THE EBOOK NOVA
Collaboration, Cohesion, Copyright[1]

By Lara Buckerton

Amazon's Kindle, Apple's iPad; Google Books, and (soon) Google Editions – we want to show restraint as we explore these developments. On the other hand, we don't want to rule out in advance those possibilities which happen to sound bizarre, frightening or exhilarating, in case these possibilities turn out to be the pertinent ones. It's not necessarily even a question of "steering a path between" scepticism and hype, since we can't rely on the compromise of two dogmatisms to be undogmatic itself.

Thus the ever-so-slightly experiment format of this article. It's a disputation in two parts.[3] In this part, I describe something called "the New Book." I've given that deliberately hyped name to a deliberately hyped concept. The New Book is a free extrapolation of existing technologies and existing habits. It's a "free" extrapolation in the sense that it is unconstrained by social, political, economic and legal contexts.[4] In the next part, I'll closely consider just *one* aspect of the UK legal context – originality. By looking at how the New Book's originality would be construed by the current law, I want to expose something which underlies that law and its wider institutional and cultural setting.

Ghosts

I'm treating the New Book, because I think I'm all that, as a matter of life and death. I put the word *Nova* in the title because it meant something new-born, and referred to something dying.[5]

"It is a very strange world indeed," writes Leslie McFarlane, "when a ghost could be dispossessed by another ghost."[6] As digital technologies reinscribe the limits of what can be considered writing, not everything new-born in the circle is new. Some aspects of a pre-Romantic mode of literary production return to prominence.[7] *I see you perched there*, "Edit." You have "Cut" (Ctrl-X), "Copy" (Ctrl-C) and "Paste" (Ctrl-V) furled up inside you, don't you? But I rarely turn to you for such powers, because by now they are in my hands. When my hands started to learn keystroke shortcuts, they learnt copy and paste first. Perhaps my hands felt copying and pasting wasn't part of *editing* so much *writing*?[8] Is there anything that might not, eventually, become part of writing? One idea is that the dead should not write. Whatever we let writing become, we should not let it become something that the dead do.[9]

The Device

Sony's Reader, Amazon's Kindle and Barnes & Noble's Nook[10] are designed to soothe the fears of book-lovers.[11] They use e-ink and e-paper to create a stable pattern which reflects light like printed text.[12] Their main drawback is their low refresh rate.[13] So they can't show video or animation, and they can't show things like smooth scrolling or mouse pointer motion. Apple's iPad comes out of a slightly different tradition.[14] It's a tablet, lying somewhere between a smartphone and a laptop. It uses Wi-Fi or a 3G data connection to

get online. It's more versatile and better-connected than the e-readers. However, its display is similar to that of a normal computer screen.[15] This means it uses more power, is difficult to read in bright lights, and may weary your eyes.

"If by books you are to understood as referring to our innumerable collections of paper, printed, sewed and bound in a cover announcing the title of the work, I own to you frankly that I do not believe (and the progress of electricity and modern mechanism forbids me to believe) that Gutenberg's invention can do otherwise than sooner or later fall into desuetude as a means of current interpretation of our mental products . . ."

Octave Uzanne[2]

Footnotes

[1] By me, Lara Buckerton! An expanded version of a paper with a different title which I wrote for the Material Cultures 1990 conference.

[2] Octave Uzanne, Scribner's (1894), quoted by Priscilla Coit Murphy, "Books Are Dead, Long Live Books" (on p. 80 of Thorburn & Jenkins (eds), *Rethinking Media Change: The Aesthetics of Transition*).

[3] I mean, it's like a **hypothetical case considered by a Roman schoolboy** and the whole time I've been writing it, I've been raving and eating BBQ'd chicken and dancing to MIA, nuff chunes, and thank you Samantha Walton, John Cayley and Alex Davies for invaluable and moreish assistance. Thanks also to everyone at Material Cultures 1990.

[4] And barely constrained by the technological context. The license which I take is sufficient to classify this article as science fiction. Like many works of science fiction, it's less interested in extrapolating the future from the present than it is in exposing hidden aspects of the present. As you're reading it, you will think, "Why me, why has this happened to me? What did I do wrong?"

[5] **SN 1572**, which Tycho Brahe wrote about in *De nova et nullius aevi memoria prius visa stella*.

[6] Leslie McFarlane, the original ghostwriter of the Hardy Boys series (quoted in Elianne Riska, *Masculinity and Men's Health: coronary heart disease in medical and public discourse*, p. 67).

[7] Cf. Adrew Piper (2009): "Few issues have become more contentious today in our emerging environment of digital communication than that of sharing [...] Rather than offering another trenchant critique of the current institutional exuberance for ever stricter mechanisms of copyright [...] by identifying the richness of a literary and intellectual tradition of sharing and sharedness, we can begin to understand contemporary digital practices not as essentially aberrant but as standing in a long and [CONT…]

The Works

Come with me. Works of the New Book incorporate audio, video, hypertexts, cybertexts ("texts that involve calculation"[16] in their production of their perceptible writing surface) and gameplay, including massively multiplayer online gaming. Works tend to exist in many versions. They are integrated with forums, blogs, wikis, social networking sites, academic and fan journals, news syndicates and retail sites.

Craig Mod muses, "10,000 of us reading the same Kindle book, each of us highlighting and taking notes. Would the aggregate of this not be illuminating?"[17] Work and adjunct are indistinct. Similarly, using the New Book blends traditional categories of reading, writing, editing, publishing, reviewing, criticising, curating, archiving, performing, adapting, maintaining relationships, and reporting and staying abreast of current affairs. Perhaps it blends work and leisure.[18]

Recombination

In the next three sub-parts, I'll point out some contemporary specimens. I think these specimens are suggestive of the building blocks of the New Book – recombination, a Semantic Canon, prosumers. You might want to float through the associated PowerPoint[19], but it's not essential.

Talan Memmott's "Self Portrait(s) [as Other(s)]" is a recombinant portrait and biography generator. There are over 120,000,000 possible recombinations.[20]

Next, Ovid, translated by Arthur Golding. Unlike the Memmott piece, this was not written with recombination in mind. Yet I have replaced some of the combatants' names with those of Material Cultures conference-goers:

Full dearely shalt thou by it (quoth Roger Chartier) may I get
A weapon: and with that in stead of weapon, he did set
His hand uppon a vowd harts horne that on a Pynetree hye
Was nayld, and with two tynes therof he strake out eyther eye
Of Joseph Walton: whereof sum stacke upon the horne, and sum did flye
Upon his beard, and there with blood like jelly mixt did lye.
A flaming fyrebrand from amids an Altar Linda Carreiro snatcht,
With which upon the leftsyde of his head Eyal Poleg latcht
A blow that crackt his skull. The blaze among his yellow heare
Ran sindging up, as if dry corne with lightning blasted were.
And in his wound the seared blood did make a greevous sound,
As when a peece of steele red hot tane up with tongs is drownd
In water by the smith, it spirts and hisseth in the trowgh.
Eyal Poleg from his curled heare did shake the fyre, and thowgh
He wounded were, yit caught he up uppon his shoulders twayne.
A stone, the Jawme of eyther doore that well would loade a wayne.
The masse therof was such as that it would not let him hit
His fo. It lighted short: and with the falling downe of it
A mate of his that Robert Ritter hyght, it all in peeces smit.
Then Jerome McGann restreyning not his joy, sayd thus: I would the rowt
Of all thy mates myght in the selfsame maner prove them stowt.[21]

Such a thing can be done quickly and easily, for quite large texts, using a Word Processor's "find-replace" tool.

Notice that Golding's heptameter has been lost[22]. "Full dearely shalt thou by it (quoth Roger Chartier) may I get / A weapon" – there are too many syllables in "Roger Chartier."

Footnotes

7 [CONT...] legitimate history [...] When we take into consideration the romantic miscellany in its entirety, when we attend to a range of paratextual elements such as bindings, front-matter, and dedicatory leaves along with the texts that such material aspects enclosed, we can observe the intricate ways that romantic miscellanies were addressing questions of sharing and the sharedness of writing during a crucial moment of historical change in the conditions of writing. Miscellaneity in the romantic era was intimately related to questions of partiality and commonality that surrounded the problem of shared writing. Where critical and collected editions contributed to the differentiation of literary property, the format of the miscellany strongly responded to a social need to have literature in common [...] As I will show, such questions were first and foremost articulated through the presence, whether real or imagined, of handwriting in the miscellany [...]" (*Dreaming in Books: the making of the bibliographic imagination in the romantic age*, pp. 126-7). Cf. also Whitney Trettien (2009) on **digital cut-ups and the poetry-generating volvelles of the baroque**.

8 In the Q&A to his *Editions and Archives: Digitizing Nineteenth-Century Journalism*, Jim Mussell suggested that the naturalisation of digital materialities is happening right now, and so to a certain extent the chances to analyse it are slipping away. As if *Vorhandenheit* becomes *Zuhandenheit* at midnight? It was either Mussell or Bonny Mak, or some other badger, whom I recently heard coining the term "artefacts of the now" in roughly this connection (and cf. obv. Andrea Brady's **Archive of the Now**).

9 Cf. Raoul Vaneigem in *Movement of the Free Spirit*: "The more we seemed locked into the mechanical gestures imposed on us since childhood, the more we became convinced of some indescribable, barely fathomable, luxuriance that can only be called life – to distinguish it from survival, its economic, and economized form [...] clear, too, that life usually ends precisely because it has never begun (which most people only recognise in their last moments) [...]" (trans. Ian Patterson).

10 There are others on the market and there have been many others – the Opus the iRex, the eSlick, etc.

11 In many respects, book-lovers palpitate unabated. "'I'd rather lose my paperback than my expensive bullshit." "I quite like second-hand bookshops."

12 "The principal components of electronic ink are millions of tiny microcapsules, about the diameter of a human hair. In one incarnation [electrophoretic], each microcapsule contains positively charged white particles and negatively charged black particles suspended in a clear fluid. When a negative electric field is applied, the white particles move to the top of the microcapsule where they become visible to the user. This makes the surface appear white at that spot. At the same time, an opposite electric field pulls the black particles to the bottom of the microcapsules where they are hidden. By reversing this process, the black particles appear at the top of the capsule, which now makes the surface appear dark at that spot" – from **eink.com**. The Nook also has a small separate colour touchscreen. Flexible e-paper also exists, although it's not used by any of these e-readers. Colourful e-ink is at the prototype stage, **more or less**.

