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Chapter Nine

Media

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Here is a social fact: those of you with children now growing up in English-speaking countries (and in quite a few other countries as well) will almost certainly come to know the characters and plots of Episodes II and III of *Star Wars* within a decade. And this is in a time when there is no telling on what kind of screen or format your children will encounter the movies, or even if they will see them on a screen at all. Your children inevitably will come to know the creatures, heroes, and villains of these films, even if only through the channels of playground role-playing and licensed merchandise encountered on the store shelves during random shopping trips. In a future rife with uncertainties—who knows for sure what will be the state of the global economy, the fate of specific nations, or technological developments ten years from now?—the *Star Wars* franchise stands out as a seemingly unshakable monolith. And it is a monolith built not out of control over technology or institutions, but out of a latticework of intellectual property.

In this essay, we seek to explain why the organization of contemporary media makes this so and what the resultant political implications might be. We live in a world that is at once roiling with change and uncertainty and at the same time more tightly organized under the umbrella of global capitalism than ever before in history. Some of that change and uncertainty is produced by the pressures of global capitalism itself, some by resistance to capitalism, and much of it by various contradictory mixtures of the two. Here we provide an analysis of media structure that tries to provide some insight into the specific constraints and opportunities that this situation creates for those of us interested in progressive political change. We seek to shed some light on what kinds of voices, mainstream and otherwise, are encouraged and discouraged, and how those encouragements and discouragements are generated. We argue that contemporary media structures, "neo-networks," seek to replace the power of traditional broadcast networks—such as ABC, CBS, and NBC—with cross-channel branding strategies and new strategies for managing intellectual property. And we identify those areas within the current media environment where one might detect opportunities for challenging existing structures of power and dominance.

Beyond Media Monopolies

What does one need to understand about the contemporary media if one's goal is to further a progressive agenda? Certainly, happy liberal nostrums like the marketplace of ideas or technophilic fantasies like Internet libertarianism cannot be taken at face value: whatever else one says about them, the media are products of and a crucial element in the dramatic concentrations of wealth and power characteristic of the global economy. But simply condemning media monopolies and blaming them for all of the left's ills is not enough, for two reasons. First, by itself, the attack on corporate concentration offers little in the way of explicit solutions (and its implicit solution of breaking up monopolies has serious limitations). Second, corporate-dominated media are *liberal* media in the more philosophical sense of that term; they allow and in some ways require certain kinds of diversity and dissent, at the same time as they discourage or drown out other kinds. A useful understanding of current media landscape thus needs to come to terms with both of these issues.

The media are not a pre-given "thing" out there, but are themselves a politically constituted set of institutions that develop in response to a complex array of forces; any useful progressive politics of the media will not just react to what the media spew forth but will engage in the political struggles that make the media what they are in the first place. Acknowledging corporate concentration, that is, cataloging all the corporate mergers and tie-ins and consequent limitations on independent voices, is a crucial part of any analysis.[1] But in and of itself it neither provides a full analysis nor tells us what to do about the problem. What exactly are we calling for when we attack corporate concentration? As Katha Pollitt observes, media conglomerates do not necessarily follow an iron logic of corporate integration. "If conglomeratization is the problem," she asks, "how come *Newsweek*, which is owned by *The Washington Post*, is like a dumbed-down, hyped-up version of *Time*, and not [the *Washington Post*]?" Moreover, current patterns of consolidation, although cause for concern, are not really much different from prior forms of corporate behavior. "Was *Time* a more uplifting publication when it was run and owned by Henry Luce?" Pollit continues: "Hasn't mainstream journalism, for well over a hundred years, been in the business of delivering readers to advertisers and ratifying the status quo? The attack on conglomeratization veers uncomfortably close to a celebration of the nonexistent good old days."[2]

Even though media conglomeration bears careful scrutiny, it might not be the most important challenge that progressives confront. Moreover, it hardly sharpens our understanding to suggest that the corporate ambitions of the Murdochs, Turners, and Eisners of our day can be likened to the totalitarian behaviors of a Joseph Goebbels during the Nazi's rise to power in prewar Germany. The fact of the matter is that there *are* "alternative" voices out there, and not just in elite or marginal media. In a shrewd commentary essay, John Leonard notes that television, for example, displays a remarkable range of perspectives. "The surprise is that if you actually watch the stuff, it's not as bad as it ought to be," he writes. "And I'm not just talking about the remedial seriousness of public TV series like *Frontline* and *P.O.V.*, Bill Moyers on Iran/contra, Frederick Wiseman on public housing, Ofra Bikel on the satanic-ritual-abuse hysteria, *Eyes on the Prize* and *Tongues Untied*."[3] After rattling off a list of more than a dozen documentaries that feature analysis of everything from breast cancer to homophobia to the rape of the Ecuadorean rain forest by U.S. oil companies, Leonard turns his attention to entertainment programming and concludes:

> Commercial television, in its movies, dramatic series and even its sitcoms, has more to tell us about common decency, civil discourse and social justice than big-screen Hollywood, big-time magazine journalism and most New York book publishers. Seeking to please or distract as many people as possible . . . it is famously inclusive, with a huge stake in consensus. Of course, brokering social and political gridlock, it softens lines and edges to make a prettier picture. But it's also weirdly democratic, multicultural, utopian, quixotic and more welcoming of difference and diversity than much of the audience that sits down to watch it with a surly agnosticism about reality itself. It has been overwhelmingly pro-gun control and anti-death penalty; sympathetic to the homeless and the ecosystem; alert to child abuse, spouse-battering, alcoholism, sexual discrimination and/or harassment, date-rape and medical malpractice . . . And television may be the only American institution outside public school to still believe in and celebrate the integration of the races, at least on camera.[4]

What is *not* on Leonard's list is telling: TV tackles medical malpractice but not the systemic inequalities in access to health care; overt racial discrimination, but not structural racism or discrimination according to wealth and social class; individual suffering, but not the social policies that contribute to it. The focus tends to be on the individual, not the structural; the specific manifestations of suffering, not the broad social conditions underlying them (with the significant exception of ecological issues). But Leonard's point is still a crucial one: even the more craven and centrist of the commercial media can and do at times voice vivid criticisms of the current political

landscape. Any thorough criticism of the media must be able to take that fact into account.

So the challenge for a progressive agenda is not to simply bemoan concentration of ownership or (misleadingly) to contend that media diversity is a thing of the past, but to understand the logic of media production, regulation, and reception in the current era and to forge a progressive politics of the media that responds to changing conditions. This requires not only that we understand issues of ownership and diversity in a new light, but that we collapse the arbitrary distinction between information and entertainment in order to understand media as a cultural phenomenon that involves both knowing and feeling one's place in the world and one's relationship to the forces of history. Furthermore, we are challenged to move beyond economic and technological understandings of media in order to see them as sites for the production and circulation of imagery and ideas. This is perhaps the most important shift in the thinking of media executives who now understand that the stakes have shifted from the control of communication conduits to the control of intellectual property, or, as some would put it, a shift from hardware to software.

