competence to creatively interact with the enormous amount of material available to them. As a result they have become remixing craftsman, skillfully deconstructing existing material and putting it back together to tell their own stories or convey their own ideas. This approach may seem "mechanical" but the results are highly creative and should be applauded rather than dismissed. It is therefore problematic that this type of craftsmanship is considered illegal when it uses copyrighted work, even if it uses this in a transformative way. It seems current laws are stifling this new type of creativity and the people how use it because of their inability to rightfully acknowledge its merit.

The Copyright Paradox

After having just explored the new ways people are creating and remixing creative works through new media and considering the symbiotic relationship between copyright and authorship, it is necessary to address the legal ramifications and problems these new and largely undefined creative practices face. To do this the work of Lawrence Lessig, who specializes in addressing the difficulties between law and new media, will be used for he has been at the forefront of the issues associated with this topic.

In 2001 Lessig published *The Future of Ideas: The Fate of the Commons in a Connected World*, which addresses the corrosive effect of contemporary copyright law. *The Future of Ideas* tries to situate how copyright and patent laws function in the digital age and presents a convincing case for copyright reform by having existing works enter the public domain earlier, thus directly opposing the creative industry's growing demands for prolonging their copyrights. Lessig continues his research on how law influences culture and creativity in the 2004 book *Free Culture* which poses that the original copyright clause “to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries” is actually being threatened by current copyright laws instead of promoting it. Lessig argues that increases in copyright's strictness are making innovation, which predominantly builds upon what has been previously established i.e. protected by copyright, more difficult. Moreover, Internet piracy has incentivized legislators to keep increasing the protection copyright should give and worsen the punishment it gives to those who ignore it, thus further corroding the culture of innovation and creativity. *Free Culture* thus presents a worrying image where copyright no longer functions as an incentive to create but instead as a means to control creativity as a result of its stricter rules. By giving a myriad of examples to showcase the problematic history of copyright law in the twentieth century Lessig concludes that there is a definite need for

copyright law in commercial culture but that its increased influence is becoming much too harmful and thus reform is necessary.

Lessig argues that the degradation of creative culture is created by the current “permission culture”, wherein copyright holders have almost unlimited control, creating a situation where building upon the work of others can only be done when given permission from the rights holders. To counter this, Lessig introduces the concept of “free culture”. “Free culture” is a culture that supports and protects its creators and innovators while giving new creators and innovators the freedom to build upon the works of those who have come before. In order to create such a culture, copyright must limit intellectual property rights to give legal room for people to be allowed to innovate. In his 2008 book *Remix: Making Art and Commerce Thrive in the Hybrid Economy* Lessig outlines some changes needed for copyright law to function properly in the age of the remix.

1. Deregulating Amateur Creativity

As the aforementioned examples have shown, digital technologies are at the heart of enabling amateurs to be creative in many different ways. Most of these creative works are made without commercial intent and, as a result, benefit almost nothing from current copyright laws. As has been mentioned before the most recent big copyright change in 1976 automatically protects all works “fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the use of a machine or device”. Lessig poses that works created for noncommercial uses should be exempted from copyright protection and uses the following table as a simplistic example of how this could be enacted.

	“Copies”	Remixes
Professional	Copyrighted	Copyrighted / Free
Amateur	Copyrighted / Free	Free

The rows distinguish professional and amateur creativity. Meaning, a YouTube video documenting your vacation in Spain is amateur creativity, while professional creativity is a movie opening in cinemas. The columns distinguish non-remixes, referred to as copies, and remixes. A copy does not change the original work but makes it more accessible while a remix is to be considered a transformative work. As this table shows amateur remixes should be exempt from copyright protection for regulating these works would only cost money and inhibit further creativity. On the opposite spectrum copies of professional work should stay protected. The two other categories, professional remixes and amateur distribution, are however less straightforward. For one, professional remixes could become partially deregulated but not to the extent amateur remixes should be. In the case of amateur creativity it should be regulated if it crosses over the noncommercial line. Lessig concludes his plight to deregulate amateur creativity stating the following: “The aim should be to find a simple and cheap

way to secure payment for commercial use. The aim as well, I've argued, should be to avoid blocking noncommercial use in the process of protecting commercial use" (Lessig 2008, 256)

2. Clear Title

Because the copyright act of 1976 let's creative works automatically fall under copyrights protection, creators don't have to register said work for it to be protected. This means, "there is no registry for identifying the owner of copyrighted works. Nor is there even a list of which works are copyrighted" (Lessig 2008, 261). In the twentieth century read-only culture where only a small group of people were responsible for the majority of creative works they could benefit from this automatic protection. However, in the dawn of a read-write culture this severely, and unnecessarily, burdens creativity. Lessig thus propose a reform to again create a maintenance obligation for copyright owners after an initial term of automatic protection. "If it's not worth it for a copyright owner, after fourteen years, to take some minimal step to register her works, then it shouldn't be worth it for the United States government to threaten criminal prosecution protecting the same property"(Lessig 2008, 264). Additionally, for this kind of system to function properly it would be necessary to know who owns what thus making sure that property under copyright protection can be correctly traced back to its owner.

