

Other people, so I have read, treasure memorable moments in their lives: the time one climbed the Parthenon at sunrise, the summer night one met a lonely girl in Central Park and achieved with her a sweet and natural relationship, as they say in books. I too once met a girl in Central Park, but it is not much to remember. What I remember is the time John Wayne killed three men with a carbine as he was falling to the dusty street in **STAGECOACH**, and the time the kitten found Orson Welles in the doorway in **THE THIRD MAN**. Today, when we can eat Tex-Mex with chopsticks while listening to reggae and watching a YouTube rebroadcast of the Berlin Wall's fall — i.e., when damn near **EVERYTHING** presents itself as familiar — it's not a surprise that some of today's most ambitious art is going about trying to **MAKE THE FAMILIAR STRANGE**. In so doing, in reimagining what human life might truly be like over there across the chasms of illusion, mediation, demographics, marketing, imago, and appearance, artists are paradoxically trying to restore what's taken for "real" to three whole dimensions, to reconstruct a univocally round world out of disparate streams of flat sights.

Whatever charge of tastelessness or trademark violation may be attached to the artistic appropriation of the media environment in which we swim, the alternative — to flinch, or tiptoe away into some ivory tower of irrelevance — is far worse. We're surrounded by signs; our imperative is to ignore none of them.

USE MONOPOLY

absurd examples of excessive rights protection echo the previously mentioned pollution of modernism

The idea that culture can be property — **INTELLECTUAL** property — **is used to justify everything** from attempts to force the Girl Scouts to pay royalties for singing songs around campfires to the infringement suit brought by the estate of Margaret Mitchell against the publishers of Alice Randall's **THE WIND DONE GONE**. Corporations like Celera Genomics have filed for patents for human genes, while the Recording Industry Association of America has sued music downloaders for copyright infringement, **reaching out-of-court settlements for thousands of dollars with defendants as young as twelve**. ASCAP bleeds fees from shop owners who play background music in their stores; students and scholars are **shamed from placing texts facedown on photocopy machines**. At the same time, copyright is revered by most established writers and artists as a birthright and bulwark, the source of nurture for their infinitely fragile practices in a rapacious world. Plagiarism and piracy, after all, are the monsters we working artists are taught to dread, as they roam the woods surrounding our tiny preserves of regard and remuneration.

because they have already been accepted as the norm by people.

A time is marked not so much by ideas that are argued about as by ideas that are taken for granted. The character of an era hangs upon what needs no defense. In this regard, few of us question the contemporary construction of copyright. It is taken as a law, both in the sense of a universally recognizable moral absolute, like the law against murder, and as naturally inherent in our world, like the law of gravity. In fact, it is neither. Rather, copyright is an ongoing social negotiation, tenuously forged, endlessly revised, and imperfect in its every incarnation.

Thomas Jefferson, for one, **considered copyright a necessary evil**; he favored providing **just enough incentive to create**, nothing more, and thereafter allowing ideas to flow freely, as nature intended. His conception of copyright was enshrined in the Constitution, which gives Congress the authority 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."** This was a balancing act between creators and society as a whole; second comers might do a much better job than the originator with the original idea.

But Jefferson's **vision has not fared well**, has in fact been steadily eroded by those who view the culture as a market in which everything of value should be owned by someone or other. The distinctive **feature of modern American copyright law is its almost limitless bloating** — its expansion in both scope and duration. With no registration requirement, every creative act in a tangible medium is now subject to copyright protection: your email to your child or your child's finger painting, both are automatically protected. The first Congress to grant copyright gave authors an initial term of fourteen years, which could be renewed for another fourteen if the

author still lived. The current term is the life of the author plus seventy years. It's only a slight exaggeration to say that each time **Mickey Mouse is about to fall into the public domain**, the mouse's copyright term is extended.

The earliest version's copyright has expired! A myriad of secondary creations are now flourishing!

Even as the law becomes more restrictive, **technology is exposing those restrictions as bizarre and arbitrary**. When old laws fixed on reproduction as the compensable (or actionable) unit, it wasn't because there was anything fundamentally invasive of an author's rights in the making of a copy. Rather it was because copies were once easy to find and count, so they made a useful benchmark for deciding when an owner's rights had been invaded. In the contemporary world, though, **the act of "copying" is in no meaningful sense equivalent to an infringement** — we make a copy every time we accept an emailed text, or send or forward one — and is impossible anymore to regulate or even describe.

