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TOWARD AN OPEN SOURCE POETICS: APPROPRIATION, COLLABORATION, AND THE COMMONS

Stephen Voyce

Intellectual Property is the oil of the 21st century.

—Mark Getty, Chairman of Getty Images (2000)¹

The new artistic paradigm is distribution.

—Kenneth Goldsmith, word processor (2002)²

Software programmers first introduced the term *open source* to describe a model of peer production in which users are free to access, modify, and collaborate on software code. Programmer and open source advocate Eric S. Raymond offers a useful analogy: whereas software had been previously built like cathedrals, “carefully crafted by individual wizards . . . working in splendid isolation,” open source methods “seemed to resemble a great babbling bazaar of differing agendas and approaches.”³ The term has since entered the lexicons of innumerable cultural disciplines to denote the permissible appropriation and modification of any technique, object, or model—both in digital environments and in tangible ones. Elements of this commons-based method of production can be found in *Wikipedia*, MIT’s OpenCourseWare, Anonymous, urban communal garden projects, Ensembl’s [*sic*] genome database, the BioBricks Foundation, and a host of nonprofit organizations⁴—leading Michael Hardt and Antonio Negri to call for “an open-source society” of shared social programming.⁵ Applied to literature, the term evocatively brings into focus a number of issues relating to authorship and intertextuality, “intellectual property” and the public domain, poetic license and collective artistic production. One might speak of an *open source poetics* or *commons-based poetics* based on a decentralized and nonproprietary model of shared cultural codes, networks of dissemination, and collaborative authorship.

Over the past decade, *flarf* and *conceptual* poets—many of them affiliated with a website called UbuWeb—have adopted appropriative strategies akin to open source’s “great babbling bazaar” of peer production. Ara Shirinyan, Judith Goldman, Robert Fitterman, Caroline Bergvall, Bill Kennedy, M. Nourbese Philip, Craig Dworkin, and Kenneth Goldsmith variously assemble poetic material taken from the public domain; Rachel Zolf enlists eighty-five writers to help her coproduce a multiauthored poem to be submitted as a Master of Fine Arts (MFA) project at a reputed university; and Darren Wershler-Henry collates no less than 250 proposals for literary and artistic projects, encouraging the reader to appropriate, modify, and execute any number of them she wishes; whereas Christian Bök is currently implanting a poetic sequence into a living bacterium, which will then “coauthor” a mutated version of his poem.⁶

Of course, appropriation as an artistic tactic is hardly new. While digital technologies expand the possibilities of appropriative art and writing, such techniques can be found among a litany of modernist, dada, fluxus, pop, conceptual, and bio artists; situationist filmmakers; visual and sound poets; and affiliates of the New York school, Oulipo, Language Poetry, and so on. Indeed, the *objet trouvé*, mixed-media collage, and installation work in art; sampling and plunderphonics in music; creative plagiarism and pastiche in prose fiction; “writing through” techniques, aleatoric verse, constraint procedures, “flarfist” data mining, and “uncreative writing” in poetry—one finds examples of appropriation among all of these discrepant practices.⁷ The history of the twentieth- and twenty-first-century avant-garde is a history of plundering, transforming, excavating, cataloguing, splicing, and sharing the creative output of others. Needless to say, this brief taxonomy is but a snippet of experimental practices, to say nothing of the numerous other uses of appropriation among folk cultures, popular music, fan fiction, animation, mashups, and so on. All literature is borrowed to varying degrees, insofar as genres, forms, and language are shared, and condition the possibility of all communication and cultural production. Acts of appropriation are ultimately shaped by our attitudes toward originality, authorship, property, and the ontological status of art objects. Although it may seem obvious, appropriation can be considered subversive only if a given society, and its attendant legal apparatus and cultural institutions, deem it illicit.

To this end, it is no coincidence that the approximate beginning of artistic modernism is roughly commensurate with a gradual, yet unprecedented, expansion of copyright reform in the United States and abroad.⁸ Indeed, the avant-garde—with its processual, appropriative, and collaborative proclivities—evolves alongside an intellectual property scheme

whose reliance on deliberate misrepresentations of authorship experimental writers work to challenge. After decades of copyright expansion, appropriative art and writing have arguably taken on a more explicitly political dimension: like open source programmers, those poets and artists who make such tactics the hallmark of their creative practice have had to organize activist networks in opposition to intellectual property regimes. Dworkin, Goldsmith, Shirinyan, Wershler-Henry, and other conceptual writers have either founded or work with UbuWeb, ArtMob, the Poetic Research Bureau, Nonsite Collective, and Information as Material, collectives tasked with expanding and fortifying a public domain of shared knowledge. It is within this politically committed milieu that the cultural meanings and critical agency of recent appropriative writing must be situated and understood.⁹

Critics typically view literary appropriation in terms of piracy, violation, even violence against a text, tradition, or culture. Like Marcel Duchamp drawing a moustache on the *Mona Lisa*, poetic appropriations are tantamount to acts of defacement.¹⁰ Yet, while modifying a source text might involve deleting or excising, it can also involve extending, transforming, and sharing a given work. Many poets at the beginning of the twenty-first century view literary appropriation both as an act of subversive theft *and* as a communal gesture registering a common domain of shared concepts, techniques, and materials. However paradoxical, literary appropriation is a productive activity. Such techniques release a portion of a text from its static, fixed position in a single work, enabling it to participate in a proliferation of potential texts amid continuously changing assemblages of authorial, intertextual, and communal networks. If the ubiquitous myth of the solitary author obfuscates the social production of literature, then, in the case of twenty-first-century experimental writing, it also conceals a deliberate political project informing both social practice and compositional practice: that is, an open source poetics advances in defense of a shared cultural commons.

Copyright and Its Discontents

Reports of overzealous copyright enforcement are now widespread: music companies sue twelve-year-olds for file sharing; academics face threats of litigation for publishing research on copy-protection schemes; corporations use copyright law to thwart parody and criticism; the Walt Disney Company successfully lobbies for copyright extensions on characters it had, ironically, appropriated from the public domain; while lawyers for

Margaret Mitchell's estate block the publication of an author's retelling of *Gone with the Wind* (1939 novel) from a slave's point of view (a novel cleverly titled *The Wind Done Gone*).¹¹ Over the past thirty-five years or so, the U.S. government has made sweeping changes to copyright law—changes that lengthen terms of protection, erode fair-use practices, threaten public access to knowledge, and grant unprecedented control over information to cultural conglomerates. Proponents of “intellectual property rights” frequently operate under the assumption that when it comes to the creation, dissemination, and reception of information, authors and (which is more often the case) the publishers who represent them are the only deserving participants in these debates. Lawmakers continue to enact these reforms with virtually no input from the public.

Critics of intellectual property law tend to cite the cultural artifacts caught up in these legal disputes because of their popularity and high market value. Yet, consider two examples with comparatively less capital at stake. Poet Craig Dworkin copied portions of the *Minnesota Multiphasic Personality Inventory* (MMPI) for use in a poem called “Legion”—the purpose being to convert a “forensic instrument” into a playful “lyric monologue.”¹² The poem appeared free of charge on UbuWeb, an online archive of experimental literature, music, and art (ubuweb.com). Although the 1942 version of the MMPI has long since been discredited as a viable test for mental health, the corporation that licenses the exam accused Dworkin of copyright infringement. To be sure, Dworkin's method of creative appropriation constitutes an unequivocal instance of *fair use*;¹³ the poet claims that he withdrew the text from circulation as a courtesy to the copyright holder, yet clearly the prospect of a costly legal battle over a cultural object producing no capital had something to do with it, as well. Similarly, graphic designer Andrew Stafford faced threats by the estate of Marcel Duchamp after he had developed a nonproprietary, educational resource exhibiting the artist's work (understandingDuchamp.com). Stafford's case is perhaps even more egregious: the idea that the creator of the *readymade* would endorse such a limited view of copyright law is virtually unthinkable. Had representatives of the J. L. Mott Iron Works Company made similar legal threats to organizers of the Society of Independents back in 1917, Duchamp's *Fountain* might never have inspired the extensive use of appropriation in twentieth-century art.

It may be argued that the crisis in copyright law is not so severe. After all, peer-to-peer networks, parodic mashups, fan fiction, and resources like UbuWeb continue to flourish on the Web. Others will parry with talk of anticircumvention protections, digital surveillance and the erosion of online privacy, consumption restrictions (particularly on university

campuses), and the like. Lawrence Lessig proclaims that we are in the throes of a “copyright war,” the consequences of which are not yet entirely certain.¹⁴ While the polemics abound, it is unmistakably clear that copyright law increasingly ignores the boundaries between capital and *non-commercial* cultural practices, inciting numerous legal scholars to warn that “in the absence of a vigorous public domain, much of [our culture] would be illegal.”¹⁵

To this end, the broader picture is much more telling than any one example. Although a detailed history of copyright law is well beyond the scope of this study, a quick assessment of all major reforms enacted by Congress over the past 220 years should make the point succinctly:¹⁶

- 1790: The U.S. Constitution sets a fourteen-year term of copyright, with a possible one-term renewal.
- 1831: The term is extended to twenty-eight years, with a possible fourteen-year term of renewal.
- 1909: The term of renewal is extended to twenty-eight years.
- 1976: All works created after 1978 are subject to the Copyright Act of 1976. The term of protection now covers the life of the author plus an additional fifty years (seventy-five years for works for hire).
- 1995: “The Report of the Working Group on Intellectual Property Rights” (commonly known as the White Paper) establishes the blueprint for digital copyright.
- 1998: The Sonny Bono Copyright Term Extension Act extends the term by an additional twenty years to a term of seventy years past the death of the author (ninety-five years for works for hire).
- 1996/1998: The World International Property Organization (WIPO) holds a conference in 1996 to discuss the implementation of a global copyright standard. The WIPO treaty lays the groundwork for the Digital Millennium Copyright Act of 1998.

