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The author as originator, adaptor or thief: Moral rights, copyright, plagiarism and self-plagiarism

Abstract

When authors publish under their own names they make a social contract with readers, declaring that the work is original. That work possesses economic and cultural value in the marketplace (Foucault 1977; Bourdieu 1996; Sawyer 2006; Sennett 2008). Various ways exist for authors to claim ownership, but this does not preclude others from violating their moral or legal rights. As creators and consumers, they cannot but be aware of a continuum inhering in the literary process that begins with unattainable originality and ends with intentional theft. Along this continuum exist varying degrees of unconscious and conscious borrowing of another's words or ideas. The terms original, plagiarised and self-plagiarised can be descriptive and emotive. Impacting upon them are terms such as moral rights and copyright. Definitions of plagiarism, in particular, reflect who chooses to define it and why. This article defines key terms for authors – moral rights, copyright, plagiarism, self-plagiarism, and double-dipping – in order to clarify the dangers of intellectual and creative theft. It also offers a variety of examples. The manner in which writers integrate literary and critical influences has become more challenging in the twenty-first century where so much of the past and the present exist online. Creative writing teachers and students must learn to negotiate this mercurial educational and cultural environment.

Keywords: authorship, copyright, originality, moral rights, plagiarism

Introduction

The manner in which writers integrate literary and critical influences to produce authentic work has become more challenging in the twenty-first century where so much of the past and the present exist online. This ubiquitous archive encompasses out-of-copyright major and minor works, including those of literary greats (see Project Gutenberg 1971-) and defunct journals and newspapers. Other varieties of historical archives, such as birth and death registers and legal documents, live in cyberspace alongside current scholarship. Add to these an abundance of contemporary sources, including what the ever-expanding web provides: visual and print journalism not to mention the protean social media. These resources offer tremendous opportunities for writers while at the same time they might lead them down a path that ends in intellectual theft, which can take various forms that have moral, civil and legal repercussions. Reputation, self-esteem and job security are at stake when employers and audiences distrust a work and, by extension, its creator.

When authors publish under their own names they make a social contract with readers, declaring that the work is original. In 1969 in 'What is an Author', Foucault (1991) problematised the concept of the role by focusing on its cultural function. Bourdieu (1996) analysed how artists in a cultural field participate in a multivalent marketplace. Along with cultural theorists, some psychologists and historians (Csikszentmihalyi 1996, 1999; Sternberg 2003; Boden 2004; Andreasen 2005; Sawyer 2006; Sennett 2008, et al) have tried to disentangle originality, creativity and authorship. This literature reveals that who claims ownership of artistic products or goods and who validates or 'consecrates' (Bourdieu 1996: 147), to use Bourdieu's term, their worth or originality impacts upon practitioners, educators and art consumers as well as the creative industries that distribute them.

Internationally, the copyright page of a publication declares that the writer claims ownership –with statements such as 'all rights reserved' –just as an exhibition brochure, museum tag, signature on a painting or etched initials on a sculpture identify the creator. More particularly for creative writing educators, an Australasian Honours or Research Higher Degree student 'certif[ies]' to examiners 'that this thesis ... does not contain any material previously published or written by another person except where due reference is made in the text' (Flinders University *Research Higher Degree Student Information Manual* 2015: 30), complying with the *Australian Code for the Responsible Conduct of Research* 2015) [1]. Authors, therefore, cannot but be aware of a continuum inhering in the literary process that begins with unattainable originality and ends with intentional theft. Along this continuum exist varying degrees of unconscious and conscious borrowing. Being aware in general, however, of what borrowing means and understanding what constitutes the appropriation of another's words or ideas in the context of creative or scholarly production as well as in civil or copyright law is another matter. The terms original, plagiarised, self-plagiarised and double-dipping can be descriptive and emotive. Impacting upon them are those that can also apply to published and performed work: moral rights and copyright. This article attempts to define those terms and the overlap that might exist between them. Differences between their interpretation in America, Canada, the European Union and Australia complicates that attempt.

Definitions of plagiarism reflect who chooses to define it and why. Tertiary Communication Skills and Literature academics begin with the practical need of teaching the essay, review and report, while those who also teach creative writing will be concerned with issues of authorship and copyright too. As students progress through the educational system, they rely on academic and creative mentors to oversee ethical practice. After considering the concept of authorship and defining key terms, this article turns to the dangers of misappropriation in some of the shapes that intellectual and creative theft can take. Literary forms such as the cento, found or collage poetry and pastiche are grounded in imitation or theft, but this article does not have space to engage with this species of overt borrowing or transformation. Students might practise those forms as an assignment at university or authors reach the public with a work with a title that alerts readers to the original. This article proposes that creative writers, teachers and students need to comprehend the above essential terms in order to negotiate their way through interconnected educational and cultural domains, whether their goal is to complete a degree and/or to disseminate their work to audiences.

