

Chapter 9.

iAuthor: The Fluid State of Creativity Rights and the Vanishing Author

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The “author” is a matter of copyright governance. An almost mythical dimension in the public domain, she or he is constructed by state- and industry-led campaigns emphasizing the impact of copy theft on the livelihood of the “hero” of the cultural work. Copyright laws originate from the idealized author-creator (Silbey, 2008), an idea that varies across time and “constituencies” of thought. The question that motivates this article is: What is the place of the “author” in the current copyright regimes, particularly under the new conditions of production and consumption in the digital context? We discuss the conflictive transformation of authorship by juxtaposing available practices and understandings of authorship to its selective constructions found in copyright law across time and the terms and conditions of user-generated content in cross-media productions and so-called do-it-yourself (DIY) platforms. The aim is to identify the ways in which authorship is conceived in the governance of copyright. We argue that the figure of the author is shrinking in the governance of cultures of sharing, remixing, and nonprofessional production. We conclude with a critical reasoning of why these practical changes do not enter the debates and initiatives involving intellectual property policy regimes.

In recent years, the possibilities brought by technologies have multiplied the forms of authorship, which has become a focal point in public debate. Blogs (Edwards, 2011; Masnick, 2011a; Hart, 2011) report that Facebook hosts 140 billion photos, 4% of the 3.5 trillion photos ever taken. Siegler (2011) writes in Techcrunch that Instagram owned 150 million photos after just 9 months of

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being active and compares this iPhone application to Flickr, which took almost 24 months to reach 100 million pictures. Good (2011) writes in *1000memories*: “Already Facebook’s photo collection has a staggering 140 billion photos, that’s over 10,000 times larger than the Library of Congress.”

One of the consequences of the Internet has been the capacity of users to tap into a wealth of content made available through cultures of sharing, combined with the expectation of “free” circulation of information on the Internet. Content, copyrighted or not, is the object of the Internet. The struggle over copyright is fought with numbers and legislative reforms. In a report commissioned by NBC Universal, it is estimated that a quarter of the traffic across all areas of global Internet (pornography not included) infringes on copyright laws (Envisional, 2011). The content industry is alarmed by the pace, numbers, and users’ innovative approaches to circumvent laws, “norms,” and technological and other impediments for the distribution of “copied”—but not copyrighted—work. Between 2004 and 2009, the Recording Industry Association of America (RIAA) estimates that approximately 30 billion songs were downloaded illegally on file-sharing networks (RIAA, 2011). The National Purchase Diary Group (NPD) reports that only 37% of music acquired by U.S. consumers in 2009 was purchased (Hill, 2011). The Institute for Policy Innovation (IPI) argues that the annual damages from global music piracy to the U.S. economy amount to \$12.5 billion, 71,060 U.S. jobs lost, a loss of \$2.7 billion in workers’ earnings, and a decrease of \$422 million in tax revenues, (\$291 million from personal income tax and \$131 million from corporate income and production taxes) (Siwek, 2007).

The numbers in these reports may be contestable, but they demonstrate two things. First, the culture industry—and, in particular, the content industry—is anxious about its market position. However, this anxiety points to the fact that it is struggling to come up with and settle into new business models that can monetize users’ differentiated from previous norms and expectations patterns. Second, regardless of the accuracy of financial estimations of loss, current uses of the Internet challenge both established modes of the culture industry and its legislative framework. They also challenge us to rethink hitherto accepted norms and assumptions of “the author” with whom the industry and regulator are concerned.