3. Simplify

Copyright laws are extremely complex; previously in the read-only era its regulations were the concerns of big corporations with a subset of lawyers whose jobs it were to know these laws. Currently, in the read-write era copyright laws apply to most everyone with a computer and Internet access. Legislatures should acknowledge this fact and simplify copyright laws as to not let amateur creators become victims of an overcomplicated system.

4. Decriminalizing the Copy

As been mentioned before, copyright laws were not always strictly about copies, but mainly about regulating the commercial exploitation of creative works. From 1909 on the law was changed to refer specifically to "copies" which at that point it made little difference, with digital technologies and new media however copying has become almost as common as breathing air. Lessig thus poses that legislatures should again specify which kinds of uses of creative works copyright law should regulate. "The law should be triggered by uses that are presumptively, or likely to be, commercial uses in competition with the copyright owner's use. The law should leave unregulated uses that have nothing to do with the kinds of uses the copyright owner needs to control" (Lessig 2008, 270).

These four changes would go a long way towards legalizing most of the harmless creative practices on the Internet, addressing the biggest problems in contemporary copyright law while also providing a modern framework from which to redefine actual copyright. Even though Lessig's changes would help modernizing copyright law, it refrains from trying to correctly address the new type of creators we see everywhere on the

Internet. This is understandable as Lessig is primarily concerned with envisioning copyright laws that both protect professional and amateur creators without restricting either too much in the process. From an academic point of view however it seems important to not only acknowledge the recent changes and developments within the creative practice but also carefully look at what this amateur creativity means and how we should examine it. Like eighteenth century philosophers explored new conceptualizations of authorship as a result of a changing media landscape and people we too, as media academics, are now in the position to reevaluate authorship and address the changing creative practice.

Conclusion

In the introduction of this thesis the question was posed whether it was necessary to redefine authorship as a result of the influx of creative material produced on, and for, new media and digital technologies. It seemed that authorship as an ideological concept had become ill equipped to describe and address the unique creators that are responsible for this material. Thus, in order to understand the differences between the concept of contemporary authorship and these new types of creators, both had to be fleshed out and situated within their time. For authorship, this meant to go back to the late seventeenth and eighteenth century where our vision of the contemporary author was being formed as the result of changes within the media landscape, philosophy, economy and law. The concept of authorship was not formed out of some sort of artistic or philosophical truth but a changing dynamic of these different domains. Furthermore, it became clear that money was among the greatest reasons to drastically alter the position of the medieval writer to that of the contemporary author.

Individualism, originality and ownership had become the three qualities at the heart of authorship. These three requirements placed the author in a position of immense importance, claiming that the ideas the author put forth were unquestionably his own individual property. This ideological reasoning was cemented by legal reforms, which took place throughout the nineteenth and twentieth century. During this time the romanticized image of the author was continually at the heart of newly forming copyright laws, the philosophical reasoning behind authorship's position was thus slowly replaced with legal doctrine. Because of this it became very difficult to oppose the concept of authorship on ideological grounds for it was no longer a set of ideas but a set of laws. In the twentieth century copyright law was able to function quite well as creative practices became more and more centralized and professionalized all the while the amount of creators declined while the amount of consumers increased.

At the moment however things have gone another way. The amount of amateur creativity found on the Internet is staggering and the way in which these creators interact with the existing creative material available to them is completely different to how it was before. Surprisingly, these users exhibit more similar traits to that of the seventeenth century craftsman than to the contemporary author. Not only are the three requirements of authorship not met, they are essentially opposed. As the creative practices of these users exhibit a constant stream of collaboratively created remixes of existing material that no one claims to own. One could almost say that this new type of creativity is a form of revolt against the stagnated creative practices advocated by the contemporary author. The concept of authorship should thus not be used to define the practice of artistic creation. Rather, artistic creation should define itself. With this in mind it becomes clear that we are entering a very exciting time for creativity that is also being threatened by those who think otherwise. As media academics we are in an important position to acknowledge these new media craftsmen and ensure they remain able to reinvent creativity.