A cursory glance at this list reveals a rapid acceleration of term extensions beginning in the 1970s. The Copyright Act of 1976 was implemented to benefit authors’ next of kin; in 1998, the Copyright Term Extension Act was added to harmonize the standard term of protection enjoyed by authors in Europe. Or at least this was the stated rationale, as the U.S. government and WIPO sought to coordinate a global copyright standard.

When U.S. law required renewal after a term of twenty-eight years, only about 15 percent of copyright holders elected to do so; this meant that roughly 85 percent of culture entered the public domain after a twenty-eight-year term. By eliminating mandatory term renewals, eminent legal scholar James Boyle surmises that as much as 95 percent of twentieth-century culture (books, pictures, films, and music) “is still under copyright . . . but unavailable. Much of this, in other words, is lost culture.”¹⁷ Notably, the aforementioned list includes only major changes to the copyright term of protection; Congress saw it fit to extend the term no less than eleven times over the past forty-five years.

During the 1990s, American lawmakers quickly sought to establish a new digital property-rights policy: first came a document issued by the Clinton administration in 1995 entitled “Intellectual Property and the National Information Infrastructure” and then the Digital Millennium Copyright Act (DMCA) in 1998.¹⁸ Among the most contentious changes to the copyright system, the DMCA includes a provision allowing corporations to set the terms for access and use of a work,¹⁹ while the push to coordinate a global standard shifts decision-making power from elected governments to unelected global institutions like WIPO—which, in turn, serve the most powerful nations and their economic interests. Despite its shortcomings, the American copyright system previously included the input of the judicial system, publishers, writers, and librarians. In their influential paper “Unintended Consequences: Ten Years under the DMCA,” members of the Electronic Frontier Foundation (EFF) provide numerous examples in which the DMCA has been used by software companies to halt or chill scientific research on security vulnerabilities in their products and to “copy protect” digital media that curtail fair-use activities. The rapid growth of the Internet surely prompted the DMCA, while the popularization of file-sharing software initiated a frenzy of lobbyists courting lawmakers on behalf of conglomerates like the Recording Industry Association of America (RIAA), the Motion Picture Association of America (MPAA), and the Artists Rights Society (ARS).

In view of this unprecedented expansion of copyright during the late-twentieth century, it is significant that none of these changes reflect its original purpose. The framers of the U.S. Constitution did not conceive of copyright as a property right at all, regarding it instead as an incentive for innovation. Echoing Thomas Jefferson’s claim that an idea is the “possession of everyone,” Justice Louis Brandeis would write in 1918, “that noblest of human productions—knowledge, truths ascertained, conceptions and ideas—become after voluntary communication to others, free as the air to common use.”²⁰ Siva Vaidhyanathan rightly argues that the

temporary monopoly afforded to authors was not considered a natural, inalienable right akin to the right to life or liberty, but instead a *policy* balancing several interests. A modest term of authorial protection was granted amid an assemblage of other policies and stipulations: for instance, that a work enter the public domain after its term of protection ends; the provision of *fair use*, which allows journalists, students, artists, and academics to report, study, parody, and critique published materials; and that copyright is limited to the expression of an idea (that is, the author enjoys a *temporary* monopoly on the *expression* of an idea, and not the idea itself).²¹ In this sense, the nexus of considerations contained within copyright law seeks to represent the aims of readers, authors, and publishers. As a *state granted* privilege to encourage innovation, copyright was ultimately conceived to benefit the public.

Many literary critics observe the interwoven history of Romantic concepts of authorship and the nascent formation of the copyright system in the West. Echoing Roland Barthes and Michel Foucault's foundational studies, Martha Woodmansee and Peter Jaszi argue that the notion of an author as the sole creator of a work is a fairly recent formation, "informed by the Romantic belief that long and intense legal protection is the due of creative genius."²² Samuel Johnson's claim in the "Life of Milton" (1779) that "original invention" is "the highest praise of genius" came on the heels of fierce legal battles over the status of literary property.²³ Years later in 1837, William Wordsworth lobbied enthusiastically on behalf of his friend Thomas Noon Talfourd, who introduced a bill in British Parliament proposing a copyright extension spanning the author's lifetime plus sixty years. It is important, however, that eighteenth-century lawmakers in England did not endorse Talfourd and Wordsworth's view. The framers of British copyright, much like their American counterparts, were principally concerned with monopolization in the book industry and the damaging consequences this could have on the advancement of public learning. In fact, the Statute of Anne (1709), which first introduced the policy of limited-term protection, explicitly states this mandate in its extended title: "An Act for the Encouragement of Learning, by vesting the Copies of Printed Books in the Authors or purchasers of such Copies, during the Times therein mentioned."²⁴ What commenced in the decades after the statute came into force is typically referred to as the "battle of the booksellers," in which proponents of perpetual copyright repeatedly sought either to repeal the Statute of Anne altogether or, failing that, to greatly extend the limited term of protection it granted.²⁵ Despite the efforts of a small group of powerful booksellers in London, eighteenth-century lawmakers routinely thwarted these attempts, maintaining that

a copyright system should acknowledge the rights of authors and publishers, encourage innovation while discouraging monopolization, and advance learning by ensuring public access to information. And much like in the American context, over the next two centuries, extensions to the limited term of protection, expansion of the cultural materials covered under copyright schemes, along with efforts to coordinate a global standard have undermined a simple, yet effective, system of regulation.²⁶

The doctrine of originality indeed became orthodox in English culture at roughly the same time the copyright system took shape, but it would be flatly wrong to read Romantic aesthetics as a wholesale endorsement of possessive individualism. After all, we should inquire, which Romanticism? Wordsworth's "egotistical sublime"? Keats's "negative capability"? If the solitary self of lyric expression is the object of disdain, then contemporary critics might have championed Shelley's conception of poems as "episodes to that great poem, which all poets, like the co-operating thoughts of one great mind, have built up since the beginning of the world."²⁷ And what about William Blake's "diabolical" reading of the Bible in *The Marriage of Heaven and Hell* (ca. 1790)—might this be a precursor to the situationist *détournement*?²⁸ One need not belabor the point, but while Johnson indeed pronounces "original invention" the exulted gift of the author, he never supported a perpetual copyright on literary works. On the contrary, he claims "perpetual and exclusive [literary] property" to be "injurious or inconvenient to society." Any reward granted to authors must therefore be weighed against "loss to the publick."²⁹

Two observations clarify the present situation: First, cultural conglomerates in music- and book-publishing industries continue to promote a banal and misguided version of Romantic genius when characterizing themselves as the dutiful protectors of authors' rights; yet, any argument challenging the so-called Romantic model of authorship is made all the more poignant if one considers that many of the Romantics would have also found it a gross misrepresentation of creative process. Not only do present-day proponents of copyright expansion present a convoluted picture of twentieth-century cultural production, they also engage in a highly selective analysis of the eighteenth-century debates framing the current system. Second, our understanding of cultural production is equally influenced by contemporary socioeconomic developments. The post-World War II era marks the beginning of a logic variously dubbed late-capitalist, post-Fordist, and postindustrial. Its chief characteristic is a shift from industrial to information economies and thus the rise of "immaterial labor—that is, labor that produces an immaterial good, such as a service, a cultural product, knowledge, or communication."³⁰ Those in

control of these “goods” continue to call for expanded government protections and legal legitimation of immaterial property. Hence, what we now bear witness to is a radical fusion of *one* Romantic notion of creativity that mythologizes individual genius (among many competing eighteenth-century aesthetic discourses) and an emergent economy whose signature trait is the commodification of knowledge. It is the *convergence* of these ideologies that sanctions a twenty-first-century writer like Mark Helprin to revive the arguments of eighteenth-century booksellers in claiming entitlement to a perpetual copyright on his work.³¹

The consequences of these rapid changes to the juridical status of cultural works and the institutional measures taken to police their distribution are, in some cases, yet to be determined, but there is little doubt these changes will constitute one of the most important challenges for twenty-first-century artists. Yet, if the centrality of immaterial labor in advanced economies relies increasingly on complex social networks made available by digital technologies, then it is this same mode of production that threatens to demystify individual creativity and to expand nonproprietary forms of knowledge production. If such networks reveal anything about the laboring activities of scientists, technologists, protest movements, or, indeed, even poets, it is that creativity demands appropriation, collaboration, and community.

Learning from Programmers: Building Open Source Networks

Advocates of the free software and open source movements have proposed creative alternatives to the proprietary models controlling their industry. Richard Stallman founded the Free Software Foundation in 1983, after developing a nonproprietary operating system called GNU. Stallman had been working at MIT’s Artificial Intelligence Lab (AIL), and for most of the 1970s and 80s, MIT’s AIL and comparable organizations like AT&T’s Unix operating system initiative promoted a policy of shared source code. This practice came to a halt when the popularization of the personal computer led to rapid commercialization of the software industry. Stallman warned that the commercialization of technological research would hamper innovation; he argued that sophisticated software required multiple programmers employing a cooperative model of free exchange—that, in fact, a model based on shared resources was superior to proprietary ones.