13 Research into cholesteric liquid crystal e-ink is promising in this regard.

Footnotes

14 Smartphones, Personal Digital Assistants, tablets (the iPad is usually classed as a tablet), portable DVD players and handheld game consoles.

15 The iPad uses In-Plane Switching LCD, rather than the dominant twisted nematics LCD, so viewing angle is improved compared with most normal computer monitors. "LCD screens, even in black-and-white mode, get washed out in bright sunlight. And if users turn on the backlight to improve the contrast, they are likely to draw down the device's battery. On top of that, reading on an LCD means you're staring into a light source, which produces more eyestrain than reading words by reflected light" – from **Wired**.

16 Espen J. Aarseth, *Cybertext: perspectives on ergodic literature*, p. 75. In Aarseth's terminology, cybertexts are texts that involve calculation in their production of scriptons.

17 "**Embracing the Digital Book**" (April 2010).

18 Cf. **microcommerce**. Cf. certain kinds of **crowd-sourcing**. Cf. **reCAPTCHA**. You do the math.

19 Which should be **here**, or you may be able to find it poking around **Quiche Straight from the Bucket**.

20 **Try it out**. Keep clicking. Look for seams, and look for mistakes. "The full-frontal, heroin chic of Matisse's canvases was controversial, and the critiques of the work, the theory advanced by the work lead to the development of the Neo-Gothic aesthetic." Is there something wrong with "the critiques of the work, the theory advanced by the work"? What about this: "He predicts, like Nietzsche predicts James Dean. ...like, artaud film fodder father... Paul Matisse became so very 20th century."

21 **Dramatising inter alia** "Carrying Across: Revealing the Intermediary in the Transformation of Texts" by Linda Carreiro (University of Calgary), "Where Did All the Manuscripts Go?" by Robert Ritter (University of Oxford), "What Do Scholars Want?" by Jerome McGann.

22 *Cf. Society of the Spectacle: The LISP Translation* (2009): "The thpectacle ith the moment when the commodity hath attained the total occupation of thocial life. The relation to the commodity ith not only vithible, but one no longer theeth anything but it: the world one theeth ith itth world. Modern economic production extendth itth dictatorthhip extenthively and intenthively" (Guy Debord / Jason Hoelscher, p. 31). Notice "dictatorthhip" – "dictator's hip"? (It wouldn't have been tough to replace "sh" with, say, "**" and restore them after replacing "s" with "th." Distinguishing the soft "c" sounds – "thyberneticth" – would take more than simple find-replaces).

23 I used Matt Butler's **Open Wound** cut-up engine to parse it – but last I checked, the Open Wound was all sutured up. In fact, the page had been replaced with a page where the gigantic word "YES!" appeared. I had really only just finished reading Thomas Bernhard's *Yes*, so it was a terrible word to see.

24 Confused by the capital letter beginning the line, and by the Latinate syntax, I guess.

25 "'Summer holidays!' Chet Morton exclaimed. 'No more school until September.' / The stout, good-natured boy lounged half asleep between Frank and Joe Hardy in the front seat of a powerful yellow convertible. With a soft purr, the car moved swiftly past the carefully tilled fields of the Pennsylvania Dutch farmers. /Dark-haired, eighteen-year-old Frank Hardy was at the wheel. He kept his eyes upon the road which would lead them to the green bulk of the Pocono Mountains later [CONT…]

I don't know if software exists which can parse scansion. But there certainly are programmes which can tag writing according to a variety of useful categories. For example, here is a similar passage, grammatically anatomised:

Fierce/JJ Linda/NNP Carreiro/NNP ,/PPC from/IN the/DET hearth/NN a/DET burning/NN brand/NN Selects/VBZ ,/PPC and/CC whirling/JJ waves/NNS ;/PPS till/IN ,/PPC from/IN his/PRPS hand/NN The/DET fire/NN took/VBD flame/NN ;/PPS then/RB dashed/VBN it/PRP from/IN the/DET right/NN ,/PPC On/IN fair/JJ Eyal/NNP Poleg's/NNP temples/NNS ,/PPC near/IN the/DET sight/NN :/PPS The/DET whistling/VBG pest/NN came/VBD on/IN ,/PPC and/CC pierced/NN the/DET bone/NN ,/PPC And/CC caught/VBD the/DET yellow/JJ hair/NN ,/PPC that/IN shrivelled/NN while/IN it/PRP shone/NN ./PP Caught/VBN ,/PPC like/IN dry/JJ stubble/NN firdd/NN ;/PPS or/CC like/IN seerwood/NN ;/PPS Yet/RB from/IN the/DET wound/NN ensued/VBD no/DET purple/JJ flood/NN ;/PPS But/CC looked/VBD a/DET bubbling/JJ mass/NN of/IN frying/VBG blood/NN ./PP His/PRPS blazing/VBG locks/NNS sent/VBD forth/RB a/DET crackling/JJ sound/NN ;/PPS And/CC hissed/VBD ,/PPC like/IN red/JJ hot/JJ iron/NN within/IN the/DET smithy/NN drowned/VBD ./PP The/DET wounded/JJ warrior/NN shook/VBD his/PRPS flaming/JJ hair/NN ,/PPC Then/RB (/LRB what/WP a/DET team/NN of/IN horse/NN could/MD hardly/RB rear/JJ)/RRB He/PRP heaves/VBD the/DET threshold/NN stone/NN ,/PPC but/CC could/MD not/RB throw/VB ;/PPS The/DET weight/NN itself/PRP forbade/VBD the/DET threatened/JJ blow/NN ;/PPS Which/WDT dropping/NN from/IN his/PRPS lifted/VBN arms/NNS ,/PPC came/VBD down/RB Full/JJ on/IN Robert/NNP Ritter's/NNP head/NN ;/PPS and/CC crushed/JJ his/PRPS crown/NN ./PP Nor/CC Jerome/NNP McGann/NNP then/RB retained/VBD his/PRPS joy/NN ;/PPS but/CC said/VBD ,/PPC "So/NNP by/IN their/PRPS fellows/NNS may/MD our/PRPS foes/NNS be/VB sped."/NN[23]

So "[t]he" is tagged as a determiner, "whistling" is tagged as a "gerund," "pest" is tagged as a "noun" and so on. Again, notice some mistakes. "So/NNP by/IN their/PRPS fellows/NNS may/MD our/PRPS foes/NNS be/VB sped."/NN" –"[s]o" is tagged as a "proper noun," "sped" is tagged as a "noun."[24]

Tagged with the right kind of metadata, writing becomes available to more sophisticated recombinantory procedures. Page one of Franklin W. Dixon's *The Clue of the Screeching Owl* (1962) wastes no time.[25] "The stout, good-natured boy [Chet] lounged half asleep between Frank and Joe Hardy in the front seat of a powerful yellow convertible."[26] Frank has dark hair and Joe has fair hair. Chet is fat. If these attributes were tagged throughout the book, then, just as gamers customise the avatars they play, *we* could see Frank in chestnut ringlets – or adjust Chet.

Instead of replacing a signifier, like in the Ovid specimen, we would replace a *sign*. We would avoid sentences like, "Suddenly, the candle blew out, and the room was plunged into curly chestnut!", because metadata would discriminate the relevant instances of the word *dark*.

But Chet is more than fat. He is also timorous. Frank is dependable and Joe is mischievous. All three, I think, are *hardy*.[27] Could we find-replace their 1950s States-side masculinities with those of Spike and Xander?[28] Or find-replace the trio with Harry Potter, Ron Weasley and Hermione Granger, and their attendant discursive subjectivities, capacities, dispositions?

Find-replacing a *signifier* (substituting the word *Hermione* for the word *Chet*) is easy. Far more is required to find-replace a *sign* (substituting Hermione for Chet). If we replace craven Chet with valiant Hermione, why would she run away from the owl?[29] If Hermione enchants the owl, how does that influence the *denouement* – now that they have an owl?

Consider an infrastructure from which any writing quickly acquires supplementary existence as a set of overlapping "resources," such as characters, settings, plot, theme, and mood[30], available for transplant into other texts.[31] Let's call it a Semantic Canon.[32] That term is by analogy with Tim Berners-Lee's Semantic Web,[33] the desideratum of Web content remediated[34] as machine-manipulable meaning.

The Semantic Canon

The Semantic Canon acknowledges logical and other relations among tagged fragments of writing, and appreciates their accumulations towards discursive integrity.[35] It notices connotations and draws inferences. Thus the corpuscles of the Semantic Canon are not words, but semantic resources.

This is the domain of artificial intelligence, and especially of commonsense knowledge bases.[36] Let's assume that artificial intelligence systems, integrated[37] into the Semantic Canon, correlate tagged fragments with relata in its commonsense knowledge bases. So the Semantic Canon can reason from and among them using a plural ensemble of commonsense rules, including generic/discursive rules of thumb, policy embedded in everyday practices, cognitive heuristics, biases and economies (e.g. *modus ponens*, dialectic argument, superficial analogy and pigeonholing), and induction, intuition, inspiration, incubation.[38]

The next question is, how does the Semantic Canon ensure that all its writing is appropriately tagged whenever invoked? How does it secure a fragmentation that, at any given moment, leaves nothing important out?

One way of getting there is a well-known mode of mass online collaboration[39], the kind that creates Wikipedia. A comparatively non-hierarchical host of users make *ad hoc* contributions, and evaluate and edit each other's contributions (often when they should be doing something else, or *are* doing something else). Meanwhile, bots sweep the corpus, doing gruntwork and making crude mistakes, while aficionados write the guidelines, debate the utility of conventions, and tinker with the frameworks.

