Relinquish Intellectual Property

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Relinquish[1] Intellectual Property[2][*]

"No mind worthy of the name ever reached a conclusion"

S. Mallarmé

If this [4] essay appears to represent my own original[5] idea[6], such an appearance is[7]undoubtedly false. Treating verbal ideation—the word[8]—as "property"[9] obstructs unsuspicious dialogue, clogs our minds[10] as we try to delineate static "ideas" we call "ours,"[11] and falsifies the circumstances of [12] knowledge.[13]

[*] I am locally indebted to A. C. Spearing and Jerome McGann for suggestions and improvements

in the composition of this piece.

Notes

[1] Let me start by quoting the text of the original essay, which has been relinquished. The bracketed numbers indicate other footnotes in the main essay.

Relinquish Intellectual Property

"No mind worthy of the name ever reached a conclusion"-S. Mallarmé

This [4] is [7] an original [5] idea [6].

Of [12] course such an assertion falsifies. Every letter on this keyboard, as every word [8] in this essay, has been and is continuing to be constructed by myriad forces. I'm driven to write this essay because of the obstructions attendant on seeing verbal ideation as "property" [9]. In reality, we learn every word and idea we possess. Though our re-writes and insights sometimes have the cultural and intellectual penetration of lightning, and though we often call those ideas "original," a possessiveness about our "own" words has at least three negative consequences: it obstructs unparanoid ideational intercourse, clogs our minds [10] as we strive to delineate the static nature of this idea we call "ours" [11], and is false to the circumstances of knowledge [13].

The way we credit one another's writing serves mostly to sustain the right-to-ownership of living idea-holders. In any particular essay or book, it tends to be most striking when the writer footnotes further back in time than, say, one hundred years. Yet everything written in the last hundred years builds on what was written in the previous hundreds. If intellectual property is transhistorical—and it must be so considered if we really believe in it and want to ensure that every re-describer gets proper credit—then we are not properly crediting writers who created the thought-conditions for those who followed.

A colleague recently admitted to me that he has a kind of Usucapio attitude towards ideational property: when he was a graduate student discovering Foucault, he footnoted punctiliously every bit of text reflecting Foucault's influence. Now years have passed, and he figures that Foucauldian thought is part of his mind and needn't be acknowledged. Precisely. We consume what we encounter, and it is logically untenable to assert that we are capable of distinguishing a particular idea-source from what lights up in our own minds.

This blurriness is one of the hazards of working with ideas and words instead of bricks or trees. Our materials require a fluidity of treatment. Over and over again we learn that true thinking is dynamic: think of "fuzzy logic," for example, of the thinking we'd like computers to be able to carry out. We profess to be taken with the best that is known and thought, but in the creation of static objects of thought-property we stymie that process.

We have an opportunity to loosen the bonds of intellectual property: as the Internet expands and people get nervous about their ideational property rights, we can construct new visions of those rights. We need to be explicit about what is possible: I realize that I am positing an ideal

relationship among us as thinking word users, as though we were in a Socratic scene and could simply look at one another to see who was talking.

So there are difficulties: first and most obviously, are thinking writers to be punished for their vocation by a lack of compensation? Well, that happens already, as the different rewards for the production of a book and of a useful product like software might attest. And writers who teach can mark the difference between the cost of an hour with an attorney and an hour of classroom time. I am not advocating the disappearance of compensation for written productions, but we might, at the very least, give up the pretense that our production of ideas and words is original and that we really note sources and avoid plagiarism, as though it were possible to do either. Knowing our own pieces of writing as porous matrices of a continuing interchange, we would not, perhaps, be so inclined to view each one as some last word.

Another colleague was baffled when one of his Iranian students plagiarized with no sense that it was unacceptable in the American academic scene. For Muslims, as we know, analytical and original thinking is akin to blasphemy, to setting oneself up as God's originary equal. In many places of the world, mostly outside of occidental culture, "plagiarism" is a strange notion. And yet we Westerners have no clear sense, despite historical indicators, that our notion of intellectual property is a crafted one. We have internalized it to the point of thinking we truly are capable of original critical thought, that once we have worked out a particular critical system, say in one or several books, it is identifiably ours and must be so acknowledged by others.