It is ironic that in an era of tremendous political, cultural, and economic upheaval, media corporations are forging innovative strategies to deal with this new era of flux, while many critics on the left continue to assail the fantom media moguls of eras past. At the same time that many critics on the left see a propensity toward concentration and homogenization, media executives are desperately trying to develop strategies that accommodate trends toward decentralization and fragmentation. Obviously, both tendencies exist at the same time, but, unlike corporate strategists, critics on the left have for the most part failed to develop an agenda that accounts for this double movement in the culture industries. This essay aims both to elaborate the logic of culture industries at the current moment and to propose an alternative agenda for responding to new trends in contemporary media.

From Networks to Neo-Networks: Edge and the Contemporary Logic of the Cultural Industries

Media industries' efforts to adapt to the current media environment are evident in the way executives refer to products with "edge." The word generally means media texts whose effectiveness is precisely that they do not soothe. The film *Reality Bytes*—itself a fairly "edgy" text—made fun of the term by having some of its characters work for a fictional music video channel that is described as "like MTV, but with an edge." Yet there is a second, interrelated meaning at work in such contexts: namely, products with edge sharply define the boundaries of their intended audience. They try to find a place in today's bewildering proliferation of channels, programs, and audience cultures with what is imagined to be a demographically focused appeal. *Edge* is thus simultaneously an aesthetic category and an industrial strategy, a cultural/industrial effort to establish sharp distinctions, to delineate a path through the otherwise bewildering media landscape. Like most such media strategies, however, efforts to industrialize *edge* are in some sense an effort to work against the very structures that undergird commercial media. *Edge*, we will argue, is a symptom of trends that are crucial to understanding the political implications of today's media.

There is nothing new about the capitalist media's willingness to devour and reinvent itself in the search for the new, about its tendency to fragment, diversify, and explore alternative cultures. Alfred Hitchcock acerbically made fun of the commercials in his own television show in the early 1960s; this was during the hegemonic pinnacle of the Cold War/Madison Avenue dominance of U.S. cultural production, and well before the late 1960s counterculture roared through the United States, to a large degree on the backs of for-profit record companies and radio stations. The feature films and television programs that Hitchcock directed were renowned for their edge-like qualities long before the term became fashionable. If for no other reason than the pressure to expand profits and markets, capitalist media experience ongoing pressures to innovate and to call attention to the process of innovation.

Current patterns of media innovation, however, have their own distinctive character, which has evolved in response to changing institutional structures. A useful way to delineate these patterns of change is to examine in some detail the development of television in the United States, for it points to a major shift in the political economy of media and its subsequent impact on the production and circulation of ideas.[5] The "classical" or "high network" era of television emerged during the early 1950s and lasted roughly until the early 1980s, when cable and satellite television began to siphon off significant portions of the audience. The classical era existed because the economies of scale of early TV production combined with an industry-fostered government licensing system that heavily favored the development of only three national broadcast services. When television first started, many other media companies, such as Time-Life and Paramount, wanted to establish networks of their own, and indeed, the technology was available. But during this early licensing phase, government regulators favored (not always intentionally) the existing radio networks and their lobbyists, thereby setting in place an officially sanctioned oligopoly. Yet no major objections were

raised at the time because of the widespread presumption that, given the heavy cost of developing the new technology, a few large broadcast corporations could best serve the needs of vast national and even international audiences.[6]

As with most monopoly corporations that are sanctioned by the government, the new television networks tried to legitimize their special status by promoting their services as offering something for everyone, combined with sporadic efforts to provide "public-service" programming such as documentaries. The "something for everyone" formula also had practical economic benefits, because the companies that purchased TV ads at that time were manufacturers of mass consumer goods. Thus, even though TV audiences of this period were fragmented along numerous axes (class, race, ethnicity, gender, political preferences, etc.), network executives aspired to represent them as a unified entity in ratings, marketing reports, and promotions. Moreover, they characterized the overarching mission of the networks as integrative: pulling people together, uniting various regions, forging ever-larger markets.[7] Television was conceived as a mass, national medium, which engendered ongoing criticism of network television as a cesspool of homogeneous drivel, or, as FCC Chairman Newton Minow famously described it, a "vast wasteland."

The operative principles of the classical network era still exercise a powerful hold on our imaginations, suggesting that power and control over national consciousness reside primarily in the boardrooms of a few major networks. Since the early 1990s, as we have witnessed the merging of gigantic media firms into huge conglomerates, many critics seem to assume that this concentration of ownership means greater control at the top of the corporate pyramid and an increasing standardization of cultural products.

Yet the principles that guide the television industry have undergone significant change over the past two decades. Transformations in national and global economies have fragmented the marketplace, pressuring the culture industries to reorganize and restrategize. Television advertising is no longer dominated by firms that manufacture products or provide services exclusively for mass markets. Changing market conditions have led companies to target their advertising at particular demographic groups and to disperse their messages throughout a variety of media.[8] Furthermore, transnational marketing has become increasingly popular as both advertisers and their ad agencies have sought out new customers around the globe.

As opposed to nationally based television corporations that prevailed during the classical network era, the current period is paradoxically characterized by both transnationalization and fragmentation. New technologies,

deregulation, and relentless competition have undermined national frameworks that once shaped the industry. Although mass markets continue to attract corporate attention and blockbuster media products are still a priority, industry discourse about the mass audience no longer refers to one simultaneous exposure to a particular program, artist, or event so much as a shared, asynchronous cultural milieu; that is, we less frequently experience something like the 1964 pop-rock "British invasion" by collectively gathering around the television set at eight o'clock on Sunday night to watch the Beatles' first television performance in North America. Instead, trends and ideas now achieve prominence in often circuitous and unanticipated ways. Ed Sullivan, who was the consummate 1960s gatekeeper of popular entertainment, has no counterpart in television today.[9]

In part, this is because the culture industries exercise less control over the daily scheduling of popular entertainment; audiences time-shift and channel-surf or they pursue a myriad of other entertainment options. As a result, media executives strive instead for broad exposure of their products through multiple circuits of information and expression. They also seek less to homogenize popular culture than to organize and exploit diverse forms of creativity toward profitable ends.[10] Besides their heavily promoted blockbusters, media corporations also cultivate a broad range of products intended for more specific audiences. Flexible corporate frameworks connect mass-market operations with more localized initiatives.

Two strategies are now at work in the culture industries. One focuses on mass cultural forms aimed at broad national or global markets that demand low involvement and are relatively apolitical, such as blockbuster Hollywood films, like *Titanic*, or broadcast television programs, like *Frasier.* Media operations that deal in this arena are cautious about the prospect of intense audience responses either for or against the product they are marketing. By comparison, those products targeted at niche audiences actively pursue intensity. They seek out audiences that are more likely to be highly invested in a particular form of cultural expression. Among industry executives, these are referred to as products with "edge." A few decades ago they received little attention, but today product development meetings are peppered with references to attitude and edge, that is, references to products that sharply define the boundaries of their intended audience. Programs with edge—ranging from hip-hop comedies, like *South Central*, to gender-bending parodies, like *Absolutely Fabulous*, to teen horror-comedies, like *Buffy the Vampire Slayer*—can be marketed on cable, satellite, videocassette, or via the new networks started by Warner and Paramount.[11] Such programs have even found their way onto broadcast TV, as the major networks attempt to respond to the new

competitive environment. For example, during the summer of 1995, Fox ran Michael Moore's politically provocative *TV Nation* after an initial launch on NBC the previous summer, and ABC ran Ellen DeGeneres's sitcom, *Ellen*, which explicitly revolved around issues of sexual orientation. Both series eventually succumbed to the residual pressures of classical network reasoning, but the fact that they survived two seasons on the national broadcast networks highlights the changes that have taken place since the early 1980s.