Concepts of authorship

Hannah Sullivan, among many critics, notes that concepts of authorship have been closely associated with ‘a transition from an artisanal to a creative-genius model of authorship...’ (Sullivan 2013: 29). The terms artist and craftsperson have overlapped since *The Republic*, where Plato states that the practice of medicine involves both art and craft (Plato 1963: 22-23). Renaissance studios superseded medieval guilds, until ‘the author as a spontaneous, visionary genius’ (Sullivan 2013: 29) takes centre stage in the nineteenth-century. Sean Burke distills the twentieth century’s critique of authorship concepts, when writers and critics theorised it as mutable, ‘reposition[ing] authorship as a situated activity present not so much to itself as to culture [and] ideology’ (Burke 1995: xxvi).

Roland Barthes’ contribution to this debate privileges readers and the cultural milieu, rather than creators, asserting that a text does not purvey ‘the “message” of the Author-God) ... [it] is a tissue of quotations drawn from the innumerable centres of culture’ (Barthes 1977: 146). This theorisation, as we shall see, has implications for how writers understand moral rights and copyright in the twenty-first century, especially in the context of widespread adaptation of pre-twentieth century work. Barthes admits, nevertheless, that ‘Author’ can be a serviceable notion since it points to a book’s temporal relationships with a creator: ‘...book and author stand automatically on a single line divided into a *before* and an *after*’ (1977: 145). This statement presupposes an economic and cultural system that preserves and values literary works and the reputations of creators.

Foucault’s seminal ‘What is an Author?’ foregrounds the mercurial identity of practitioners. They do not have to ‘be’ simply one identity: ‘... a proper name does not have just one signification’ (Foucault 1991: 106). Personal, social and professional factors condition how the author identity manifests, and this includes the use of pseudonyms and publishing in a variety of genres [2]. In addition, institutional contexts can dictate how authorship functions, with the result that ‘it does not refer purely and simply to a real individual, since it can give rise simultaneously to several selves, several subjects – positions that can be occupied by different classes of individuals (Foucault 1991: 113).

These efforts to understand the artistic practitioner as a nexus that produces creative output are supplanted by Pierre Bourdieu’s comprehensive theorisation of the cultural field’s operation:

the artist who makes the work is himself made, at the core of the field of production, by the whole ensemble of those who help to “discover” him and to consecrate him as an artist who is “known” and recognized – critics, writers of prefaces, dealers, etc. (Bourdieu 1996: 167)

Artistic practitioners are not *sui generis*, therefore, being indebted to a Gordian knot of influences, pressures and economic forces that combine to produce them. In a refashioning of TS Eliot’s heritage continuum, an ‘ideal order’ (Eliot 1965: 23) that defines the relationship between the western canon’s works of genius and present literature, Bourdieu underlines the social and economic rather than the aesthetic-historical associations of past and present:

by virtue of an almost perfect unification of the artistic field and its history, each artistic act which leaves its mark by introducing a new position in the field ‘displaces’ the entire series of previous artistic acts. (Bourdieu 1996: 160)

Aesthetic value does not exist in a vacuum. Known and forgotten or unknown in their lifetimes, authors such as William Blake and Gerard Manley Hopkins can be rediscovered as ‘greats’ by canny editors or friends (WB Yeats championed Blake and Robert Bridges supported Hopkins); they are now embedded in the Anglophone nations’ educational systems, along with the reclusive Emily Dickinson (Andreasen 2005). Forced by societal norms to adopt pseudonyms (Curren, Ellis and Acton Bell), the Brontë sisters are posthumously published under their own gendered names (Heilbrun 1998: 110). Play, screen and television adaptations have made bestsellers of (out-of-copyright) authors such as Jane Austen and Charles Dickens [3]. Bourdieu conceptualises the struggles between temporal periods that have led to reputational resurrections, transformations and indeed extinctions, connecting them to taste and opportunity as opposed to talent or originality (1996: 157-58).