Here I speak only of verbal ideational property, not of the more material intellectual property defined under Western law as questions of patents and objects. Nor am I particularly distinguishing between critical and creative ideation, though I can imagine the arguments. "Even," you might say, "admitting that one's critical work is mostly an amalgam of what one has read of others', surely if I write a short story it is mine. I have made the plot, the characters, and the story would not have existed as it is without me. Therefore it is mine, from me, and I deserve permanent acknowledgement for its particulars."

This point raises two difficulties. First, if critical writers glean their ideas or idea structures from critical reading, "creative" writers learn to craft stories and characters from exposure to stories and characters, whether or not avowedly "created" (rather than "real" or, better yet, "historical"). Where else might such craftings originate? How do "original critical" and "original creative" writing differ, in terms of their participation in learned structures? The same argument applies to the "creation" of poetry, whose historical cerements cling to it, arguably, even more closely than old stories do to the fresh sheets of plotted fictions.

The second difficulty concerns the trademarking of language. We now distinguish between copyright, which is bad enough for language, and trademark, which is even worse. If I write the words "Relinquish Intellectual Property," say, and have a bumpersticker made with those three words, and get a trademark taken out on it, then you will have to ask me and perhaps even pay me every time you want to use those three words in that order. To prevent such a catastrophic scenario we must make the fluidity of our verbal borders clear: we don't want our words to be bound by the material and legal conditions that currently bind, say, music. (There are scores of detectives on the look-out for improper use of bits of songs from the past. Music has become as legally concrete as engine design.)

Surely we must not wish for people to be looking out for word combinations that resemble our own. To prevent this we should think of verbal ideas as words we all touch, we should celebrate the so-called plagiarisms of Kathy Acker. If we commonly trace our sources back by only some few years, saving older acknowledgement for so-called "primary" work, and not bothering to

acknowledge some material at all, figuring it's become our own thought by virtue of sitting in our minds, then our whole system of acknowledgement is hugely flawed in any event. We should work to become more, rather than less, flexible about how we treat modes of verbal expression, to view them as processual, a constant discourse wholly made up by our learning and interchange. Surely in the age of the Internet we can believe such a flow of ideas is possible. Need it be said that this critique of originality is completely unoriginal?

[2] For some indication of the fear and respect inspired by the muscular notion of intellectual property, I transcribe an anonymous interchange between a worried subscriber and an alert moderator (or other subscriber—the respondent's identity is no clearer than the questioner's) on a currently active listsery. That the exchange is executed under the sign of anonymity both underscores the danger of the topic and illuminates one beauty of undermining its very concerns. It does not matter whose words these are, after all:

Q"How do you handle the risk of having your ideas stolen from you when you are networking to find people who are doing similar work, who might be willing to review your papers, survey instruments, etc., or who might want to co-author papers with you? To what extent do you reveal your work, how do you protect yourself against unethical behavior (it seems to occur in academia!), and with whom do you open up? Is it simply good judgment and intuition?"

A"In response to your concern about claiming your ideas and protecting them from theft, there is good news and bad news. The good news is that you can lay claim to your ideas by publishing them widely before anyone else does. Computers now make this possible for anyone, including graduate students, who may not have the clout to get their contributions published quickly through more formal avenues. The various publishing approaches open to a graduate student are:

- a. Give a presentation at your department's 'brown bag' lunch seminars or whatever other campus forum is open to grad students discussing their on-going work.
- b. Present a paper at a conference ASAP (try to get a paper accepted for a poster session, since this will let you discuss your idea at length with many interested others and get your name associated with your idea).
- c. Publish your idea on the Internet (ultimately on your own World Wide Web Page if you can swing it), or through a relevant e-mail discussion list. When we began Doc-Talk, several student who had papers related to doing a thesis sent them to us for our review. We then announced on Doc-Talk the electronic addresses where students could get hold of free copies of the papers. Many people have very successfully gotten their name associated with their idea, and at the same time requested comments on their papers from readers who were given permission to copy and distribute it as long as the copyright was left intact.
- d. Put a copyright mark on your work from the very first time you publish it (or hand out anything at a presentation).
- e. If you have a marketable idea, register the copyright immediately.

The bad news is that, while you can copyright a paper containing a good idea, you can't copyright the good idea itself. Ideas are 'public' and once a good idea is exposed, all bright brains will sieze [sic] on it and use it as they will. Indeed, that is the concept of 'collaboration' in scientific research

in the field.