We are therefore witnessing the organization of huge media conglomerates around the so-called synergies that exploit these two movements between mass and niche marketing. This is what we refer to as the neo-network era, an era characterized by the multiple and asynchronous distribution of cultural forms, an era that operates according to the logic of what David Harvey refers to as a "flexible regime of accumulation."[12] Rather than a network structure anchored by a three-network economy, the neo-network era features elaborate circuits of cultural production, distribution, and reception.[13]

This transformation is not a radical break with the past. Rather, both high network and niche network tendencies exist side by side, and probably will continue to do so for some time. Blockbuster films that appeal to a transnational audience are still the desideratum of major Hollywood studios, but the same conglomerate that may own a major motion-picture studio may also own a boutique film-distribution company, a specialty music label, and a collection of magazines that target very specific market niches.[14] "As you get narrower in interest," one media executive observed, "you tend to have more intensity of interest and [the consumer] is more likely to pay the extra money."[15] What makes a niche product profitable is that it can be marketed to consumers and sponsoring advertisers at a premium price. The key to success is no longer the ownership and control of a centralized and highly integrated medium-specific empire, like the classical networks, but the management of a conglomerate structured around a variety of firms with different audiences and different objectives.

Although the mass market is still attractive, micromarkets can be extremely lucrative, a realization that has engendered an intensive search for narrowly defined and underserved audiences. Race, gender, age, and ethnicity have now joined socioeconomic status as potentially marketable boundaries of difference. Despite the intensity of interest that these firms may find among a microaudience, a media company's participation in a particular market is not based on a commitment to the material interests or political principles of the audience. Rather, these firms simply are following a marketing strategy that they characterize as strictly capitalistic and generally disinterested in content issues.[16]

Ideally, a neo-network strategy will present opportunities whereby a micromarket phenomenon crosses over into a mainstream phenomenon, making it potentially exploitable through a greater number of circuits within the media conglomerate. Some rap artists' careers obviously followed this trajectory, perhaps best represented by the success of a performer such as Will Smith, whose rap music career was leveraged into a hit television series and then into a leading role in one of the highest-grossing films in Hollywood history. But the converse is also true. A product that was originally a mass product can be spun out through a myriad of niche venues, which has been Viacom's strategy behind *Star Trek*, one of its most profitable brands.[17]

Most commonly, media moguls today find themselves chasing after audiences with a plethora of information and entertainment alternatives, resulting in the flood of material crying for attention. Consequently, promotion has become ever more important within the media marketplace where consumers confront a blizzard of options. One of the key strategies to address such confusion in the marketplace is the concept of "branding," whereby such companies as Disney and Time Warner try to develop a collection of products that are linked across media. Disney's films, cartoons, toys, and theme parks are the most obvious example. The look, feel, and packaging of Disney products give consumers a fairly good idea of what to anticipate from each item. Pursuing the same strategy, Time-Life magazines—the purveyors of *Time*, *Fortune*, and *Entertainment Weekly*—have recently developed television news magazines on CNN that are tied to the parent print publication, providing a archetypal example of synergistic relations between components of the Time Warner–Turner empire. One can furthermore assume that such brands will migrate to the new Internet services launched in partnership with America Online. In a neo-network environment characterized by overproduction rather than the artificially imposed restrictions of the classical network era, media conglomerates are trying—via the concept of branding—to help audiences make sense of the informational and cultural options available to them. Thus, the conditions of creative labor in the commercial media industries have changed dramatically since the 1980s and our tools for analyzing them must change as well.

Neoliberalism's Neoregulation: The Intellectual Property Grab and Its Contradictions

The new environment is no longer primarily shaped by technological constraints, government regulation, or even corporate conglomeration. What binds today's major brands such as *Star Wars* together are elaborate architectures

of copyrighted texts, trademarks, and licensing agreements. These architectures are based not on networks or technologies or government protected oligopolies (or, if the reviews of Episode I are any measure, artistic quality), but on intellectual properties. And this is not a politically neutral or economically inevitable development. It is instead an attempt to respond to an increasingly fragmented, cluttered, and diverse media environment.

In this era of supposedly tearing down walls, in at least one area, new walls are going up. On both international and national levels, the duration of copyright has been lengthened and its scope broadened. Most recently, for example, the U.S. Congress passed the "Sonny Bono Copyright Term Extension Act," which extended copyright in many categories by twenty years; as a result, Mickey Mouse, *Showboat*, *The Jazz Singer*, and tens of thousands of other copyrighted works that were bound to pass into the public domain in the next few years were essentially reprivatized until 2019.[18] Besides lengthening the duration of copyrights, the legal system has expanded the realm of patent protection to include computer software, human genetic material, and plant varieties, which means that although most computer programs or new agricultural hybrids depend most crucially on things that they borrow from other products, these combinatory products can be owned by the company that puts them together. And, despite the expressed skepticism of the courts, lawyers are diligently attempting to copyright things previously uncopyrightable, such as compilations of facts in databases.

As a result, the public domain of freely available material is shrinking and new ticket booths are springing up throughout the culture. Scientists have to pay for information that they used to share with one another freely; intellectual property costs of university libraries in the United States have risen by more than 32 percent in the last several years;[19] film and cultural critics find it increasingly difficult to reproduce images in their articles and books;[20] and instances of corporations using copyright and trademark violation as a vehicle for silencing their opponents are on the rise worldwide.

Neo-network corporate strategies are central to this trend. Scott Sassa, the executive often credited with the success of the Fox TV network in the 1980s and now president of NBC Television, described his secret to success as making sure that "every copyright that starts out anywhere in the system gets leveraged every which way imaginable."[21] As corporate oligopolies have lost control over hardware because of the proliferation of channels with satellites, VCRs, and cable, they have shifted attention toward control over software, and sought to use expanded intellectual property rights to ensure that control. During the 1980s, both media and computer software corporations, furthermore, began to pursue a new strategy that emphasizes the

process of cornering and cultivating huge libraries of old films, programs, and similar software. Those libraries of, for example, Humphrey Bogart films and *I Love Lucy* TV episodes could then be integrated with product-licensing campaigns and media tie-ins, and continuously recycled through the ever-growing variety of communication channels.[22]

Other factors have supported and encouraged this trend toward the expansion of intellectual property law as well. At the same time that the corporate world was developing new strategies in the 1980s, the U.S. government found itself lacking the funds to give out generous research grants to pharmaceutical and high-technology companies, and so got in the habit of giving out new property rights instead. During the 1960s, the government used to heavily subsidize aerospace and medical research; now it tells such high-tech companies that they must pay for more of the research, but the government will allow them much bigger profits in the future by allowing them to claim royalties from their inventions for much longer periods of time. The initial risks are higher, but the long-term paybacks are enormously greater. Also during the 1980s, under the influence of the law and economics movement, the judiciary gradually shifted the burden of proof in intellectual property cases concerning the boundaries of the public domain: where previously the assumption was that things in the public domain should stay that way unless a compelling case could be made for privatization, these days the assumption is the reverse, that things should be privatized unless a compelling case can be made not to. Finally, faced with deindustrialization at home and the realization that intellectual property was the last remaining area of clear-cut U.S. industrial domination, the U.S. State Department embraced these trends and took on the expansion of intellectual property rights internationally as a key foreign-policy goal.[23] In sum, it is significant that executives such as NBC's Scott Sassa no longer refer to popular programs, films, or songs when discussing media strategy. Instead, they talk about leveraging a copyright or purchasing a library of copyrights.