At the movies, my entertainment is sometimes lately preceded by a dire trailer, produced by the lobbying group called the Motion Picture Association of America, in which the purchasing of a bootleg copy of a Hollywood film is compared to the theft of a car or a handbag — and, as the bullying supertitles remind us, "You wouldn't steal a handbag!" This conflation forms an incitement to quit thinking. If I were to tell you that pirating DVDs or downloading music is in no way different from loaning a friend a book, **my own arguments would be as ethically bankrupt as the MPAA's**. The truth lies somewhere in the vast gray area between these two overstated positions. For a car or a handbag, once stolen, no longer is available to its owner, while the appropriation of an article of "intellectual property" **leaves the original untouched**. As Jefferson wrote, "He who receives an idea from me, receives instruction himself without lessening mine; as he who lights his taper at mine, receives light without darkening me." *But! If intellectual property is used in a way that benefits the infringer, it's essentially claiming the potential profits that the original creator could have earned, effectively bringing the infringer into the light while leaving the original creator in the dark.*

Yet industries of cultural capital, who profit not from creating but from distributing, see the sale of culture as a zero-sum game. The piano-roll publishers fear the record companies, who fear the cassette-tape manufacturers, who fear the **online vendors, who fear whoever else is next in line to profit most quickly** from the intangible and infinitely reproducible fruits of an artist's labor. It has been the same in every industry and with every technological innovation. Jack Valenti, speaking for the MPAA: "I say to you that the VCR is to the American film producer and the American public as the Boston Strangler is to the woman home alone."

Thinking clearly sometimes requires unbraiding our language. The word "copyright" may eventually seem as dubious in its embedded purposes as "family values," "globalization," and, sure, "intellectual property." **Copyright is a "right" in no absolute sense; it is a government-granted monopoly on the use of creative results. So let's try calling it that — not a right but a MONOPOLY ON USE**, a "usemonopoly" — and then consider how the rapacious expansion of monopoly rights has always been counter to the public interest, no matter if it is Andrew Carnegie controlling the price of steel or Walt Disney managing the fate of his mouse. Whether the monopolizing beneficiary is a living artist or some artist's heirs or some corporation's shareholders, **the loser is the community**, including living artists who might make splendid use of a healthy public domain.

THE BEAUTY OF SECOND USE

A few years ago someone brought me a strange gift, purchased at MoMA's downtown design store: a copy of my own first novel, **GUN, WITH OCCASIONAL MUSIC**, **expertly cut into the contours of a pistol**. The object was the work of Robert The, an artist whose specialty is the reincarnation of everyday materials. I regard my first book as an old friend, one who never fails to remind me of the spirit with which I entered into this game of art and commerce — that to be allowed to insert the materials of my imagination onto the shelves of bookstores and into the minds of readers (if only a handful) was a wild privilege. I was paid \$6,000 for three years of writing, but at the time I'd have happily published the results for nothing. Now my old friend had come home in a new form, one I was unlikely to have imagined for it myself. **The gun-book wasn't readable, exactly, but I couldn't take offense at that**. The fertile spirit of stray connection this appropriated object conveyed back to me — the strange beauty of its second use — was a reward for being a published writer I could never have fathomed in

advance. And the world makes room for both my novel and Robert The's gun-book. There's no need to choose between the two.

In the first life of creative property, if the creator is lucky, the content is sold. **After the commercial life has ended, our tradition supports a second life as well.** A newspaper is delivered to a doorstep, and the next day wraps fish or builds an archive. Most books fall out of print after one year, yet even within that period they can be sold in used bookstores and stored in libraries, quoted in reviews, parodied in magazines, described in conversations, and plundered for costumes for kids to wear on Halloween. The demarcation between various possible uses is beautifully graded and hard to define, the more so as artifacts distill into and repercut through the realm of culture into which they've been entered, the more so as they engage the receptive minds for whom they were presumably intended.