What you need to do is to get your name associated with your idea before someone more famous and with a better distribution system gets his/her name associated with your idea. Otherwise, you'll get 'passing credit' when the famous person uses your idea to become even more rich and famous. Your only protection is to publish the idea widely—to saturate the field with your idea. You can do this, among other places, on relevant Usenet discussion groups and refer to your published work and how others could get a copy of it. Good luck!"

[3] I have lost the source for this Mallarmé quotation. However, there are many like it. Such as what Alan Davies wrote: "Truth is lies that have hardened"; "A grasped history is lost when the concern is to keep track of it in a precise way" (Signage, New York: Roof Books, 1987: 11, 17). Or what Walter Pater writes of Heraclitus: "if the 'weeping philosopher,' the first of the pessimists, finds the ground of his melancholy in the sense of universal change, still more must he weep at the dulness [sic] of men's ears to that continuous strain of melody through it" (Plato and Platonism, New York: Macmillan, 1893: 12). Or Simone Weil: "we participate in the creation of the world by decreating ourselves" (Continuities 75–76).

The connection among these is in my own reading experience, foremost. Next there is a family resemblance among these ideas: the non-concluding, processual mind, willing to give up the "good ideas" it cannot copyright. So that, like Italo Calvino, "I would like to be able to write a book that is only an incipit, that maintains for its whole duration the potentiality of the beginning, the expectation still not focused on an object" (If on a winter's night a traveler, trans. William Weaver, San Diego: Harcourt Brace Jovanovich, 1981: 177). This ideal is subverted by the productive economy. I only want a little space cleared in the middle of this producing. I am not afraid of losing my "good ideas" to better minds. Better minds are all in the expression, the expression is all in the bridges it creates to other thought, the writing that makes you want to get up and write back.

[4] Think "guiddity." The rationale for forms and inflections of this is guite apart from its signification as a demonstrative pronoun. Though Old English inflected it as nominative, accusative, dative, genitive, and instrumental, in forms determined by singular, masculine, feminine, neutral, and plural, we've all come down to "this." Or so it seems. But consider the fullness of this first signifying definition from the OED: "Indicating a thing or person present or near (actually in space or time, or ideally in thought, especially as having just been mentioned and thus being present to the mind)" (3295). Here we have a pointer to a body, whether animate or not (and there the thought of animation indicates always the haecceity of circumstance, movement of this or that quark or atom), actualized or propinguitous, real or thought, with its best virtue its recency. Using "this" as the essay's second word, before we know its referent, puts that word's indicative or referential status in peril, at the very least makes it wait. So that the mind, having not that "just been mentioned" meaning to refer to, leaps out to "This goodly frame, this earth" or This magazine or his T that he takes to work, or the "shit" of rearrangement. But then we also get from the OED a line from Tennyson followed by an unattributed "modern" usage: "A gracious gift to give a lady, this! Mod. This is what I like" (3295). Once these words are filed in our memory archives, "this" becomes a word to mention, to give us pause, one we should wonder about using too freely, with no consideration of its history; now that it's pared down to a naked indicator, this

is what we like.

[5] Relinquishing the idea of words as property might start with abandoning the idea of originality. Arguably (argumentatively?), each recombination, re-presentation, of words put on a blank page or screen is an "original" arrangement. But our attachment to this notion is not "natural." My colleague A. C. Spearing suggested I invoke Mary Carruthers, in part to demonstrate the reflexive interest of using a recent text which elucidates medieval notions of memory's reconstructive functions in the service of my unoriginal point about originality (where is the authority here?). Carruthers writes, in The Book of Memory: A Study of Memory in Medieval Culture (Cambridge 1990), "Perhaps no advice is as common in medieval writing on the subject, and yet so foreign, when one thinks about it, to the habits of modern scholarship[,] as this notion of 'making one's own' what one reads in someone else's work. . . . This adaptation process allows for a tampering with the original text that a modern scholar would (and does) find quite intolerable, for it violates most of our concerns concerning 'accuracy,' 'objective scholarship,' and 'the integrity of the text'" (164). Another lovely relinquishment of authority Spearing pointed me to is a letter from Petrarch, who wrote, some time between 1337 and 1341: "I insisted [in conversation with Giovanni Golonna di San Vito] . . . that I had nothing actually new to say, nothing of my own invention, and nothing that was others' property either; for all that we have learned from whatever source becomes our own, unless failing memory robs us of it" (Letters from Petrarch, trans. Morris Bishop, Bloomington: Indiana University Press, 1966: 66).