Copyright, the “Mechanical” Reproduction of Content, and the Multidimensional Author

Intellectual property rights are assumed to protect investments related to the production of cultural goods by emphasising the relation of a maker and her or his product in asserting a right to ownership over it. The focus is on the principle of remuneration and compensation for the investment of resources—whether

economic, intellectual, or other—and the benefit of distribution, exposition, licensing, or selling. An important dimension of intellectual property rights is copyright: The right to copy, publish, and develop a certain work presumes the existence of an owner of this right. The owner is assumed to be the author of the work. However, the notion of the author is not straightforward. Digital media, reproduction, sharing, and remixing of content have given rise to new practices and understandings of old concepts involving artistic expression. The author becomes so ubiquitous that she or he disappears; theoretically, at least, digital media allow for an infinite number of authors to blossom. It is questionable whether existing legal frameworks can cope with this challenge that the transformation of authorship brings. It is, therefore, useful to see to what extent the regulator has sought to reflect new realities in the term author, as debates concerning authorship constitute a key aspect in current copyright policies. The author appears to embody the inner reason for every form of regulation and protection of intellectual property. However, authorship “is a contingent amalgam of diverse attributes, statuses, and persons” (Saunders, 1992, p. 235). The concept did not emerge historically from a single point or as the product of a cumulative evolution; rather, the author is the result of various and diverse lines of thought and practical needs. Epistemologically, the author appeared as a product of a rupture in the forms of knowledge. Historian Elisabeth Eisenstein (1980) demonstrates that the conditions for knowledge changed with the print press, which marked a particular bend in the forms of reproducing and distributing knowledge. What until then worked as an anonymous continuity of layered comments and variations of hand-copied documents became visibly distinguishable.

Printed books and the mechanical reproduction of content created an additional level of interlocution that forces a “signature” in the space between text and reader. The reader, commentator, or critic is distinguished from the author, forcing a particular form of individuality in which every reader can have an original opinion, different from anybody else’s. Equality in the difference of individuals is a product of the invention of print and marks the birth of the author. Scholars identify the dichotomization in the continuity of knowledge around the mid-seventeenth century (Derrida, 1967; Foucault, 1968; Eisenstein, 1980; Ong, 1982). The separation between idea and expression complements and reinforces the segregation between thinker and thought. In this case, what is “immaterial”—idea—is other than its “materialization”—expression. These notions create a constellation for a new form of knowledge that assumes that which is thought is different ontologically from that which is said. Those historical epistemic scenaria created the conditions for regulation and formalization of copyright laws very similar to the ones known today. The most illuminating example is England’s creation of the Statute of Anne.¹ This is considered to be the first copyright law that came into force in 1710 to protect the country’s flourishing publishing market from

foreign illegal copies; but it served the purpose of equalizing the recently united kingdoms and markets of Scotland and England.

A second epistemic change is identified around the French Revolution. Around 1789, the national State of Law consolidated and, with it, the legal concept of the citizen. The switch from villain to citizen also granted a definite persona to the author (Newlyn, 2000). Whereas the Statute of Anne considered the author as a maker and an artisan, romanticism paid particular attention to the link between the work and spirit of the author. The romantic author would become fundamental in legislative developments. The owner of rights according to the Statue of Anne still did not possess the rights of a full individual. In 1774, a tribunal failed the artisan in favor of the publisher: “The judges did determine that an author had a perpetual copyright to a work he or she created—but that right disappeared the minute the book was published!” (Gantz & Rochester, 2005, p. 29). The intentions of the Statute of Anne protected the investment by English publishers; protecting the author had little to do with it (Rose, 1993).

With the start of the nineteenth century, the concept of the romantic author implied that any intellectual work was the spiritual and original expression of a person. The law incorporated the dimension of moral rights, but separately from rights that secure material remuneration. It marked the point of rupture between copyright that creates the artist along with his or her licensed rights and copyright as the apparition of so-called moral rights. Between the author as a singular individual and as a profit maker who recoups investment, cultural and intellectual debates have suggested other forms of authorship that do not find expression in copyright regimes. For instance, the literary and philosophical discussion of the late 1970s suggested dissolving the author in the social practice of the discourse. Authors like Roland Barthes (1977), Michel Foucault (1977), Julia Kristeva (1982), and Jacques Derrida (1998) wrote influential texts that “sentenced the author to death.” Such approaches placed interpretation at the center of the processes of communication and, thus, the author was displaced to the margins. The author lost his or her interpretive authority. Socially, the author can be identified still in two domains: first, the context of the creative process; second, as a singular actor who enjoys social recognition. Ultimately, the social recognition of the author is associated with the aura of the romantic author. That aesthetic movement argued (Safranski, 2007; Newlyn, 2000) that the writer’s feelings and expression are one and the same because the author exposes her whole life in writing.