As Adam Smith almost wrote, "It is not from the malevolence of the butcher, the brewer, or the baker that we expect Kwashiorkor, Rickets and climate change, but from their regard to their own interest." The web site TV Tropes demonstrates that at least some people *like* collaboratively dismembering culture. *TV Tropes* is a misnomer. It's a rhetoric of popular culture, covering television, film, books, games, comics and other things. The TV Tropes community propose tropes – like "You Have Failed Me . . . For The Last Time!" – and collect specimens and allusions.[40]

But I doubt that the modes of mass collaboration which underpin Wikipedia and TV Tropes could get us all the way to a Semantic Canon. Its sheer scale[41], and the imperative to have any new content immediately available semantically, implies automated semantic analysis. Nor is it a matter of conceiving a lucid and relatively permanent division of labour between people and machines. Rather, we'd be looking

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25 [CONT...] that sunny June afternoon. / Meanwhile, his blond-haired younger brother Joe said, 'There used to be witches round here, Chet. See that sign? It's to ward them off.' / He pointed to a brightly painted circular design on a huge red barn. / Chet Morton had opened an eye as the car moved past the barn. 'What is it?' he asked. / 'A hex sign,' Joe told him. 'Supposed to keep off lightning and protect the farm against witches.' / 'Witches!' The plump boy straightened up, looking worried. 'Today?' / 'Sure,' Joe Hardy went on teasingly. 'If a witch puts a spell on your cow, she won't give milk. Those circles keep off the curse.'"

26 Franklin W. Dixon (James Buechler), *The Curse of the Screeching Owl*, p. 1.

27 "In the 1950s, Americans had come to be obsessed by an interest in the performance of the self. Personality was a term that captured the vision of self striving towards self-fulfillment, self-expression, and self-confidence, features needed in a consumer-oriented society. These hedonistic traits contrasted with the qualities of "the moral athlete of Protestant culture" in the nineteenth and early twentieth centuries, the signifier of which was "character" (Rieff 1959, 356; Susman 1984, 273). / When hardiness was introduced into the medical vocabulary in the early 1980s, the change in terminology also suggested a broader cultural shift in the kind of traits envisioned as needed for success in a new social and cultural order. The cultural shift signaled the reimagination of the meanings of dominant masculinity. The reimagination reinvented character, a classical theme in American popular discourse, as shown in the Hardy Boys series. It was no longer hardness, but rather its gentrified version, hardiness, that was privileged. The valorization of hardiness rests on shared features between the Hardy boys and the hardy executive. These features could be called commitment, control, challenge – the three core dimensions of the construct of hardiness developed by Maddi and Kobasa (1984, 31). / First, the Hardy boys and the hardy executive are committed to their family, friends, and small-town life. The nuclear-family ideology is a given and the broader cultural matrix within which they find their own self-confidence and identity as men. / Second, the Hardy boys and the hardy executive are action oriented. Theirs is a world full of agency. They have clear goals and adopt a problem-solving approach to life and its challenges. Although they act fast and encounter difficult situations, they never lose self-control because they are committed to certain situations. / Third, they accept whatever challenges confronts them in their everyday life, because challenges in life are personal challenges and like adventures in that they provide an opportunity for an exploration of the self and the search for and validation of male identity. Yet these boys and men are team players and show social responsibility. In short, the Hardy boys and the hardy executive have character, that moral fiber that makes them never give up, makes them work hard, makes them work for the public interest instead of their own self-interest." Elianne Riska, *Masculinity and Men's Health: Coronary Heart Disease in Medical and Public*. Cf. Riska's abstract of her 2002 essay, "From Type A man to the hardy man: masculinity and health": "This article describes the transition in American 'stress' literature from a focus on 'Type A man' to the 'hardy man'. These two diagnostic categories were constructed in medical discourse and entailed [CONT...]

27 [CONT...] certain notions of masculinity, class and health. The constructs explained the rise of unhealthy (coronary-prone) American middle-class white men in the 1950s and the emergence of healthy men in the same class, race and gender order in the 1970s. I show that the construction of Type A man rested on the medicalisation of the core values of traditional masculinity, while the term 'hardy man' demedicalised and legitimised these values."

28 From *Buffy*. Obviously nobody would bother with Angel.

29 I've only read page one, so.

30 Of course, these categories reflect certain traditional ways of breaking down texts. It is possible the New Book would be accompanied by the rise of new basic corpuscles, ones which right now are really counterintuitive.

31 So not every sign would be find-replaceable – to be honest, I'm not sure how useful that terminology would be under any serious pressure. But there would be vague classes of resource within which members would tend to transplant well, and to write the Rosetta stone for any two existing classes would tend to require imaginative stamina, rather than a big breakthrough.

32 The term "canon" is imperfect – I suppose I could say "corpus." I like "canon" though because it implies that things have been left out.

33 The Semantic Web is about two things. It is about common formats for integration and combination of data drawn from diverse sources, where on the original Web mainly concentrated on the interchange of documents. It is also about language for recording how the data relates to real world objects. That allows a person, or a machine, to start off in one database, and then move through an unending set of databases which are connected not by wires but by being about the same thing" (**www.w3.org/2001/sw/**).

34 Or do I mean intermediated? Or do I just mean "transformed into"? I'm not sure. Simon Jarvis: "Now, last low vocative of the ending-cult, / blow out the pilot light. / Disintermediate the vocoders. / Empty this plea of efficacity". That's intermediation in the sense of **financial brokerage**, a sense to which N. Katherine Hales doesn't seem to be deliberately alluding: "Grusin and Bolter's arguments in *Remediation* demonstrate insightfully that complex feedback occurs behveen the oppositional strategies of immediacy and hypermediacy. Nevertheless, for my purposes I prefer the term 'intermediation.' 'Remediation' has the disadvantage of locating the starting-point for the cycles in a particular locality and medium, whereas 'intermediation' is more faithful to the spirit of multiple causality in emphasizing interactions among media. In addition, 'remediation' (thanks to the excellent work Grusin and Bolter have done in positioning the term) now has the specific connotation of applying to immediate/hypermediate strategies. / Because the dynamics I want to explore go far beyond this particular cycle, I would rather use the lesser known 'intermediation' (which, being not as well known, is more open to new interpretations). To make the term more useful for my purposes, I want to expand its denotations to include interactions between systems of representations, particularly language and code, as well as interactions between modes of representation, particularly analog and digital. Perhaps most importantly, 'intermediation' also denotes mediating interfaces connecting humans with the intelligent machines that are our collaborators in making, storing, and transmitting informational [CONT...]

at people and machines flowing around inside reflexive structures made of people and machines.42

Generatively dynamic interplay between architecture and behaviour implies surveillance. Enhanced Editions already tracks at what times readers start and stop reading. Barrack Obama's memoir *Dreams From My Father* tends to get read a lot around lunch-time, whereas Nick Cave's road trip novel, *The Death of Bunny Munro*, is popular in the wee hours. From captured data, the Semantic Canon would aim to reconstruct readers' and users' tacit knowledge. Tacit knowledge isn't the end of it: even principled ignorance reveals something about the semantic context in which it plays out. Another project, Text 2.0, involves a reading device which tracks the user's saccades and text which adapts accordingly. For example, stare puzzled at a difficult word, a definition emerges nearby.43

Prosumers

Even with such a structured, pluralist, reflexive mode of mass collaboration, I suspect the limits of the Semantic Canon would always be conspicuous. Like a kidney transplant, a semantic transplant would probably "take" more or less well. I've alerted you to some errors in the recombinant text specimens.44 Forgiving, creative and editorialising readers are the New Book's last resort. There, I guess, the kidney analogy ends.

Having entered a keyword such as *Mary Wollstonecraft* into Google, you may have come across garish, banner-filled pages purporting to offer "Mary Wollstonecraft ringtone MP3s" or "cheap flights to Mary Wollstonecraft." Don't go. Often there's accurate but generic biographical content, repeating what's on Wikipedia. This is probably "scraper software," detecting your query, and assembling this site by drawing bits of vaguely relevant information from all over the Web. Using a similar principle, Philip Parker at one time had over 100,000 non-fiction books listed on Amazon.com.45 Parker's algorithms "collect publicly available information on a subject" and Parker, "aided by his 60 to 70 computers and six or seven programmers [...] turns the results into books in a range of genres [...] printed only when a customer buys one."46 If one should draw from out his bookes what he had stoln from others, his paper would remaine blanke.

As Parker "skim writes" such potboilers as *The 2007-2012 Outlook for Tufted Washable Scatter Rugs, Bathmats and Sets That Measure 6-Feet by 9-Feet or Smaller in India*, he blurs the distinction between consumption and production. This elision is characteristic of certain communities which, unlike Parker, are not concerned (or not primarily) with profit. What are sometimes called *prosumers*, according to Tapscott and Williams (1997), "do more than customize or personalize their wares; they can self-organize to create their own. The most advanced users [...] no longer wait for an invitation to turn a product into a platform for their own innovations. They just form their own prosumer communities online, where they share product-related information, collaborate on customized projects, engage in commerce, and swap tips, tools, and product hacks."47

Prosumption and fan art are aspects of each other. Machinima makers use 3D combat games to create short films, including domestic sitcoms, soap operas and game shows. These films do not always explain why every character is an

armoured trooper with a laser gun. The general lesson is that prosumers may impose very exacting standards, and work meticulously and hard, without making seamlessness a high priority.[48]

Even if recombinant semantic works are far from seamless, prosumers may still want to read them, and to use them as basis to skim write works for others.

So much for the New Book. It's a reverie, deliberately extravagant and awkward. In the second half, I'll set it among some specific contextual constraints from UK copyright law.

Footnotes

[34] [CONT...] processes and objects" (*Writing Machines*, 2002).

[35] You could say, reviving an old behaviouralist term, "appreciate their means-ends readiness towards discursive integrity."

[36] Here is an example of a story written by an automated narrative generator drawing on the Open Mind Commonsense knowledge base. The first sentence was directly supplied by a human. If a spirit resists employment, the rest is commonsense: "*John became very lazy at work. John lost his job. John decided to get drunk. He started to commit crimes. John went to prison. He experienced bruises. John cried. He looked at himself differently.*" Hugo Liu, Push Singh, "**MAKEBELIEVE: Using Commonsense Knowledge to Generate Stories**" (2002).

[37] A big ask? But I have all these natural language scripts, transframes, semantic nets, frames and frame arrays, K-lines and polynemes, neural nets, and micronemes!

[38] Adapted from a list by Marvin Minsky (2000), "**Commonsense-Based Interfaces**."

[39] Often *crowdsourcing* is used to refer to something pretty similar.