Though we might locate a potent lust for the original in the Romantics, it seems possible that ancestors of our notion of originality developed alongside notions of affective individualism in mid-to-late seventeenth-century western Europe. Which is mostly to say, again, we haven't always craved to create and protect our very own thought-properties. To turn deliberately away from a romantic attachment to the original self, and towards a more medieval (or, again, Islamic) sense of ourselves as participants in common verbal cultures, would create new opportunities for interchange, interface, interplay. The enormous debate about form versus content, signifier versus signified, is underwritten by the fear that we never say anything new (nothing, that is, not substantiated by scientific discovery, broadly defined). If verbal creation is all about better descriptions, it's no wonder we want to be firmly credited with ours. I am trumpeting the spirit of acquiescence to the unoriginal, embrace of the beauties of human repetition. If my manifesto reduces its exhortative compass to that range alone, it is enough.

[6] Idea goes back to Plato, with many permutations since. If we take Plato to mean, as I think we do, a kind of eternal archetype whose derivations are imperfect copies, then "idea" is eternally afflicted with the metaphysical. This remains so through the additions of Lockean idea as "whatsoever is the Object of Understanding when a Man thinks," Hume's sensation, Wallace Stevens's "The Idea of Order at Key West." Is "idea" then an object separate from our intentions, a particle lodged permanently in the brain (introduced forever and brought out temporarily—given the poverty of the brain's recall mechanisms—for review), something that recombines thought and feeling, a woman singing? There is no way to gauge and attribute steadily the myriad histories of this word. But I mean to say, "proffered notion."

[7] With an essential word such as is, an early declaration of its meaning status is in order. This word is immediately problematic in at least two ways: to assert that something "is" is to assert a sufficient knowledge of the nature of reality and a confidence about the possible relations of reality and language; further, to assert that something "is" presumes such a concept as the present in which to postulate a present tense. Or, as a learned friend advises me, we must distinguish two uses for "is": as copula, by which a predicate attaches to its subject (for which he supplies the physical example 'the book is red') and as indicating real existence (for which he invokes the contestable example 'God is'). Necessarily, the first does not indicate the second. To add to the confusions, if we agree with Harry Mathews that "writing works exclusively by what the writer leaves out," then there is no relationship possible between the assertion of what is in writing and what we make of that is in the reading experience. If we agree with Heidegger that the "vague average understanding of Being is still a fact," then no matter how writers set up the written is, we will be as unclear about what we mean as readers will be about what they take us to mean.

Or, as Locke and Goethe and Emerson make clear, we can only understand what we already know. So our understanding of the term is can never be sharply focused: if it begins determinately, it reresolves indeterminately after an investigation. If we yearn for Lockean candor we strive to fix the ontology of is. If we have other cultural apparatus in mind we may relinquish Lockean candor (as arising out of the Anglo-Saxon linear style of argumentation) and prefer the Persian or biblical approach—returning to the same topics from altered perspectives— or the French/Continental approach of pursuing tangents, or whatever certainty—seeking or certainty—avoiding approach we find most useful for settling meaning, however temporarily, for determining what is.

So we end up, in trying to define is, with the determinate definition in the OED, bearing in mind that we are with words much where mathematics was with Gödel after his 1931 paper, realizing that the logical consistency of systems of deduction (within which we deduce the use of "i" and "s" together as a signifier of present existence) is impossible to establish without recourse to reasoning so complex that its own internal consistency is suspect.

[8] Here the issue of where to begin vexes: with Homer's "Achilles' wrath, to Greece the direful spring / Of woes unnumber'd, heavenly goddess, sing!", or with St. John's "In the beginning was the Word, and the Word was with God, and the Word was God." Is the word traceable to multiple muses or to only One? Why does Genesis begin with God unproblematically speaking? Is it because classical philosophers tended to treat words as one type of sign, while Augustine and later medieval thinkers tended to view signification as primarily verbal? Briefly, we've swept from a religious use of language that transmitted knowledge semiotically—while, ironically, positing the knowledge of God as inexact and so indicating the very signs they used as inexact—to a notion of the word as organizing possible knowledge all by itself, but still in a fairly lonely and indicative way. When, between the fifth and the fifteenth centuries, language was the dominant tool for investigating the larger universe, the artes sermocinales determined what could be known determinately (see for example The Summa Contra Gentiles of Saint Thomas Aquinas).