The author for the romantics was not only a celebrity; as Lucy Newlyn (2000) shows, authors also were anxious for both their popularity and place in the network of printers, publishers, and critics. Both aspects fit well in a climate of an expanding book industry in sales and marketing. Writers usually thought of the public as an anonymous mass, while critics and publishers employed mutually beneficial marketing strategies that exploited authors’ presumed literary superiority.

The author was also a product in a competition market. It is at this junction that the need to regulate ownership, originality, and authenticity becomes paramount. Authors had to distinguish themselves from scribes; originality was a commercial asset and so was the ownership of ideas (Newlyn, p. 13).

The political economy of authorship brings the author as an abstract idea and specific individual to the space between public and publisher, labor and creation. The economic rationale around the equation of investment-benefit-consumption typical of the cultural industries places the author closer to a proprietor than to a creative worker (Saunders, 1992; Rose, 1993). This would explain simultaneously the apparition of moral rights as forms of protecting the personal dimension of the author and their formulation as part of related rights in the international copyright conventions. The enormous resources invested in the process of production, publication, and distribution had to be compensated by defining intellectual works as commercial goods. Most of the technical discussion about ownership and authorship in copyright regimes stands in between this double logic of authorship as a personal expression of an individual and ownership as an economic effort by the publisher.

Often, both logics integrate in a legislative model that takes both sets of interests simultaneously; but sometimes there are contradictions between the author and the producer. In the Statute of Anne, the need to define the author in law initially was not as important as the need to define the proprietor (as investor) of the works. It was with the nineteenth century that related rights served to ameliorate the disagreement between author-celebrities and oligopolies of publishers. It is at this intersection of interests, where the philosophy of intellectual property as a form of licence, exchange of rights, transfer, and representation can be understood. Music, film, and computer programming have generated vast investment in important cultural industries on a global scale during the last century. Debates arose about copyright and the problem of moving from investment by a single publisher and the personal effort of a single author to organized industries involving thousands of employees in the creative process. As law is a path-dependent process, the logic of economic return remained in the copyright of works under collective authorship, forms of licensing of rights by employment, or the redefinition of author to include other activities involved in intellectual work, such as film production and directorship.

This definitional expansion continues in the twentieth century's international copyright laws. In 1994, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) was not only an update of the Berne Convention for the Protection of Literary and Artistic Works, it was also an expansion of objects of copyright in the context of digitalization. It created a new point of reference for the definition of the author, based on the transformations in the conditions of media production, profit, and investment on a global scale. It is often argued that technology closes the gap between producer-creator and consumer-user,

as it allows the blooming of a thousand authors. Already in the 1970s, the term “prosumer” came to characterize the proactive public as consumers contributing to the development of a product as semi-professional consumers who use products as if they were specialists, as well as creators and sellers (publishers) of their own products. These meanings of prosumer indicate that previously clear lines among consumers, producers, users, and fans are blurred: the receiver is also the sender. This scenario permeates the industry of production and deforms the structure of markets of goods as they historically are conceived. Consumers’ active participation in the production process gives rise to new forms of product development. But also, the very idea of author changes, as “authorship” expands via computer programming, for example, to the making of multiple narratives as options to be chosen and reworked by publics in the context of online narratives. Electronic literature, for example, has its own dedicated organization (ELO) and is collected and archived by the Massachusetts Institute of Technology in Boston, not as a library of books but in the form of computer servers (Martín, 2011). Authorship in these conditions multiplies and moves away from an easily identifiable writer or even publisher.