The Author in the Law

At the heart of these changes in intellectual property law is the notion that "ideas" belong to particular individuals (including "corporate individuals") and can be sold to others who may want to use them for personal, political, intellectual, or commercial reasons. But what kind of ideas can be owned and marketed? What, if any, limits should exist over the mad scramble to control the creation and circulation of ideas? Given the rapid expansion of intellectual property law over the past decade, it is interesting to notice the

moment at which the U.S. Supreme Court apparently marked an important boundary in the law. In the "Feist" decision,[24] the Court refused to grant copyright protection to the compilation of facts in an electronic database because, more or less, the compilation clearly involved an investment of time and labor by its creator, but not inspiration.[25] Intellectual property, it turns out, is supposed to be "original," and "originality" in the law tends to be understood as the product of something like artistic inspiration or genius. Absent that quality, courts are sometimes reluctant to grant intellectual property rights. Ironically, one of the linchpins that holds together the sprawling media corporations of the current era is the notion of individual creative endeavor.

Buried away inside the law is the notion of an author-genius that dates back to the romantic era of Western literature, a moment when many of the foundational precedents of Western law were first established. Inside legal cases concerned with decidedly unromantic topics such as computer databases and genetically altered cells from someone's spleen, one can find invocations of something that looks very much like the shopworn literary figure of the romantic, isolated artistic genius working away in a garret.[26] One way to address the idea of creativity invoked in the law is to denounce it as an illusion. Numerous historical and critical studies have, for example, traced the lives of particular ideas and inventions, showing how William Shakespeare's "genius" was the product of collective creative activity among writers and performers in Elizabethan England and how Guglielmo Marconi's invention of the radio was built on the research of dozens of experimenters around the world who were working on the very same scientific problems at exactly the same time. Critics can show how both Shakespeare and Marconi absorbed crucial ideas from their peers.[27] Indeed, that is the way that most innovation works. We nevertheless tend to attribute innovations to particular people as a way of organizing them for circulation and social use. The author "functions" as an organizing name tag for the social production of ideas, but just as importantly it functions as an important rationale for the ownership and marketing of ideas.[28] It was one thing to say that Marconi invented the radio; it was quite another to give him a patent that allowed his company to create an extremely powerful monopoly over the early development of the technology, which in turn established patterns of organization in the industry that are with us to this day. And here we begin to detect an important connection between culture and economics.

The way we commonsensically talk about inventor-geniuses powerfully affects the ways in which we organize the marketing and circulation of ideas. Under the current legal and economic regime, when we say that someone is

the author of an idea, we confer upon her or him significant rights of ownership. But our contemporary notion of authorship does not come from a divine source or a natural code of law. In fact, it is a fairly recent development in Western society, perhaps only two or three hundred years old. Some critics argue that it emerged during the industrial revolution and provided the groundwork for the rapid expansion of capitalism. As one critic puts it, "[I]n the domain of intellectual property, 'authorship' has remained what it was in eighteenth-century England—a stalking horse for economic interests that were (as a tactical matter) better concealed than revealed."[29] James Boyle's important book *Shamans, Software, and Spleens* is the classic example of this approach: he denounces what he calls the "author ideology" at work in the new digital media environment as a linchpin of the legal structures that are constraining free speech and democratic dialogue in the guise of protecting property rights.[30]

Yet, as time has gone on, the all-out attacks on the author construct have become more complicated. On the one hand, as the Court's database decision illustrates, at times courts have invoked the author construct to limit rather than expand intellectual property. On the other hand, there are times when it is pragmatically and even morally inadequate to treat the author construct as an illusion. The moment of individual self-expression is a widely valued and respected experience that cannot be easily reduced to a mere cog in the machine of corporate domination. The fact is, the author construct is not simply an idea or a legal principle, it is a historical force or condition. John Frow has suggested that the concept of the author, "is not a piece of ideology that can be demystified and then discarded. It is continuous with a millennia-long process of elaboration of the legal conception of the person, and it . . . corresponds in complicated ways to the imaginary forms of selfhood through which we experience the world and our relation to it."[31] Frow concludes that our notions of what constitutes a person and a personal endeavor are in fact two of the most important topics of social deliberation and struggle over the last two hundred years. One version of those "imaginary forms of selfhood" of which Frow speaks is romanticism. The persistence of the author construct reflects the persistence of various forms of romantic individualism in the culture at large.

To pursue this, one has to look at romanticism, not as a set of texts or a period or a philosophy, but as a sociocultural pattern of organizing affect and everyday life that is peculiar to our era. There are various literatures that look at romanticism this way, but one place to start is Colin Campbell's neo-Weberian book *The Romantic Ethic and the Spirit of Modern Consumerism*.[32] His general argument is a compelling one: that the consumer culture

is romantic in its structure, that the forms of individualism it encourages tend to be more about self-transformation and anticipatory pleasures—about what some call the desire to desire—than about the satisfaction of utilitarian needs. And he suggests that romanticism is both a necessary condition to capitalism as we know it and a common feature of many substantial movements of *resistance* to capitalism, the paradigmatic case being the 1960s counterculture, when many people pursued a form of individualism that desired to free the human spirit from the utilitarian conformity of modern capitalism.

In this view, then, the author construct, like the romanticism of which it is part, is related to capitalist property relations in what might be described as a tangential fashion. Because the author construct is based on a romantic, not a utilitarian, understanding of the self, it works neither in direct opposition to nor in perfect parallel with conventional property relations. In this light, the romantic individualist is not just a type of person or even just a way that people in creative positions sometimes understand themselves, but rather something like a discursive resource or a rhetorical trope that people learn to invoke (and to feel) in complex combination with other tropes or discourses, particularly managerial or industrial ones. In other words, authorship allows corporations to own and control the circulation of ideas, but it also provides people like Spike Lee, Michael Moore, and Ellen DeGeneres a resource for pursuing ideas that are sometimes controversial and even critical of the dominant social order. Indeed, such authors must constantly invoke creative and managerial discourses if they are to succeed in the world of Hollywood. They both use these discourses and are shaped by these discourses.