Active reading is an impertinent raid on the literary preserve. Readers are like nomads, poaching their way across fields they do not own — artists are no more able to control the imaginations of their audiences than the culture industry is able to control second uses of its artifacts. In the children's classic **THE VELVETEEN RABBIT**, the old Skin Horse offers the Rabbit a lecture on the practice of textual poaching. **The value of a new toy lies not in its material qualities** (not “having things that buzz inside you and a stick-out handle”), the Skin Horse explains, but rather in how the toy is used. “Real isn’t how you are made. . . . It’s a thing that happens to you. When a child loves you for a long, long time, not just to play with, but REALLY loves you, then you become Real.” The Rabbit is fearful, recognizing that consumer goods don’t become “real” without being actively reworked: “Does it hurt?” Reassuring him, the Skin Horse says: “It doesn’t happen all at once. . . . You become. It takes a long time. . . . Generally, by the time you are Real, most of your hair has been loved off, and your eyes drop out and you get loose in the joints and very shabby.” **Seen from the perspective of the toymaker, the Velveteen Rabbit’s loose joints and missing eyes represent vandalism, signs of misuse and rough treatment; for others, these are marks of its loving use.**

Artists and their surrogates who fall into the trap of seeking recompense for every possible second use end up attacking their own best audience members for the crime of exalting and enshrining their work. The Recording Industry Association of America prosecuting their own record-buying public makes as little sense as the novelists who bristle at autographing used copies of their books for collectors. And artists, or their heirs, who fall into the trap of attacking the collagists and satirists and digital samplers of their work are attacking the next generation of creators for the crime of being influenced, for the crime of responding with the same mixture of intoxication, resentment, lust, and glee that characterizes all artistic successors. By doing so they make the world smaller, betraying what seems to me the primary motivation for participating in the world of culture in the first place: to make the world larger.

SOURCE HYPOCRISY, OR, DISINIAL presents a narrow scope, the focus becomes solely on immediate gains, rather than the potential long-term impact that the record could have in the music or cultural sphere.

The Walt Disney Company has drawn an astonishing catalogue from the work of others: **SNOW WHITE AND THE SEVEN DWARFS, FANTASIA, PINOCCHIO, DUMBO, BAMBI, SONG OF THE SOUTH, CINDERELLA, ALICE IN WONDERLAND, ROBIN HOOD, PETER PAN, LADY AND THE TRAMP, MULAN, SLEEPING BEAUTY, THE SWORD IN THE STONE, THE JUNGLE BOOK**, and, alas, **TREASURE PLANET**, a legacy of cultural sampling that Shakespeare, or De La Soul, could get behind. Yet Disney's protectorate of lobbyists has policed the resulting cache of cultural materials as vigilantly as if it were Fort Knox — threatening legal action, for instance, **against the artist Dennis Oppenheim for the use of Disney characters in a sculpture**, and prohibiting the scholar Holly Crawford **from using any Disney-related images** — including artwork by Lichtenstein, Warhol, Oldenburg, and others — in her monograph **ATTACHED TO THE MOUSE: DISNEY AND CONTEMPORARY ART**. (what to use then)

This peculiar and specific act — the enclosure of commonwealth culture for the benefit of a sole or corporate owner — is close kin to what could be called **IMPERIAL PLAGIARISM**, the free use of Third World or “primitive” artworks and styles by more privileged (and better-paid) artists. Think of Picasso’s *Les Femmes d’Alger* (O.J. 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662

or some of the albums of Paul Simon or David Byrne: even without violating copyright, those creators have sometimes come in for a certain skepticism when the extent of their outsourcing became evident. And, as when Led Zeppelin **found themselves sued for back royalties by the bluesman Willie Dixon**, the act can occasionally be an **expensive** one. **TO LIVE OUTSIDE THE LAW, YOU MUST BE HONEST**: perhaps it was this, in part, that spurred David Byrne and Brian Eno to recently launch a “remix” website, where anyone can download easily disassembled versions of two songs from **MY LIFE IN THE BUSH OF GHOSTS**, an album reliant on vernacular speech sampled from a host of sources. Perhaps it also explains why Bob Dylan has **never refused a request for a sample**.