One such programmer to build upon Stallman’s innovations was Linus Torvalds. A teenager studying at the University of Helsinki, he began work in the late-1980s on the fundamental components for what would

become the Linux operating system. Torvalds quickly understood the value of interoperability, making his designs compatible with Stallman's GNU components. Moreover, by choosing to release his then-fledgling operating system under Stallman's GNU General Public License (GPL), he allowed a dispersed and decentralized community of open source programmers to adapt, improve, and expand his system. Members of the free software movement had pioneered a voluntary, collaborative, and decentralized model of peer production alongside a market-based model that had viewed itself as the only functional alternative. But what is most remarkable about the free software model is its effectiveness: for instance, about 70 percent of all Web-server software runs on the open source Apache server, while the program Sendmail routes approximately 80 percent of all e-mail traffic. Websites like google.com and cnn.com run their servers on the GNU–Linux operating server, not because they subscribe to the open source movement's political mandate, but because it works well.³²

Based on the work of the Free Software Foundation, Stallman outlined a list of freedoms comprising the GNU philosophy:

1. The freedom to run the program, for any purpose.
2. The freedom to study how the program works, and change it to make it do what you wish. Access to the source code is a precondition for this.
3. The freedom to redistribute copies so you can help your neighbor.
4. The freedom to improve the program, and release your improvements (and modified versions in general) to the public, so that the whole community benefits. Access to the source code is a precondition for this.³³

Stallman declares emphatically that by *freedom* he means “liberty, not price . . . free as in free speech, not as in free beer.” The issue here is not with selling copies, but rather the permissible use and modification of source code. Yet, Stallman also realized that free distribution of source code was not enough. Since others could modify his code for use in proprietary software, his code could be subject to subsequent copyright restrictions. To address this concern, he developed the GNU GPL (also cleverly known as *copyleft*). The central provision of the GPL allows users of a program to freely appropriate, modify, and distribute GNU-protected code, with the caveat that users must also make the code freely available to others under the same licensing scheme. The result of GNU has been enormous.

Lawrence Lessig rightly proclaims that Stallman found a way to “rebuild a kind of freedom that was taken for granted before.”³⁴ GNU became the kernel for Lessig’s own Creative Commons (CC), a licensing scheme with comparable attributes (although there are crucial differences: CC licenses effectively allow creators to choose among a range of stipulations and freedoms the licensee wishes to impose³⁵). The GPL has two important consequences: first, recalling the initial objectives of copyright back in 1790, Stallman sought a mode of production and regulatory system that would encourage innovation; second, he recognized the collaborative nature of all cultural production. The framers of the U.S. Constitution would appreciate the first of these insights, while an avant-garde poet like Dworkin would no doubt applaud the second.

To this point, I have been using *free software* and *open source* interchangeably, but these are not synonymous terms. Chris Peterson coined the latter term in 1998 at a summit meeting in Palo Alto, California, attended by several computer gurus who sought to convince corporate concerns that adopting open source/free software standards was in their best interest. Open source apparently became the preferred nomenclature because it lacked the highly politicized language of Stallman’s manifestos.³⁶ But then, the term *free* poses problems, as well. Stallman himself felt the word needed obligatory qualification: “free speech,” not “free beer.” In *Free Culture*, the seductively eloquent Lessig cites Stallman’s cautionary distinction (as do many others in the free software, copyleft, and open source communities), yet it is the adjoining clause in Lessig’s sentence that is most telling: “‘free’ as in ‘free speech,’ ‘free markets,’ ‘free trade,’ ‘free enterprise,’ ‘free will,’ and ‘free elections.’”³⁷ Lessig’s project is firmly couched within neoliberal discourse, in which the free appropriation of a cultural past is a necessary arrangement only insofar as it bolsters a functional market economy. The same definition of freedom applies whether one is talking of politics, economics, or the status of the subject. To be fair, Lessig has done more than virtually anyone to organize opposition to U.S. intellectual property policy, but one wonders whether he fully understands Stallman’s distinction between political and consumer freedoms.³⁸ Indeed, among the most sought-after commodities mass-produced during the second half of the twentieth century was and still is the self-defined, rational, free individual; however paradoxical, we have most forcefully internalized this mass-marketed idea of a “self” impervious to external ideological forces. There is something in the term *free culture* that perpetuates a Western infatuation with the infinitely abundant, cost-less, and thus guilt-free consumption of cultural resources. Certainly such claims are found frequently wherever digital networks are mentioned.³⁹ A term

like *open source* may carry less terminological baggage, but, more importantly, it should name a radically egalitarian and collectively managed information and cultural commons.

Over the past several years, experimental writers have formed comparable organizations, applying open source principles to anthological, distributive, and compositional practices. Poets like Goldsmith, Dworkin, Wershler-Henry, and Shirinyan work with groups whose task it is to defend practices of appropriation from intellectual property regimes. The Poetic Research Bureau (PRB), for instance, is a library and theater space located in northeast Los Angeles, acting as a center for Shirinyan's House of Concept & Constraint, Make Now Press, the poetry journal *The Germ*, and the art-lit magazine *Area Sneaks*. The PRB explicitly promotes "composition, publication, and distribution strategies that *enlarge the public domain*." To this end, its editors and contributors favor "appropriations, impersonations, 'compost' poetics, . . . 'unoriginal' literature, historical thefts and pastiche." The editor of Information as Material (IAM), Simon Morris, makes comparable claims, albeit more cryptically: "[IAM] was established . . . to publish work by artists who use extant material, selecting it and reframing it to generate new meanings, and who, in doing so, disrupt the existing order of things." Kenneth Goldsmith insists that UbuWeb functions as something more than a storehouse for the avant-garde, conceiving of it as a space and a resource created by and for a community committed to accessible information and knowledge.⁴⁰ Similar organizations are forming in other cultural arenas: the Organization for Transformative Works (OTW), for example, was created to recognize, define, and legitimate fan fiction and other transformative practices.⁴¹ Significantly, discussions of appropriative art and writing rarely mention these activities, yet it is within these politicized contexts that twenty-first-century appropriative writing is conceived and developed.

Consider the example of UbuWeb. Political action may have been the farthest thing from Kenneth Goldsmith's mind when he first launched the site in 1996 as an online collection of concrete, visual, and sound poetry. Although the Web's mid-1990s design and networking possibilities may look archaic by today's standards, Goldsmith immediately recognized its potential for presenting visual poetics: "There was something formally astonishing about the way that the computer screen and concrete poetry seemed to work naturally together."⁴² The site has since expanded its focus on poetry, becoming one of the English-speaking world's largest online storehouses of avant-garde writing, film, music, and art ephemera, but its mandate has remained consistent: to publish out-of-print and obscure avant-garde works, and to make these materials available to anyone

with computer access.⁴³ Despite the many advances in programming since the creation of UbuWeb, the site features a relatively modest interface design, avoiding three-dimensional modeling and other decorative digital features. In fact, rather than explore the kinetic possibilities made available by software programs like Flash (a direction consistent with his early interest in the Web as a medium for concrete poetry), Goldsmith and his collaborators would become increasingly more interested in the Web's potential as a technology allowing for "radical forms of distribution."⁴⁴ To secure contracts and permissions for a comprehensive anthology or exhibition is often beyond the administrative and fiscal resources of major museums and commercial presses. Goldsmith's method is far simpler, if more controversial: display all out-of-print material without request and encourage others to appropriate from the collection without need of permission. UbuWeb does not advertise, nor does it collect subscription fees or restrict use. Like-minded nonprofit organizations such as WFMU radio station, ArtMob, PennSound, and SoundEye variously provide media hosting and archiving, audio streaming, programming assistance and content, and the site is mounted by using as many open source formats as possible.⁴⁵ Moreover, nor is participation in this model obligatory for authors and/or their estates: any demand that an artifact be removed from the site is met with immediate compliance, but no work by that artist will be included on the site again. Like Stallman's GNU freedoms, Goldsmith's ultimatum is actually a declaration of collective responsibility: the only precondition for appropriating culture is the permissible appropriation of one's own. What began under Goldsmith's direction as a relatively modest collection of concrete and sound poetry grew into a decidedly more collaborative endeavor involving numerous guest curators, a Listserv, and special projects, as well as the inclusion of podcasts and a twenty-four-hour radio stream. The site enlists the talents of editors, programmers, translators, and administrators. Like the open source movement, UbuWeb sought to build a "cooperative site" in which "community is localized and specific, working on a more horizontal axis rather than the vertical canon-building that we're used to."⁴⁶

One should be cautious about the utopian mandate insinuated here. Goldsmith and Bök both celebrate UbuWeb as a "utopian" gift economy of texts installed and dispersed "for free, with no user gaining exclusive ownership over the benefits from such exchange."⁴⁷ Although no monetary capital changes hands, social capital certainly does. The success of UbuWeb creates a forum for Goldsmith's creative work; it has also led to guest appearances at prestigious institutions like the Whitney Museum, as well as teaching opportunities at the University of Pennsylvania. Further,

UbuWeb hardly permits the volunteer-based open-editing model of *Wikipedia*; instead, a small group of individuals comprised mainly of poets, archivists, and academics exert full editorial control over the site, while lateral organization among its members operates within this social sphere. Finally, while the site functions with full editorial independence, it is certainly not free of material cost. UbuWeb relies on state funding indirectly via the organizations that support it. ArtMob, for instance, receives government funding, while PennSound depends on university resources.⁴⁸ Such funding is necessary to maintain the site's substantial content and bandwidth requirements. Of course, this is not to dismiss the ideals of an open source culture, but if one aspires to use terms like free culture and gift economies, then one must also recognize that such concepts and practices are bound by finite resources and geopolitical systems of control. UbuWeb is shaped by and responds to the spheres of power in which its members navigate. The group must negotiate monetary and institutional constraints while depending on makeshift creativity to wage its challenge to intellectual property policies seeking to centralize and police the right to distribute culture. Ultimately, its principle goal is a valid one in step with copyright's original purpose: to defend at the very least noncommercial and pedagogical forms of shared knowledge.

To this end, like open source programmers, the poets and artists affiliated with UbuWeb, IAM, and PRB possess what Michel Foucault calls "erudite" skills designed to liberate knowledge from marginalized positions of obscurity or institutional restriction.⁴⁹ What is perhaps less immediately clear is the relationship of these political activities to aesthetic practice. Yet, the principles of open distribution networks and communal forms of knowledge production also constitute the central premise of an open source artistry based on appropriation, shared culture, and collaboration. "Distribution," as Goldsmith remarks, is the "new *artistic* paradigm." The challenge for twenty-first-century writers is how to create aesthetic objects that problematize, baffle, and defy the enclosures of intellectual property regimes.