Merchandise also contributes to this diffusion of authorship, through the phenomenon of “transmedia storytelling,” which has become one of the most profitable strategies of production of all times, based on the principle that “each franchise entry needs to be self-contained enough to enable autonomous consumption” (Jenkins, 2003). At the same time, production through the availability and easiness of technology transforms producers’ authority, which raises important questions as to whether the author or creator is identified (Rodriguez-Amat & Sarikakis, 2012). There is an interesting contradiction here. On the one hand, the structural transformation of the industryⁱⁱ means that the author often disappears, subsumed in a larger network of developers in a transnational enterprise, where the input of consumers-users alters a product significantly. On the other hand, in order to maintain control over the process of transformation and appropriation of the product by users, the industry reverts to the romantic notion of a creator, whose livelihood is damaged through free circulation of culture. If the increase in number of writers, copyists, translators, and readers somehow forced the emergence of copyright in the eighteenth century, the conditions generated by digitalization are forcing further definitional and conceptual changes.

The Author in Law

The legal landscape of intellectual property has changed significantly in the past two decades, not only due to the expansion of the Internet but also due to the transformation of the structure of the industry and its products. The author is

constructed diversely along the various copyright regimes. For instance, the law has forced the denaturalization of the author, who is rooted out from assumptions related to natural law. Such an operation distinguishes, again, two forms of authorship that are often echoed in jurisprudence (Damstedt, 2003). On the one hand, if the author is a natural element of every text, then she or he cannot be changed, sold, transferred, or modified. On the other hand, the definition of authorship as incorporated in juridical language must leave the limits and conditions of authorship explicit and eventually open to discussion.

Current concerns around copyright related to the regulation of cultural manifestation make, arguably, the author-owner omnipresent, thanks to technology. The author is omnipresent but at the same time invisible. Copyright ideas are less preoccupied with the maker of a work and more with the possibility of control over—and profitability of—the work and, increasingly, of the user. In this direction, Lessig in his *Love of Culture* (2010) argues that Google Books, an 18-million-book library project, is a dangerous vehicle to control content, where quotes, pages, and sentences are traceable, accounted, and subject to licensing. He says, “We are about to make every access to our culture a legally regulated event.” Or again: “We are about to make a catastrophic cultural mistake” (Lessig, 2010). Indeed, international policy provisions are poor in constructively and creatively imagining and providing for the creator.

Ultimately, without precise, flexible, or comprehensive definitions about the author, the focus of the law falls on ownership of the rights to exploitation of the work. The 1996 Copyright Treaty of the World Trade Organization (World Intellectual Property Organization Copyright Treaty) has a preamble by which it recognizes the need to maintain a balance between the rights of authors and the larger public interest. Considerations about the author in the Copyright Treaty of the WTO are clear in Article 6 of the Right of Distribution, stating, “Authors . . . shall enjoy the exclusive right of authorizing the making available to the public of the original and copies of their works through sale or other transfer of ownership.” Following this law—assuming both author and publisher are equals in negotiating power—opens the floor for individualized negotiations between the two parties—including the total transfer of rights. The updates of the Berne convention from 1971 (and its 1979 amendment) define the author in terms of proprietary rights. The moral rights dimension of authorship is exhausted with the right of the author to claim authorship of the work.

The European Union’s approach does not offer a definition of the author who is subsumed by rights holders of distribution and publication, as the directive imposes responsibilities for the identification of authors and proof of permission to publish (European Parliament and European Council, 2001, par. 55). Rather, the 2004 Directive (European Parliament and European Council, 2004) conflates authorship as “making” with management:

Since copyright exists from the creation of a work . . . the author of a literary or artistic work is regarded as such if his/her name appears on the work. A similar presumption should be applied to the owners of related rights since it is often the holder of a related right, such as a phonogram producer, who will seek to defend rights and engage in fighting acts of piracy. (European Parliament and European Council, 2004, par. 19)