Originality, moral rights and copyright

The critics discussed above engage with issues of aesthetic and economic value, but in order to grasp the implications of their theories for moral rights and copyright in individual cases, I turn first to the concept of originality. As noted above, the Romantics lauded poets in particular for creative genius or originality. Richard Sennett summarises its meaning in a manner useful for this argument:

“Originality” traces its origins back to one Greek word, *poesis*, which Plato and others used to mean “something where before there was nothing.” Originality is a marker of time; it denotes the *sudden* appearance of something where before there was nothing... In the Renaissance, the appearance of something sudden was connected to the art – the genius, if you will – of an individual. (Sennett 2008: 70)

A full discussion of creativity theory is beyond this article’s scope. Suffice it to say that the focus on the individual’s creation of an original work speaks to the development of conceptions of ownership.

How does originality function now in relevant legal, cultural and institutional documents that affect educators and writers? Contracts require authors to assert that the work submitted is original. The term normally appears in various contexts without much explanation. For example, the oft-quoted OECD (Organisation for Economic Cooperation and Development) definition of research requires something new and doctoral candidates must make ‘original contributions to knowledge’ (OECD 2013) [4]. The *Australian code for the responsible conduct of research* defines research as ‘original investigation undertaken to gain knowledge and understanding’ (2006: 10).

Moral rights and copyright are two key terms that relate to originality and ownership, so it is critical to unpack them here, as countries often have differing laws and policies relating to them. In addition, international conventions exist regarding moral rights and copyright to which not all countries subscribe. According to the Arts Law Centre of Australia ‘moral rights were introduced in the Copyright Act in 2000 to confer certain protections on creators and irrespective of any economic interest in their creation’ (Arts Law Centre of Australia 2017). Authors do not have to apply for them; they are guaranteed. They inhere ‘in the author’s essential personhood and project that personhood into an artistic or creative work’ (Bird & Ponte 2007: 218; see this article for a history of moral rights) [5].

Nevertheless, although they have some legal status, they do not carry any economic recompense and can be difficult to assert, especially when an author has signed over copyright in a contract. The three types of moral rights are:

- **Right of attribution:** this is the right of an author to be identified and named as the author of his/her work.
- **Right against false attribution:** this is the right of an author to stop someone else being credited as the author of their work; and
- **Right of integrity:** this is the right of an author to ensure that his/her work is not subjected to derogatory treatment which is any act in relation to the work that is in any manner harmful to the author's honour or reputation. (Arts Law Centre 2017, original bolded)

The act further explains 'derogatory treatment,' including acts such as 'distortion ... destruction ... mutilation ... material alteration ... that is prejudicial to the author's honour or reputation...' (Arts Law Centre 2017). The Copyright Agency Ltd explains moral rights by specifying that others 'treat their work with respect' (Copyright Agency 2017a).

A publisher or indeed a university who owns copyrighted material (generated while a person is employed, for example) could undertake editing; condensing material in a manner of which the author does not approve; anthologising it with works the author deems inferior; even allowing it to be used as exam content both before and after employment. Proving an infringement and seeking remedies can be challenging and that topic is outside this article's scope [6]. It is worth noting that in America 'moral rights' are not as clearly delineated, especially since states often have their own laws governing the use of creative works. According to Rosenblatt, 'judicial interpretation' can affect whatever statutes exist under a number of banners. She acknowledges that 'the scope of a creator's moral rights ... differs with cultural conceptions of authorship and ownership...' (Rosenblatt 1998). Stadler's overview (2012) of American moral rights reinforces this picture of inconsistent laws and regulations.

The meaning of copyright is more specific and therefore more actionable than moral rights. It pertains to ownership over a particular work and the right to reproduce, now enshrined in law. According to the Australian Copyright Agency, 'Copyright is a form of intellectual property that protects the original expression of ideas. It enables creators to manage how their content is used' (Copyright Agency 2017b). Whether this definition covers ideas and to what extent has proved elusive; in general it does not seem to. The Australian Copyright Agency offers both myths and facts, clarifying that copyright in a work doesn't need to be applied for, although publishing or performance contracts clarify and assert copyright.

Copyright automatically applies to written and artistic works from the moment they're created. You don't have to 'do' anything to obtain copyright. The copyright notice (©+ name of copyright owner + year) is an internationally recognised signifier that a work is protected by copyright that you can put on your work, but not necessary for copyright protection. (Copyright Agency 2017b)

Length of ownership has varied. Copyright extends in Australia for seventy years with similar regulations in the US, depending on when a work was first published and if the author is living (see National Library of Australia 2017 for special circumstances and tables; see Copyright.gov 2017 for US details – 'How Long Does Copyright Protection Last?'). America signed the Berne

Convention for the Protection of Literary and Artistic Works (Berne nd) in 1989 but international agreements as well as national laws still offer the best safeguard for writers. Australia ratified the convention in 1928 along with a number of other international agreements (Wikipedia offers a list of signatories).

