

**Everything Should be in Quotations:
13 Very Un-unique Ways of Looking at Intellectual Property**
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Our rhetoric, our literature, our discourse over the morning news and coffee, our casual telephone, e-mail, and otherwise wired conversations, our discussions on the sidewalk, in our bedroom, at night and in the morning have become renderings and renditions of rhetoric past. To a degree, everything that we say, write, discuss, type has been iterated before and will be iterated hereafter. There's a quotation by which you live, a jingle that you're constantly humming, a chorus line that never seems to fade despite the passage of time, a catch phrase, a slogan, an adage that defines popular culture in any particular timeframe that continues to influence the way we think, speak, and write. The margin of creative thought and personal "inspirado" is steadily decreasing. Everything should be in quotations – air-quotes, typed quotes, written quotes. In essence, none of our words are our own.

In his "Discourse in the Novel," Mikhail Bakhtin states the historical and sociological nature of language and its implicit ramifications for intellectual property. Language is not, or should not, be a study of semantics, diction or syntax. Rather, it possesses a socio-ideological identity that reflects the nature of society and the culture of that era and is transmuted with tradition. Language, Bakhtin notes, is "ideologically saturated [...] insuring a maximum of mutual understanding in all spheres of ideological life" (271). Language is the verbal evidence of culture. Discourse and literature possess "centripetal and centrifugal" (272) forces that serve to coalesce language into a commonly spoken vernacular and yet, not paradoxically, to stratify language into particular genres of thought and subject matter. From the historical perspective, language, both dialogized and written, works to centralize – unify – a society, a culture, a generation, a genre, such that all its constituents are mutual participants regardless of their interest or activity. Language and the style and study thereof have been formed from the centralizing tendencies of their environment, the very nature of which divides language into layers and levels. The various spheres of thought and discourse intersect in a multitude of dimensions to create a veritable verbal, and wholly auditory, Venn diagram of both common and esoteric language.

Linguistically, one needs only to study one section of culture to define the semantics, origin, and structure of human speech. Languages, despite how many and how different they appear superficially, will ultimately intersect on a cultural, socio-ideological plane. "All

languages of heteroglossia, whatever principle underlying them and making each unique, are a specific point of view on the world, forms for conceptualizing the world in words [...] each characterized by its own objects, meanings and values” (292). More than merely coming from the same source of inspiration and thought, this universal language is one that is “not concerned with forms of representation, but only with the means of transmission.” Cultural thoughts, ideas, and concepts are simply provided with varying stylistic frames of interpretation such that conversation is “re-accenting from direct verbatim quotation” (339).

Historically, Walter Benjamin notes in *“The Work of Art in the Age of Mechanical Reproduction,”* innovation has changed the “technique of the arts” (217). There is a profound “physical component” in art that makes it wholly reproducible, yet “even the most perfect reproduction of a work is lacking in one element: its presence in time and space” (220). Benjamin, however, makes the distinction between the value of the physical component and its inherent practicality and necessity in a socially responsible and culturally progressive sense. There are changes, both physical and metaphysical, in a work of art that contributes to its specific and unique immortality - a history that separates it even from similar works of its time. There is a characteristic aura to every piece of art - a characteristic that runs deeper than the mere marks of uniqueness. The aura of a work is moreover defined by its permanence, its distance, its inapproachability. The same, then, should hold true of language and any written art, in that there is a certain feeling of permanence and aura in respect to various texts, whereas replicas of the written and spoken word accumulate the same feeling of “reproducibility and transitoriness” (223) characteristic of duplicated art. The desire of the masses to bring language “closer spatially and humanly” (223) accounts for the readily lost history in the trite colloquialisms and clichés of conversation. “Quantity has been transmuted into quality” (239).

Benjamin also proposes, however, that the practicality of reproduction is of far greater value and importance than its assumed aura, which serves only to distance its audience. The true value of a work of art, written or pictorial, serves as its primary focus, to bring the viewer or the reader closer and to make the tangible quality of that piece more readily available. The physical component that encourages replication also encourages a “progressive reaction” (234) toward historical art, film, photography, and is perhaps extensive enough to include language as well. “The conventional is uncritically enjoyed, and the truly new is criticized with aversion” (234). There is a social component that parallels syllogistically with the physical component of art, such that access, and not authority, becomes the primary issue. Historically, there has always been the question of the original and the degree to which this is important in regard to the chief purpose of art or language - to retain its aura and historical permanence or rather to serve and sate the desire of the masses to see the art and speak the language. Historically, the debate of ownership reaches across the stratum of art and into the layer of language to refer to the origins, reproductions, modifications, and transmutable nature of language and to seek to answer if it would be more practical and socially responsible to reproduce rather than create, and how our words today could be our own in their characteristic properties for “authenticity is not reproducible” (243).