Supranational and international policies provide legislative principles, but it is at the level of the national legislature where a clear definition of authorship may be developed. UK Copyright Law offers some precision in the First Part of the Copyright, Designs and Patents Act 1988 (Amendment) Regulations 2010. In the first Chapter of Subsistence, ownership and Duration of copyright, Article 9 is related to authorship of work. According to the Act “‘author,’ in relation to a work, means the person who creates it.” It makes specific definitions depending on the medium (e.g., broadcast, film, sound). In the case of computer-generated content “the author shall be taken to be the person by whom the arrangements necessary for the creation of the work are undertaken” (§3). This particular definition has to do with the creator of the work and the particularities of the language in which the work takes form. But in terms of rights, the author’s moral rights “are not assignable” (article 94, chap. 5). They are part of the heritage extended by the Berne Convention.

France refers to the nature of the right of the author (*Nature du droit d’auteur*) in chapter 1 (article 111–1):

Art. L. 111–1. L’auteur d’une oeuvre de l’esprit jouit sur cette oeuvre, du seul fait de sa création, d’un droit de propriété incorporelle exclusif et opposable à tous.

Ce droit comporte des attributs d’ordre intellectuel et moral ainsi que des attributs d’ordre patrimonial . . .

L’existence ou la conclusion d’un contrat de louage d’ouvrage ou de service par l’auteur d’une oeuvre de l’esprit n’emporte aucune dérogation à la jouissance du droit reconnu par l’alinéa 1er.

(The author of a (intellectual) work enjoys over this work, by the only fact of its creation, a right of exclusive incorporeal property. This right implies attributes of intellectual and moral order as well as attributes of property determined by the first and third books of the present code. The existence or the ending of a contract of work rental or service by the author of an intellectual work does not mean any derogation to the enjoyment of the right recognized in the first paragraph.)

The emphasis on and durability of the concept of intellectual work (*oeuvre de l’esprit*) of this formulation is the sign of the value of moral rights in the French copyright context. Nevertheless, the importance of the relationship between author and work does not result in an uncontested or comprehensive description of the author. According to chapter 3 of the entitled for the right of authorship, article 113–1 states that the quality of the author belongs, except in the case of proof of the opposite, to the one or those under the name of which the work is diffused.

In turn, Spanish copyright laws work similarly but underline the human nature of the author in two dimensions: as natural person and as juridical person. Whereas the first means any human of having rights, the second means any entity entitled to own rights. The fine difference between natural person and juridical person helps build an interesting definitional space between the author and the owner of rights. In the *Spanish Law of Intellectual Property (RDL 1/1996) Title II, Chapter I, Article 5, se considera autor a la persona natural que crea alguna obra literaria, artística o científica* (Author will be considered the natural person who creates a literary, artistic, or scientific work) but also *asimismo se benefician de esta protección personas jurídicas en los casos expresamente previstos en ella* (other juridical persons will be allowed to benefit from it in the cases expressly foreseen in it). It is particularly interesting to consider this gap, because it shows the difference between the unavoidable humanity of the creator (owner of moral rights) and the rights of authorship that can be modified and owned by entities not necessarily human but juridically identified: institutions, enterprises, brands, and associations. The assimilation of rights is resolved in “presumption of authorship, anonym works or pseudonyms” (article 6 of the RDL 1/1996) when it is established that “when the work is anonymously diffused or under pseudonym or signature, the exercise of the rights of intellectual property will correspond to the natural or juridical person that brings it to light with the consent of the author, while the latter do not reveal their identity.”

It is argued that the German tradition engages further with the rights of intellectual property, particularly concerning moral rights (Saunders, 1992). The central figure of the author in German law is “idiosyncratic.” Whereas the word *Autor* exists in the German language, the law refers to works as *persönliche geistige Schöpfungen* (personal intellectual creations) (*Urheberrechtsgesetz* BGBI I S. 173, section 2): *Werke . . . sind nur persönliche geistige Schöpfungen* (Works . . . are only personal intellectual creations). The author is the *Urheber*, the originator, the creator; thus paragraph 7 of section 3 reads: *Urheber ist der Schöpfer des Werkes* (The originator is the creator of the work) and, extensively, the intention of copyright law in section 4, article 11 reads that the rights of authorship (*Urheberrecht*) protect the originator in their intellectual (*geistigen*) and personal relation to the work and to its uses.