Then people started getting more nervous about what words could be and do, in the sixteenth and seventeenth centuries, and started trying to construct universal grammars, to get at an ideal language—almost, one could argue, harking back to Plato's Cratylus to find "the maker of names," since of course not just anyone can be allowed to make them. Now we've gone through scepticism about the possibility that a word can contain or indicate to an acceptance of it as

permitting knowledge itself or being a way to describe alongside other ways, from Wittgenstein's "Language disguises thought" in the Tractatus to his assurance in the Philosophical Investigations that "language is itself the vehicle of thought." But of course that means we've still not figured out how to get over the chasm between words and ideas, on one hand, and ideas and facts, on the other. We still live with the split effected by the development of formal logic in the twelfth through fourteenth centuries: that among reality, thought, and the word. (For more background, see for example Marcia L. Colish's The Mirror of Language, A Study in the Medieval Theory of Knowledge or R. Howard Bloch, Etymologies and Genealogies. A Literary Anthropology of the French Middle Ages.)

And this does not even broach the difference between the spoken word and the written word. Claude Lévi-Strauss's contention that speech is associated with innocence and writing with hierarchy and dissolution seems nothing more than a craving for the Socratic scene, for the possibility of sincerity when words are an immediate product of embodied voice. Spoken as well as written words always have Augusto Ponzio's "uninterpreted sign residue" (Signs, Dialogue, and Ideology 4) all over them, though. The word "word" looks out from hoary eyebrows.

[9] Properties of objects. Owning your home. Choosing what to read, owning a book. One book that speaks to cultural property, how poetry gets "contained," is Jed Rasula's The American Poetry Wax Museum: Reality Effects 1940-1990 (NCTE, 1995). This broaches another angle of our subject, but a related one. Here is an excerpt from his book: "While the 'carceral archipelago' and the 'exhibitionary complex' developed contemporaneously, the latter requires institutions 'not of confinement but of exhibition' (Bennett 124, 123). The exhibitionary complex is instrumental in organizing consent, effecting voluntaristic unanimity by remote promptings. The exhibit, reified into the enshrined venue of the museum, is a prototype version of hypertext, training populations in the art of reassembling fragmentary evidence into coherent narratives. The museum is a transitional education in the negotiation of hyperspace, the solipsistic euphoria of simulated connectedness. It need not be carceral because its inmates are self-regulating. The museum begins with the goal of character building and ends up in the zone of interactive technologies, the task now being that of 'building a person' in the cyborg world. When Friedrich Kittler characterizes the book of poetry as 'the first medium in the modern sense,' I think not only of 'McLuhan's law, according to which the content of a medium is always another medium' (115), but of the spiritualists' medium, also known as the 'control.' My concern, in elaborating this thesis of a poetry wax museum, is to suggest that the seemingly autonomous 'voices and visions' of poets themselves have been underwritten by custodial sponsors who have surreptitiously turned down the volume on certain voices, and simulated a voice_over for certain others. Nothing defines the situation more succinctly than the police phrase protective custody'94 (33).

This seems to me a sinister and verbally abstruse version of the matter, but it speaks in other words of a connected difficulty. Beauty gets stopped and labelled when ideas get claimed, stopped, and labelled as "property."

[10] The word "mind." I ate a piece of pie and that gave me an idea. Does that mean the idea originated in my mouth, in my stomach, in the pie, or, as rationalism teaches us to think, in the vast Oz processing center of the sorting mind? Does the body belong to the brain? Is the body the "house of excrement" for the superior mind? Here, you see, I want to invoke the body, what it

knows. If we can undo the notion of property within ourselves, perhaps that will de-stabilize the notion of property in intercourse with others. "I own myself"--well, only if the state agrees to let you. "I own my heart"--well, only if someone does not come along and sweep it away from you, in the chemical (and conscious) process we call "love." "I own my hands"--if they stay attached. And if they do not, for all that we say they are expendable (i.e., the loss of one's hands does not lead to losing one's life, as long as one doesn't bleed to death), we lose "knowing" if we lose our hands. When we touch with our fingerends, we "know" in a way that no other "knowledge" can provide.