Kenneth Koch once said, “I’m a writer who likes to be influenced.” It was a charming confession, and a rare one. For so many artists, the act of creativity is intended as a Napoleonic **imposition of one’s uniqueness upon the universe** — **APRÈS MOI LE DÉLUGE** of copycats! And for every James Joyce or Woody Guthrie or Martin Luther King Jr., or Walt Disney, who gathered a constellation of voices in his work, there may seem to be some corporation or literary estate eager to stopper the bottle: cultural debts flow in, but they don’t flow out. We might call this tendency “source hypocrisy.” Or we could name it after the most pernicious source hypocrites of all time: **Disnial**.

🤡 a play on words involving Disney and denial, referring to how The Walt Disney Company draws inspiration from others' works to create its famous catalog of animated movies, while simultaneously exercising strict control and protection over its intellectual property.

YOU CAN’T STEAL A GIFT

My reader may, understandably, be on the verge of crying, “Communist!” A large, diverse society cannot survive without property; **a large, diverse, and modern society cannot flourish without some form of intellectual property**. But it takes little reflection to grasp that there is ample value that the term “property” doesn’t capture. And works of art exist simultaneously in two economies, **a market economy and a GIFT ECONOMY**.

The cardinal difference between gift and commodity exchange is that a gift establishes a **feeling-bond** between two people, whereas the sale of a commodity leaves no necessary connection. I go into a hardware store, pay the man for a hacksaw blade, and walk out. I may never see him again. The disconnectedness is, in fact, a virtue of the commodity mode. We don’t want to be bothered, and if the clerk always wants to chat about the family, I’ll shop elsewhere. I just want a hacksaw blade. **But a gift makes a connection**. There are many examples, the candy or cigarette offered to a stranger who shares a seat on the plane, the few words that indicate goodwill between passengers on the late-night bus. These tokens establish the simplest bonds of social life, but the model they offer may be extended to the most complicated of unions — marriage, parenthood, mentorship. If a value is placed on these (often essentially unequal) exchanges, they degenerate into something else.

Yet one of the more difficult things to comprehend is that the gift economies — like those that sustain open-source software — **coexist so naturally with the market**. It is precisely this doubleness in art practices that we must identify, ratify, and enshrine in our lives as participants in culture, either as “producers” or “consumers.” Art that matters to us — which moves the heart, or revives the soul, or delights the senses, or offers courage for living, however we choose to describe the experience — is received as a gift is received. Even if we’ve paid a fee at the door of the museum or concert hall, when we are touched by a work of art something comes to us that has nothing to do with the price. The daily commerce of our lives proceeds at its own constant level, but a gift conveys an uncommodifiable surplus of inspiration.

The way we treat a thing can change its nature, though. Religions often prohibit the sale of sacred objects, **the implication being that their sanctity is lost if they are bought and sold**. We consider it unacceptable to sell sex, babies, body organs, legal rights, and votes. The idea that something should never be commodified is generally known as **INALIENABILITY** or **UNALIENABILITY** — a concept most famously expressed by Thomas Jefferson in the phrase “endowed by their Creator with certain unalienable Rights . . .” A work of art seems to be a hardier breed; it can be sold in the market and still emerge a work of art. But if it is true that in the essential commerce

While both commercial products sold in ads and gifts are ultimately used by people, their focuses differ - ads and products aim at consumers for commercial value and profit, whereas gifts focus on building a connection between the giver and the receiver, with the gift's practical and commercial value being secondary. Hence, conflating the two can likely damage their inherent values (e.g., art being sold or emphasized for its commercial value through copyright).

of art a gift is carried by the work from the artist to his audience, if I am right to say that where there is no gift there is no art, then it may be possible to destroy a work of art by converting it into a pure commodity. I don't maintain that art can't be bought and sold, but that the gift portion of the work places a constraint upon our merchandising. This is the reason why even a really beautiful, ingenious, powerful ad (of which there are a lot) can never be any kind of real art: an ad has no status as gift; i.e., it's never really FOR the person it's directed at.

The power of a gift economy remains difficult for the empiricists of our market culture to understand. In our times, the rhetoric of the market presumes that everything should be and can be appropriately bought, sold, and owned — a tide of alienation lapping daily at the dwindling redoubt of the unalienable. In free-market theory, an intervention to halt propertization is considered “paternalistic,” because it inhibits the free action of the citizen, now reposed as a “potential entrepreneur.” Of course, in the real world, we know that child-rearing, family life, education, socialization, sexuality, political life, and many other basic human activities require insulation from market forces. In fact, paying for many of these things can ruin them. We may be willing to peek at **WHO WANTS TO MARRY A MULTIMILLIONAIRE** or an eBay auction of the ova of fashion models, but only to reassure ourselves that some things are still beneath our standards of dignity.