[40] For example, "You Have Failed Me . . . For The Last Time!" is "subverted" in the Douglas Adams Doctor Who episode "The Pirate Planet." "The villainous Captain hisses 'When someone fails me, Mr. Fibuli, someone dies!' — then kills a random extra instead of the person who actually failed, because he's too useful to kill just out of pique" (**TV Tropes**).

[41] Throughout most of this, I assuming that *everything* is within the Semantic Canon – that is, everything that is accessed on the converged New Book device. So yes, it's the world wide web, it's what's currently in Google Books, etc., but it has a quality of rapidly assimilating anything appearing at its fringes. But I suppose that most of what I say in this section also applies to a slightly more modest version, in which the Semantic Canon is only, for example, a semantic remediation of the texts currently on Gutenberg.

[42] One potential problem for the Semantic Canon is the tension between ontologies and folksonomies. Ontologies classify content in a relatively consistent manner. Categories and criteria are developed in advance (after some kind of audit, dipstick, general impression etc.), and if content provokes their amendment, retrospective reclassification preserves consistency. Category proliferation is constrained. From the standpoint of retrieval and recombination, the Semantic Canon needs an ontology. Folksonomies, by contrast, are haphazard. Folksonomies are built "bottom-up" by crowds of taggers. (It can be tough to describe what tagging is without confusing tags with keywords. A bit of cardboard with strings coming off it is quite a useful metaphor. A single bit of cardboard (a tag) can be attached with string to many different objects. But crucially, two different bits of cardboard could have the same keyword or keyphrase written on them. Of course, there could always be a rule to prevent this from happening – a rule that says, "if you want to tag something with a keyword that is only in use, you don't get any more cardboard, only more string." In any given content management system, tags could be compulsorily isomorphic with keywords). Sturtz (2004) describes a folksonomy as "the complete set of tags – one or two keywords – that users of a shared content management system apply to individual pieces of content in order to group or classify those pieces for [CONT...]

[42] [CONT...] retrieval. Users are able to instantly add terms to the folksonomy as they become necessary for a single unit of content" ("Communal Categorization: The Folksonomy"). In many folksonomies, mutually exclusive conventions prosper. Their structures reflect personal idiosyncracies, instincts rather than the consistent application of criteria. Path-dependence can lock their development into peculiar classification strategies. They are littered with one-member sets, and with a sediment of hesitant, ignorant, experiment, and regretted identifications. But folksonomies can grow quickly, adapt quickly, and they are tools of discovery, are founded in precisely the phenomenology of reading and use which the Semantic Canon needs to model. The tension between ontologies and folksonomies shouldn't be overstated. I think that technologies of the Semantic Web ensemble already relieve the tension to some extent. Fuzzy and other methods being developed to reason from and among the contents of knowledge bases (q.v.) also occupy a complex middle-ground. Consider stuff like **fuzzy databases and querying languages**, **webs of trust** – decentralised cryptographic authentication systems – and **evolutionary computation**. Suppose there were "fuzzy tags" whose attributions would consist in values above 0 (0 implying neither here nor there) and no higher than 1 (1 implying relevance). Adjusted values would be used by various processes in their private calculations, and processes would share their adjustment rationales with each other and evolve strategies for which processes to "trust" when. Indeed, fuzzy tags could consist in a bundle of attribution values which decomposed and expanded the quality of "relevance" in various ways, and processes could do more than "trust" each other, developing extremely rich networks of interdependent dispositions which would elude anthropomorphication. Let's go ahead and call the reconciliation a "folkology" – a fragmentation which unites the advantages of ontologies with those of folksonomies. Suppose the "folk" making the folkology includes various mutually redesigning classes of bots. Suppose the distinction between top-down and bottom-up loses meaning, because the cyborg folk constantly iteratively revises its own infrastructure (via **stigmergy** and other processes). Individuals are steered by incentives, certainly – but individuals and incentives are distributed so that they overlap and nest. The system's master incentive, however, is to mask the distinction between its living and dead constituents – between "understanding" something and "dealing with something as though it has been understood." This may even extend to incentivising the living against certain practices which prove difficult to semantically model.

[43] The **demo video** is pretty funny.

[44] Here's one particularly tough nut. Intensional statements, whose logical truth values alter with the substitution of co-extensive terms, *still* pose problems. Let's suppose that the New Book is clever enough to know that "the author of *The Clue of the Screeching Owl*" is a normally valid substitute for "the author of *The Mystery of the Aztec Warrior.*" But is it a valid substitute in the sentence, "Hermione wished she were the author of *The Mystery of the Aztec Warrior*"?

[45] Or some other large number! I can't remember how I came up with 100,000. The NYT article said 200,000, a search under Parker's name produces a handful of results, and a search under Icon Group [CONT...]

[45] [CONT...] International produces over 600,000 – the first few pages are POD editions of out-of-copyright texts aimed at Spanish-speakers learning English. Difficult and rare words are translated into Spanish at the bottom of the page, but of course, the translations give all the senses listed in the Webster's source, not the relevant ones. The product description makes a virtue of this: "Rather than supply a single synonym, many are provided for a variety of meanings, allowing readers to better grasp the ambiguity of the English language, and avoid using the notes as a pure crutch. Having the reader decipher a word's meaning within context serves to improve vocabulary retention and understanding."

[46] Noam Cohen, New York Times, **"He Wrote 200,000 Books (but Computers Did Some of the Work),"** (April 2008).

[47] *Wikinomics* (1997) p. 126. Cf. Yates and Sumner: "Without generic form, members of discourse communities, particularly virtual ones, may experience problems developing and invoking the shared background necessary for effective communication and coordinated practices. / Here, we argue that such communication breakdowns stemming from a loss of fixity will not occur. Current technology *has* destabilised existing genres compared to print technology. However, the result is not a breakdown or loss of recognisable genre. Instead, the distinction between producers and consumers of digital documents is being blurred and we are seeing the democratisation of genre production. More people are providing more input (either implicitly or increasingly explicitly) into the creation and production of genres. As a result, over time communities evolve increasingly well-defined genres to better support their particular communicative needs and work practices. In effect, rather than seeing a lessening in the role of genre, *the new burden for providing fixity in communications is being met by increased reliance on genre*" (Digital Genres and the New Burden of Fixity).

[48] Or perhaps, it *is* a high priority, it just doesn't inform in an uncomplicated way where prosumers devote their attention. The rules of thumb for what looks like product and what looks like rubbish are changed. The consumption of any text is also its production. There's a case to be made that the very bearing towards difference which makes it productive of meaning contains an impulse to exterminate difference. Whether or not, readers are certainly capable individually and collectively of accommodating a more jagged and mismatched texture than is required of them by the modern print publishing industry.

Intermission

In Part I, I described the New Book in general terms. It's a converged media device that could mechanistically seize content from a variety of sources and weave it into some kind of harmony. I took us through some building blocks: recombination, a Semantic Corpus, prosumers.[50]

Let's recall that the New Book is a reverie, deliberatively extravagant and awkward. In Part II, I'll set it among the constraints of only one context, UK copyright law. Just before I do that though, I have to briefly mention the *non-copyright* legal context.

Content owners may seek to protect their content through law which "neighbours" copyright, such as breach of confidence, passing off and malicious falsehood, and others. Most significantly of all, they use contract law, supported by Digital Rights Management ("DRM") technology. Content owners supply their content on a contractual basis, and protect it using breach of contract law and DRM - or they license open access![51] The topic "copyright and the future of the book" is actually the topic "copyright, contract, DRM, access and the future of the book."[52]

OK, let's go!

Copyright Requirements

Unlike patent rights, which require registration, copyright and moral rights are generated automatically. Under the Copyrights, Designs and Patents Act 1988, copyright protects "expressions of ideas" subsisting in original literary, dramatic, musical or artistic works that have been fixed in a tangible medium, and in sound recordings, films, broadcasts and typographical arrangements. Some of those terms are counterintuitively defined. For example, originality in the legal sense does not require novelty or innovation; also, databases (sometimes) and computer programs count as "literary works." There are also certain jurisdictional requirements.

Expression, subsistence, and fixation are three legal concepts which are often conflated, and indeed the facts of the case may practically elide certain aspects of (particularly) expression and subsistence.

But they are juridically distinct. Subsistence involves conformity with one of the categories of protected cultural production (literary works etc.).[53] Fixation involves tangible creation. Expression involves labour and skill or judgement which imposes original form on ideas. I'll say "labour and skill" for short.[54]

Would a Work of the New Book Attract Copyright?

Let's assume the jurisdictional requirements are met. Ephemeral and converged media may create anxiety as regards fixation and subsistence respectively.[55] However, saving a file is sufficient for fixation. It's also safe to assume many

"Only when the process that begins with the transmutation of labour-power into a commodity has permeated men through and through, and objectified each of their impulses as formally commensurable variations of the exchange relationship, is it possible for life to reproduce itself under the prevailing relations of production. Its consummate organisation demands the coordination of people that are dead. The will to live finds itself referred to the denial of the will to live: self-preservation annuls life in subjectivity. Against this, all the achievements of adaptation, all the acts of conforming described by social psychology and cultural anthropology, are mere epiphenomena."

Theodor W. Adorno[49]

Footnotes

[49] Theodor W. Adorno in **Minima Moralia** (1951). I don't know how I feel about the whole zombie subplot in Frankfurt School thought, or even more broadly, about the entire mock heroic subplot in radical thought. I don't think it's just because I'm a nice middle class girl that I shrink from calling class war a "war", calling wage slaves "slaves", all penetrative sex "rape" and what I have the potential to be, but am not, "life". I know it's a strong look, but still. The rhetorical motives in these are is subordinate to the epistemological ones, which are produced dialectically just in the sense that they are produced out of the ethical and emotional inadequacy of the experiences of any individual to the experiences of everyone, or if you prefer, the inadequacy of critique to its objects. I guess what bothers me is when I deface the concepts with which I began, and within which *qua* nice middle class girl I am content to remain, and I lose a certain kind of precision in naming, and *then* find myself treating the blurriness which ensues as a kind of glimpse of futuristic solidarity. For instance, a blurry concept of "slave" which includes both AXA office workers in their alienation and $100 chattel. What has gone out of focus here does not come into focus elsewhere. I don't see any reason why we should expect any homology between (i) concepts in their moment of demystification, and (ii) the concepts which would succeed them if we were to do away with the situation which produces their mystification. (Maybe my fondness for zombie critique despite these misgivings is similar to my fondness for cyborg critique - see footnote 83 *q.a.* Maybe it's because both are usefully dorky metaphors for getting at the "off-line" cognition of the embodied mind and its contribution to action).