The Author at the Machine

The contradictory qualities of authorship suggest interesting possibilities for those who wish to challenge the expansion of corporate control over ideas and innovations. A good example of this potential can be found in the computer software industry, currently one of the most dynamic sites of creative labor and one of the most hotly contested arenas of intellectual property law. Today's computer culture can be understood as a deeply contradictory but politically very powerful fusion of a 1960s countercultural attitude with a revived form of political libertarianism, a fusion that has been inscribed in the designs and organization of computers themselves and that is accomplished by a powerful, if naive, form of romantic individualism. This can be illustrated in a number of ways, including the ways that the countercultural compendium called the *Whole Earth Catalogue* evolved from being a radical communications outlet for groups like the Black Panthers into a computer catalog that eventually provided much of the editorial staff of *Wired* magazine.[33] One of the distinctive strains of thought in the computer community is a vision of the computer as a device for the manipulation of symbols, as a medium for personal *expression,* instead of as a calculating or thinking machine. This romantic individualism then became connected to the economic conservative movements driving neoliberal policies worldwide during the 1980s and 1990s. *Wired* is perhaps one of the best examples of this articulation, because it took a residual 1960s-influenced countercultural radicalism and harnessed it to the neoliberal politics of government deregulation, privatization, and commercialization. What was once a progressive form of romantic individualism became rearticulated to the politics of the "Reagan revolution," which enabled an intensive period of government deregulation and corporate mergers, resulting in the growth of huge conglomerates such as Microsoft.

Yet the neoliberal romanticism in the computer culture during its heady growth years may be starting to change a bit, in part because of the Open Software movement. The Linux operating system is an important expression of this shift. Today, Linux is the only operating system that is gaining market share against Microsoft Windows. It has been created and maintained by programmers working over the Internet on a largely voluntary basis, and is legally organized by what people are calling an Open Software License, wherein one not only can use it free of charge, but one can have access to the source code for further modification and improvement as long as those improvements are published and shared.

Source code is at the heart of all forms of software. This is what companies and intellectual property lawyers fight so rabidly to protect and to market; it is the commodity par excellence of the so-called information economy. Linux, however, is the flagship of the Open Software movement, which sees itself in a struggle against the protection and marketing of source code. Open Software is in one view a kind of political movement against the commodification of information. And it has been making some significant inroads among computer users, which in turn has inspired emulation by some of the major firms in the industry. In 1998, executives at Netscape were persuaded by the Open Software arguments and released the source code for Netscape 5.0 under an open software license; Apple more recently has been inching in that direction as well. In part, they are responding to the fabulous success of a younger competitor. Linux has now become an installation option for computers ordered from Dell, Gateway, and IBM, and a number of purely Linux-based systems are available.[34]

Ultimately, Linux may not topple the citadels of Microsoft power or change the dominant economic relations in the computer industry. But it is interesting in terms of what it introduces into the contours of public debate. In particular, the Open Software movement is, on the one hand, a marked departure from the economic libertarianism that so far has dominated the intersections of the computer culture with the worlds of law and business. On the other hand, the success of the movement so far has depended on an effort to frame open software in romantic individualist terms.

As usual, there are several overlapping strands of thought in the recent history of the Open Software movement. Software communitarians offer arguments that are frequently, but not always, of a fairly naive sort: software should be free because sharing is better than not sharing. And others support the movement because of a widespread (and in many cases somewhat adolescent) resentment toward Bill Gates, as if dethroning Gates would magically resolve the many exploitative forces at work in the computer industry. But another component of the movement's success so far is a set of justifications and self-descriptions that frame the movement in individualist terms.

The core piece here is an essay by a movement leader named Eric S. Raymond. His essay called "The Cathedral and the Bazaar" has circulated beyond the Internet into the offices of key business executives and copyright lawyers, influencing policy at companies such as Netscape, Apple, and, by some accounts, IBM. It is important that its arguments are not communitarian; altruism is dismissed out of hand.[35] The central rhetorical accomplishment of the piece rather is to frame voluntary labor in the language of the market: the core trope is to portray Linux-style software development as a bazaar, a real-life competitive marketplace, whereas Microsoft-style software production is portrayed as hierarchical and centralized—and thus inefficient—like a cathedral. The metaphor of the market is thus associated with voluntary labor and dissociated from conventional capitalist modes of production.

Part of what makes this curious reversal work is Raymond's focus on programmers' motivations. For an essay about such a dry and technical topic as the management of software development, it makes an awful lot of reference to the internal feelings, psychological makeup, and desires of programmers. Raymond presents a first-person account of his own experiences in software development, during which he tells the story of how he became converted to the Open Software model. This narrative of personal revelation is interspersed with numbered principles or aphorisms, the first of which is: *Every good work of software starts by scratching a developer's personal itch.*[36] Because Raymond's audience is in the worlds of business and law, he immediately sets out to reconcile his psychologically tainted portrayal of motivation with a utilitarian one. "The 'utility function' Linux hackers are maximizing," he observes, "is not classically economic, but is the intangible of their own ego satisfaction and reputation among other hackers." He goes on to draw analogies with fan subcultures, wherein the enhancement of reputation among the other members of the community is understood as a key motivation.[37] Just as *Star Trek* fans or hip-hop fans want to be recognized by other fans as knowlegeable, contributing members of a community, so software developers pursue similar forms of recognition.[38]

Raymond thus frames the motivation to write software as something born of a not entirely rational fascination or ambition, of a desire to have one's accomplishments recognized not with money but with the psychological satisfaction of acclaim, and a desire to be open to transformations of self. One could, of course, criticize this as both an empirical description and a philosophical argument, but what is significant is, first, how the dream of having one's "itch," one's inner passions, acknowledged by a community of the like-minded is a characteristically romantic structure of feeling, and, second, how much Raymond's statement of the problem, whether or not it is philosophically coherent, has resonated with the computer culture at large and managed to take at least a few small steps into the larger business culture.

The first sentence of Raymond's essay is, "Linux is subversive." Of course, that is not true. Open Software is already being treated by many as just another business model, and by itself is unlikely to change things dramatically. That opening sentence and its absurdity nicely capture yet another example of the grandiosity of the computer culture. But it is not coincidental that there is something vaguely Byronic about that grandiosity: it is connected to a deeply rooted tradition of romantic individualism. And while there is truly something comic about the idea of men sitting at computer consoles imagining themselves as Byronic heroes, it is also telling.[39] The story of Open Software offers some indication of the "intense social struggle" that John Frow suggests is embedded in the "legal conception of the person" and its complex connections to "the imaginary forms of selfhood through which we experience the world and our relation to it." He goes on to argue that it is at the level of everyday life, that moment of experiencing the world, that the logic of the commodity and the logic of the gift interact most dynamically and contradictorily.[40] The peculiar passions of the computer culture suggest a pattern on the level of everyday life, a structure of feeling, if you will, that plays an important role in the connection of people in the computer culture (and probably in many other areas of life) to the commodity form and its institutional supports in law.