Toward an Open Source Poetics

The Internet—unsurprisingly—has had much to do with the prevalence of appropriative writing over the past decade. The ease with which network technologies can be used to circulate information via file sharing has expanded the possibilities of an open source aesthetics. "The role of the innovative writer has changed," Goldsmith claims: "Replicating,

organizing, mirroring, archiving, hoarding, storing, reprinting, bootlegging, plundering, and transferring” replace originality as the hallmark of the artist’s gift. Christian Bök advocates a similar aesthetic approach, conceptualizing the poem as a “jerryrigging contraption that fuse[s] old parts with new ideas, coalescing them syncretically into a contradictory set of unpredictable regenerations.” He continues, “Poets may have to become advanced typesetters and computer programmers—technicians, polyglot in a variety of machinic dialects: HTML and Quark, PERL and Flash.”⁵⁰ Terms such as plundering, repurposing, and splicing, for instance, are often used interchangeably to describe techniques of appropriation, yet divergent political, ecological, and technological models inform these practices. If plundering evokes the pirate’s blatant disregard for material property, a concept like repurposing signals an environmental model of conservation and reuse applied to cultural domains, while splicing suggests the manipulation of genetic materials in the field of biotechnology. Furthermore, how do these experiments speak to feminist acts of “re-visioning” and *écriture féminine*, or postcolonial practices of mimicry, signifyin(g), and creolization? While an expansive study of open source culture should pursue all of these modes of inquiry, in this largely preliminary analysis, let it suffice that appropriative tactics generate their cultural meanings and political value when understood in relation to the activist projects that frame and enable them. With these concerns in mind, consider briefly Kenneth Goldsmith’s copied books, Darren Wershler-Henry’s gifted texts, and Rachel Zolf’s use of multiauthorship as institutional critique.

Goldsmith’s appropriated books constitute limit cases in copying as a viable aesthetic activity.⁵¹ For instance, *No. 111 2.7.93–10.20.96* (1997) collects phrases encountered by the artist between 7 February 1993 and 20 October 1996 that end in an “r” rhyme or “schwa” sound, organized into alphabetized chapters according to the number of syllables in each entry. In *Soliloquy* (2001), the author transcribes every word he uttered during a single week on a hidden tape recorder. *Day* (2003) is a retyping of an issue of the *New York Times* in its entirety. Goldsmith recalls having seen a cartoon in which a man claims to have downloaded a large quantity of megabytes as part of a physically exhausting day of labor. The question posed: “[Does] the simple act of moving information from one place to another today constitute a significant cultural act in and of itself?” Echoing conceptual artist Douglas Huebler’s famous assertion that the “world is full of objects” and “I do not wish to add any more,” Goldsmith insists that the task of contemporary poets is not to produce more text but rather to “negotiate the vast quantity that exists” in the world already.⁵² At no time

in human history has there been a greater abundance of readily available information; the writer, seeing no need to add more, transforms herself into an information manager. Musing that whereas he had first considered himself an artist, then a poet, and later a writer, he now simply refers to himself as a “word processor.”

Christian Bök maintains that in such works of “word processing or data management[,] . . . words become disposable pollutants in a milieu of urban ennui.”⁵³ To be sure, Goldsmith’s massive list poem cull phrases from the Internet, literary sources, the noise of quotidian spaces, and advertising landscapes, charting a vast linguistic consortium of late capitalist discourse. Moreover, a work like *No. III*’s heuristic procedure and organization of found text by syllable count means that language *accumulates*. Guttural sounds slowly materialize into coherent clauses, elaborate sentences and, finally, a story in its entirety (D. H. Lawrence’s “The Rocking Horse Winner”). It is not simply that Goldsmith’s method of appropriation refuses the “solitary genius” model of authorship; instead, it provides an alternative account of narrative construction, cleverly disclosing the communal assemblage of all narrative, as one witnesses in slow motion the methodically collaborative storytelling of a culture.

In comparison, Darren Wershler-Henry’s *the tapeworm foundry: andor the dangerous prevalence of imagination* (2000) has been variously dubbed a “book of recipes,” a “series of performance commands,” and “a commonplace book,” echoing the instructional works of conceptualism and the how-to manuals of practical trades.⁵⁴ Comprised of a book-length run-on sentence, Wershler-Henry’s poem collects every possible project conceived by the author over several years. The text collates no less than 250 proposals for literary and artistic works, encouraging the reader to appropriate, modify, and execute any number of them she wishes. In this sense, the text might also be thought of as a *commons-based* poem deliberately encouraging an infinite network of peer production. The poem begins,

or jetsam in the laminar flow andor find the threads in red-hats andor litter a keyboard with milletseed so that exotic songbirds might tap out their odes to a nightingale andor transcribe the letters pressed onto the platen when stalactites drip on the homerow key andor reconstruct the ruins of a bombedout capital i andor reinvent the canonic works of western art as a series of roadsign glyphs andor commission an artist to paint the large ass of marcel duchamp andor use a dotmatrix printer to sound out a poem in which each line is a series of pauses whose length is determined by

formatting codes and then record the squeal and lurch of the printhead moving across the paper and then replay the noise and then have it transcribed as chamber music for cello or voice. . . .⁵⁵

Each potential realization is conjoined by Wershler-Henry's clever neologistic conjunction, "andor," aptly described by Michael Turner "to suggest a variable state of inclusion and . . . exclusion."⁵⁶ The compound conflates two typically juxtaposed linguistic operations: combination and selection (and is likely also a playful allusion to Boolean algebra).⁵⁷ The passage evokes both the parasitic and communal construction of art promised by the poem's title: "reinvent[ing] the canonical works," "commission[ing] an artist to paint" or "songbirds" to "tap out their odes," remediating the sound of a "dotmatrix" printer as "chamber music for cello or voice." Wershler-Henry's reference to Duchamp signals a rich history of found art, but here the gesture is elegantly reversed: rather than appropriate from the world of things to construct an art object, *the tapeworm foundry* is an archive inviting readers to appropriate from it. UbuWeb's "radical forms of distribution" are here Wershler-Henry's compositional practice, as the text becomes a resource that generates a network of art objects and a community of cocreators.

Rachel Zolf's work affords a final example of found text and collaborative writing. Take, for example, *The Tolerance Project* (June 2009 through May 2011). Zolf solicited approximately eighty-five texts from a transnational consortium of poets, artists, and intellectuals to be used in a "collaborative MFA in Creative Writing" at the New School in New York. The identities of Zolf's collaborators were not revealed until completion of the project, but, perhaps unsurprisingly, conceptual and flarf writers featured prominently, with submissions by Christian Bök, Rob Fitterman, Bill Kennedy, Nada Gordon, K. Silem Mohammad, Jena Osman, Vanessa Place, and Darren Wershler, among others. Restricting herself to the donated "pieces of poetic DNA" for all course assignments, poems are then immediately posted to a blog so that class members and the general public may provide constructive criticism throughout the process.⁵⁸ The author, acting on feedback afforded by readers inside *and* outside the institution, then revised and prepared the final thesis. The project's title, however, hints at another motivation for the project. Zolf is herself a well-established writer with several well-received collections to her credit. Her domestic partner had accepted a job in New York City in 2009. Despite her political aversion to the institution of marriage, Zolf had entertained the notion if it meant the Canadian-born poet could enter

the United States on a spousal visa. Because federal immigration law does not recognize same-sex unions, the only recourse she had was to enter the country as a student. (New York would not legalize same-sex marriage until July 2011.) Hence, the work brings together two seemingly disparate concerns: the U.S. government's intolerance of sexual difference and the MFA's intolerance for alternative forms of creativity. The project thus performs a critique of originality, authorship, the MFA program's role in policing poetic practice, and the university as a commodifying institution.

References to DNA material layer the work's political undertones. Just as recent genetic research has helped to refute ideologies of ethnic purity by disclosing the radical diversity of any ethnic community,⁵⁹ *The Tolerance Project* denies the possibility of a *pure* utterance separate from a community of language users/producers by foregrounding the heterogeneous source codes of all literary texts. Although the author is positioned as the consummate Barthean "scriptor,"⁶⁰ weaving rather than author-ing language, Zolf's method of composition problematizes authorship not by erasing the originator of texts but by *communal-izing* literary production. Such a tactic not only rejects the efficacy of conventional authorial paradigms sanctioned and reproduced by the MFA workshop, it also foregrounds a productive alternative that enacts the bazaarlike collective creativity of open source formats, whereby the source texts function as an artistic commons developed by a community of writers, editors, and commentators who contribute to its realization. Such institutional critiques are much more commonplace in the art world (in fact, Zolf makes frequent mention of conceptual artist Andrea Fraser, who videotaped herself having sex with a collector for \$20,000 and dutifully displayed the tape in an art gallery).⁶¹ Although one finds numerous tracts and manifestos debating the institutionalization and commodification of literature, there are comparatively fewer literary works that perform this type of cultural critique as a form of compositional practice.

If Goldsmith's copied books, Wershler-Henry's reservoir of gifted texts, and Zolf's institutional critique indicate the insufficiency of concepts like theft and piracy to address the heterogeneity of appropriative strategies and the political contexts within which these practices are situated, then a common project nonetheless unites these texts: namely, a commitment to communal forms of knowledge production and an expansion of the public domain. I will return to the concept of the *commons* momentarily, but it might be said, in view of these poetic texts, that a defense of the cultural commons begins with a practice of writing that foregrounds the communal construction of artistic artifacts, disturbing the boundaries we assign to the private and the public, the owned and the shared, the closed

and the open. The political activities aligning groups like UbuWeb, IAM, and PRB with those of open source and copyleft communities are most certainly also an extension of a body of practices in which the poem itself manifests and enacts the principles of a commons-based culture. To call a poetic text “commons based” signals its participation within a larger ensemble of discourses, events, and actions undertaken to protect public culture from proprietary enclosure. Appropriative texts challenge their readers to ask, how do we define the public domain, why should we protect it, and how might we expand it?

