

21 AFTERWORD

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After reading this collection of important and impressively diverse examinations of copyright and intellectual property issues in writing studies, composition pedagogy, and academia in general, I have refined my position on some matters and reaffirmed my position on others. My idea of plagiarism, to start, is more nuanced than ever; I now understand more fully that “not cited” does not necessarily mean “plagiarized.” Composition scholars studying plagiarism have argued that instances of “not cited but not plagiarized” are possible, especially in the writing of students from cultures with different ideas about intellectual property. But in this collection, Hall and Vincelette examine parody, noting that parody works through allusion, and that a parody will not be successful if the audience does not catch the references. This is to say that the audience must distinguish the original—the parts that are not “the author’s own work”—in parody, and recognize that the author is not passing the source material off as his or her own. Moreover, citation is redundant because the audience already knows where the work came from.

Johnson-Farris, too, presents a useful “not cited but not plagiarized” example when she relays an anecdote of a student presentation, a slide from which featured a photograph of former president Bill Clinton. The photograph was not cited, but it would have been utterly unreasonable for the instructor to infer that the students had been close enough to Clinton to snap the photograph themselves, when they were likely children to boot: The students gave the presentation in 2005, and the photograph was from the Monica Lewinsky scandal in 1998. Certainly the majority of writing teachers, and almost every writing program administrator, would agree that these students did not cite but did not plagiarize. This is an easy example, but it—and others throughout this collection—help me to see that even in the citation-obsessed context of academic writing, sources sometimes do not need to be cited, and also that, for the audience, sometimes it does not matter where the source material came from or who authored it.

Another major insight I gained from this book concerns fair use. For years now, I have thought to myself that the number of articles, conference presentations, and informal discussions about fair use has been unnecessarily large. I couldn't understand why so many of my colleagues so often reiterated the need for fair use. Of course fair use is needed for freedom of speech, and, yes, it's troubling that universities are sometimes not willing to let teachers use any copyrighted material without permission and royalty payments, even when that use is fair. But I always thought that composition scholars were belaboring the point. I preferred to focus my study on alternative models of copyright: the General Public License for software, configurations of Creative Commons licenses for other work, and the Creative Commons Founders' Copyright when appropriate. I have advised students and colleagues that, when searching for materials and work to use for multimodal projects, search *first* for Creative Commons licensed and public domain content, and use all-rights-reserved work if the former is not suitable. I believed that an entire pool of intelligent, creative content exists on the Internet that composers *want* others to use, and I wanted to call others' attention to that work.

And I still believe this. I insist that these new models and new projects are crucial tools to be used in the service of innovative writing pedagogy (and art pedagogy, science pedagogy, and so forth). Open textbooks—such as *Writing Spaces: Readings on Writing*, edited by Charles Lowe and Pavel Zemliansky, and *Rhetoric and Composition: A Guide for the College Writer* on Wikibooks, written by Matt Barton and students at St. Cloud State University—are projects that deserve more of our field's attention and use. I still *do* think it is worth teachers' and students' time, when searching for source material for class work, to take advantage of the option to search Creative Commons licensed content only, which is available on Flickr, Google, and Yahoo!.

However, I was struck by TyAnna Herrington's alignment of philosophies of writing pedagogy with philosophies of copyright and authorship. By revealing the analogy among current-traditional pedagogy, objective epistemology, authoritarian government, and overbearing copyright—and by contrasting that with the analogy among social constructivist pedagogy, transactional epistemology, and democratic government—Herrington explains fair use stakes in a new and compelling way. But it was Janice Walker's explanation of the need for fair use as a middle ground that especially affected my thinking about copyright and the use of creative and intellectual content. Walker cautions us against accepting the current state of copyright as a given, lest we forfeit our rights to fair use. At the same time, she argues that we reinforce the dichotomy between copyright-heavy and copyright-light when we automatically favor Creative Commons and public domain material over copyrighted material.

Now my commitment is renewed: I insist on using everything I am entitled to use—copyright and copyleft—in the service of contributing to knowledge and culture.