[50] Very briefly: recombination is swapping bits of text for others, a semantic corpus implies the possibility of swapping meanings or things like them for others, prosumers are producer/consumers who could collaborate with…

works will *at least* be considered literary works (cf. CDPA 3.1 (a)) - certainly narrative imaginative works are very close to the core sense of *literary work*, which in its peripheral flourishes subsists in even such things as TV listings.[56] Some elements of the work (embedded videos etc.) might also attract their own copyrights.[57] For the rest of this part, when I say "the new work" I mean something like a saved file containing a recombinant novel.

As noted, originality does not require novelty or innovation. All it requires is some exercise of labour and skill to express some idea. An exception are instances of so-called *scenes a faire*, where a particular expression is deemed to flow inevitably from whatever idea it expresses.[58] Here, labour and skill are insufficient. This is the "Merger Doctrine" - where expression and idea purportedly are indivisibly merged, no originality is recognised.[59]

Otherwise, the bar for originality is set quite low. In *Krisarts SA v. Briarfine Ltd* [1977] a painting of a generic view of the Thames was considered original: "the choice of viewpoint, the exact balance of […] features […], the figures which are introduced […] the craft may be on the river and so forth. It is in choices of this character that the person producing the artistic work makes his original contribution." In *Sawkins v. Hyperion Records* [2004], skilled but routine editorial corrections and additions to a non-copyright work were sufficient to generate a new copyright work.

Let's say I've laid out the appropriate generic parameters, specified the protagonist's names and appearances and virtues and a basic plot framework, read it through, and re-generated passages which don't meet my approval.[60] According to *Baigent v. Random House* [2007] FSR 24, expression includes "not only the language in which the work is composed but also the original selection, arrangement and compilation of the raw research material." I thus think it's likely that the originality requirement would be met in my case, on the grounds of labour and skill. Thus copyright *would* be generated.

Who Would Own Copyright?

Copyright would normally belong to the user of the New Book. There are special rules for work created in the course of employment and computer-generated work.[61]

If I were adjudged to have exercised insufficient skill and labour, *but* the work were still considered an original literary work, then it would be considered "computer-generated." According to the statute, this would mean there was "no human author of the work" (CDPA (1988) 178(b)). The copyright holder would then be "the person by whom the arrangements necessary for the creation of the work are undertaken" (CDPA (1988) 9(3)).

That is *again* likely to be the user of the New Book.[62] Not programmers,[63] not taggers,[64] not the authors of scraped works.[65]

Would the Work Infringe?

The new work would *very* likely infringe[66] on many of the copyrights subsisting in the works it has scraped[67], though not programmers'[68] or taggers'[69] copyrights.

The UK's comparatively strict Fair Dealing legislation would not offer the scraper much assistance.[70]

[50] [CONT} automated processes. Is "building blocks" is the right term? I guess they were more like thought experiments or intuition pumps to perhaps rearrange the boundaries of what's plausible, or worth thinking about at all. BTW, as regards our existing desires about bespoke texts (other than a certain pervasive revulsion towards targeted marketing) I could have mentioned *the second person pronoun*, and the aura of chronically frustrated expectations which surrounds its narrative uses. Certain futuristic poets - J. H. Prynne and Keston Sutherland among them - make canny use of this force field (sometimes with imperatives which are difficult to oblige and difficult to ignore; sometimes as, like, a deranging prophylactic against the kind of occlusive narrative integrity and lyric subjectivity which pop up to claim most moments of intense prosodic inwardness, if that makes sense). Also see Natalie Pollard on Geoffrey Hill's heckling (though I think it's more akin to a diss track): "[…] in *Speech! Speech!* the concluding stanzas concede to its audience's expected criticisms, as well as sparring with, speaking over and competing with, *your* hostile reception of the poem: 'bád shów. / This needs working on', 'his own worst enemy' (119:60). One might object that in ensuring his self-criticism - a form of self-address - takes place before the poem's close, Hill self-protectively forestalls others' criticism. However, Hill is clearly aware that it is precisely this staged pre-empting of oppositional voices that sparks the most energetic antiphonies in his audiences […] "Lyric cry lyric cry lyric cry, I'll / give them lyric cry!' (*Orchards* 30). Such address both offers *you* its 'lyric cry' as a gift, and rudely 'gives it to you', spoiling for a fight: Hill's counter-pointing voices hold together generous responsiveness, retort, taunt, and stinging provocation […]" ("In Your Face: Antiphonal Heckling And Geoffrey Hill", forthcoming). Staying with the second person pronoun, but moving slightly away from poetry: the experience of reading a second person protagonist CYOA or gamebook doesn't *feel* like the experience of free will. Of course, a short smart answer there is that "the experience of free will" is a category error; free will is a noumenon; *Demons of the Deep* and *Appointment with F.E.A.R.* are phenomena, but I do think it's a bit more complicated even than that. Is the compensatory turn to (hahahaha no pun intended! "Turn to" hahahaha!) acutely-differentiated finales (you become a god, you die of asphyxiation down a pyramid, you go wistfully back to school) entirely absorbed into the structure of readerly internment, or does that structure buckle and expand in certain directions? I really do suspect myself of a different kind of freedom (again, cf. "I suspect myself of feeling pain") when I'm reading Kevin L. Donihe and Carlton Mellick III's *Choose Your Own Mind-Fuck Fest: Ocean of Lard* ("lard rushes into your lungs" (124)), a kind of freedom I *don't* have when I read either *A Sentimental Education* or *Demons of the Deep*. It's something to do with the semiotic, and the pornography and other violences available down certain paths in Donihe and Mellick III's work. Something to do, perhaps, with a book that has been capable of *doing things* with my *body* (or some other specialised subsystem of myself)? Something to do with paths of libidinal investment overlaying hypertextual paths? Iain Banks, at the 1990 Transgression and its Limits conference at Stirling University, described *Complicity* as the only book he had written with the express purpose of shocking. It didn't really shock anyone, and he attributed this to: (1) people being v. funny about cruelty to animals; and (2) the literary world's preoccupation with authors, not books…

An Alternative Criterion of Originality

We can now see the precarious innards of the present copyright regime. In deciding whether a work is original, labour and skill remains the touchstone concept. Yet statutory provision for the copyright of literary works *et al.* with no human authors (CPDA (1988) 9(3)), together with statutory requirement that only *original* literary works *et al.* are copyrightable, entails some alternative means of securing originality!

From the case law,[71] and debates during the 1980s[72] which led to the new statutory wording, it's fairly clear what those alternative means are - chiefly commercial investment, and secondarily, commercial potential. Thus *economic individuation is emerging alongside labour and skill as a sufficient criterion of the original expression of ideas.*

However, in nearby matters - such as subsistence, infringement and substantiality, and joint authorship - the case law still relies on labour and skill. For example, Lord Scott suggests that the test of substantial infringement is "that a copier is not at liberty to appropriate the benefit of another's labour and skill." Surely this can't still be the case if the alleged infringement is of a computer-generated work? In such matters, I think legislators have quite accidentally gifted the courts a tabla rasa. They may well fill it with strategies introduced from vaguely connected areas of law.

"Labour and skill" has not been the rock solid concept shaping copyright law for over a century, but something more pliant,[73] which has lent to that law apparent consistency, whilst accommodating a variety of imperatives at a variety of coordinates.[74] Its lopsidedness is now rather obvious, and it awaits its day in court.[75]

Labour and Skill Reconstructed

Meanwhile, can we reconstruct what's really been shaping the legal distinction of unprotectable ideas and protectable expressions? If labour and skill has been, so to speak, the cover story? One way is by referring to our collective lifeworld.[76] By this I suggest the sphere of the everyday and the taken-for-granted - a shared background of aptitudes and orientations, with demotic and species strata.[77]

To be considered an infringement, any borrowing must be considered substantial. Generic wording has sometimes been considered insubstantial. Supposedly such wording is insubstantial because it is deficient in skill. If that's the real reason, it doesn't sit well with many other cases - such as taking a photograph[78] - where a slight imputed preference amongst indifferent options is considered skilful.[79] Perhaps the real difference is that linguistic commonplaces are deeply rooted in our shared lifeworld, in a way that visual commonplaces are not.[80]

As regards *scenes a faire*, the argument runs that *some* ideas must be expressed in particular ways, and so give no opportunity for skill to be exercised. To echo the joint authorship case law, their originators of can't have "had any say" as to their expressions.[81] An obvious retort is that *all* expressions are minutely cognitively discriminable and therefore, in a certain sense, *every* idea can only be expressed in its particular way. What is really distinctive about most *scenes a faire* is not that they are unusually indispensable to their