EVERYONE IS TAKING EVERYONE ELSE'S WORDS AND IDEAS! WHAT WILL HAPPEN NEXT? **ARGH!!** MARK MILLAR IN THE EPISODIC SUPERMAN: RED SON MAKES CLEAR THAT IN THE MIDDLE OF THE TWENTY-FIRST CENTURY, THE TELEPHONES STARTED RINGING ALL ACROSS AMERICA AS RUMORS OF THIS UNIVERSAL CULTURAL IDENTITY STARTED CIRCULATING. **"BRINGGGGG!!"** "AN ENTIRE CONTINENT WAS WAKING UP TO REALIZE THAT THEIR LIVES WERE SOON TO CHANGE FOREVER" (10). EVEN IN THIS TIME OF UNCERTAINTY ONE MAN, ABOVE ALL, ROSE TO THE CHALLENGE AND ASKED "WHO OWN OUR MYTHS?" NEIL HARRIS IS EXPOUNDING **HEROISM AND COPYRIGHT** IN AN AGE OF **MASS CULTURE**, DARING TO DEFINE THE LINE BETWEEN "THE TWIN NOTIONS OF PRIVATE PROPERTY AND LIBERTY OF EXPRESSION" (233) - A FOLKLODIC WAY OF ANALYZING INTELLECTUAL PROPERTY. **HARRIS: STRANGE THINKER FROM ANOTHER PUBLIC SPHERE!** WHO CAN CHANGE THE COURSE OF INTELLECTUAL PROPERTY, BEND THE RIGID COPYRIGHT RULES, AND WHO, AS THE CHAMPION OF NEW-FANGLER IDEAS, FIGHTS A NEVER-ENDING BATTLE FOR **SUPERMAN, AMERICA**, AND THE INTERNATIONAL ELIMINATION OF COPYRIGHT LAWS.

KABAMM! THERE IS A GRAPHIC ASPECT IN THE QUEST OF DEFINING THE ILLUSIVE PROPERTY OF INTELLECTUAL THOUGHT. **POW!!!** THE IDEA OF COPYRIGHTING A MYTH, AN IDEAL, A **SUPERHERO!** HIT HIM LIKE A TON A BRICKS ON A HOT SUMMER DAY IN **SAN QUENTIN**. HARRIS HAD COME TO THE ULTIMATE, **EARTH-SHATTERING CONCLUSION** THAT "SOME CHARACTERS [...] REPRESENT IDEAS, AND IDEAS THEMSELVES ARE NOT COPYRIGHTABLE" (243) THEREBY LEADING TO THE PROLIFERATION OF IDEAS AND THOUGHTS THAT WERE LEFT TO PERMEATE A CULTURE, UNSTOPPABLE BY ANY FORCE, EVEN THAT OF COPYRIGHT.

Following *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, Jürgen Habermas discusses a linguistic study of the public sphere. Etymologically, the public sphere was made reference to only after it could be contrasted to a private or exclusive affair. Although there is research to support the finding, or rather lack thereof, of specific historical references to a “public” anything, there cannot, still, be any clearly enclosed definition of “public.” Anthropologically, throughout Germanic, Greek, French, and European culture there existed a “public” so long as there was a “private,” which, albeit debatable, has always existed. Historically, then, this so-called public sphere has always lingered uncomfortably between that which was considered truly public and truly private.

The public sphere has characteristically universal physical access, intellectual access, and ignores the status of those who desire to access it. The public sphere, as Habermas explains, is a veritable market place of ideas in which all voices have the same amplitude. Yet, it is unclear how such a vague and ambiguous entity is so clearly defined, for the public sphere is an institution of civil society such that despite its public nature, is meant to influence the private sphere. The “public sphere may be conceived above all as the sphere of private people come together as public” (27). “Included in the private realm [is] the authentic ‘public sphere,’ for it [is] a public sphere constituted by private people” (30). Supposedly public institutions can be privately owned. Inasmuch as the private desires to own parts of the public sphere, to what degree is anything private or public? The media - television, newspaper, magazines, journals - all privately owned to serve the public; the town hall meeting, protests, all public displays of private concern. Where, or does there even exist, a boundary between the public and private? In the same instance, to what degree are our words our own if they come from the public sphere and are spoken privately or privately inspired but publicly owned? How can we claim that our words are indeed our own when there can be no clearly defined public or private sphere?