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What's remarkable about gift economies is that they can flourish in the most unlikely places — in run-down neighborhoods, on the Internet, in scientific communities, and among members of Alcoholics Anonymous. A classic example is commercial blood systems, which generally produce blood supplies of lower safety, purity, and potency than volunteer systems. A gift economy may be superior when it comes to maintaining a group's commitment to certain extra-market values.

"Dignity standards" refer to the ethical and moral standards of society and individuals regarding w
should not be commercialized or commodified. These standards are based on the recognition that
some things have intrinsic value and dignity, which should not be eroded or weakened by the mark
economy. In other words, it's about the notion of what should remain non-commodified.

THE COMMONS

Another way of understanding the presence of gift economies — which dwell like ghosts in the commercial machine — is in the sense of a **PUBLIC COMMONS**. A commons, of course, is anything like the streets over which we drive, the skies through which we pilot airplanes, or the public parks or beaches on which we dally. A commons belongs to everyone and no one, and its use is controlled only by common consent. A commons describes resources like the body of ancient music drawn on by composers and folk musicians alike, rather than the commodities, like “Happy Birthday to You,” for which ASCAP, 114 years after it was written, continues to collect a fee. Einstein's theory of relativity is a commons. Writings in the public domain are a commons. Gossip about celebrities is a commons. The silence in a movie theater is a transitory commons, impossibly fragile, treasured by those who crave it, and constructed as a mutual gift by those who compose it.

The world of art and culture is a vast commons, one that is salted through with zones of utter commerce yet remains gloriously immune to any overall commodification. The closest resemblance is to the commons of a **LANGUAGE**: altered by every contributor, expanded by even the most passive user. That a language is a commons doesn't mean that the community owns it; rather it belongs between people, possessed by no one, not even by society as a whole.

Nearly any commons, though, can be encroached upon, partitioned, enclosed. The American commons include tangible assets such as public forests and minerals, intangible wealth such as copyrights and patents, critical infrastructures such as the Internet and government research, and cultural resources such as the broadcast airwaves and public spaces. They include resources we've paid for as taxpayers and inherited from previous generations. They're not just an inventory of marketable assets; they're social institutions and cultural traditions that define us as Americans and enliven us as human beings. Some invasions of the commons are sanctioned because we can no longer muster a spirited commitment to the public sector. The abuse goes unnoticed because the theft of the commons is seen in glimpses, not in panorama. We may occasionally see a former wetland paved; we may hear about the breakthrough cancer drug that tax dollars helped develop, the rights to which pharmaceutical companies acquired for a song. The larger movement goes too much unremarked. The notion of a **COMMONS OF CULTURAL MATERIALS** goes more or less unnamed.

Honoring the commons is not a matter of moral exhortation. It is a practical necessity. We in Western society are going through a period of intensifying belief in private ownership, to the detriment of the public good. We have to remain constantly vigilant to prevent raids by those who would selfishly exploit our common heritage for their private gain. Such raids on our natural resources are not examples of enterprise and initiative. They are attempts to take from all the people just for the benefit of a few.

UNDISCOVERED PUBLIC KNOWLEDGE

Artists and intellectuals despondent over the prospects for originality can take heart from a phenomenon identified about twenty years ago by Don Swanson, a library scientist at the University of Chicago. He called it “undiscovered public knowledge.” Swanson showed that standing problems in medical research may be significantly addressed, perhaps even solved, simply by systematically surveying the scientific literature. Left to its own devices, research tends to become more specialized and abstracted from the real-world problems that motivated it and to which it remains relevant. This suggests that such a problem may be tackled effectively not by commissioning more research but by assuming that most or all of the solution can already be found in various scientific journals, waiting to be assembled by someone willing to read across specialties. Swanson himself did this in the case of Raynaud’s syndrome, a disease that causes the fingers of young women to become numb. His finding is especially striking — perhaps even scandalous — because it happened in the ever-expanding biomedical sciences.

by uncovering existing knowledge, answers to modern problems might be found.
Innovation doesn't always require starting from scratch.