Copyright has not always existed. Sullivan explains that: ‘Changes in copyright law [occurred] over the eighteenth century... In 1710, the right to continue printing a work had belonged indefinitely to the publisher; after 1774, perpetual copyright was abandoned in Britain’ (Sullivan 2013: 28). The ‘Stationers’ Register’ recorded copyright and the prime criterion for allowing it was that the book contained material not yet printed (Angélil-Carter 2000: 19). Eventually authors found that if they revised they could reassert their rights by ‘claim[ing] new copyrights’ (Sullivan 2013: 28), thereby earning from a work they had previously sold. Lawyers and writers formulated definitions of plagiarism as a response to copyright pressures: ‘Before this time, there was little sense of artistic “ownership.”’ (Angélil-Carter 2000: 2). Borrowing or adapting was accepted until the Enlightenment as it evidenced both erudition and respect for authority. My undergraduate education provides a case in point. Studying Geoffrey Chaucer, I learned that authorities and contemporaries were fair game as he composed *The Canterbury Tales*. Adapting or transforming plots and characters, knitting together literary, folk and philosophical sources, was acceptable. Gradually, however, the belief in ‘rights’ and ownership that meant payment for work came to predominate. These beliefs were enshrined in law.

Plagiarism and self-plagiarism

Plagiarism is defined by a variety of stakeholders: dictionary compilers, university bureaucrats, teachers, researchers, lawyers, governments, NGOs and arts organisations, among others. Creative writing academics and their students must assess who generates them and how they apply to their practice. On a pedagogical level, academics have to teach certain types of writing, such as the essay, report or review. Creative writers in academia possess a broader mandate, but they still must communicate how practices can produce original work that respects and acknowledges antecedents. An understanding of what plagiarism and authorship mean as well as moral rights and copyright are critical for undergraduate and postgraduate success and life after degree. Nothing much has changed since the first editions of *The MLA Style Manual* (precursor to the online Handbooks). Back in 1985 it asserts that ‘Plagiarism is a moral offense, rather than a legal one. Most instances of plagiarism fall outside the scope of copyright infringement...’ (Achttert & Gibaldi 1985: 4-5). LaFollette adds ‘social’ to ‘moral norms’ (LaFollette 1992: 32), highlighting how complex transgressions can be for writers, students and universities. Grasping the distinction between abuses that have legal implications and those that have professional, social or civil ones can be challenging to students. That proviso does not help those who face penalties at the university level for infringement and authors whose reputations can be ruined if plagiarism is proven or even suspected. I will begin with plagiarism in academia and then turn to instances in the literary and musical world.

The advent of text-matching software such as Turnitin has supported academics in the process of marking, but Turnitin only provides a starting point to help students to grasp the concept of plagiarism; it does not offer resources that help teach the sophisticated skill of integrating diverse material and demonstrating an individual voice appropriate to various disciplines. A plethora of textbooks and research guides such as *The MLA Handbook* decode what plagiarism

means in specific discourse communities [7]. There are basic commonalities nevertheless, which means it is virtually impossible *not* to sound as if I am plagiarising when defining it. The *English Oxford Living Dictionaries* offers a serviceable umbrella definition. Plagiarism is:

The practice of taking someone else's work or ideas and passing them off as one's own...

Synonyms: copying, infringement of copyright, piracy, theft, stealing, poaching, appropriation; *informal* cribbing.

Early 17th century: from Latin *plagiarius* 'kidnapper' (from *plagium* 'a kidnapping', from Greek *plagion*) + -ism. (*English Oxford Living Dictionaries* 2017)

Note the overlap between 'taking' and 'passing off' (deceit) and the criminal implications of theft, kidnapping and copyright infringement. This definition covers text copying (including diagrams and sentence structure), word-for-word and close paraphrase, 'cribbing' and 'poaching' ideas. The principle of 'common knowledge' too arises; anything not considered 'common knowledge' needs to be cited. A first-year undergraduate, however, will not have the same knowledge base as a professor. A widely used Australian textbook, Windschuttle and Elliot's *Writing, Researching, Communicating* (2001), explains the concept as it pertains to the research essay: 'Plagiarism is a failure to acknowledge that the ideas or information being presented derive from the work of others' (Windschuttle & Elliot 2001: 113). Note how 'derive' is applied, which leads to charges of an essay being 'derivative' – that is, too indebted to one or more sources. The implication here is that not only words or ideas are stolen, but also the argument's shape and, hence, insights. The sciences subscribe to this definition of plagiarism too: 'It is 'the deliberate presentation of another's texts or ideas as one's own' (LaFollette 1992: 49), so that readers believe the plagiarist has authored the work. Summarising definitions, Angélil-Carter focuses on two key differences: understanding plagiarism as fraud involving use of another's 'thoughts, words, inventions' (Angélil-Carter 2000: 16) or, more narrowly, plagiarism as fraud but only manifested in print. Oral reproduction does not qualify.