Defending the Cultural Commons: The Avant-Garde and Information Activism

I have so far claimed that practices of appropriation and distributed creativity in recent poetry are part of a broader movement to enlarge and protect a public cultural commons. The term *commons* can refer to natural resources, public spaces, transportation, social institutions, information and research, government infrastructure, and network technologies.⁶² Thus, the commons contains material assets (e.g., parks, forests, water), intangible resources (e.g., the public domain, government research), and virtual environments (e.g., public radio, the Internet).⁶³ A motley array of resources and public spheres converge within its signifying power and receive its protection from collective, democratic control. The radical market exploitation of the commons in recent decades has muddled distinctions between private and public realms of ownership (and since so many of the spaces in which subjects interact are now devoted to consumer practices, there is also a comparable muddling of our roles as citizens and consumers). Yet, wherever the word *private* appears, the word *public* invariably follows, so that government regulation becomes the only antidote to privatization. There is, in fact, a constructive role for the state to play in funding nonmarket research and culture, but this role is best restricted to the creation of institutional spaces in which autonomous and cooperative intellectual and cultural work can take place. UbuWeb, for instance, receives funding from nonprofit institutions, some of which are public universities, but the site remains a self-organized and decentralized network of editors, contributors, and users.

Moreover, there has been little discussion of the public domain outside the disciplines of law and economics. Jessica Litman observes that, in the legal field, public domain works are often referred to as “*unprotectable* or *uncopyrightable*”; not only does this account of the public domain ignore

its central role in subsequent literary production, it seems also to confer a peculiar nonstatus on any noncommercial object.⁶⁴ We are led to conclude that an object not defined by property lacks proper existence. Since we lack a precise language to describe the commons, it has by default come to denote the residue of property. Responding to this challenge, James Boyle calls for a twenty-first-century information movement akin to the formation of the environmental movement during the 1960s.⁶⁵ For this to take place, however, scholars like Boyle and Litman contend that a reinvigorated language of the commons is a necessary precondition if one hopes to mobilize communities to protect it.

The cultural activities of open source programmers and literary organizations like the PRB, UbuWeb, and the OTW afford both a theoretical and practical point of departure. Beyond the already multifarious range of meanings we give to the commons, from at least the fourteenth century onward, the term also affords a synonym for community (*L. communis*).⁶⁶ Digital networks create countless possibilities for storing, distributing, and sharing cultural resources. These are the principles upon which networked collectives such as UbuWeb establish affiliations, codevelop their ideas, and present their work. Hence, UbuWeb functions both as a site of shared resources and as a site of community formation, and should be thought of and defended as such. Parks, squares, campuses, recreation centers, and social networking sites historically function as spaces in which communities form and mobilize as political subjects. One must apply this same logic to the public domain.

Next, we should conceive of the commons as a *practice*—and thus inject a logic of the commons into the fabric of our thoughts and actions. Again, both open source code sharing and UbuWeb's commons-based poetics are instructive. Theories of authorship often mystify creativity by concealing the collective production of culture and its reliance on past traditions. Critiques of individual creativity appear all the more convincing with reference to contemporary poets, musicians, and authors whose challenge to proprietary definitions of authorship is the very hallmark of their practice. Not only do the poets I discuss create public settings for collective experimentation, they encode a nonproprietary and collaborative logic into the cultural artifacts they produce.

Many of the legal scholars I cite throughout this essay offer practical solutions for copyright reform, including the deregulation of so-called amateur creativity, a royalty or blanket licensing procedure that would decriminalize file sharing, an "opt in" system of copyright protection, and a simplification of the law. Lessig's Creative Commons may be a compromised version of Stallman's utopian vision, but it would undoubtedly

produce better policy than the current system allows. I support these policy changes. Yet, even among those who scoff at calls for the abolition of the property system, one might complain more modestly that critiques of copyright are couched almost exclusively within a liberal-constitutional framework, taking for granted an unproblematic yoking of freedom and property rights. It is disturbing how often legal scholars seem compelled to distance themselves from the anticipated accusations of such predictable labels: “socialist,” “Marxist,” and “anarchist.”⁶⁷ Scholars of copyright and the commons frequently remind their readers that a robust public domain can symbiotically coexist with competitive markets: that is, a healthy public domain constitutes the basic resources needed to reinvigorate market economies. Although this line of reasoning criticizes the current copyright system, it stops short of any serious critique of capitalist accumulation; in fact, quite the opposite, one learns that the economy needs the commons to be functional. No doubt the technological and cultural activities I describe in this study challenge *and* rely, to varying degrees, on the enclosures of capital. As Michel de Certeau concisely asserts, we “make do”: the “clandestine forms taken by the dispersed, tactical, and makeshift creativity of groups” organize and formulate inside “nets of discipline.”⁶⁸ The question is one of recognizing those practices that better enable a more democratic future. Open source technologies and commons-based artistic communities teach us that, in order to achieve egalitarian access to information and culture, the objective should not merely be to preserve but instead to *expand* the commons.

To this end, the role of the avant-garde in the twenty-first-century is finding renewed purpose. The militaristic origin of the term avant-garde is well known. Renate Poggioli, responding to the legacies of futurism, imagism, and vorticism, argues that the formation of an avant-garde is essentially agonistic: the movement is defined “*against* something or someone”—and typically the academy or the general public. Although agonism appears within Greek, Christian, and Romantic traditions, “avant-garde agonism” refers to a radical form of opposition, a paradoxical affirmation of “self-sacrifice” by a “collective group” on behalf of the principles it advances.⁶⁹ This now canonical definition of modernist experimental practice overshadows the intensely social projects of community building undertaken by artistic communities throughout the twentieth and twenty-first centuries. It is this social imperative that gives direction to contemporary practice. The role of artistic and literary collectives today need *not* jettison agonism as such, but rather its sometimes elitist, chauvinistic, fascistic, and eschatological associations. The responsibility of the avant-garde will instead require an activist obligation to

create and fortify public domains of open source knowledge, to challenge excessive restrictions placed on language and information, to bring forth marginalized knowledges from a position of inaccessibility to the public at large, and to produce *and share* artistic tactics and works that challenge intellectual property. That which is at stake is nothing less than open accessibility to culture. Hence, writers and artists are becoming more collaborative and interdisciplinary, drawing on the general and specialized skills of archivists, programmers, academics, and community organizers. Recalling the syncretic logic of Wershler-Henry's *the tapeworm foundry*, this form of political organization is recognizable in the formal politics of the poem: literary communities begin to participate in the struggle for the commons by advancing an open source artistry as the central axiom of their practice by insisting that the signifying codes that one develops belong to a community that shares, adapts, and transforms its many possible uses.

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NOTES

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1. Mark Getty, "Blood and Oil," *Economist*, 2 March 2000, 68, available at www.economist.com/node/288515. The phrase also appears in Michalis Pichler's "Statements on Appropriation." The manifesto contains the following explanatory note:

On 11 December 2009 six one sentence statements originated by the "artist/author" for the purpose of this piece were mixed, in a container, with eighteen one sentence quotes taken from various other sources; each sentence was printed onto a separate piece of paper. Eighteen statements were drawn by "blind" selection and, in the exact order of their selection, join altogether to form the "statements on appropriation," for the presentation at Stichting Perdu, Amsterdam.

The full text is available at UbuWeb, www.ubu.com/papers/pichler_appropriation.html.

2. Leevi Lehto, "Interview with Kenneth Goldsmith: Nude Media, or Benjamin in the Age of Ubiquitous Connectivity," *Tuli & Savu* [Fire & smoke], no. 64 (Helsinki, 2002). Goldsmith explains, "I used to be an artist, then I became a poet; then a writer. Now when asked, I simply refer to myself as a word processor" ("I look to theory only when I realize that somebody has dedicated their entire life to a question I have only fleetingly considered [a work in progress].") Both texts are available at the Electronic Poetry Center,

State University of New York at Buffalo, http://epc.buffalo.edu/authors/goldsmith/lehto_inerview.html.

3. Eric S. Raymond, *The Cathedral and the Bazaar: Musings on Linux and Open Source by an Accidental Revolutionary* (Cambridge, MA: O'Reilly, 1999), 29–30.
4. See MIT OpenCourseWare Consortium, www.ocwconsortium.org; Anonymous, *Wikipedia* entry and AnonOps Communications, <http://anonops.blogspot.com>; Ensembl [sic], www.ensembl.org; and the BioBricks Foundation, <http://bbf.openwetware.org>.
5. Michael Hardt and Antonio Negri, *Multitude: War and Democracy in the Age of Empire* (New York: Penguin Books, 2004), 340.
6. See, for example, Ara Shirinyan, *Your Country Is Great* (New York: Futurepoem, 2008); Judith Goldman, *DeathStar/Ricochet* (Hampshire, UK: O Books, 2006); Robert Fitterman, *Metropolis, 16–29* (Toronto: Coach House Books, 2002); Caroline Bergvall, *Fig*, Salt Modern Poets series (Cambridge, UK: Salt Books, 2005); Bill Kennedy and Darren Wershler-Henry, *Apostrophe: The Book* (Toronto: ECW, 2006); M. Nourbese Philip, *Zong!* Wesleyan Poetry Series (Toronto: Mercury Press, 2008); Jen Bervin, *Nets* (New York: Ugly Duckling Presse, 2003); Noah Eli Gordon, *Inbox* (Buffalo, NY: BlazeVOX Books, 2006); Juliana Spahr, *The Transformation* (Berkeley, CA: Atelos Press, 2007); Craig Dworkin, *Parse* (Berkeley, CA: Atelos Press, 2008); Kenneth Goldsmith, *Day* (New York: Figures, 2003); Simon Morris, *Re-writing Freud 4: The Interpretation of Dreams* (York, UK: Information as Material, 2005); Dan Farrell, *The Inkblot Record* (Toronto: Coach House Books, 2000); Rachel Zolf, *Neighbour Procedure* (Toronto: Coach House Books, 2010); Darren Wershler-Henry, *the tapeworm foundry: and/or the dangerous prevalence of imagination* (Toronto: House of Anansi Press, 2000); K. Silem Mohammad, *Deer Head Nation* (San Diego, CA: Tougher Disguises Press, 2003); Nada Gordon, *Folly* (New York: Roof Books, 2007); and Gary Sullivan, *PPL in a Depot* (New York: Roof Books, 2008). For a description of Christian Bök's *Xenotext Experiment* (2006–), see Stephen Voyce, "The Xenotext Experiment: An Interview with Christian Bök," *Postmodern Culture* 17, no. 2 (2007), <http://muse.jhu.edu/journals/pmc/v017/17.2voyce.html>.