[50] [CONT] ... which made it next to impossible to anyone who was already an *enfant terrible* to cause a stir, no matter how they surpassed the offence which earned them that status. But I think it might also have to do with: (3) the conspicuous generic apparatus; the torture perpetrated by the second-person pronoun is the cathartic torture of a horror film. "Your" motives in this book are generic clichés: the cruelly uncompromising vigilantism of *Se7en* or *Saw*. Here, regardless of the pronoun, modes of the semiotic work themselves into their relations within an already-evolved set of generic parameters, prior to readerly rationalization. How much would it take to dislodge the book from these well-worn channels? Here's another New Book specimen: "You start to work the creamy plastic dildo into [him], twisting it from side to side and watching the skin round his anus stretch and whiten as the ivory-coloured plastic slides in; a thin collar of white cream builds up there. / 'Ah! Ah! Stop! All right! I know what you're doing! I know what this is about! All right! You've made your point! Those women - look, all right, I may have said things I regretted later, but you weren't there! You didn't hear all the evidence! I did! You didn't hear the men who were accused! You couldn't form an opinion of their character! The same with the women! Ah! Ah! Ah! Stop! Please; you're hurting! You're hurting!' / You have the vibrator about a third of the way in, not quite up to its maximum girth. You press harder, pleased at how much grip the surgeon's gloves give you but half-wishing you could say something though you know you can't, which is a pity. / 'Ah! Ah! Jesus Christ, for God's sake, man, are you trying to kill me? Look, I have money; I can - ah! Ah, you filthy bastard -' He moans and farts at the same time. You have to turn your head away from the smell, but you push the vibrator in further. You can hear seagulls crying outside, beyond the closed curtains. / 'Stop, just stop this!' he shouts. 'This isn't justice! You don't know all the facts about those cases! Some of them were dressed like whores, dammit! They'd let any man have them; they were no better than whores! Ah! Fuck, fuck, you filthy blackguard bastard! You filthy, fucking queer bastard! Ah!' [...] You leave the vibrator in there and switch it on. He heaves and pulls again but it doesn't do any good. 'Oh, for God's sake, man,' he moans, 'I'm seventy-six; what sort of monster are you?' He starts sobbing. 'And my wife,' he says, coughing. 'What have you done with my wife?' [...] What am I supposed to have done now? And they told me about Azul, in Jersey, and before that I think it was before that they showed me the forensic photographs of all of them: Vince Cable skewered on the railings, grotesque and spread and limp; the blood-smeared vibrator used on the retired judge, Jamieson; the drained shapeless white body of Persimmon, tied to his grid above a pool of blood, then nothing when there should have been something; then what was left of Sir Alan Sugar, blackened bones, distorted and bent, the black skull's jaw hinged down in a blind scream but the flesh all gone very much a dental-records job and it was all black, the nails, the wood and the bones too but it's their mouths their jaws I remember [...]" (p. 180).

[51] Cf. **GNU** and onwards.

[52] And to make a case for freedom of access and against intellectual property, it's not enough to criticise copyright and neighbouring rights. You have to figure out ways of preventing contract law picking up where copyright left off, should the latter meet with an unfortunate accident one stormy night.

ideas, but that they are strongly implied by a socio-cultural context. Again, perhaps the concept of the lifeworld more honestly captures the ambition of the case law.

Life

I want to end very speculatively. How new is the New Book? Maybe we should think of the prosumer's imposition of "immediacy" on "hypermediacy" merely as "the fair scribal copy"?[82]

And is the kind of writing the New Book invokes *really* that different from other writing, as regards the ecology of indebtedness, of obligation, complicity and violence which is immanent in language?[83]

Or does it merely concretise, simplify and accelerate the ways in which we achieve the discursive projections through which, and for which, we perform our autonomy?

The New Book demonstrates how, given certain technological groundwork, even the paradigmatic copyrightable object - the imaginative narrative literary work - can be generated entirely within the sphere of the everyday, the taken-for-granted. If we have cause to doubt that the juridic elixir of labour and skill transports us from this sphere, then what does transport us from it? Do the artefacts of beauty and wit that surround us, that imply that this sphere is regularly exited, mislead us?[84]

Second, as we are confident in the integrity of the everyday, the taken-for-granted, inasmuch as we are aware of its *exceptions*, then what are the implications once their aura is dispelled or diminished?[85] In particular, consider that conception of the lifeworld which animates liberal deliberative-democratic thought. Purportedly we tacitly instruct one another on intelligibility, truth, sincerity, genre, propriety and elegance.[86] In return, purportedly, that lifeworld nourishes the ambition for noncoercive consensus, since with every emphatically contradicted expectation, the universal conditions of possibility of consensus are excavated. But if a contradicted expectation can be attributed to the endogenous reorganisation of the lifeworld, rather than the orientations of others within the lifeworld, then it is only locally and trivially educative, and about noncoercive consensus it instructs us not a jot.[87]

To put it another way, copyright law does not like the New Book. It would offer remedy, to the victims of this thought experiment, for the re-presentation of whatever is *substantial* - labour and skill perhaps, or activity we think rises out of the lifeworld. Copyright law thereby disappoints any of us who suppose that the most important aspirations of all extant art go unrealised.

But as copyright law contains no censure for its rearrangement of *insubstantial* elements, it fails to address what I think many of us really find troubling about ideas like the New Book. That is not the recontextualisation of the extraordinary, but the mechanisation of the taken-for-granted.[88] By this, I mean one of the few real evils of which plagiarism is capable - the mimicry of lived immediacy by systems of impostor social cohesion, in the service of capital. Or to call it as the Thituationists did, recuperation.[89]

[53] I'm reconstructing a little here. The case law doesn't really talk of a subsistence requirement as such. However, if labour and skill is lacking, you might get a (fixed or non-fixed) "non-original literary work" - *e.g.* the haphazard compilation of already-copyrighted works. One way of describing such a case, which is consistent with the statutory wording, is that subsistence has been fulfilled, but original expression has not. Also see *Exxon Corp. v. Exxon Insurance Consultants International Ltd* [1982] Ch. 119, in which it was found that although the word "Exxon" was not a literary work, although it was original.

[54] There are various versions. *Labour and skill or judgement* seems quite prevalent; you also see a lot of *labour and skill*. Occasionally *labour and judgement* and very occasionally *labour and skill and judgement*.

[55] Cf. Jay David Bolter, **"Beyond Word Processing: The Computer as a New Writing Space"** (Languages & Communication, 1989): "Unlike printing, which lends fixity and monumentality to the text, electronic writing is a radically unstable and impermanent form, in which the text exists only from moment to moment and in which the reader joins with the writer in constituting the text. [...] The elements, structure and visual display of electronic text are all in flux. This restlessness is inherent in a technology that records information by collecting evanescent electrons at tiny junctions of silicon and metal. All information, all data, in the computer world is a kind of controlled movement, and so the natural inclination of computer writing is to change, to grow, and finally to disappear. Electronic reading is just as dynamic as electronic writing: indeed the distinction between reading and writing tends to disappear. The reader determines the presentation of the text as he reads; he can reach into the text and change its elements. In this sense the electronic medium grants new power to the reader, while in another sense the computer reasserts the importance of the author by allowing him to intrude into the act of reading. A computer program can become the author's representative to the reader and so add further complexity to the interplay among author, reader and text."

[56] Cf. Peterson J. in University of *London Press Ltd. v University Tutorial Press Ltd.* [1916] 2 Ch. 601, who states that under the Copyright Act 1842, "many things which had no pretensions to literary style acquired copyright; for example, a list of registered bills of sale, a list of foxhounds and hunting days, and trade catalogues; and I see no ground for coming to the conclusion that the present Act was intended to curtail the rights of authors. In my view the words 'literary work' cover work which is expressed in print or writing, irrespective of the question whether the quality or style is high. The word 'literary' seems to be used in a sense somewhat similar to the use of the word 'literature' in political or electioneering literature and refers to written or printed matter. Papers set by examiners are, in my opinion, 'literary work' within the meaning of the present Act." This passage is cited with approval in *Exxon Corp. v. Exxon Insurance Consultants International Ltd* [1982] Ch. 119, a landmark case on the modern scope of the definition of *literary*. The decision in that case was that a name cannot typically be considered a literary work. See also *e.g:* University of London Press Ltd. v. University Tutorial Press Ltd. [1916] 2 Ch. 601; D. P. Anderson & Co. Ltd. v. Lieber Code Co. [1917] 2 K.B. 469; Francis Day and Hunter Ltd. v. Twentieth Century Fox Corporation Ltd. [1940] A.C. 112; Ladbroke (Football) Ltd. v. William Hill (Football) Ltd. [1964] 1 W.L.R. 273, 279, 285, 293; Shetland Times Ltd...

56 [CONT] ... v Wills [1997] FSH 604; IceTV Pty Ltd v Nine Network Australia Pty Ltd [2009] HCA 14.

57 Is it a literary work? An artistic work? A set of distinct literary, artistic, cinematic, dramatic and musical works? Long conversations in novels aren't considered separate dramatic works. The CDPA specifies that compilations are literary works. US courts seem somewhat more reluctant to protect compilations (cf. famous *Feist* case). I'll assume that my beloved (see *supra*) is a kind of counter-Alice, who does not see the point of books with pictures, conversations, video clips and chatterbots. Cf. Neal Geach (2009), "The future of copyright in the age of convergence: Is a new approach needed for the new media world?" International Review of Law, Computers & Technology, 23: 1, pp. 131 - 142.

58 For example in the US case Williams v. Crichton, 84 F.3d 581, 589 (2nd Cir. 1996), electrified fences, automated tours and a secluded island were "classic *scenes a faire* that flow from the uncopyrightable concept of a dinosaur zoo."

59 Sometimes a distinction is made between the Merger Doctrine, where expression is dictated by function, and *scenes a faire* in which expression is in practice locked in by standard understandings and expectations.

60 Let's suppose that upon St Valentine's Day, instead of the normal donation to Hallmark® in my loved one's name, I wish to give her a "swords & sandals" adventure/romance novel, casting her as a senator's son and me as a rebellious centurion of the Roman army. Let's suppose my New Book awakens, consulting the vast Semantic Corpus, already parsed according to the folksonomies of fans, critics and bespoke bots. It steals a sentence here, a sentence there, here an entire scene. It changes fair hair to dark, it tempers *disdainful* to *indifferent*, it purifies a betrayal from a Le Carre novel of its anachronisms, and augments it with mild archaisms, it replaces a musket with a gladius, and fills the air with a spritz of gladiatorial semen. Where possible, it uses her favourite authors, Beckett, Ovid, Dixon and Parker. Of course it uses our names. And it harvests, more-or-less the novel I want to give her; perhaps I skim through and smooth over some of the seams. I save the file and e-mail it to her.

61 The former rules support the latter, inasmuch as problematic joint authorship issues are unlikely to emerge so long as all potential candidates are acting in the course of employment. The copyright then belongs to the employer. Presumably this is often a corporate person? Which suggests an intriguing (or just wacky) avenue for exploration - a radical copyright based on the automatic incorporation of groups of contributors, their internal organisation governed by implied licenses!

62 Copyright would then be reduced to fifty years, instead of the author's lifetime plus seventy years.

63 But the statutory wording is nebulous and has not been extensively tested in court. By somewhat unsatisfactory analogy with the existing case law on joint authorship, if my labour and skill were paltry in comparison with the programmers', and there was any suggestion that the programmers could be said to bear responsibility for the New Book's output, I might find myself sharing joint copyright with them or even yielding them sole copyright.