Whereas, thus, hereafter, it should be noted that the Issue of Copyright was one such that the Authors of the United States Constitution made reference in respect to “promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries” (Article I, Section 8). From a specified Time here onward there will be the Discussion of the legal and pragmatic Aspects of that Property which is deemed intellectually owned. Harris, in his Quest to defeat the Expansion of Copyright Law, may be challenged, obstructed, limited by the Intricacies of his very Foe.

In direct and forthright Opposition to speaking, writing, creating that which is not our own, the Constitution has established henceforth the subsisting of Copyright Protection for any “tangible Medium of Expression” (Copyright Act, 17, U.S.C. § 102) there acknowledged or subsequently developed. However, it should be duly noted that in no such Case can Copyright Protection be extended to guard against the Proliferation of “any Idea, Procedure, Process, System, Method of Operation, Concept, Principle, or Discovery, regardless of the Form in which it is described, explained, illustrated, or embodied in such Work” (Copyright Act, 17, U.S.C. § 102). This leads one to believe that any Idea or Thought or Work, spoken or written is left free to enjoy the Frame in which it is placed without due Cause to fear Prosecution. Notwithstanding Copyright Act, 17, U.S.C. § 106 in its Declaration of the Rights of the Owner, there exist “Limitations on exclusive Rights” in regard to “Fair Use” (Copyright Act, 17, U.S.C. § 107). Insomuch as specific Rules apply to the Issue of Copyright and its Ownership, there can be no finite Definition in respect to the aforementioned Creativity, such that none of our Words are our own.

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Opinion of the “Author”

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Ethically, however, to what degree does the Constitution assign Congress the power to prescribe the duration of aforementioned copyright laws? The United States Supreme Court decision no. 01-618 regarding *Eldred v. Ashcroft* seeks to identify with said question in an attempt to certify the explicit and implicit rights of Congress to establish copyright laws in accordance with the Constitution of the United States of America. The Copyright Term Extension Act (CTEA), Pub. L. 105–298, §102(b) and (d), 112 Stat. 2827–2828 (amending 17 U. S. C. §§302, 304) is henceforth under question by petitioners who are hereby defined as “individuals and businesses whose products or services build upon copyrighted works that have gone into the public domain” (*Eldred v. Ashcroft* 1) The Court ultimately rules in favor of the Attorney General, maintaining that the CTEA does not violate any predetermined “limited terms” agreement or clause for insomuch as they are extended, they are not perpetual. In the judicial precedent of *Harper & Row, Publishers, Inc. v. Nation Enterprises*, 471 U. S. 539, the Court has previously found that First Amendment protection does not extend to the copyrighted works of others. Furthermore, it should be noted that copyright and affiliated CTEA does not “impermissibly restrict free speech” (*Eldred v. Ashcroft* 2) as it protects only the author’s ownership of a “specific form of expression” (*Eldred v. Ashcroft* 2) and not the ideas or facts contained within said copyrighted work. Additionally the position of “fair use” regarding the expression of the ideas and facts therein further permits the use of copyrighted material so long as it falls within the dictums of the “fair use” statute. Ethically, then, the Court finds no indication of legislative misbehavior in light of textual and historical evidence and judicial precedent. As “copyright gives the holder no monopoly on any knowledge, fact, or idea” (*Eldred v. Ashcroft* 5), these aspects of knowledge are free to permeate throughout society, only to be re-stated and re-framed and occasionally brought to Court on disputed claims of ownership, seeking justice from a law that has been constantly and consistently debated as ethically unsound.

From an economical standpoint, all these rules and regulations that are slowly enclosing the public sphere have been successful. As James Boyle notes in “Fencing off Ideas: Enclosure and the Disappearance of the Public Domain,” common ground is slowly, piece by piece, being turned into private ownership. This transference of property ownership from a previous lack thereof provides

economical advantages. Investment becomes possible and the owner who is financially responsible for the property will be more dedicated to its success, as well as being more financially capable of making that property more efficient. Private property rights are helping to avoid the pitfalls of both “overuse and underinvestment” (14). So then, Mr. Boyle, what exactly is the problem? The problem that Mr. Boyle does propose, concerning the second enclosure movement involving a less trophic reference to intellectual property, is simply this: “Digital text, unlike a plot of land, can be used by countless people simultaneously without mutual interference or destruction of the shared resource” (17). And, indeed, it is.