Undiscovered public knowledge emboldens us to question the extreme claims to originality made in press releases and publishers’ notices: Is an intellectual or creative offering truly novel, or have we just forgotten a worthy precursor? Does solving certain scientific problems really require massive additional funding, or could a computerized search engine, creatively deployed, do the same job more quickly and cheaply? Lastly, does our appetite for creative vitality require the violence and exasperation of another avant-garde, with its wearisome killing-the-father imperatives, or might we be better off ratifying the ECSTASY OF INFLUENCE — and deepening our willingness to understand the commonality and timelessness of the methods and motifs available to artists?

GIVE ALL

A few years ago, the Film Society of Lincoln Center announced a retrospective of the works of Dariush Mehrjui, then a fresh enthusiasm of mine. Mehrjui is one of Iran’s finest filmmakers, and the only one whose subject was personal relationships among the upper-middle-class intelligentsia. Needless to say, opportunities to view his films were — and remain — rare indeed. I headed uptown for one, an adaptation of J. D. Salinger’s **FRANNY AND ZOOEY**, titled **PARI**, only to discover at the door of the Walter Reade Theater that the screening had been canceled: its announcement had brought threat of a lawsuit down on the Film Society. True, these were Salinger’s rights under the law. Yet why would he care that some obscure Iranian filmmaker had paid him homage with a meditation on his heroine? Would it have damaged his book or robbed him of some crucial remuneration had the screening been permitted? The fertile spirit of stray connection — one stretching across what is presently seen as the direst of international breaches — had in this case been snuffed out. The cold, undead hand of one of my childhood literary heroes had reached out from its New Hampshire redoubt to arrest my present-day curiosity.

A few assertions, then:

Any text that has infiltrated the common mind to the extent of **GONE WITH THE WIND** or **LOLITA** or **ULYSSES** inexorably joins the language of culture. A map-turned-to-landscape, it has moved to a place beyond enclosure or control. The authors and their heirs should consider the subsequent parodies, refractions, quotations, and revisions an honor, or at least the price of a rare success.

A corporation that has imposed an inescapable notion — Mickey Mouse, Band-Aid — on the cultural language should pay a similar price.

The primary objective of copyright is not to reward the labor of authors but “to promote the Progress of Science and useful Arts.” To this end, copyright assures authors the right to their original expression, but encourages others to build freely upon the ideas and information conveyed by a work. This result is neither unfair nor unfortunate.

he current intellectual property laws may have strayed from their original purpose of fostering cultural and scientific advancement, and instead have become a tool for endless rights maintenance, hindering the essence of creative activities.

Contemporary copyright, trademark, and patent law is presently corrupted. The case for perpetual copyright is a denial of the essential gift-aspect of the creative act. Arguments in its favor are as un-American as those for the repeal of the estate tax.

Art is sourced. Apprentices graze in the field of culture.

Digital sampling is an art method like any other, neutral in itself.

Despite hand-wringing at each technological turn — radio, the Internet — the future will be much like the past. Artists will sell some things but also give some things away. Change may be troubling for those who crave less ambiguity, but the life of an artist has never been filled with certainty.

The dream of a perfect systematic remuneration is nonsense. I pay rent with the price my words bring when published in glossy magazines and at the same moment offer them for almost nothing to impoverished literary quarterlies, or speak them for free into the air in a radio interview. So what are they worth? What would they be worth if some future Dylan worked them into a song? Should I care to make such a thing impossible?

Any text is woven entirely with citations, references, echoes, cultural languages, which cut across it through and through in a vast stereophony. The citations that go to make up a text are anonymous, untraceable, and yet ALREADY READ; they are quotations without inverted commas. The kernel, the soul — let us go further and say the substance, the bulk, the actual and valuable material of all human utterances — is plagiarism. For substantially all ideas are secondhand, consciously and unconsciously drawn from a million outside sources, and daily used by the garnerer with a pride and satisfaction born of the superstition that he originated them; whereas there is not a rag of originality about them anywhere except the little discoloration they get from his mental and moral caliber and his temperament, and which is revealed in characteristics of phrasing. Old and new make the warp and woof of every moment. There is no thread that is not a twist of these two strands. By necessity, by proclivity, and by delight, we all quote. Neurological study has lately shown that memory, imagination, and consciousness itself is stitched, quilted, pastiched. If we cut-and-paste our selves, might we not forgive it of our artworks?