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Appendix



Figure 2 The First Rage Comic

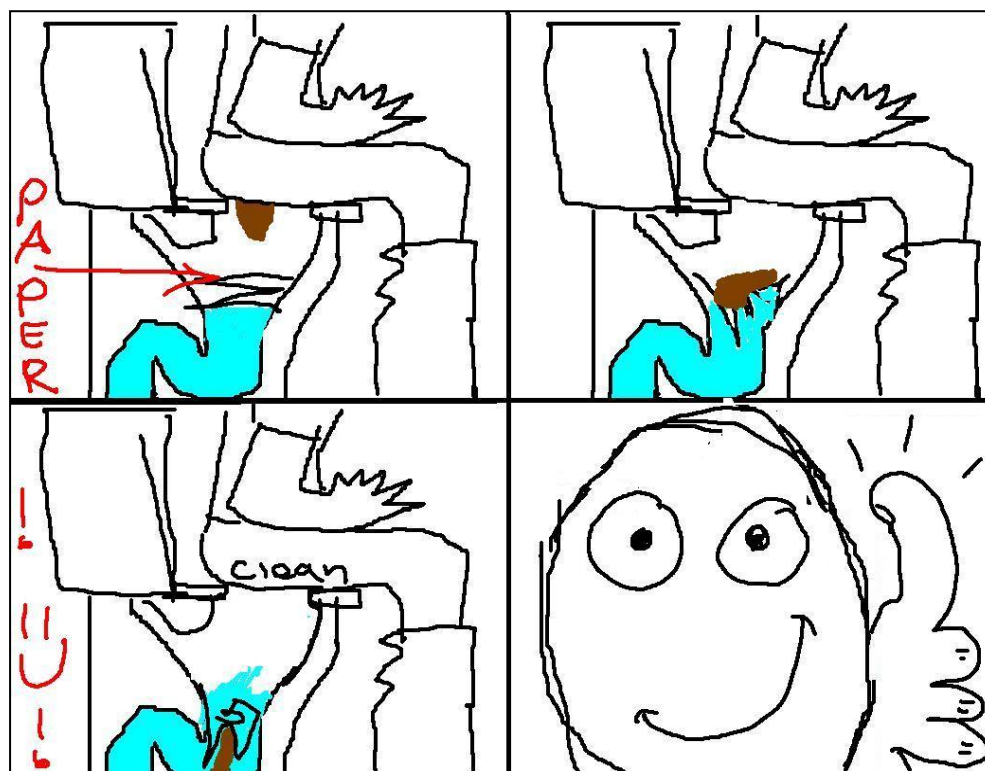


Figure 3 The Second Rage Comic



Figure 4 "Sweeping Rage"



Figure 5 "How My Summer Went"

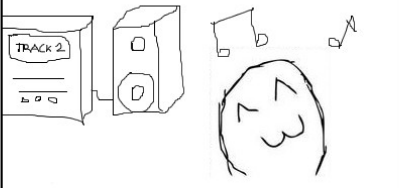
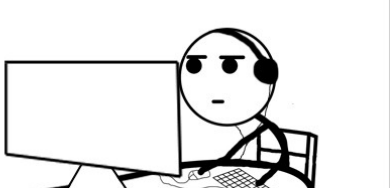
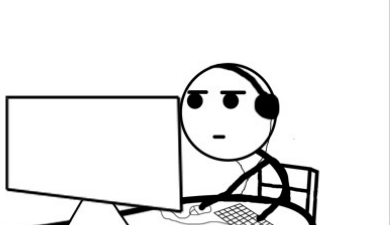
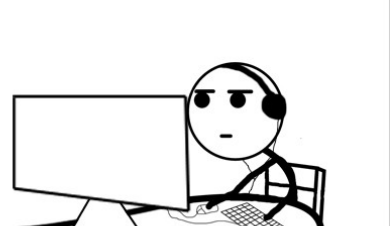

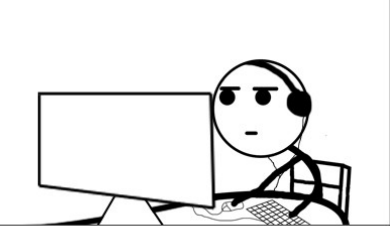
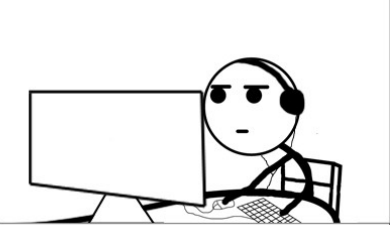

	15 Years ago	Today
Listening to music		
Watching a movie		
Contacting people		
Reading the news		
Making Music		
Masturbating		

Figure 6 "The Times They Are A-Changing"