The connection is a changeable one. With the rise of the Open Software movement, we have seen the appearance of a version of romantic authorship in an economically and legally significant community that seriously conflicts with existing structures of commodification. A few years ago, the computer culture was an important source of apologias for an aggressive, neoliberal expansion of property rights. Today, if the Open Software movement has any authority at all, that seems to be changing. If Linux itself is not subversive, useful lessons about how real change might come can be derived from its popularity. In particular, it suggests that, in public political and legal arguments, focusing on the contrast or gap between the romantic vision of the author and the economic realities of our industries is, in many cases, likely to be a more fruitful approach than attacking the author construct itself.

In our lives, we will never displace the notion of personal authorship. It is almost impossible for us as a society to imagine creativity without the concept of authorship. It is simply too deeply embedded in the modern Western cultural tradition and too much a part of our everyday lives. We can, however, explore and hopefully transform some of the many assumptions that have been associated with authorship. For example, is it acceptable to author something that is based on the use of other related texts and then to claim sole commercial and cultural ownership of the resulting concoction? Or can one author an idea that has far-ranging social exposure and then use intellectual property laws to protect that idea from criticism, parody, or alternative use? Is the promise of economic reward through restrictions on others' use of creative works really the best way to encourage innovation and personal expression? The Open Software movement provides no ready answers to such questions, but its notion of authorship leads in directions that are very different from those currently preferred by the powerful interests in the culture industries. It suggests that the desire to create is a social desire, not simply a wish to maximize personal wealth. It furthermore argues that personal, creative endeavor springs from a desire to participate, to share in a communal world of ideas. Whether these ideas can provide the basis for social activism and change is open to question, but they nevertheless have proven enormously popular with many people in today's computer culture. Such popularity suggests that the concept of authorship is still alive as an active resource for those seeking social and economic change.

Short of a global revolution, it is unlikely that the capitalist relations of exchange that dominate creative labor will be transformed in the next couple decades. Yet change, even revolutionary change, is usually the product of elaborate and extended struggles over the ideas and social relations that govern capitalist industries, among them the culture industries. Marx, Gramsci,

and many other critical thinkers urge us to consider the realm of contradiction as the wellspring of social change. If, as we argue here, the unstable and dynamic terrain of romantic individualism is indeed a site riddled with contradiction, then it is worth considering as a potential site for contesting current patterns of corporate dominance in the culture industries.

Conclusion: Can the Left Have Edge?

What are the lessons for the left in all this? As any survivor of the 1960s counterculture is aware, the left certainly has experience with "edge." There are many leftists, left movements, and left texts that in different ways offer a thrill with the promise that we stand apart from the despised, stifling, and plodding powers that be of the world. But, as with the Linux enthusiasts of today, there are serious limits to an approach that cloaks itself in the ethos of a simplistic romantic individualism that is most often associated with "edge." One of the best critiques of what is wrong with the romantic individualism of the computer culture comes from journalist Paulina Borsook. Borsook describes what she calls the "diaper fallacy," which rests on the observation that

> making babies, or thinking about making babies . . . is fun. Considering the reality of how many times you will really have to change their diapers (or buy them or wash them or dispose of them or manufacture them or pay for those diapers), is not. . . . It's much more fun to think Grand Abstract Thoughts about (Divine?) Providence providing Prosperity—than to be bothered to think about who wipes the noses and picks up the garbage and absorbs the collateral costs and damage for the outfit.[41]

A left strategy needs to acknowledge the draw of romantic individualism, of the sociocultural power of "edge," of the compelling quality of iconoclasm, of taking a dramatic stand against business as usual. But by itself that is not enough. It is impressive and politically significant that the major competitor to Microsoft Windows (the cash cow of the Richest Man in the World) was produced by volunteer labor and distributed for free, but most of the diaper changing in the world is done on an unpaid basis as well. The moral of Linux should be, not that software should be produced by volunteer romantic entrepreneurialism, but that most of the work of cultural creation, whether one is talking about Linux or Windows or movie scripts, is only tangentially related to the systems of rewards under capitalism. People sometimes work for money, and sometimes for passion, pleasure, or obsession,

and much of what gets done in the world goes unrewarded or marginally rewarded; that has always been true. What is at stake is not simply the question of whether big corporations are getting bigger, but whether they are supporting or constraining the flow and creation of ideas. At times, media conglomerates actually work in favor of innovation, and even in favor of critical thinking. But at other times they do not. And, most obviously, they tend to work against politically progressive modes of thought when they attempt to expand the domain of intellectual property beyond reasonable boundaries.

What is needed, then, is a more mature, less grandiose left approach to the politics of media. Rather than simply focusing our energies primarily on heroic challenges to media conglomeration or on the Byronic celebration of the author genius, we should focus our energies on the diaper-changing aspects of promoting a more robust and diverse media environment. With this in mind, we believe that at least three strategies are worthy of attention. First of all, it seems important to support and expand the legal protection of ideas as a public resource. Although such issues have largely been discussed within limited professional circles, issues of creativity, critique, and even comedy rely on an open circulation of ideas. Wherever possible, we need to develop organizations that will explicitly foreground these issues not simply as challenges to corporate conglomeration or media concentration but as fundamental questions of value attached to cultural and historical traditions of personhood. Although considered unfashionable in some intellectual circles, questions of selfhood are powerful motivating issues in societies around the world. Given that romantic notions of the self crucially hinge on the concept of creativity, it seems especially important to mount a sustained movement to expand public rights in legislation and legal deliberations related to the circulation of ideas.

Second, we must continue to work for the promotion of alternative cultural resources and venues. As many critics have noted, public broadcasting in the United States is a pale imitation of the much more robust services available in countries around the globe. Instead of engaging in dramatic David-versus-Goliath struggles over what gets on network TV (or does not), it might be better to work toward developing more alternative resources. If our society is to be truly innovative, then we need structural diversity in media, media organized in a variety of ways, not just more and more outlets that are all following the same principle of delivering audiences to advertisers. Is one public television service enough? One community radio station? Or one severely underfunded cable access station? We need to expand the number of noncommercial services, wherever possible with a special emphasis on innovation rather than simply an expansion of existing services, many

of which have grown tame and bureaucratized over the past two decades as they have responded to budget reductions and intensive political attacks from the right.

A third strategy would be to take a leaf from the corporate world and build alliances under the rubric of particular "brands." The *Whole Earth Catalogue* and its allied publications and products are one enormously successful example and REI (the outdoor products cooperative) is another. One may not agree with the politics of either of these organizations, but the strategy is one that works well in the current environment. People want information, enlightenment, and entertainment, but they also want to associate themselves with particular political agendas. They will do this through voting, petitioning, and protesting, but, perhaps ironically, they will also do it through the consumption of particular products. Some feminist and environmentalist Web sites now help net users make precisely these sorts of connections. As activists, we need to attend to the important work of building linkages that are flexible and far-reaching. The linkages also need to be intelligible to broad audiences. Tilting at Microsoft windmills may be less important than building a "brand" identity for politically progressive products and cultural resources. Some of these resources might be produced by progressive organizations, while others might be available from the very conglomerates who seem willing to cater to the interests of niche consumers. By helping citizens make connections between offerings in the cultural marketplace, we can enhance the availability and visibility of media texts such as *In These Times*, *Ms.*, and *Z*, as well as *Ellen*, *Bulworth*, and *TV Nation*.