Artists and writers — and our advocates, our guilds and agents — too often subscribe to implicit claims of originality that do injury to these truths. And we too often, as hucksters and bean counters in the tiny enterprises of our selves, act to spite the gift portion of our privileged roles. People live differently who treat a portion of their wealth as a gift. If we devalue and obscure the gift-economy function of our art practices, we turn our works into nothing more than advertisements for themselves. We may console ourselves that our lust for subsidiary rights in virtual perpetuity is some heroic counter to rapacious corporate interests. But the truth is that with artists pulling on one side and corporations pulling on the other, the loser is the collective public imagination from which we were nourished in the first place, and whose existence as the ultimate repository of our offerings makes the work worth doing in the first place.

As a novelist, I’m a cork on the ocean of story, a leaf on a windy day. Pretty soon I’ll be blown away. For the moment I’m grateful to be making a living, and so must ask that for a limited time (in the Thomas Jefferson sense) you please respect my small, treasured usemonopolies. Don’t pirate my editions; do plunder my visions.

The name of the game is Give All. You, reader, are welcome to my stories. They were never mine in the first place, but I gave them to you. If you have the inclination to pick them up, take them with my blessing.

KEY: I IS ANOTHER

This key to the preceding essay names the source of every line I stole, warped, and cobbled together as I “wrote” (except, alas, those sources I forgot along the way). First uses of a given author or speaker are highlighted in red. Nearly every sentence I culled I also revised, at least slightly — for necessities of space, in order to produce a more consistent tone, or simply because I felt like it.

TITLE

The phrase “the ecstasy of influence,” which embeds a rebuking play on Harold Bloom’s “anxiety of influence,” is lifted from spoken remarks by Professor Richard Dienst of Rutgers.

LOVE AND THEFT

“... a cultivated man of middle age ...” to “... hidden, unacknowledged memory?” These lines, with some adjustments for tone, belong to the anonymous editor or assistant who wrote the dust-flap copy of Michael Maar’s *THE TWO LOLITAS*. Of course, in my own experience, dust-flap copy is often a collaboration between author and editor. Perhaps this was also true for Maar.

“The history of literature ...” to

“... borrow and quote?” comes from Maar’s book itself.

“Appropriation has always ...” to “... Ishmael and Queequeg ...” This paragraph makes a hash of remarks from an interview with Eric Lott conducted by David McNair and Jayson Whitehead, and incorporates both interviewers’ and interviewee’s observations. (The text-interview form can be seen as a commonly accepted form of multivocal writing. Most interviewers prime their subjects with remarks of their own — leading the witness, so to speak — and gently refine their subjects’ statements in the final printed transcript.)

“I realized this ...” to “... for a long time.” The anecdote is cribbed, with an elision to avoid appropriating a dead grandmother, from Jonathan Rosen’s *THE TALMUD AND THE INTERNET*. I’ve never seen 84, CHARING CROSS ROAD, nor searched the Web for a Donne quote. For me it was through Rosen to Donne, Hemingway, website, et al.

“When I was thirteen ...” to “... no plagiarist at all.” This is from William Gibson’s “God’s Little Toys,” in *WIRED* magazine. My own first encounter with William Burroughs, also at age thirteen, was less epiphanic. Having grown up with a painter father who, during family visits to galleries or museums, approvingly noted collage and appropriation techniques in the visual arts (Picasso, Claes Oldenburg, Stuart Davis), I was gratified, but not surprised, to learn that literature could encompass the same methods.

CONTAMINATION ANXIETY

“In 1941, on his front porch ...” to “... ‘this song comes from the cotton field.’” Siva Vaidhyanathan, *COPYRIGHTS AND COPYWRONGS*.

“... enabled by a kind ... freely reworked.” Kembrew McLeod, *FREEDOM OF EXPRESSION*. In *OWNING CULTURE*, McLeod notes that, as he was writing, he