The Austrian legal frame of copyright defines work as property of intellectual creation in the area of literature, musical art, pictorial art, and film art: *Werke im Sinne dieses Gesetzes sind eigentümliche geistige Schöpfungen auf den Gebieten der Literatur, der Tonkunst, der bildenden Künste und der Filmkunst*. The author is the one who has created/originated the work (*[I] Urheber eines Werkes ist, wer es geschaffen hat (§10, Abschnitt II)*). In the article §8, *Miturheber*, the Austrian law considers the collective author or the co-creator and defines it as follows: If a work has been made by various, without each part being properly distinguished, they are co-creators of the work (*Haben mehrere ein Werk gemeinsam geschaffen, ohne daß sich*

ihre Anteile gesondert verwerten lassen, so sind sie Miturheber des Werkes). This is a consideration that can be also found in the other copyright regimes considered.

Whereas these differences in the formulation of the legal definition of authorship appear to invite a discussion around cultural and linguistic articulations of the author, in the European tradition the models reviewed in these pages consider moral rights without making an attempt to provide a suggestion about the various possibilities of authorship. With the exception of British law, the originator and creator of a piece of work is assumed to be a person with a limited role in the copyright and right ownership. When thinking of new methods of production and distribution, re-usage, and revision of cultural goods, the Creative Commons formula worked as an alternative; but critics state that CC is based on traditional copyright itself (Toth, 2005; Dvorak, 2005). However, still, a whole range of authors and authorship processes are left out of scope, while the supremacy of publishers is maintained.

The Vanishing Author

The author seems to be vanishing in the face of major cultural transformations. Conditions of production and consumption push the central role that the author briefly enjoyed to the margins of processes like mixing, sharing, merging, and eventually consuming and choosing. The number of photographs uploaded onto platforms such as Facebook or Instagram every hour and the number of hours of video uploaded daily on YouTube or Vimeo are fair signs of an exploding volume of cultural production. With it, an expanded frame of authorship is contributing to “the amateur culture” (Hart, 2011; BBC, 2005) irrespective of what its artistic value is (should be). The notion of amateurism obscures values, such as quality (excess against scarcity) of production of cultural goods and authority of the author as (recognized) creator. Both aspects are dimensions reminiscent of the romantic discourse (Newlyn, 2000) and coincide in intentions and forms with the campaigns pushed worldwide against consumption of copyrighted materials. The discourse separating amateur from professional authors undervalues and leaves the work of the amateur user unattended. Meanwhile, the multinational Virgin Mobile Australia uses a picture of a 16-year-old girl from Flickr in its advertising campaign (Associated Press, 2007); elsewhere, a photographer discovers his image published and multiplied worldwide as an icon for protest (Masnick, 2011b). Whereas the family of the girl sued Virgin, the young photographer embraced the publicity. Levis promoted the hashtag #iamlevis to encourage users of Instagram to publish photographs of who might be the next public image of the denim brand (Soller, 2012). In those cases amateurs license their rights to the platforms where they upload their images and are left without legal protection as.

authors; even their moral rights are unprotected. These cases are presented often as isolated against the background of a growing culture of free access and ideas of “shareability” (Armano, 2011). They are becoming directives for marketing researchers, advisers, and companies; the app system by Apple and Android models is based on the authorship of large-scale amateurs. Collective participative forms of creating contribute, ultimately, to the vanishing of the author as conceived in dominant copyright legal understandings.