Further Reading

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Notes

1. Ben H. Bagdikian, *The Media Monopoly* (Boston: Beacon Press, 1992); Edward S. Herman and Robert W. McChesney, *The Global Media: The New Missionaries of Corporate Capitalism* (Washington, D.C.: Cassell, 1997); and the classic work of this genre of research, Herbert I. Schiller, *Mass Communications and American Empire*, 2d ed. (Boulder, Colo.: Westview Press, 1992).
2. Katha Pollitt, "Their Press and Ours," *Nation*, November 10, 1997, 9. As for "the good old days," see Richard Ohmann's analysis of the rise of the magazine and its relationship to mass culture, *Selling Culture* (New York: Verso Books, 1996).
3. John Leonard, "Of Love and Bile," *Nation*, June 8, 1998, 6.
4. Ibid.
5. Here we focus on television as a useful example of the changes that have taken place in mass media. Similar patterns of development can be found in the film and radio industries. During the classical network era, music and print publishing operated according to quite different logics, although the more recent convergence of media has made those differences increasingly inconsequential. An excellent analysis of music and publishing during the classical network era can be found in Paul Hirsch, "Processing Fads and Fashions: An Organization-Set Analysis of the Cultural Industry Systems," *American Journal of Sociology* 77 (1972): 639–59.
6. James L. Baughman, *Television's Guardians: The FCC and the Politics of Programming* (Knoxville: University of Tennessee Press, 1985); William Boddy, *Fifties Television: The Industry and Its Critics* (Urbana: University of Illinois Press, 1990); and Christopher Anderson, *Hollywood TV: The Studio System in the Fifties* (Austin: University of Texas Press, 1994).
7. Two anthologies provide especially useful collections of scholarship regarding the development of television. See Tino Balio, ed., *Hollywood in the Age of Television* (Boston: Unwin Hyman, 1990), and Lynn Spigel and Michael Curtin, eds., *The Revolution Wasn't Televised: Sixties Television and Social Conflict* (New York: Routledge, 1997).
8. This pursuit of demographically defined audiences actually began as early as the 1970s, according to Jane Feuer, Paul Kerr, and Tise Vahimagi, *MTM: "Quality Television"* (London: British Film Institute, 1984), and Todd Gitlin, *Inside Primetime* (New York: Pantheon Books, 1983). For an excellent analysis of the contradictory attractions of mass and niche markets during the 1980s, see Julie D'Acci, *Defining Women: The Case of Cagney and Lacey* (Chapel Hill: University of North Carolina Press, 1994).
9. One gains a further sense of this difference by comparing the audience share of a program such as the *Beverly Hillbillies*, which averaged more than 30 percent of viewers throughout the early 1960s, with a 1990s hit comedy such as *Seinfeld*, which averaged audience shares in the teens.
10. It should be pointed out, however, that television (even classical network television) never attempted to "homogenize" culture so much as it attempted to organize and manage differences. See Michael Curtin, "Connections and Differences: The Spatial Dimension of Television History," *Film and History* 30:1 (March 2000): 50–61.
11. This phenomenon is also having an impact on international television. See Michael Curtin, "Feminine Desire in the Age of Satellite Television," *Journal of Communication* 49:2 (spring 1999): 55–70.
12. David Harvey, *The Condition of Postmodernity: An Enquiry into the Origins of Cultural Change* (Oxford: Basil Blackwell, 1989).
13. Michael Curtin, "On Edge: Culture Industries in the Neo-Network Era," in *Making and Selling Culture*, ed. Richard Ohmann, Gage Averill, Michael Curtin, David Shumway, and Elizabeth G. Traube (Hanover, N.H.: Wesleyan University Press, 1997).

14. For example, Interscope, an "independent" music company, is typical of a boutique music company whose success is predicated on its reputation for releasing edgy products. Despite its street credibility as oppositional, it nevertheless operates under the wings of huge conglomerates, sometimes to their consternation. Formerly owned by Time Warner, Interscope became very controversial in the mid-1990s because one of its niche labels, Death Row Records, most prominently featured gangsta rap artists like Snoop Doggy Dog and the late Tupac Shakur. After intense public pressure, Time Warner put Interscope up for sale, which quickly attracted the attention of Sony and MCA/Universal, with the latter taking control after a high-stakes bidding war. So, rather than actually going independent, the label is now racking up record-breaking sales in new niche markets that include punk-ska and gospel music. Interestingly, these recent shifts were reported in a niche insert of *Time* magazine called "Time Select, Show Business"; see David E. Thigpen, "A Sound Rebound," *Time*, November 10, 1997, B2, and A. Sandler, "MCA Finishes Interscope Odyssey," *Variety*, February 26, 1996, 62.
15. This quote comes from the transcript of a roundtable discussion with publishing executive Mark Edmiston in Ohmann et al., *Making and Selling Culture*, 137.
16. We have found this to be true in most conversations with media executives, but the pattern is rendered rather explicitly in transcripts of roundtable discussions with media executives published in *Making and Selling Culture*.
17. It should be pointed out that the trajectory of Smith's career is what fascinates media executives who are building synergistically motivated conglomerates. They aspire to provide multiple venues for a star like Smith or a product like *Star Trek*. Yet these hopes have not yet been fully realized because performers and brands still jump from one company to another in many cases. Smith, for example, landed a popular television series with GE/NBC in the prime-time series *Fresh Prince of Bel Air*, but then scored a film success with Sony/Columbia in *Men in Black*, which earned more than $500 million in global box-office revenues four months after its premiere, making it the tenth-highest grossing film in Hollywood history. See "Box Office," *Variety*, October 27, 1997, 16, and Leonard Klady, "Sony Sent Soaring by 'Summer,'" *Variety*, October 27, 1997, 16. Regarding Viacom's strategy for the exploitation of product brands such as *Star Trek*, see John Batelle, "Viacom Doesn't Suck," *Wired* (April 1995): 110–15+.
18. Daren Fonda, "Copyright Crusader," *Boston Globe Magazine*, August 19, 1999. Also see Jessica Litman, "Mickey Mouse Emeritus: Character Protection and the Public Domain," *University of Miami Entertainment and Sports Law Review* 11(1994): 429.
19. Pamela Burdman, "UC Berkeley Cuts Back on Library Book-Buying: Emphasis on Computers Worries Some," *San Francisco Chronicle*, December 9, 1997, A1.
20. Indeed, scholars who produce criticism of visual imagery often find themselves in the difficult situation of publishing critiques of images that they must describe in words because they are unable to get copyright clearance to reproduce the image within the context of their essays or books. The Society for Cinema Studies has been a leading organizer of efforts to resolve such issues and regular reports of its endeavors can be found in *Cinema Journal*.
21. David Kline, "Savvy Sassa," *Wired* 3:3 (March 1995): 112.
22. For example, in addition to the development of CNN, the rise of the Turner cable television empire was predicated on the strategic acquisition of software, especially the purchase of the Braves baseball team and the acquisition of the MGM film library. Similarly, in anticipation that one of the most important elements in the future

development of the Internet will be control of visual imagery, Microsoft purchased the Bettman Archives, perhaps the world's largest privately owned repository of photographic imagery.