Digital texts, and spoken words for that matter, are being passed around and circulated throughout the many strata that Bakhtin previously defined. Although Boyle discusses primarily the economical and pragmatic aspects of intellectual property, and the value of the shared word, or words rather, he makes a significant observation, “Information products are frequently made out of fragments of other information products; one person’s information output is someone else’s information input” (19). Boyle proposes that a decentralized system of intellectual property rights will increase innovation, creativity, and production in light of the very real reason that everyone’s thoughts are building upon, or are at least a re-framing of, someone else’s ideas.

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When I contemplate intellectual property crossing the borders of countries and boundaries of culture, I think back to **READING LOLITA IN TEHRAN: *A Memoir in Books*** by Azar Nafisi. I am reminded of the cultural implications and aspects of intellectual property and language as I recall Week Six and Seven of my University Writing Class. A couple of our Tuesday-morning seminars had led me to contemplate different conceptions of how intellectual property is used in various cultures and how perceptions of this vast and sometimes ambiguous entity differ cross-culturally. It appears that American culture is particular about who owns what and how much one will gain from what they own. Nafisi, on the other hand, was attentive in describing the effect the words had, the meaning of their context, and moreover, the external situation in which they were said. She notes, “Readers [are] born free and ought to remain free” (19). Instead of a web of laws telling what could and could not be written, Nafisi describes a culture that was limited by government censoring and religious conflict. In that way, it can be said that culture defines how intellectual property is considered

and the context in which certain works are permissible and others are not. Whether the words were copied was not the issue - it was the societal circumstance in which they were uttered. Imagination - original or not - was the source of both conflict and inspiration, “...how these great works of imagination could help us in our present trapped situation as women” (19). It was a matter of what they said and not who actually said it, or rather, who owned the right to say it. “That word became a symbol, a sign of that vague sense of joy, the tingle in the spine...the code word that opened the secret cave of remembrance” (21).

There are many ways in which to analyze intellectual property, perhaps thirteen, but what the authority of Islamic culture desired to curtail or protect was a result of religious upbringing and a difference in cultural identification, not copyright law. Who said it before the author in question was no longer of importance - it was the mere fact that they had the audacity to utter such things. That none of our words are our own matters particularly in our culture and not necessarily in other cultures that are chiefly concerned with the external factors afflicting intellectual property.

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FRAMING THE QUESTION

Analyzing

In the last paragraph, I described how culture defines and assigns the true value of intellectual property. In this paragraph we will analyze the psychological effects of language.

Essentially, our style and how we word questions and problems affects intellectual property. “Telling your story clearly” (Booth et al. 215) and “writing with power” (Faigley 327) can be essential factors that influence the effects of language. The psychological aspect to research is vast - to what degree are our ideas and words our own? The answer, in part, depends on the psychological implications of diction and syntax - in essence, how we frame the question.

When we move from a question to a problem or “create” our writing style, how can we be sure that our research is in fact exploring a new topic or that our style is truly unique? The manner in which you decide to express a question or topic can dramatically influence the way in which your audience perceives its intellectual ownership.

In the field of research it can be difficult to uncover the “real author” as Booth et al. states in *The Craft of Research*, “most problems fall into just a few categories, many defined by a researcher disagreeing or

contradicting some generally held view” (Booth et al. 62). As Faigley notes in *The Brief Penguin Handbook*, “when you write about any major topic, you will be entering ongoing written conversations to which many others have contributed” (Faigley 65).

Summarizing

- Doesn’t it seem that everything we read is a synthesis of many other ideas and that the style is one we’ve perhaps seen before? To what degree is this psychological?
- How does the style and expression of an idea influence the way in which we perceive ownership?
- Define author. Is this definition representative of psychological influences?

In whatever voice you choose to speak, in whatever font you choose to type, the words you choose, and in part, the way in which you choose to put them together, is partly the work of someone else. Although there are various tones and liberties of inflection that may be taken when speaking or writing, language, as an entity, represents a universal culture.

There appears to be an infinite source of creativity and inspiration. Yet, historically, sociologically, pragmatically, psychologically, linguistically, etymologically, culturally, anthropologically, ethically, legally, folklorically, economically, graphically conversation and literature is derived from a limited number of sources that intersect to share their thoughts and seemingly unique characteristics. Language, although consistently and constantly changing to represent its partisans, is an amalgam of the past and present, traditional and contemporary. It should be evident that regardless of the tone or style in which language appears, it will coalesce, combine, and intersect to synthesize one very universal thought – that none of our words are our own.

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