For readers unfamiliar with *conceptual* and *flarf* poetics, see Kenneth Goldsmith's short and accessible piece, "Introduction to 'Flarf vs. Conceptual Writing,'" *Poetry* 194, no. 4 (2009): 315–16. This essay is also available at the Electronic Poetry Center, <http://epc.buffalo.edu/authors/goldsmith/whitney-intro.html>. See also Gary Sullivan, "My Problem with Flarf," and Michael Gottlieb, "Googling Flarf," both in *The Consequence of Innovation: 21st Century Poetics*, ed. Craig Dworkin (New York: Roof Books, 2008), 193–97, 199–203; and Vanessa Place and Robert Fitterman, *Notes on Conceptualisms* (New York: Ugly Duckling Presse, 2009). Flarf and conceptual writing share several traits: both respond to and use digital environments, both emphasize the materiality of language, and both make appropriation a central aspect of their practice. For this reason, I find the distinction somewhat overexaggerated. Nevertheless, Goldsmith offers the following useful definition:

Flarf plays Dionysus to Conceptual Writing's Apollo. Flarf uses traditional poetic . . . forms (the stanza and verse) to turn these conventions inside out. Conceptual Writing rarely "looks" like poetry and uses its own subjectivity to construct a linguistic machine that words may be poured into; it cares little for the outcome. Flarf is hilarious. Conceptual Writing is dry. Flarf is the Land O'Lakes butter Indian squaw; Conceptual Writing is the government's nutritional label on the box. Flarf is Larry Rivers. Conceptual Writing is Andy Warhol. ("Introduction to 'Flarf vs. Conceptual Writing,'" 316)

7. Examples of appropriation among early-twentieth-century modernist and avant-garde artists and writers are well documented. Notice, however, with respect to writing in

particular, the highly citational works of T. S. Eliot, H.D. (Hilda Doolittle), and Marianne Moore; the found writings and literary *readymades* of Blaise Cendrars, Mina Loy, Tristan Tzara, Marcel Duchamp, and the Baroness Elsa von Freytag-Loringhoven; and the assemblage texts of Francis Picabia and Kurt Schwitters demonstrate not only the prevalence of these activities, but the very different aesthetic projects that use appropriative techniques. In the postwar era, examples of appropriative art and literature are too numerous to mention, but once again the contexts in which one finds literary appropriation are radically diverse. For a selective list, see William Burroughs, Gregory Corso, Sinclair Beiles, and Brion Gysin, *Minutes to Go* (San Francisco: Beach Books, 1968); William Burroughs, *Dead Fingers Talk* (London: Olympia Press, 1963); Kathy Acker, *Don Quixote, which Was a Dream* (London: Paladin Press, 1986); John Cage, "Writing for the Second Time through Finnegans Wake," in *Empty Words: Writings '73-'78* (Middletown, CT: Wesleyan University Press, 1979), 133–76; Jackson Mac Low, *Words and Ends from Ez* (Bolinas, CA: Avenue B, 1989); Dick Higgins, *Classic Plays* (New York: Unpublished Editions, 1976); Denise Levertov, *To Stay Alive* (New York: New Directions, 1971); John Giorno, *The American Book of the Dead* (1964) and *Constitution of the United States* (1966), both in *Subduing Demons in America: Selected Poems, 1962–2007*, ed. Marcus Boon (Berkeley, CA: Soft Skull Press, 2008), 1–12, 26–62; Ted Berrigan, *The Sonnets*, Poets, Penguin series (New York: Groove Press, 1967); Ronald Johnson, *Radi Os* (Berkeley: Sand Dollar Press, 1977); Tom Phillips, *A Humument: A Treated Victorian Novel* (London: Thames and Hudson, 1980); and Steve McCaffery, *Carnival: The First Panel, 1967–1970* (Toronto: Coach House Books, 1973).

With respect to specific techniques cited, see Brion Gysin, "Cut-Ups: A Project for Disastrous Success," in *Back in No Time: The Brion Gysin Reader*, ed. Jason Weiss (Middletown, CT: Wesleyan University Press, 2001), 125–32. Cage and Mac Low both use the term *writing through* to describe aleatoric procedures of appropriating source texts (for descriptions of their respective methods, see Cage, *Empty Words*, and Mac Low, *Words and Ends from Ez*). For discussions of aleatoric, procedural, and constraint writing, and for a general introduction to the Oulipo Group and its influence on Anglophone writing, see Harry Matthews and Alastair Brotchie, eds., *Oulipo Compendium*, Atlas Archive series (Los Angeles: Make Now Press, 2005); and Christine Wertheim and Matias Viegner, eds., *The Nouli-pian Analects* (Los Angeles: Les Figues Press, 2007). For elaborations on the data-mining tactics of flarf and the "uncreative writing" of conceptual poetics, see the previous note.

8. Major changes to American copyright law are listed later in this essay.
9. To this end, I join with critics like Marjorie Perloff, Barrett Watten, Adalaide Morris, Jerome McGann, Johanna Drucker, and Rachel Blau DuPlessis in examining the reflexive relation between poetic texts and their social contexts. In particular, I am indebted to Watten's useful terms *constructivist aesthetics* and *cultural poetics*: "By constructivist aesthetics I mean, broadly put, the imperative in radical literature and art to foreground their formal construction; cultural poetics . . . may be minimally defined as the reflexive relation of artistic form and cultural context." He elaborates that such analysis "seeks to develop specific historical and cultural entailments of the material text as critical agency. The material text is never a thing in itself; it circulates as a form of cultural critique" (Barrett Watten, *The Constructivist Moment: From Material Text to Cultural Poetics* [Middletown, CT: Wesleyan University Press, 2003], xv, xxiv).
10. See, for example, Marjorie Perloff, "John Cage's Dublin, Lyn Hejinian's Leningrad: Poetic Cities as Cyberspaces," in *Architectures of Poetry*, ed. Craig Douglas Dworkin and María Eugenia Díaz Sánchez, Internationale Forschungen zur Allgemeinen und Vergleichenden Literaturwissenschaft, no. 79 (Amsterdam: Rodopi, 2004), 131–42; Gary Hall, "Pirate Philosophy (Version 1.0): Open Access, Open Editing, Free Content, Free/Libre/Open Media," in "Pirate Philosophy," ed. Gary Hall, special issue, *Culture Machine* 10 (2009), <http://culturemachine.net/index.php/cm/issue/view/21>; Jason Christie, "Sampling the Culture: 4

Notes toward a Poetics of Plundergraphia and on Kenneth Goldsmith's *Day*," *Open Letter*; 12, no. 7 (2005): 69–74; Craig Dworkin, *Reading the Illegible*, Avant-Garde & Modernism Studies series (Evanston, IL: Northwestern University Press, 2003); and Julie Sanders, *Adaptation and Appropriation*, New Critical Idiom series (New York: Routledge, 2006). For a survey of appropriation in art theory, see David Evans, ed., *Appropriation*, Documents of Contemporary Art series (Cambridge, MA: Whitechapel/MIT Press, 2009); and for a truly exceptional study of copying as a cultural activity, see Marcus Boon's *In Praise of Copying* (Cambridge, MA: Harvard University Press, 2010).

11. An Atlanta judge halted publication of Alice Randall's book in April 2001. Approximately one month later, the U.S. Court of Appeals for the Eleventh Circuit overturned the injunction, ruling that the prior decision violated First Amendment rights. Lawyers for the Margaret Mitchell estate nonetheless threatened to continue the lawsuit. A settlement was eventually reached when Randall's publisher agreed to pay an unspecified donation to Morehouse College. See "Settlement Reached over 'Wind Done Gone,'" *Associated Press*, 10 May 2002, www.freedomforum.org/templates/document.asp?documentID=16230.
12. Craig Dworkin, "Legion (II)" (2006), 2, available at UbuWeb Contemporary, www.ubu.com/contemp/dworkin/index.html. See Dworkin's other excellent poetry collections, *Smokes* (2004) (UbuWeb Editions, www.ubu.com/ubu 2004), and *Strand* (New York: Roof Books, 2005).
13. It is worth quoting article 17, sec. 107, of the *United States Code*, "Limitations on Exclusive Rights: Fair Use":

In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes; (2) the nature of the copyrighted work; (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (4) the effect of the use upon the potential market for or value of the copyrighted work.