64 Taggers are unlikely to own copyright in new works informed by their tag sets. First, they would have a tough time meeting the subsistence requirement - establishing that they had exercised labour and skill of a *literary type*. Tags could perhaps be considered basic elements of the literary form of the New Book - cf. Steve Ang, in "The Idea-Expression Dichotomy and Merger Doctrine in the Copyright Laws of the U.S. and the U.K.," considering the principle that ideas are "elements of form." "The basic elements that are used to constitute the forms of that medium cannot as such be forms - *as far as that medium goes* - in themselves. It is suggested here that as copyright protects 'works', which are compositions of form, the constituent elements of form as such are implicitly excluded from the concept of 'works' and hence for that reason are not protected" (p. 120). Ang continues, "it is submitted that there is a fair case for a rule that basic elements of form are not copyrightable because they - despite ingenuity in their creation - are not conceptually capable of being 'works'" (p. 123). Second, the case law on joint authorship often emphasises having responsibility or "the final say" over the copyright work, and the copyright work "corresponding" to something in one of its alleged author's heads. Under either of these tests, the taggers' claim seems weak. Cf. *Hadley v. Spandeaux Ballet* [1995].

65 Beckett, Ovid, Parker, Dixon, Le Carre *et al.* would own no copyright in the new work. If the new work is original, then that originality derives from the labour and skill exercised in selection, adaptation, arrangement and compilation. By definition, the labour and skill *already* invested in the particles being arranged is excluded from these processes.

66 My new work is likely to qualify as an adaptation. According to CDPA s.16-20, the copyright owner has the exclusive right to copy the work, issues copies to the public, perform, show or play he work in public, rent or lend the work to the public, communicate the work to the public, make an adaptation of the work, and exercise any of the other exclusive rights in relation to any adaptation. Copyright is infringed by anyone who directly or directly commits any of these acts, or authorises someone else to do them, in relation to the work as a whole or any substantial part of it, without license from the copyright owner (subject of course to the Fair Dealing exceptions).

67 For each ingredient, the courts would have to decide whether it constituted a "substantial" part of the source text. Its substantiality within the new work would be irrelevant. Things which are deemed "insubstantial" by the courts are also often deemed to be merely "ideas." This partly explains why the legal notion of "ideas" is such a hodgepodge category.

68 The programmers' copyright in the software would not be infringed by using it for what it's designed to do - an implied license clearly exists, so questions of substantial borrowing do not even arise. The programmers *might* be held to infringe. Authorisation of a prohibited act is itself an infringement. The case law around, for example, casette-to-casette recorders suggests that they would not, so long as the software also had lawful uses. Cf. *CBS Songs v. Amstrad* [1988] AC 1013. Amstrad manufactured and sold a dual-tape cassette deck, which enabled high-speed recording onto blank cassettes. CBS Songs alleged that the defendant was authorising the public to infringe their copyright under the Copyright Act of 1956. Lord Templemann: "My Lords, twin-tape recorders, fast or slow, and single-tape recorders, in addition to their recording and playing functions, are capable of copying on to blank tape, directly or indirectly, records which are broadcast, records on discs and records on tape [...] By selling the recorder Amstrad may facilitate copying in breach of copyright but they do not authorise it. [...] Amstrad's advertisement was deplorable because Amstrad thereby flouted the rights of copyright owners. Amstrad's advertisement as cynical because Amstrad advertised the increased efficiency of a facility capable of being employed to break the law. But the operator of an Amstrad tape recording facility, like all other operators, can alone decide whether to record or play and what material is to be recorded." Software which came pre-loaded with a database of copyrighted material might be deemed to purport to grant the right to copy. In the states, the ongoing (?) case *Viacom International and others v. YouTube Inc, YouTube LLC and Google Inc* will probably be a landmark decision in this area. Google's technology is capable of being used for infringing and non-infringing purposes Google tends to treat copyright as an obligation of the users.

[69] It is *unlikely* that taggers could claim infringement. Databases are considered literary works and protected both by copyright and database rights (implementing Article 3(1) of the European Directive: "Member states shall provide for a right for the maker of a database which shows that there has been qualitatively and/or quantitatively a substantial investment in either the obtaining, verification or presentation of the contents to prevent extraction and/or re-utilisation of the whole or a substantial part, evaluated qualitatively and/or quantitatively, of the contents of that database"). The recognition of an individual user's set of tags as a database would probably hinge on CDPA s.3(3), which states that databases "are arranged in a systematic or methodical way." If a tag set were deemed a database, protection under database rights is still unlikely, since that would also require that the tagger had invested substantially in obtaining, verifying or presenting the database. See *British Horseracing Board v. William Hill* [2005] (Case C-203/02 RPC 31). A database could, however, still be protected by copyright as a literary work, provided it was the author's own intellectual creation. See *Waterlow Directories Ltd v. Reed Information Services Ltd* [1992] FSR 409.69 But even if this were accepted, the courts would probably recognise an implied license. As a last ditch resource, a tagger might try to protect his or her set of tags as an artistic work, rather than a database. *Hensher v. Restawile* [1975] considers the question, "What is art?" According to Lord Reid, a work of artistic craftsmanship must command the admiration and appreciation of a substantial section of the public. According to Lord Morris, there must exist a consensus among those who are respected as art critics that it is a work of artistic craftsmanship. According to Lord Kilbrandon, the creator must have been conscious of creating something artistic; it must have an artistic justification for its existence. According to Lord Simon, the creator had to be an artistic craftsman. These last two positions seem most amenable to the defense of a tag set as a work of artistic craftsmanship. Another Lord said you "just knew." Presumably he would "just know" that tag sets aren't art.

[70] As far as fairness goes, there is no statutory guidance in the UK. In *Hubbard v. Vosper* [1972] 2 QB 84, Lord Denning MR states, "It must be a question of degree. You must consider first the number and the extent of the quotations and extracts. Are they altogether too many and too long to be fair? Then you must consider the use made of them. If they are used as a basis for comment, criticism or review, that may be fair dealing. If they are used to convey the same information as the author, for a rival purpose, that may be unfair. Next, you must consider the proportions. To take long extracts and attach short comments may be unfair. But, short extracts and long comments may be fair. Other considerations may come to mind also. But, after all is said and done, it must be a matter of impression. As with fair comment in the law of libel, so with fair dealing in the law of copyright. The tribunal of fact must decide." In *Ashdown v. Telegraph Group Ltd* [2002] Ch 149, the court rejected the defense of use for the purposes of criticism of review, because leaked meeting minutes taken by Paddy Ashdown were used to criticise the actions of Ashdown and the PM, rather than being the object of criticism. Lord Phillips considered the questions of prior publication, of whether the alleged fair dealing competed commercially with the Paddy Ashdown's exploitation of his copyright, and of the amount and importance of the work taken. *HRH Prince of Wales v. Associated Newspapers Ltd* [2008] EMLR 3, [2008] EMLR 4 (CA) suggests that the decisive factor is whether or not the alleged fair dealing is commercially competing with the copyright owner's exploitation. Secondary considerations include whether or not the alleged fair dealing is with a work in the public domain, and the proportion of the work used and its proportion to the new work (contrast the test for substantiality). The US Copyright Act 1976 sets out four factors to balance in assessing an alleged Fair Use: the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes; the nature of the copyrighted work; the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and the effect of the use upon the potential market for or value of the copyrighted work.

[71] The case law around fairness has long emphasised economic individuation. It seems like originality is now being drawn into the same problematic. Also cf. e.g. Getmapping Plc v. Ordnance Survey,

[72] According to the Whitford report, "it is clear that the author of the output can be none other than the person, or persons, who devised the instructions and originated the data used to control and condition the computer to produce the particular result. In many cases it will be a matter of joint author-ship. We realise this in itself can cause problems, but no more than in some other fields, and we are not convinced there is a need for special treatment." A 1981 Green Paper contends, "it has been suggested that a more appropriate analogy would be to regard the programmed computer, rather than the computer alone, as a tool. If this approach is adopted it is logical to conclude that the author of the new work is neither of the two parties proposed by Whitford, but instead a third person; namely the one responsible for running the data through the programmed computer in order to create the new work." The 1986 White Paper, "Intellectual Property and Innovation" thought the law could do without such innovations: "the question of authorship of works created with the aid of a computer will therefore be decided as for other categories of copyright work, i.e. on the basis of who, if anyone, has provided the essential skill and labour in the creation of the work." If no human labour and skill had been expended, there was nothing worth copyrighting. BCS Copyright Committee submission to government is focussed squarely on commercial investment and competitiveness. It cites "examples of works that are produced to date with little or no human skill and effort" and suggests that "the emergence of so-called expert systems or artificial intelligence machines will extend the boundaries still further […] The investment to produce such machines is very large and there should be no doubt that works produced therefrom are protected by copyright […] The BCS proposes the creation of a new class of copyright protected works. The copyright owner or 'maker' should be defined as the person by whom the arrangements necessary for the making of that computer output or computer-generated work, are undertaken."

[73] Because of the separate requirement for fixation, even the minimal requirement of labour could be considered moribund - perhaps a sentimental, juridically empty, tribute to the "sweat of the brow." But perhaps a small degree of skill is implicit in any laborious task - if not immediately observable in its realisation. Cf. *Sawkins v. Hyperion Records* [2004 q.v. From the court's perspective, the hendiadys "labour and skill" and its variants is probable preferable for its flexibility.

[74] You can see how the special rules on computer-generated works, and the special rules on works created "in the course of work," support each other. In the latter circumstance, the copyright belongs to the employer. So even though "the person by whom the arrangements necessary for the creation of the work are undertaken" is both permissive and also may not refer to anyone at all, it doesn't matter so long as all the potential candidates are working in the course of employment. "In the course of employment," by the way, is a legal concept not quite the same as "when you're at work."

[75] The courts may try to continue to rely on labour and skill even in relation to computer-generated works - works wherein by definition no labour and skill subsists...