Unintentional plagiarism has become an issue within the academy where a culture of ideas facilitates sharing. In *The Psychology of Writing*, Ronald Kellogg comments: '...ideas that are expressed frequently – that are "in the air" – are especially open to borrowing' (Kellogg 1994: 86). Laboratory teams publish collaboratively. The humanities, however, still favour the sole-authored article – or one with a few co-authors – but academics frequent conferences where ideas and phrases might colonise minds. The *MLA Handbook's* 'Professional Ethics' statement acknowledges these dangers, trying to unpack the difficulties of unconscious plagiarism endemic in academic communities of practice:

2. A scholar who borrows from the works and ideas of others, including those of students, should acknowledge the debt, whether or not the sources are published. Unpublished scholarly material – which may be encountered when it is read aloud, circulated in manuscript, or discussed – is especially vulnerable to unacknowledged appropriation, since the lack of a printed text makes originality hard to establish. (*Modern Language Association* 2016)

This species of professional borrowing works against notions of collegiality, yet how do busy academics negotiate the plethora of information? Kellogg argues:

But much of what a writer knows, particularly discourse and sociocultural knowledge, exists only in tacit form. For example, sentence patterns as well as cultural beliefs are shared by members of the same discourse community and are drawn upon freely by all, without conscious awareness. The same sort of unconscious copying may also occur with specific sentences, facts, and arguments – forms of domain-specific knowledge. When it does, however, the author is subject to the charge of plagiarism. (Kellogg 1994: 85)

Kellogg has undertaken a long-term study exploring the connection between how creative minds develop. Employing anecdotal and empirical evidence, he surveys a range of twentieth-century authors' [8] craft histories in order to develop a picture of their immersion within the writing culture (including library research) and/or a particular milieu or profession on which they draw in their work (Kellogg 1994: 81-82). Reading practices qualify as self-education to bolster whatever formal training the case study authors underwent. He asserts that: 'A variety of biographical studies have concluded that at least 10 years and often 20 years of experience is needed for an individual to attain the status of an expert' (Kellogg 1994: 82) [9]. The implicit question is how does the mind digest this abundance of material? In the twenty-first century, an immensely popular author such as Steven King reveals that he devours an eclectic range of books to improve his craft: 'I'm a slow reader, but I usually get through seventy or eighty books a year, mostly fiction' (King 2000: 145). If we translate these temporal schemata to the creative arts, a doctoral candidate is, in most cases, still an apprentice at graduation, with the research they have undertaken fresh in their minds [10], faced with the pressure to publish.

Two other practices in academe pose dangers; although they are allied, they are not equivalents: self-plagiarism and double-dipping. Self-plagiarism occurs when writers consciously or unconsciously reproduce their own words, lines, images and/or arguments in a supposedly original product. Double-dipping can be conceived of as a sub-type of self-plagiarism. The 'publish or perish' imperative has been suggested by Scott Jaschik (2008) as a cause for its increase in the Anglophone countries. 'Double-dipping' refers to presenting one paper at multiple conferences (and I am not sure how many ways there is to say this) or, indeed, in publishing the same or similar articles. Computers facilitate the practice of copying chunks of an individual's previous texts and, according to Jaschik in *Inside Higher Ed*, the practice isn't limited to one discipline (Jaschik 2008).

Double-dipping is conscious, but stakeholders do not agree about its ethics. One group mounts a 'feedback' defense; presenting the same paper allows writers to perfect research. Others draw the line at publication of the same paper. Student double-dipping has more serious implications given universities normally bar them from submitting the same work for assessment in different courses. In addition, Jaschik raises ethical questions stemming from CV enhancement through the practice (Jaschik 2008). The more junior the student or teacher is, Jaschik reports, the more likely they are to support double-dipping [11]. He equates self-plagiarism with double-dipping, but I disagree. Copying an entire paper or changing a title and/or a few paragraphs – that is, parroting oneself with the intention of bolstering one's profile – does not have the same purpose as using images in a poem from previous years or reworking an idea in an article or story (see Kellogg 1994). It is common practice for authors to cite themselves and to note that they have already developed the same or similar ideas in preliminary papers.