23. This is a loose interpretation of the analysis presented by Robert Merges: "There are essentially three interrelated reasons for the growth in intellectual property commercial transactions. First, there is more intellectual property to include in transactions than there used to be, and it is worth more because it is more readily enforced by the courts. Congress, and to a lesser extent the state legislatures, are creating more intellectual property each year; where the United States leads in this area, other countries tend to follow. Second, the growth in intellectual property has increased business-people's awareness of the intellectual property aspects of traditional transactions. Consequently, there is often now an intellectual property dimension to transactions that were conducted in the past without mention of these rights. Third, and most interesting to me, intellectual property rights make more feasible various organizational structures that firms and individuals are increasingly using to produce goods and services. Since these organizations are at least partially based on contracts, they provide a growing source of commercial transactions that necessarily include an intellectual property component." (Robert Merges, "Expanding Boundaries of the Law: Intellectual Property and the Costs of Commercial Exchange: A Review Essay," *Michigan Law Review* [May 1995]: 93 Mich. L. Rev. 1570).
24. *Feist Publications, Inc. v. Rural Tel. Serv. Co.*, 111 S. Ct. 1282 (1991).
25. Peter Jaszi, "On the Author Effect: Contemporary Copyright and Collective Creativity," *Cardozo Arts and Entertainment Law Journal* 10 (1992): 293.
26. For example: Martha Woodmansee, "The Genius and the Copyright: Economic and Legal Conditions of the Emergence of the 'Author,'" *Eighteenth-Century Studies* 17 (summer 1984): 425–48; Martha Woodmansee, "On the Author Effect: Recovering Collectivity," *Cardozo Arts and Entertainment Law Journal* 10 (1992): 293; Peter Jaszi, "Towards a Theory of Copyright: The Metamorphoses of 'Authorship,'" *Duke Law Journal* (1991): 455; John Frow, "Repetition and Limitation: Computer Software and Copyright Law," *Screen* 29:1 (winter 1988); Bernard Edelman, *Ownership of the Image: Elements for a Marxist Theory of Law*, trans. Elizabeth Kingdom (London: Routledge and Kegan Paul, 1979); Jane Gaines, *Contested Culture: The Image, the Voice, and the Law* (Chapel Hill: University of North Carolina Press, 1991); Rosemary J. Coombe, *The Cultural Life of Intellectual Properties: Authorship, Appropriation, and the Law* (Durham, N.C.: Duke University Press, 1998).
27. An excellent history of the ideas and inventors that made radio possible can be found in Hugh G. J. Aitken, *Syntony and Spark: The Origins of Radio* (New York: Wiley, 1976). Regarding deliberations over Shakespeare's "genius," see Peter Jaszi, "Who Cares Who Wrote 'Shakespeare'?" *Amercian University Law Review* 37 (spring 1988): 617–24.
28. Michel Foucault, "What Is an Author?" in *Language, Counter-Memory, Practice: Selected Essays and Interviews*, ed. Donald F. Bouchard (Ithaca, N.Y.: Cornell University Press, 1977), 138.
29. Jaszi, "Towards a Theory of Copyright," 500–501.
30. James Boyle, *Shamans, Software, and Spleens: Law and the Construction of the Information Society.* (Cambridge: Harvard University Press, 1996).
31. Frow, "Repetition and Limitation," 187. Rosemary Coombe, following Peggy Kamuf's work on the signature, similarly emphasizes the double-jointedness of the notion of authorship, arguing that it contains within it its own alterity.
32. Colin Campbell, *The Romantic Ethic and the Spirit of Modern Consumerism* (Oxford: Basil Blackwell, 1987).

33. See Thomas Streeter, "'That Deep Romantic Chasm': Libertarianism, Neoliberalism, and the Computer Culture," in *Communication, Citizenship, and Social Policy: Re-Thinking the Limits of the Welfare State*, ed. Andrew Calabrese and Jean-Claude Burgelman (Westport, Conn.: Rowan and Littlefield, 1999), 49–64.
34. The essay "The Cathedral and the Bazaar" originally circulated on the Internet. The version quoted here is available at http://www.tuxedo.org/%7Eesr/writings/cathedral-bazar/cathedral-bazaar/. It has since been published with other material in Eric S. Raymond, *The Cathedral and the Bazaar: Musings on Linux and Open Source by an Accidental Revolutionary* (Sebastopol, Calif.: O'Reilly and Associates, 1999).
35. Raymond blithely asserts that the motivation of Linux hackers cannot be called altruistic because "this ignores the fact that altruism is itself a form of ego satisfaction for the altruist" ("The Cathedral and the Bazaar").
36. Several more of these aphorisms refer to internal states. For example: *"4. If you have the right attitude, interesting problems will find you,"* and *"18. To solve an interesting problem, start by finding a problem that is interesting to you"* (ibid.).
37. The piece does in various ways acknowledge and elaborate the obvious values of cooperation and sharing, and thus has to somehow distance itself from the more simplistic forms of romantic individualism. But the idea of creativity is still very much heroic and Promethean. Consider this passage: "The only way to try for ideas like that is by having lots of ideas—or by having the engineering judgment to take other peoples' *[sic]* good ideas beyond where the originators thought they could go. . . . Andrew Tanenbaum had the original idea to build a simple native Unix for the 386, for use as a teaching tool. Linus Torvalds pushed the Minix concept further than Andrew probably thought it could go—and it grew into something wonderful. In the same way (though on a smaller scale), I took some ideas by Carl Harris and Harry Hochheiser and pushed them hard. Neither of us was 'original' in the romantic way people think is genius. But then, most science and engineering and software development isn't done by original genius, hacker mythology to the contrary. The results were pretty heady stuff all the same—in fact, just the kind of success every hacker lives for! And they meant I would have to set my standards even higher" (ibid.).
38. See, for example, investigations of fan behaviors by Lisa Lewis, ed., *Adoring Audience: Fan Culture and Popular Media* (New York: Routledge, 1992), and Henry Jenkins, *Textual Poachers: Fans and Participatory Behavior* (New York: Routledge, 1992).
39. If not Byron himself, then more than a few of his readers were more often than not bored bureaucrats, people with relative material security suffering from alienation in their narrow, specialized, and technical professions. One might be able to trace a fairly direct line from some of the earliest masculine heroes of romantic literature—Goethe's young Werther, say—onward to the protagonists of cyberpunk novels, who are inevitably proficient at computers, that is, they are people who have spent a large part of their lives sitting at computer consoles engaged in narrow, technical tasks.
40. Frow, "Repetition and Limitation," 217.
41. Paulina Borsook, "The Diaper Fallacy Strikes Again" (December 3, 1997). *Rewired* (in *The Difference Engine*, December 1997: http://www.difference-engine.net/).