[75] [CONT] … Or perhaps "the arrangements necessary for the creation of the work" will instead be interpreted as financial outlay, managerial oversight, or managerial responsibility. The implication of course being that these practices - spending money, appointing managers - can turn ideas into expressions. It is not clear either whether the living would have an exclusive claim on writing in this sense.

[76] Maybe it's a bit much to call in the lifeworld? It is hardly replacing "labour and skill" with something bespoke and precise. A lot can be explained by reference to the lifeworld.

[77] There are an awful lot of versions of this idea, which is why I feel okay invoking it without attaching it to a particular theorist. I should say in the interests of clarity though that it's probably Habermas's Lifeworld which most shapes my understanding, *and* that I am deeply sceptical about the whole business (see the conclusion to this article).

[78] Cf. the US case *Pagano v. Charles Beseler* [1916], in which a photograph of the New York Public Library was held to be original because "[i]t undoubtedly requires originality to determine just when to take the photograph, so as to bring out the proper setting for both animate and inanimate objects, with the adjunctive features of light, shade, position, etc." Contrast the US case which first extended copyright to photography, *Burrow-Giles Lithographic Co. v. Sarony* [1884]. Sarony was held to have made *Oscar Wilde No. 18* "entirely from his own original mental conception, to which he gave visible form by posing the said Oscar Wilde in the front of the camera, selecting and arranging the costume, draperies, and other various accessories in said photograph, arranging the subject so as to present graceful outlines, arranging and disposing the light and shade, suggesting and evoking the desired expression, and form such disposition, arrangement, or representation, made entirely by [Sarony]."

[79] Why, moreover, is a tourist snap held to express an idea, whereas "I hope you are well today" is held not to express any idea? I may well have had an intention, and I may well have chosen "I hope you are well today" from a vast ensemble of similar trite expressions, in order to convey it. Cf. *Bauman v. Fussel* [1978] RPC 485. A painting based on a photograph of a cockfight was deemed not to infringe because in the majority opinion the borrowed aspects, including the positioning of the birds, were not due to the photographer's labour and skill (with a dissenting opinion). I need to check to make sure, but presumably the infringed upon work was nevertheless considered to be original.

[80] The way in which we see a constellation of boats and river water glimmers is informed by our lifeworld, but it is not *built into* the structures of our lifeworld in quite the same way. My hunch is pretty strong that there is a distinction here, but I must admit I'm a bit stumped as to how to develop it. Try this: different instances of a linguistic commonplace are identical with each other, and different instances of a visual commonplace are identical with each other, but in different ways. The difference is, in the performance of the linguistic commonplace, minute phonological or orthographical contours disappear in the meaning of the commonplace (or are transmitted into a tiny fraction of the total pragmatic context). Whereas for a commonplace image, identity is a matter of sufficient closeness, but at the threshold there remain minute contours which may legitimise distinctions among images. Hmm. (Maybe, in Katherine N. Hales's jargon, the linguistic commonplace is *incorporated*, the visual commonplace *inscribed*).

[81] Compare *Hadley v. Spandeaux Ballet* [1995]. The plaintiffs sought joint copyright. They argued that the defendant set out, like, the skeleton of the songs, but that the whole band was creatively involved during jamming. The court awarded Kemp sole copyright, emphasising that he had "final say" over what went into the songs. Compare *Ray v. Classic* [1998] in which "direct responsibility for what appears on paper" was deemed necessary for joint authorship.

[82] Scraping some words, Alessandra Squeo's and by Roger Chartier's respectively, I heard at the Material Cultures conference where a version of this article was presented.

[83] Compare Donna Haraway, **"A Cyborg Manifesto"** (1991) - "This chapter is an effort to build an ironic political myth faithful to feminism, socialism, and materialism. Perhaps more faithful as blasphemy is faithful, than as reverent worship and identification." Cognition is embodied: we off-load the labours of thought into our environment, and our environment in turn has designs upon us which play out as thought and its cognates. I guess sometimes it may help to think about cyborgs or zombies, and then about us, or to begin with the effects upon the mind of a calendar, or a mobile phone, or the tattoos in **Memento**, or a New Book, and then gradually replace them with the effects of a class, or a state, or an economy.

[84] Why do so many politically-inclined artists and writers fetishize the artistic collapsing into the everyday? Because the artistic is already the everyday, and so that distinction which can guarantee them both their politics and their art can only be sustained as the pretended struggle to overcome it. "The fusion of life with art is only impossible because it has already happened."

[85] Improvisation, especially collaborative improvisation, can be understood along similar lines, as practices blown smooth by sand, every risky orientation honed away.

[86] On genre, cf. Yates S. and Sumner T. (1997), "Digital Genres and the New Burden of Fixity." Abstract: "Stability in the production and transmission of texts has been a taken-for-granted feature of communicative acts for much of history. In the past, this fixity (i.e., the reliability of texts not to change over space and time) has arisen from the interaction between immutable technologies (used to produce text) and social rigidity (in the structure and practices of discourse communities where texts are produced and consumed). These interactions provided stable settings fostering the gradual development of rich communicative genres which, in turn, further contributed to fixity in communicative acts. In the current era of virtual communities and digital documents, this relationship between technology, social context, and fixity has been loosened. We claim the new burden for providing fixity in communications is being met by increased reliance on genre. To support this claim, we examine the four-way relationship between technologies, social contexts, social practices and genre by considering example digital documents produced by two different discourse communities."

[87] "On the Internet," the old adage goes, "nobody knows you're a dog." On the internet, nobody knows you are dead. But we have every reason to assume you are. In fleshspace, we lose some of those reasons. But certainly not all of them. And likely not enough. Cf. Augmented Reality. Let's extrapolate even further, from the New Book to the Next Book. For such books, every trace of "device," every frame and control, would be enfolded within representation. They would be of no fixed size and could be extended and rebuilt indefinitely, and they would change and move under inner pressure. If surfaces were chosen, those surfaces could form the shape of a codex of course, or of a person or tree or anything else. Really, to get a clear idea of these books, it's necessary to put aside worries about where they'd be kept, or how or whether they'd be carried around, produced, possessed, bear rights, etc. Their nature is so malleable that it's liable to be overrun by the nature of their readers, as soon as that comes at all clearly into view. In one example, shapes run together along the book's branches like many different swift mosses…

[87] [CONT] ... blending and hybridising or squirming to avoid collision. The music and voices emanating depend partially on how the reader directs her eyes. Whatever she sees in the corner of her eye, she can hear in the distance; or it is transposed into the acoustic edge of the focal scene (gentle thunder over Elizabeth and Darcy aligns with the Al Jazeera car chase glimpsed sidelong - but that's extremely crude). A reader may want to reach in, or out, to bend branches together; the voice of one homunculus might be carefully tipped into another, or the valour, or comic timing. We are constantly playing parts in one-another's experience. Anything new we do is immediately done by a manifold of automatons across all its possible configurations and in all poses of supplication and seduction. Representations are decomposed into atoms according to any categories constitutive of nameable experience, as well as further categories. The relations between any two atoms may be conferred to a third. There are modes of superposition, iridescence, translucence, interlace, overlay, of stained glass, of XOR, involving all senses and faculties, which are now difficult to imagine. Phenomena which are desirable, perhaps because they are original, but which wouldn't flourish without a boost, may piggyback on independent regularities of pleasure: we can decide, as a matter of volition, to desire them as a matter of coincidence. There are perhaps aspects of the Next Book like tubes and screens whose persistence is safeguarded less by technical traditions, or lock-in, than by a kind of adaptive fitness. Perhaps what is most characteristic and humane about a particular reader, as a human being, is the page that his or her book falls open to. Your friendship may really be a friendship between you and the other's book, or perhaps it's your books that make friends. Cf. avatars, familiars, daemons, moods, possession by Swarm Gods. The reader plucks something out - call it the Next Sentence - and throws it in your book or puts it in your hand. Or hides it in your sofa. More than a safe topic for wooing middle classes, books provides institutions of love based on previously non-viable desire sets. With our noses in good books, we become at last identical with our blazons: every possible decomposition of self assigned every legitimate comparison. Love is not limited to equillibrious blocs, but can be distributed through nested constellations of subcontracts. In Thomas Wyatt's words, we have leave to goo of our goodness. Match.com etc. operate at a finer grain, linking not just suitable persons, but suitable aspects and moments. As with love, so with politics. Somewhere between the New Book and the Next Book, grassroots consensus decision making is usurped by a kind of book club for weird futuristic hippies. Structurally implicit equivocation and disjunction attains distinct spatio-temporal presence. Action is swift and powerful, because based on steering media, rather than (or trivially including) mutual understanding. Individual volition is available, though always with the caveat overdetermination, within architectures of achieved consensuality. Realpolitik among readers addresses fully the identity-dimension (which until recently, during a century or more of sociological obsession with rationality, had been the poor relation of the interests-dimension, and only been explored in the timid forays of torture, propaganda and education). The Next Book prosthesis is invaluable for the constitution of an identity, an identity which is subject to design, to generation, and to emphatic / literalised specification by the intersection of distributed networks. Any identity which is not literate in this Next sense is justly denied suffrage - from postal ballots to posthuman ballot. For my identity, for instance, I may articulate a critical theorist who preserves the untenability of critique in prevailing conditions by periodically evacuating to the orbital positions of conservative, postmodern Christian and revolutionary internationalist marxist, with my book as governess and soul. The Next Book of course must be capable of producing a certain weight against the skin; if the servomotors are at all ambitious your book may also work as a sort of mech in which you slot like a sort of bookmark. To save the feelings of your children, or your bookshelf, you may ask your book to enclose you entirely before you die and continue to simulate your sovereignty.

[88] Cf. Henry James, *The Art of Fiction*. "In proportion as in what she offers us we see life *without* rearrangement do we feel that we are touching the truth; in proportion as we see it *with* rearrangement do we feel that we are being put off with a substitute, a compromise and convention."

[89] Cf. the first part of this article. Recuperation in its regular formulation is the commodification of rebellious practices. One important aspect of recuperation conforms well with the most literal interpretation of that formulation. That is, there are those who are paid to look for the Next Big Thing - to find uncommodified practices and to commodify them. They hold focus groups, to find out what people spontaneously do, think and feel, and on that basis invent and market new products. But recuperation alludes to a dynamism in capital which is not fully explained by such commercial cycles.