In addition, my conviction that we need case studies and specific examples is strengthened after reading this collection. As Reyman and others among these chapters have maintained, the best way to highlight the legal and ethical problematics and complexities of authorship, including raising awareness among university administrators and students, is to teach using these engaging examples and to listen to others' encounters with copyright and intellectual property. Nguyen's chapter on if or how intellectual property issues are taught and how writing students digest such issues is testament to our need to continue integrating copyright into our courses, and Amidon's analysis of universities' intellectual property policies reminds us why it is in our self-interest as scholars and teachers to educate administrators about copyright. Ballentine's work with fashion merchandising students provides one such story. Wiebe's reflections about Sherrie Levine's photography and his father's "Humorous Incidents" is another. Westbrook provides an analysis of the Diebold emails, while Ridolfo and Rife pose the story of Maggie Ryan's photograph and its use. Through his analyses of an old scrapbook and his own digital image collection, Whipple shows the subtle authorship at work in the act of compiling the work of others. Dornsife uses anecdotes about Fleetwood Mac's *Rumours* and the digitally remastered version of *Star Wars* to show problems with the idea of "a copy," which suggests a certain distance from the original, a gap that no longer exists in the digital world. Galin reviews court cases involving scholars facing copyright issues, and Howard (whose example I intend to follow) listens to his students' experiences with copyright issues and presents them as scenarios for fine-grain analysis. To build upon the contributions included in this volume, I will add a few illustrative cases I have experienced and learned from.

In the course of my online life, I've gone to the sites of several feminist and environmentalist organizations, sites that usually feature information about emerging legislation affecting women or the environment, and the sites often ask users to contact their representatives in Congress. We have probably all seen these action letter interfaces: Users are asked to type their names and some contact information into designated fields on the left-side of the screen and on the right, there's a "template" letter in another field. The user can send the text as is, add to it, change some words here and there, or erase the organization's letter completely and write a letter from scratch. Often I unthinkingly click "send"—in much the same manner Barrios notes we agree to end-user license agreements. One time I realized, *I'm passing this text off as my own*. I'm taking something someone else wrote, putting my name on it, and turning it in. I now

use this as a classroom example in my writing courses. I have even announced to students, projecting a web site from my laptop, that I was about to plagiarize, then submitted the action letter, to call their attention to the difference between academic writing and a variety of other situations involving writing and authorship.

In our teaching, we might also think further about possible analogies we can craft to illuminate students' and colleagues' understanding of intellectual property, plagiarism, authorship, and copyright. I posted one such analogy, which I called "Plagiarism and Parking Tickets," on my blog some years ago:

I live in a fairly large city, and it can be difficult and time-consuming to find parking. Sometimes I park in a metered spot without putting any money in the meter. When I have quarters with me, of course I put them in the meter, but sometimes I don't have any, and that's all the meter will take. So I don't put anything in there. Most of the time I go back out to my car to find no ticket, but occasionally I do get parking tickets. I know that when I don't put money in the meter, I run the risk of getting a ticket. When I don't put money in the meter, I feel a little guilty, I guess, but I won't lose any sleep over it. I have no aspirations to go my whole life without getting any parking tickets. Keeping quarters with me and putting them in the meter isn't something I take any pride in. Plus, when I get a ticket, I pay it, and if I factor the cost of the ticket in with all those times I got free parking, it evens out. Either way I'm paying for parking; the city's going to get their money one way or another. ...

I've got a packed schedule with classes, extracurricular activities, and a part-time job. Sometimes I buy essays online and turn them in for my classes. When I have the time and am engaged and motivated by the assignment, of course I do the writing myself, but sometimes I don't have the time or interest, and I have to turn *something* in. I know that when I don't do the writing myself, I risk getting turned in for plagiarism. When I don't do the writing myself, I feel a little guilty, I guess, but I won't lose any sleep over it. I have no aspirations to be a professional writer. Basically I just want to pass the course with a C or above. Plus, when I get caught, I just take the zero on the assignment, and if I factor that in with all the

time and headache I save not having to do an assignment that doesn't interest me, it evens out. Besides, sometimes I get A's on the papers I buy. The grade I get at the end is probably about the same as the grade I'd have gotten had I done all the work myself.