The 2011 Canadian copyright law (Bill C-11) attempts to provide for an expanded definition of authorship, while at the same time providing or even, potentially, claiming back some space for culture making by nonprofessional and/or noncommercial actors. This helps expand the definitional horizon further, by recognizing the spirit of the creator in others, who will make such use of copyrighted works. The Copyright Modernization Act of September 29, 2011 articulates signs in favor of moral rights and the extension of the conditions for fair use, hence the possibility of users-cum-authors for cases such as “education, parody or satire” (i.e., clauses 29.4 or 29.5) as forms of non-infringement; or even “29.21 (1) for the creation of a new work or other subject-matter in which copyright subsists under certain conditions.” This formulation recognizes the creativity, originality, and, ultimately, authorship of mash-ups and remixes, which remain illegal under the current legal regime. But simultaneously, the Act is inscribed in the norms dictated by the World Intellectual Property Organization Copyright Treaty and the World Intellectual Property Organization Performances and Phonograms Treaty. This means the law is still criminalizing popular practices like burning CDs (even if it is for personal use) or unlocking technological protection measures put by producers to block the acquired devices and avoid piracy. The blog community has reacted to the excess of connivance of the Act with the big worldwide players of the culture industry (e.g., Geist, 2011).

Authorship was described as “highly visible in contemporary copyright law, [and] usually appears as a focus of consensus rather than debate” (Jaszi, 1991). The author is the main character knocked out of place. Bill C-11 decriminalizes certain uses of the digital media and certain intentions that were punishable until now. But this does not mean that the mixer, the educator, or the parodist obtain the degree of author, who seems to wither away in the midst of a crowd of improvised publishers, commentators, deejays, amateur photographers, and citizen journalists. One of the most profitable strategies of production is transmedia storytelling (Rodriguez-Amat & Sarikakis, 2012). The films and series increase and commercially disperse in a multiplication of formats first (DVD, Blu-Ray, Pay-tv, etc.); but also multiply the extension of their narratives in forms of gadgets, objects, action figures, comics, sequels, prequels, mobisodes, short movies, video games, and others. From the point of view of the protection of authorship rights, the conglomeration of stories and media make it particularly difficult to

identify (and protect) an owner in the narrative world. The corporate solution has been to move out from the copyright system of authorship and to consider the group of stories, the merchandising, and the future developments (yet to be told or thought) as a commercial brand. Here, trademark legislation regulates the creation of platforms of participation where users and fans license their rights to the brand.

Structural changes mean that online distributors deal directly with authors in more confronting ways than the traditional mediators. The relation between the author and the consumer—publishers, distributors, and record producers—changes; writers, bands, and artists, bridge the middle man. Amazon deals directly with authors for higher commission (Streitfeld, 2011), Spotify negotiates with bands directly, and as cellist Zoe Keating says, “pays different moneys to different labels” (Houghton, 2011). Disputes with Spotify have spread along the Internet (Lindvall, 2011) and bands like Coldplay or Tom Waits or Adele do not allow the firma of “stream music” to publish their latest records (Robb, 2011). Thus, the logic of investment and protection that once originated in copyright law is lost somewhere.

As this chapter has demonstrated, the author comes and goes in the copyright regime. The author appeared as a particular condition related to the commercializing intentions of the publisher and the values of the individual as a creator. Progressively, the multiplication of practices and the extension of devices obliged the copyright system to adapt and consider the author in forms like collective works, licensing of employment, and so on. Current forms of cultural production seem to announce the next effacement of the author. Ultimately, the user becomes more of a consumer of the very products on which she or he elaborates—for free. Profit remains in the hands of the platform or the entity that facilitates the conditions for such a practice. It is not, thus, that the author disappears leaving no trace behind; rather, the author, as a full point in a process of labor, vanishes. The author is the user, the audience is the media, and it enjoys a complete other form, apparently more free, but effectively unprotected.

To be continued . . .

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ⁱ The Parliament of Great Britain enacted the Copyright Act of 1709 8 Anne c. 19, An Act for the Encouragement of Learning, by Vesting the Copies of Printed Books in the Authors or Purchasers of such Copies, during the Times therein mentioned in April 1710 and it was repealed in July 1842.

ⁱⁱ We are aware that culture industries exhibit many differences in their organizational practices, but they also exhibit common traits. In the context of digital media and convergences, these traits gain a prime role in the market position of their products.