I do not have space to canvass every permutation of plagiarism or fabrication, so below I offer a few cases to illustrate a complex global environment where the concept of originality has become increasingly slippery. The chosen cases reflect upon the challenge of generating a work that does not owe a debt to predecessors or contemporaries, the temptation to exploit another's intellectual property and the pull to keep up with the latest artistic fashions.

The nineteenth-century offers telling examples of the slippage between minor and major adaptation of others. Edgar Allan Poe, a well-known critic at the time, had a long-running quarrel with Henry Wadsworth Longfellow over his derivativeness – that is, his indebtedness to European ideas. In 'Mr. Longfellow and Other Plagiarists' (1846), for example, Poe defines plagiarism and compares wholesale word-for-word copying or paraphrase, exacerbated by the replication of a poem's argument, by some contemporary poets to set the stage for his attack on Longfellow. Poe's tirade reveals how damaging stealing another's words can be, excoriating Longfellow's supporters and taking the victim's side:

Now then the plagiarist has not merely committed a wrong in itself – a wrong whose incomparable meanness would deserve exposure on absolute grounds – but he, the guilty, the successful, the eminent, has fastened the degradation of his crime – the retribution which should have overtaken it in his own person – upon the guiltless, the toiling, the unfriended struggler up the mountainous path of Fame. (Poe 2015)

Of course plagiarists are not necessarily only the famous, but the social and emotional fallout is the same for the injured party.

In Australia the high-profile case of Colin Hay (lead singer of Men at Work) and Ron Strykert over their song 'Down Under,' called attention to the cloudy boundary between unconscious and conscious borrowing and copyright infringement in music. Originally a court determined that a simple musical riff was sourced from 'Kookaburra sits in the Old Gum Tree' (Dingle 2010; Suzor & Choi 2015). Hay testified that 'it was an "unconscious" reference to the children's song' (Madden 2010). The Federal Court ultimately decided, however, not to award the full amount that the plaintiff, Larrikin Music Publishing, sought, since their claim was 'excessive'. The proportion of borrowing was deemed minor, 'constitut[ing] just five bars of a 92-bar song' (Madden 2010). Hay has spoken in print and on air about the stress that the trials have caused him and his family.

Paying overt or covert homage to a literary classic is another species of adaptation, and could be said to fall under Genette's (1997: 1-2) rubric of hypertext. Graham Swift's Booker Prize-winning *Last Orders* (1996) owes a debt to William Faulkner's *As I Lay Dying* (1930 – the hypotext), which I noticed while reading it as, I subsequently discovered, other critics had as well. No one accused Swift of plagiarism, however; although the structure was clearly indebted to Faulkner, he had sufficiently transformed the content, updating it to twentieth-century London. The colloquial style too reflected the characters' origins.

The web, however, is replete now with cases of major and minor plagiarism, including allied areas such as fabrication, misrepresentation and adaptation. DM Thomas' *The White Hotel* (1981) caused a furore, when he was accused of reproducing historians' accounts of the massacre at Babi Yar (one of many during the Holocaust). Helen Darville/Demidenko's *The Hand that Signed the Paper* (1994) is notorious in Australia because of debates over its literary

merit, the perils of literary hoaxes (the author pretended to be the daughter of a Ukrainian father and an Irish mother); political correctness and anti-Semitism; and plagiarism (Heyward 1995; Stone 1995; et al). James Frey's supposed memoir, *A Million Little Pieces* (2003), rode the current wave of 'tell-all' books about addiction and rehabilitation as a subgenre of popular nonfiction. Lauded by Oprah Winfrey and later revealed as a fabrication (Barton 2006), it had to be reissued as a semi-fictional novel. A 2015 blog reveals how any astute reader can set up as plagiarism police. Meggie Royer (2015), for example, surveys five cases and analyses their seriousness, including work by Dan Brown, Helen Keller and Poe.

A case that exemplifies many of the problems caused by intellectual theft, which I have previously discussed, concerns Lenore Hart's 2011 novel, *The Raven's Bride*. Apparently she replicated much of a novel by Cothburn O'Neal from the 1950s. The revelation sparked a media frenzy, including online discussions of the author's age, the seriousness of the debt, the writing quality, the challenge of historical fiction, *inter alia* (Flood 2011). Jay Parini, a high-profile US author, encapsulates the issues:

[This] strikes me as one of those familiar cases where a writer leans far too heavily on another writer, not trusting his or her own gifts. It's actually quite easy to do if you aren't careful and very confident as a writer. It's more of a psychological or artistic problem than a crime, in my view... (Parini cited in Flood 2011)