The full text can be found at Copyright Law of the United States of America and Related Laws Contained in Title 17 of the *United States Code*: Chapter 1, www.copyright.gov/title17/92chap1.html#107.
14. Lawrence Lessig, "Creative Commons," *Montana Law Review* 65, no. 1 (2004): 1–13, quotation on 4.
15. Jessica Litman, "The Public Domain," *Emory Law Journal* 39, no. 4 (1990): 965–1023, quotation on 967.
16. For accessible overviews of American copyright history, see James Boyle, *The Public Domain: Enclosing the Commons of the Mind* (New Haven, CT: Yale University Press, 2008); Lawrence Lessig, *Free Culture: How Big Media Uses Technology and the Law to Lock Down Culture and Control Creativity* (New York: Penguin Books, 2004); Jessica Litman, *Digital Copyright: Protecting Intellectual Property on the Internet* (Amherst, MA: Prometheus Books, 2001); and Siva Vaidhyanathan, *Copyrights and Copywrongs: The Rise of Intellectual Property and How It Threatens Creativity* (New York: New York University Press, 2001). For a particularly concise history, see Lessig, "Creative Commons," 1–13.
17. Boyle, *Public Domain*, 9. Boyle elaborates:

Tim O'Reilly points out that there are 32 million titles in the Online Computer Library Center's 'WorldCat' catalogue—this is a

reasonable proxy for the number of books in U.S. libraries. Nielsen's Bookscan shows that 1.2 million books sold at least one copy in 2005. But of those 1.2 million books, many are in the public domain—think of Shakespeare, Dickens, Austen, Melville, Kipling. Thus the percentage of books that are under copyright and commercially available may actually be considerably lower than 4 percent. (253n6)

Brian Lavoie, Lynn Silipigni Connaway, and Lorcan Dempsey produced similar numbers by using the Google Books Project as proxy: of the approximately eighteen million books Google intended to scan, approximately 75 percent are protected but out of print. See "Anatomy of Aggregate Collections: The Example of Google Print for Libraries," *D-Lib Magazine* 11, no. 9 (2005), www.dlib.org/dlib/september05/09contents.html. See also William M. Landes and Richard A. Posner, "The Optimal Duration of Copyrights and Trademarks," in *The Economic Structure of Intellectual Property Law* (Cambridge, MA: Belknap Press, 2003), 210–54.

18. The full text of the "Intellectual Property and the National Information Infrastructure: The Report of the Working Group on Intellectual Property Rights" is available at United States Patent and Trademark Office, www.uspto.gov/web/offices/com/doc/ipnii/. The full text of the DMCA is at www.copyright.gov/legislation/pl105-304.pdf.
19. The DMCA is a complicated document, and the significant changes it enacts often go unnoticed because of its technical jargon. Perhaps its most contentious provisions are those that greatly restrict circumvention of copyright protections, which means in practical terms that copyright holders have much greater control over the ways in which users access and use, say, audio files, software, and e-books. See article 17, sec. 1201 of the *United States Code*, "Circumvention of Copyright Protection Systems."
20. Quoted in Vaidhyanathan, *Copyrights and Copywrongs*, 24.
21. To this end, Jessica Litman explains that it is a common error to view works as either copyrighted or not. Rather, an aspect of a copyrighted work remains in the public domain during the term of protection: "But the class of works not subject to copyright is, in some senses, the least significant portion of the public domain. The most important part of the public domain is a part we usually speak of only obliquely: the realm comprising aspects of copyrighted works that copyright does not protect" ("Public Domain," 976).
22. Martha Woodmansee and Peter Jaszi, introduction, and Woodmansee, "On the Author Effect: Recovering Collectivity," both in *The Construction of Authorship: Textual Appropriation in Law and Literature*, ed. Woodmansee and Jaszi, Post-contemporary Interventions series (Durham, NC: Duke University Press, 1994), 1–13, 15–27, quotations on 5, 16. For an extended account of the interconnected development of Romantic concepts of creativity and intellectual property rights, see Martha Woodmansee, *The Author, Art, and the Market: Rereading the History of Aesthetics* (New York: Columbia University Press, 1994); and Mark Rose, *Authors and Owners: The Invention of Copyright Law* (Cambridge, MA: Harvard University Press, 1993). For a selection of pre-Romantic theories and practices of authorship, see Heather Hirschfeld, "Early Modern Collaboration and Theories of Authorship," *PMLA* 116, no. 3 (2001): 609–22; and John Feather, "From Rights in Copies to Copyright: The Recognition of Authors' Rights in English Law and Practice in the Sixteenth and Seventeenth Centuries," and Max W. Thomas, "Reading and Writing the Renaissance Commonplace Book: A Question of Authorship," both in *Construction of Authorship*, 191–210, 401–16.
23. Samuel Johnson, "Life of Milton," in *The Lives of the Most Eminent English Poets, with Critical Observations on Their Works*, vol. 1, ed. Roger Lonsdale (Oxford: Oxford University Press, 2006), 242–95, quotation on 294.

24. The Statute of Anne (1709) set a limited term of protection at fourteen years (with a possible fourteen-year renewal if the author was still alive after the initial term expired).
25. The “battle of the booksellers” was largely a commercial dispute between London booksellers, who sought to reclaim the monopoly enjoyed by the Stationers’ Company before the Statute of Anne took effect, and provincial booksellers (particularly in Scotland), who claimed the right to reprint noncopyrighted titles. The London Booksellers tried to circumvent the Statute of Anne by claiming that the common-law right of property transferred to them by authors afforded them a perpetual copyright. The relevant legal history can be found in *Tonson v. Collins* (1760), *Millar v. Taylor* (1769), and especially *Donaldson v. Becket* (1774), in which the House of Lords finally decided that the statutory law took precedent over common law. For extended discussions of eighteenth-century copyright in Britain, see Rose, *Authors and Owners*, 67–112; and Ronan Deazley, *On the Origin of the Right to Copy: Charting the Movement of Copyright Law in Eighteenth-Century Britain (1695–1775)* (Oxford: Hart, 2004).
26. For major changes to British copyright after *Donaldson v. Becket* (1774), readers should consult the Copyright Acts of 1814 and 1842, the Berne Convention (1886), the Copyright Acts of 1911 and 1956, and the Copyright, Designs and Patents Act of 1988. The initial fourteen-year term of protection set out in the Statute of Anne was extended in 1814, granting a twenty-eight-year term from the date of a work’s publication. Provided the author was still alive after twenty-eight years, the act granted a term of renewal spanning the duration of the author’s life. The Copyright Act of 1842 extended the term of protection once again, this time to a term of seven years past the author’s lifetime or forty-two years after publication (whichever was longer). Britain ratified the 1886 Berne Convention for the Protection of Literary and Artistic Works, which officially established the first international copyright treaty seeking to harmonize national standards. The Copyright Acts of 1911 and 1956 were introduced to consolidate past statutes, expand protection to other art forms such as music, and update international treaties. In 1988, the Copyright, Designs and Patents Act enacted the most radical change to the duration of copyright to date, setting the term at seventy years past the death of the author.
27. Percy Bysshe Shelley, “A Defence of Poetry,” in *Shelley’s Poetry and Prose: Authoritative Texts, Criticism*, ed. Donald H. Reiman and Sharon B. Powers, Norton Critical Edition series (New York: Norton, 1977), 478–508, quotation on 493.
28. In the last “Memorable Fancy” of *The Marriage*, a Devil engages an Angel, insisting that Jesus “acted from im- / pulse: not from rules”:
- This Angel, who is now become a Devil, is
my particular friend: we often read the Bible to-
gether in its infernal or diabolical sense which
the world shall have if they behave well.
- See William Blake, *The Marriage of Heaven and Hell*, in *The Early Illuminated Books*, ed. Morris Eaves, Robert N. Essick, and Joseph Viscomi, 3 vols. (Princeton, NJ: Princeton University Press, 1993), 3:141–93, quotation on 185–86.
29. Samuel Johnson, *Johnsonian Miscellanies*, ed. George Birkbeck Hill, 2 vols. (Oxford: Clarendon, 1907), 2:444–45.
30. Michael Hardt and Antonio Negri, *Empire* (Cambridge, MA: Harvard University Press, 2000), 290.
31. See Mark Helprin, “A Great Idea Lives Forever: Shouldn’t Its Copyright?” *New York Times*, 20 May 2007, www.nytimes.com/2007/05/20/opinion/20helprin.html?ex=1337313600&en=3571064d77055f41&ei=5124&partner=permalink&expred=permalink. For an excellent

review of this op-ed piece, see Lawrence Lessig, "The Solipsist and the Internet," www.lessig.org/blog/2009/05/the_solipsist_and_the_internet.html.

32. For a history of the free software and open source movements, see Eben Moglen, "Anarchism Triumphant: Free Software and the Death of Copyright," *First Monday* 4, no. 8 (2 August 1999), <http://firstmonday.org/htbin/cgiwrap/bin/ojs/index.php/fm/article/view/684/594>; Richard Stallman, *Free Software, Free Society: Selected Essays of Richard M. Stallman*, ed. Joshua Gay (Boston: GNU Press, 2002); Glyn Moody, *Rebel Code: Linux and the Open Source Revolution* (New York: Basic Books, 2001); and Steven Weber, *The Success of Open Source* (Cambridge, MA: Harvard University Press, 2004).
33. "Free Software Definition," at GNU, www.gnu.org/philosophy/free-sw.html.
34. Lawrence Lessig, *Remix: Making Art and Commerce Thrive in the Hybrid Economy* (New York: Penguin Books, 2008), 280.
35. Lessig writes,

Creative Commons [was] born to help people see the difference between somewhere and everywhere. Creative Commons gives authors free tools—legal tools (copyright licenses) and technical tools (metadata and simple marking technology)—to mark their creativity with the freedoms they intend it to carry. So if you're a teacher, and you want people to share your work, CC gives you a tool to signal this to others. Or if you're a photographer and don't mind if others collect your work, but don't want *Time* magazine to take your work without your permission, then CC would give you a license to signal this. (*ibid.*, 277)

Readers should also consult <http://creativecommons.org>. For further discussion of the Creative Commons license, see Michael W. Carroll, "Creative Commons and the New Intermediaries," *Michigan State Law Review* 45, no. 1 (2006): 45–65.
36. Unsurprisingly, the founder of GNU expressed his objections forcefully. See Richard Stallman, "Why Open Source Misses the Point of Free Software," at GNU, www.gnu.org/philosophy/open-source-misses-the-point.html.
37. Lessig, *Free Culture*, xiv.
38. Art Redding offers a poignant summation of *consumer identity* in the United States (though certainly the claim may be extended to encompass a large segment of the developed West): "Americans became, in the second half of the twentieth century, the culture they consumed, and through cultural consumption produced themselves free" (*Turncoats, Traitors, and Fellow Travelers: Culture and Politics of the Early Cold War* [Jackson: University Press of Mississippi, 2008], 8). Similarly, Frances Stonor Saunders suggests the term *freedomism* to denote an "absolutist idea . . . or a narcissism of freedom," privileging individual rights at the expense of the public good (see *The Cultural Cold War: The CIA and the World of Arts and Letters* [New York: New Press, 1999], 415–16).
39. The production of any cultural artifact (and the technologies through which we store, circulate, and present information) requires labor and, what is more, exhausts finite resources. For instance, the global expansion of Internet consumption is creating serious ecological challenges. Investigative journalist and author Ginger Strand puts the point concisely: far from being an "ethereal store of ideas, shimmering over our heads like the aurora borealis," the Web is "a new heavy industry, an energy glutton that is only growing hungrier" ("Keyword: Evil—Google's Addiction to Cheap Electricity," *Harper's Magazine*, March 2008, 64–65, quotation on 64). She estimates that Google currently runs

over a million servers at its data farms, while an ever-increasing demand for more energy has prompted companies like Google, Microsoft, and AT&T to explore the outsourcing of data centers as a possible option. Soon such companies will seek cheaper sources of energy and labor forces to maintain data for Western consumers. The Web will require the same commitment to renewable energy and sensible consumption as with any other resource that we consume.