This analogy, I believe, puts the ethics of authorship and intellectual property into perspective. Although plagiarism is certainly a violation of academic norms, teachers often get very upset when it happens to them, perceiving the action as a personal insult. However, for the student, the act of buying a paper may be simply for expediency's sake—an act revealing only low prioritization of the assignment, poor time management, and perhaps a lack of maturity. One could make a similar analogy between writing and returning library books past the due date, which a colleague suggested to me. I plan to use these analogies as discussion prompts in the training of new teachers, but I may also use them in my first-year writing class; I expect that doing so—and encouraging students to come up with other analogues to plagiarism—could initiate an open dialogue about the ethics involved in academic writing.

The third case I would like to share concerns copyright infringement and fair use. In December 2009, Australian artist Jane Korman released a video in which she, her children, and her elderly father, a Holocaust survivor, danced to Gloria Gaynor's song "I Will Survive" at various sites associated with the Holocaust. The video, titled "I Will Survive: Dancing Auschwitz," went viral on YouTube in early July 2010. Viewers' responses ranged from expressing outrage, to finding the video mildly offensive or distasteful, to crying joyfully. Many viewers remarked, on blogs and in comments under the video, that it was an important work, and the video garnered some attention from major news outlets, including *Haaretz*. Upon seeing the video, I reflected on it as an instance of why we need a robust public domain, or commons, of creative and intellectual work to use to make new works—and what a shame it would be if the rightsholder of "I Will Survive" were to send a cease and desist letter to YouTube, employees of which would likely remove the video due to claims of copyright infringement. The next time I tried to watch the video, I saw the following notice: "This video is no longer available due to a copyright claim by APRA/AMCOS." These abbreviations stand for the Australasian Performing Right Association and Australasian Mechanical Copyright Owners Society. Although the video file has been copied and reposted by other users, the APRA and AMCOS are continuing to limit the distribution of the video as much as possible.

After the takedown of the video, some users posted comments about the use of "I Will Survive," noting that because it was not used for profit, it should be

considered fair use. Also, it was used for the purpose of critical commentary; through the juxtaposition of the solemnity of the landmarks and the whimsy of the dancing, which sometimes resembled the movements of a cheerleading squad, the artist was making a statement that the Jewish people, represented by this healthy and vigorous family, have thrived in spite of devastating loss. This case could be examined in a class or other meeting for fruitful discussion about fair use and four-factor analysis, or a discussion about how the case does or does not embody the “Code of Best Practices for Fair Use in Media Literacy Education,” explained in helpful detail by Hobbs and Donnelly. The whole song was used, but for critical commentary and in a not-for-profit context; the extent to which the use was transformative is thus open for debate.

Korman’s work, an artistic statement of celebratory defiance of the Nazi regime, is an almost too obvious example of why fair use is essential for democracy and free speech, as this book has shown. I would like to end by turning to a 2009 article in *New Left Review* in which Slavoj Žižek identified four “antagonisms” of global capitalism:

the looming threat of ecological catastrophe; the inappropriateness of private property for so-called intellectual property; the socio-ethical implications of new technoscientific developments, especially in biogenetics; and last, but not least, new forms of social apartheid—new walls and slums. (p. 53)

For Žižek, the first three of these antagonisms contain “an awareness of the destructive potential—up to the self-annihilation of humanity itself—in allowing the capitalist logic of enclosing these commons a free run” (p. 54). He identified these issues as evidence for the “practical urgency” of “the communist hypothesis,” and more generally as evidence of the need for a cultural and intellectual commons (p. 53). What I appreciate here is the fact that Žižek situates intellectual property in the same constellation with bioethics and environmental damage. I do not mean to suggest that Žižek finds these all equally important, but I value his locating intellectual property in a system of capitalist logic alongside other major global problems. I value this collection as well for reminding us, as a community of scholars, of what is truly at stake when we talk about the right to copy.

REFERENCE

Žižek, Slavoj. (2009, May-June). How to begin from the beginning. *New Left Review*, 57, pp. 43-55.