The "mind" is not the brain alone. Someone—I forget who—calls thinking by the name "thingking." To process objects. There is no such thing as abstraction. Consciousness is physical. That only bothers us when we have a prejudice towards the physical, when we rank it below the spiritual, the abstract, the absolute. If we know the physical as all—encompassing, and we imagine imagination as a physical process, and we see that we are all subject to these processes, then we may be more loving towards the shared body of knowledge. That's what we are, bodies of knowledge. The person speaking to you is immensely more communicative than the person writing. If you catch or claim what you hear and think, keep it a moment then let it go.

[11] Perhaps it would help to think of "ours" as a parallel description rather than a possessive enclosure. What is mine is an accompaniment to my existence, it is not interiorized. "My" idea, though, feels interiorized. What's the difference, then, between a book I own, an idea I have, and the love I feel for someone who agrees to be loved, who is "my" true love? The book I own is property unto death, always exterior to me. The ideas I have, including those given me by the book, pass through and reconfigure the circuitry of my brain. If they were mine as the book is, I could always open them up and look at them. But the mechanisms of the brain do not recall that effectively: they resist property, preferring (if function can be called preference) to be reconfigured, to have ideation pass through them. The love I have for someone is something similar. It is "mine" by virtue of the existence of another, it reconfigures my body's knowledge, it is active only in being relinquished. Knowing something might be thought of as loving something, then.

So different ways of communicating conjure and shape different ways of loving (knowing). This footnote arises from two influences: first, my pondering how to flux in and out of authoritative modalities, the words themselves gating or opening areas of consideration: how to think of writing to you. Second, my reading a few words in a book by James Boyd White, When Words Lose Their Meaning (Chicago: University of Chicago Press, 1984): "Whenever you speak, you define a character for yourself and for at least one other—your audience—and make a community at least between the two of you; and you do this in a language that is of necessity provided to you by others and modifed in your use of it" (xi).

[12] Of is a prepositional adverb with a rich history. The primary sense, according to the OED, was "away, away from, a sense now obsolete, except in so far as it is retained in the spelling OFF. All the existing uses of of are derivative; many so remote as to retain no trace of the original sense, and so weakened down as to be in themselves the expression of the vaguest and most intangible of relations. The sense-history is exceedingly complicated by reason of the introduction of senses or uses derived from other sources, the mingling of these with the main stream, and the

subsequent weakening down, which often renders it difficult to assign a particular modern use to its actual sources or sources" (1976). In using the word of, forebears I am conscious of include "Of man's first disobedience"; "Mother of God"; "the way of all flesh"; United States of America; Bachelor of Arts. This partial list indicates that "of" is an ordering term associated with pithy, controlled, institutionalized structures and ideas, a linking word that makes sense of grand statement, or more generally a word that clarifies the words around it without attracting attention to itself, without being full of meaning.

[13] An impossible ideal which cannot be true to experience except in basic formulations of physical proof. When Mark Taylor writes, "Absolute knowledge is the perfect copulation of subject and object, self and other, which issues in certain conception[,]" he goes on to remind us that a union between subjectivity and objectivity is impossible: "Temporal deferral opens a space in the subject that self-consciousness can never close. This invisible space blinds the speculative philosopher" (TEARS 18, 21). If verbal ideation is speculative, it cannot have the closure pleasure of hard science or determined religion. If it is to embrace a more fluid sense of knowledge, it might, in relinguishing an urge towards property, originality, and stasis, embrace Vera Frankel's "Benign Ignorance": "a state of unfocused awareness that permits us to link the confusing world with the deep metaphoric formulations inside us which are strategies for its apprehension. To reach these and give them form in art requires setting knowledge aside, reclaiming it later as necessary. It follows from this that a work of art is as good as the amount of knowledge and ignorance it holds in balance. The more conflicting knowledge a work can hold suspended in a transforming ignorance, the better it teaches us to see" (ArtsCanada 1977, 27). Language uses (and critiques of such uses), avoiding the material subjections of science and religion, are matrices of verbal art, and fold us into the world of, broadly speaking, knowledge.