His emphasis on the difficulty all emerging writers face completing a first work relates to those in the academy relying, in particular, on historical documents or allied fiction. Flood also received comments from publishers, who noted contract clauses that ensure originality, but that does not, of course, preclude authorial deception. Trust, publishers aver, needs to be part of the relationship. In fact, 'Roland Philips, managing director of John Murray' (Flood 2011), followed up his remarks by adding that 'it was "not impossible" that publishers might employ software along the lines of that used by academics to check their students are not plagiarising work' (Flood 2011). Nonfiction is easier to fact-check than fiction, as he stated, but fiction poses additional difficulties. The online universe nevertheless is making it increasingly difficult for intellectual theft to remain hidden.

To close this discussion, I should mention *cryptomnesia*, as it affects both creative and critical writers. 'Cryptomnesia' specifically 'refers to the belief that a thought is novel when in fact it is a memory' (Brown & Murphy 1989 as quoted in Kellogg 1994: 85; Carpenter 2002). An individual can experience memories of their own work as well as that of others. The lives of creative academics are tripartite; they teach, research and write. On the one hand, colleagues might find it easier to co-author papers given a common history – similar theoretical orientations, jargon and paper structures. This is the positive side of the scholarly and creative communities of practice. Yet this split between creative and academic roles and working methods might contribute to source blindness. Reading lists and lecture preparation keep others' words and ideas at the forefront of a teacher's mind, not to mention stimulating postgraduate projects. Unintentional plagiarism's spectre can always loom at the back of the class. This is of course different from having writers' own images reappear later in their minds in the process of creating a new work.

Creative artists often return to similar material as they mature, a point argued by the celebrated turn-of-the-century Catalan architect, Antoni Gaudi [12]. He compares his methods of reworking to that of other artists: 'The only fertile

way is repetition ... in Beethoven there are themes that are repeated from ten years earlier, and we find the same thing in Bach; the Catalan poet Verdaguer always copied and improved his poetry' (Gaudi cited in Carandell 2003: 95).

Do these cases demonstrate conscious or unconscious double-dipping or cryptomnesia? Artists might very well say that, in the final analysis, it is their own material and they are driven by that elusive search for excellence. The road to unattainable perfection is revision.

Conclusion

To the truism that 'no text is innocent' I would like to add another – 'no writer's imagination is virgin territory'. Socio-cultural theories of creativity and originality underpin that assertion – that nothing comes into being in a vacuum. The continuum that begins with some degree of originality ends with intentional stealing. Categories of overt and covert borrowing or adaptation of another's material are spaced along that continuum. Writers do not live in a sterile environment, but are affected by the cultures in which they are raised and live. They absorb and refashion in order to create. Yet it is difficult to untangle the web of influences, allusions and scholarship that coalesce in a creative or critical book. Fiction and non-fiction work can include forewords, afterwords, prefaces and notes and of course creative arts doctoral theses (including exhibitions, films and performances) can make explicit in some form what has influenced a candidate's outputs. How artists acknowledge debts to precursors and consequently how cognisant audiences might be of those connections is critical.

Writers in the academy and their postgraduates produce both traditional and non-traditional outputs. Readings and workshops are endemic to their practice community. Participants might not always be conscious of the sources of ideas and words. Kellogg's study found, nevertheless, that professionals usually remember the research they undertake and the casual reading that they accomplish:

Some of the knowledge that writers draw upon exists as the printed sources of other authors. Britton et al (1975) noted that a writer copies from others in many ways, including verbatim quotations, expansions or summarizations, presentations of alternative points of view that differ from those of the writer, and mimicking the stylistic voice of another. These forms of copying generally proceed with full awareness on the part of the writer. (Kellogg 1994: 84-85)

The criterion of 'full awareness' impacts upon how work is presented to audiences. Even if writers ensure that they record sources their subconscious memory might resurrect those passages in future – hence the phenomenon known as cryptomnesia.

When a writer mimics, adapts or copies, a work's legitimacy depends upon a range of factors, including: the extent of the debt; the work's generic nature (parody, pastiche, etc.); and the clues the writer might embed in the work for a discerning audience (epigraph or title, for example). The question remains: How identifiable is it as an artifact that does not try to hide its erudition or its popular culture origins? This paper does not have space to explore literary practices or forms such as intertextuality, pastiche and the cento, grounded in conscious borrowing (Angélil-Carter 2000: 20 on intertextuality; Genette on intertextuality and allusion 1997: 2). Plagiarism and its moral if not legal

fallout overshadows more than the academy. Bourdieu's conception of 'symbolic capital' (Bourdieu 1990: 135) cannot be disentangled from 'economic' or 'cultural capital' (1990: 128), because of the way it legitimates individuals and their products. Authors with the most symbolic capital (think 'track record') will usually sell the most books or receive the most grants.

