

Authorship in the New Communication Space

Background

Increasingly artists - visual artists, performance artists and others - are using digital, multi-media technologies to create and disseminate their work which has led to a new era of creativity and innovation. How digital technologies will affect the content and distribution of their work remains unexamined. What is clear is that because digital media such as CD-ROM and the Internet have made copying and adapting artists' work easier and less expensive than ever before, the relationship between the economics of creation, production, distribution and reception of works are being radically altered (eg. as in the case of the music industry with the arrival of MP3 and in the publishing field with new "middlemen" such as FAT Brain). Since the 19th century, intellectual property legislation has been one of the mediators framing the relationship between creators (as authors of a work), distributors, producers and receivers (the public).

More recently, there are influential schools of thought emerging, which call for a gradual or even radical "disappearance of authorship" in the traditional sense as propagated by Roland Barthes. This opens up the question whether the "industry" as distributors (eg. publishers, media conglomerates, software giants) will try to fill in this gap left by the legal "owners" of authorship. Indeed industry have been quite successful in acquiring special rights under IPR regimes (eg. of museum collections) and are becoming, more and more, "digital rights managers". In such an environment, not only artists and their works, but the interest of the public is seriously affected. Governments and international bodies are currently considering the question of digital rights management including how to implement a centralised clearing system, (collecting societies of distinct media) and the introduction of micro payments technology -- paying for usage rather than exclusive rights. Alternative approaches demand that rights management be left in the hands of the authors themselves who would be responsible for granting other authors the right to copy, distribute or transform their original work (Copyleft, Free Art Licence).

It is clear that defining or regulating the relationship between creators, the public and private institutions is increasingly complex. Technology firms, Internet rights groups, lawyers, and government officials have raised the discussion of how to reformulate traditional copyright and authors rights laws to protect the rights of large scale players in the digital era. Since artists are often the most vulnerable to economic abuse, special attention must be paid to the way their rights fare in the world of multi-media and modern technology. A place must be found, as well, to locate the rights and voices of artists and of the public interest in this process.

Governments have attempted to address intellectual property rights in a digital age domestically. On a regional level, the European Commission has been introducing directives to harmonise aspects of rules on copyright and related rights in the Information Society. Such initiatives are built on traditional concepts of copyright or authors rights which have basically not changed since its inception 150 years ago and are founded on the principle of individual exclusive (original) authorship. Well before the digital era, many authors from Flaubert to Mallarmé, challenged the concept of a single or original author, with a definition of multiple authorship with multiple influences from which he or she would profit. As we know, most digital or multi-media works are no longer the creation of one artist or author. Today, working practices of freelancers, for example, demonstrate that singular "authors" are often part of project teams (several at one time) comprised of engineers, visual artists, programmers etc., who are collectively producing or are associated with a final result. In this context, it is clearly very difficult to determine one "original" author! It is now

time to address the manner in which the existing or new regulations and definitions are taking such practices and working conditions into account. It would be especially important for national, regional or international bodies working on digital media and copyright law to integrate the needs of all rights holders, including artists, in their policies, if such policies are to survive in the future.

Several measures, some of which are contradictory, have been proposed to protect the rights of creators, however no research has explored the merits, relevance or feasibility of these systems, and hence their system of values, from the artist's point of view. Some of these measures include:

- The development of technical devices such as embedded "identifiers" (eg. in the form of watermarks or other encryption mechanisms" to be placed within digital artworks coupled with legislation prohibiting their removal.
- Alternative royalty mechanisms such as taxing Internet use for all users, rather than individual licensing fees for users of copyrighted images.
- Improved international registration systems to facilitate copyright (author's rights) clearance and strengthen artists' rights collecting societies. For example, the EU has been working towards developing a code of conduct through which an author can register the type of use allowed of the work and where the works and its rights holders can be automatically identified. (already found in the form of on-line licensing and through companies such as ArtWeb or media factory Inc).
- License Art Libre which grants the user the right to freely copy, distribute and transform the artwork according to the wishes of the creator/author. The goal of the license is to promote and protect traditional artistic practices of appropriation while freeing them from rules of the market economy.

Project Overview

Authorship in the New Communication Space is a Europe-wide project whose main objective is to engage artists who are working with the new technologies either as a means of distribution or as a main tool for contemporary creation, in a discussion about the relevance of current intellectual property rights regimes in their current working conditions. This will be accomplished through:

- Re-examination of concepts such as authorship, originality, artistic appropriation, ownership and public interest within the context of new working practises;
- Review of relevant intellectual property legislation (copyright, droit d'auteur, moral rights, neighbouring rights), alternative models being proposed in different countries and/or media (eg. Copyleft for software developers in the US, Licence Art Libre for visual arts in France, FAT Brain for authors publishing on the Internet) and national policies/programmes for art and technology;
- Presentation of artists "real life" experiences with the current regimes of intellectual property through case studies and
- Development of scenarios for the alternative models.

Contributors will be commissioned to produce discussion papers on the different themes and to elaborate the case studies and scenarios mentioned above. Understanding that artists in different countries work under varying conditions and legal regimes, the project will involve artists and other contributors from all corners of Europe. Project partners (see below) will develop the project themes and identify collaborators to undertake research activities (both theoretical and practical) in early 2001.

The results of this work will be presented and debated at a European Forum of Artists to be organised in the Autumn/Winter 2001. The precise date and location have yet to be determined. The

papers as well as the results of the Forum will be published in a book and on the Internet and officially presented to bodies such as the European Commission and WIPO (World Intellectual Property Organisation).

Project Partners

To date, several partners from around Europe have expressed interest in:

- a) Carrying out some of the research activities
- b) Acting as advisors to the project
- c) Participate as organisers of the European Forum.

These include (in addition to those listed above) Finn-EKVIT (Helsinki), the European Institute for Copyright (Brussels), the Zentrum für Kulturforschung (Bonn), MIDE (Cuenca). Other collaborators will be included as the project develops. Main funding bodies could also be considered as project partners.

Project partners will meet in early 2001 to elaborate on the research themes and activities, identify contributors to undertake the research and begin planning the European Forum (programme development and first list of participants). A conference organiser will be nominated at this meeting.

Financing Partners

Financing partners for the research activities and the European Forum are being sought. Below is a budget required to undertake this project.

Activity	Costs in EURO
Project co-ordination and administration	12.000
2 Partnership Meetings	4.000
Main Research Activities <i>Research (teams) under the following three main categories will be commissioned, taking into account different fields and regions.</i> 1) <i>Conceptual Review (of authorship, originality, ownership and public interest)</i> 2) <i>Evaluation of empirical data on the conditions of authorship today</i> 3) <i>Overview of relevant intellectual property rights legislation (not a legal paper) and artists "real life" experiences</i> 4) <i>Alternative Models and development of scenarios</i>	40.000
European Forum <i>2 1/2 days, location to be determined, ca. 30 people including travel and accommodation, interpretation, premises, honorarium for participants, fee for conference organiser</i>	48.000
Preparation and publication of final report and recommendations <i>Collection of essays to be published in English and French, including printing costs, formatting and design, internet presentation, distribution, translation</i>	26.000
Total Cost	130.000

Contact:

The main initiators of the project include: European Research Institute for Comparative Cultural Policy and the Arts (ERICarts) (cliche@ericarts.org), the Oxford University Programme in Comparative Media Law and Policy (sverhulst@hotmail.com), Christaine Carlut, Ecole des Beaux Arts, Nantes (tantot.carlut@wanadoo.fr). The project was developed within the context of the Souillac Group on art, industry and technology.