Scandals that have erupted in the past two decades in the Anglophone countries over poets and memoirists either lifting lines from celebrated writers or distorting their autobiographies (and, thus, winning literary prizes or producing bestsellers) testify to how counterproductive literary misrepresentation can be [13]. In the political sphere, the most noteworthy instance of plagiarism occurred at the 2016 Republican National Convention in America. Melania Trump, the wife of now President Donald Trump, plagiarised parts of Michelle Obama's 2008 convention speech (<http://www.snopes.com/2016/07/18/melania-trump-michelle-obama/>). It took a canny reporter only a few minutes to recognise it, with the help of research assistant Google. Positive or negative reactions divided along party lines but the fact remains that portions of the speech were stolen (by Melania Trump and/or her speechwriters). The online universe is a continual temptation for those faced with an oral or written challenge. Respect for the creative products of others is vital for aspiring writers as well as professionals if they hope to be rewarded for the commitment they make to their craft. Both unconscious and conscious plagiarism can damage their reputations and hence their futures.

Notes

[1] Researcher protocols appear in the Publication and dissemination of research findings and the Authorship sections of this article. return to text

[2] Established authors using pseudonyms when they change genres or audiences are too numerous to mention, although as examples I note here Australian young adult and children's author Gillian Rubinstein, who now publishes as Lian Hearn (*Tales of the Otori* and other Japanese-historical fantasy work). return to text

[3] Among numerous examples, British ITV's 2008 production of *Lost in Austen* (written by Guy Andrews) and the 2016 film *Pride and Prejudice and Zombies* offer examples of postmodern and affectionate or satiric adaptations. return to text

[4] 'Any creative systematic activity undertaken to increase the stock of knowledge, including knowledge of humanity, culture and society, and the use of knowledge to devise new applications' (OECD 2013). return to text

[5] Bird and Ponte note that moral rights were added in 1928 to the Berne Convention and further clarification occurred in 1948 (Bird & Ponte 2007: 224). return to text

[6] For example, I know a journalist whose work was re-published by another newspaper (owned by the same conglomerate) under another name and she had no recourse (if she wanted to continue in employment). return to text

[7] Scientific misconduct' (LaFollette 1992:13) is another transgression, although not equivalent to plagiarism. It occurs when 'any scientist ... deliberately fabricate[s] or misrepresent[s] data and then describe[s] that data in scientific articles as if it were real' (LaFollette 1992: 13). return to text

[8] It is worth noting that Kellogg does not offer any women writers as examples. return to text

[9] This parallels the historical research of creativity theorists that describes how masters train apprentices so that they acquire 'domain-relevant skills' before they, in turn, become masters (Dacey & Lennon 1998). return to text

[10] A full discussion of unintentional plagiarism appears in the MLA Handbook with strategies to guide students: (MLA handbook <http://students.washington.edu/jcbeetem/handouts/MLA%20Handbook%20-%20Unintentional%20Plagiarism.pdf>). return to text

[11]

Two political scientists at Michigan State University – Saundra K. Schneider and William G. Jacoby – write jointly to “confess” to duplicate presentations and to defend them. They note several reasons: With more political scientists out there, “research productivity requirements” are growing, and graduate students are expected to present earlier in their academic careers. These trends create “enormous pressure” to present at scholarly meetings when possible and it is “unrealistic and undesirable” to expect completely new work for each such event, they write. (Jaschik 2008)

In America in particular, where doctoral students take courses for credit, double-dipping appears to be similar to an undergraduate or coursework Masters student in Australia submitting the same essay for credit more than once. It isn’t legal. *Inside Higher Ed* advises students (as does the *MLA Handbook*) to clear the practice in advance with lecturers. return to text

[12] This example is used in a different context in a book chapter about the benefits of failure (see Kroll 2015). return to text

[13] Any Google search yields innumerable newspaper and magazine articles citing chapter and verse (literally) to unmask the plagiarists. For a taste, see: <https://www.theguardian.com/commentisfree/2013/sep/23/australian-poetry-plagiarism>; overland.org.au/2013/09/of-borrowed-plumes-I-take_the-sin; bbc.com/news/entertainment-arts-24195602; and www.poetryfoundation.org/features/articles/detail/70086 (each accessed 24 April 2017). return to text

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