40. Ara Shirinyan, "About the Bureau," at Poetic Research Bureau, www.poeticresearch.com; Simon Morris, masthead, at Information as Material, www.informationasmaterial.com; and Kenneth Goldsmith, "About UbuWeb," at UbuWeb, www.ubuweb.com/resources/index.html.

41. See the Organization for Transformative Works, <http://transformativeworks.org>. Its members make the following statement:

(1) We value transformative fanworks and the innovative communities from which they have arisen . . . ; (2) We value our identity as a predominantly female community with a rich history of creativity and commentary; (3) We value our volunteer-based infrastructure and the fannish gift economy that recognizes and celebrates worth in myriad and diverse activities; (4) We value making fannish activities as accessible as possible to all those who wish to participate; and (5) We value infinite diversity in infinite combinations. We value all fans engaged in transformative work: fans of any race, gender, culture, sexual identity, or ability. We value the unhindered cross-pollination and exchange of fannish ideas and cultures while seeking to avoid the homogenization or centralization of fandom. ("What We Believe," <http://transformativeworks.org/about/believe>)

42. Kenneth Goldsmith, "The Bride Stripped Bare: Nude Media and the Dematerialization of Tony Curtis," in *New Media Poetics: Contexts, Technotexts, and Theories*, ed. Adalaide Morris and Thomas Swiss, Leonardo Book Series (Cambridge, MA: MIT Press, 2006), 49–64, quotation on 50.

43. The site brings together a dizzying array of materials: Kurt Schwitters's *Ursonate* (1933–32), John Lennon's *Radio Play* (1969), a complete run of Peter Greenway's series *Four American Composers* (1983; John Cage, Philip Glass, Meredith Monk, Robert Ashley), the *Giorno Poetry Systems Dial-A-Poem* series, along with countless audio and video files of artists, filmmakers, and poets like Marcel Duchamp, John Cage, Kathy Acker, the Four Horsemen, Henri Chopin, Jonas Mekas, George Maciunas, Guillaume Apollinaire, and Gertrude Stein, to list but a fraction of the site's collection.

44. Goldsmith, "Bride Stripped Bare," 49.

45. Kenneth Goldsmith explains:

MP3s are *almost* open source. RealMedia is proprietary. We'll always choose open source over proprietary. In the beginning, we streamed RealMedia because that's all there was. The few Real files on site are leftover from those days. We'll be getting rid of them as soon as we can. In the meantime, should Ogg Vorbis or some other truly open source media grow popular enough, we'll migrate to that. ("Frequently Asked Questions," at UbuWeb, www.ubu.com/resources/faq.html)

46. Kenneth Goldsmith, "A Conversation with Kenneth Goldsmith," interview by Marjorie Perloff, *Jacket Magazine* 21 (2003), <http://jacketmagazine.com/21/perl-gold-iv.html>.

47. Goldsmith, "About UbuWeb"; and Christian Bök, "UbuWeb and Its Unadministered Speculation," in Wertheim and Viegner, *Noulipian Analects* (see note 7), 223–24, quotation on 223.
48. ArtMob is funded in part by the Ontario Arts Council and the Social Sciences and Humanities Research Council of Canada. PennSound operates out of the Center for Programs in Contemporary Writing at the University of Pennsylvania.
49. Michel Foucault's concept of *subjugated knowledges* is instructive in this regard. He includes within this broad domain both the "erudite" knowledge of specialists and the "disqualified" knowledge of local communities:

You might object that there is something very paradoxical about grouping together and putting into the same category of "subjugated knowledges," on the one hand, historical, meticulous, precise, technical expertise and, on the other, these singular, local knowledges, the noncommonsensical knowledges that people have, and which have in a way been left to lie fallow, or even kept in the margins. Well, I think it is the coupling together of the buried scholarly knowledge and knowledges that were disqualified by the hierarchy of erudition and sciences that actually gave the discursive critique of the last fifteen years its essential strength. (*Society Must Be Defended*: *Lectures at the Collège de France, 1975–1976*, ed. Mauro Bertani and Alessandro Fontana, trans. David Macey [New York: Picador, 2003], 7–8)

50. Kenneth Goldsmith, "A Week of Blogs for the Poetry Foundation," in Dworkin, *Consequence of Innovation* (see note 6), 137–49, quotation on 144; and Kenneth Goldsmith and Christian Bök, "After Language Poetry: 10 Statements" [in Swedish], ed. Anders Lundberg, Jonas Magnusson, and Jesper Olsson, special issue, *OEI*, vols. 7–8 (2001), available at UbuWeb, www.ubuweb.com/papers/oei/index.html. The authorial anxiety implied by the title "After Language Poetry" no doubt betrays the syncretic project of writing both poets announce. In fact, Language Poetry practice gives considerable focus to an open source poetics. In a multi-authored statement, Ron Silliman, Carla Harryman, Lyn Hejinian, Steve Benson, Bob Perelman, and Barrett Watten make the following claim:

If there has been one premise of our group that approaches the status of a first principle, it has been not the "self-sufficiency of language" or the "materiality of the sign" but *the reciprocity of practice implied by a community of writers who read each other's work*. ("Aesthetic Tendency and the Politics of Poetry: A Manifesto," *Social Text* 19–20 [1988]: 261–75, quotation on 271)

This challenge to the proprietary writing subject is, they contend, both crucial to their practice and the source of a central misconception informing criticism of the group. Robert Duncan, for instance, spuriously complained that the Language Poets resembled "a crowd of mosquitoes" (quoted in "Aesthetic Tendency," 272). The authors of the "Aesthetic Tendency" essay rebuke Duncan for the psychological "resonances" that a "(collective) swarm of insects" no doubt evokes (272); yet, moreover, it is virtually unthinkable that a self-proclaimed "derivative" poet should take issue with the collective forms of experimentation undertaken by Language Poetry writers. Duncan describes his "derivative" poetics in the jacket copy of *Roots and Branches* (New York: New Directions, 1969): "I am not an experimentalist or an inventor, but a derivative poet." This assertion echoes his claim in "Pages from a Notebook," which appeared just after Charles Olson's "Projective Verse" in Donald Allen's formative anthology: "I am ambitious only to emulate, imitate, reconstrue, approximate, duplicate" (Robert Duncan, "Pages from a

- Notebook," in *The New American Poetry, 1945–1960*, ed. Donald Allen [Berkeley: University of California Press, 1999], 400–407, quotation on 406). Responding to the largely accurate contention that Language Poetry challenges the centrality of genius, what the group shares, they explain, is a body of writing, a “mutual, collective finding out” through shared methods and experiments (272). Collaborative works like *Legend* (1980), *Leningrad* (1991), and *The Grand Piano* (10 vols., 1976–79) put these claims into practice, yet, moreover, among the respective writings of these and other Language writers, concepts and techniques like the “new sentence” constitute practices to which no one poet is solely entitled. For an excellent discussion of the group’s collaborative activities, see Barrett Watten, “The Secret History of the Equal Sign: L=A=N=G=U=A=G=E between Discourse and Text,” in *Constructivist Moment* (see note 9), 45–102. For a competing assessment of the Language group’s collaborative work, see Oren Izenberg, “Language Poetry and Collective Life,” *Critical Inquiry* 30, no. 1 (2003): 132–59.
51. For excellent essays on Goldsmith’s work, see “Kenneth Goldsmith and Conceptual Poetics,” ed. Lori Emerson and Barbara Cole, special issue, *Open Letter* 12, no. 7 (2005). See also essays and reviews at the Electronic Poetry Center, <http://epc.buffalo.edu/authors/goldsmith>.
 52. Kenneth Goldsmith, “Being Boring” (2004), Electronic Poetry Center, http://epc.buffalo.edu/authors/goldsmith/goldsmith_boring.
 53. Christian Bök, “A Silly Key: Some Notes on *Soliloquy*,” *Open Letter* 12, no. 7 (2005): 62–68, quotation on 65.
 54. Wershler-Henry, *tapeworm foundry*, back cover.
 55. *Ibid.*, 1.
 56. *Ibid.*, back cover.
 57. In the *Investigation of the Laws of Thought* (1854), George Boole establishes the 1 and 0 to denote positive (true) and negative (false) logical operations corresponding to actions of combination and selection. A modern computer, therefore, uses binary logic to describe circuit states that are either charged (1, or true) or not charged (0, or false), by using an “and” gate or an “or” gate to generate infinite possible permutations. Boole apparently tried to rewrite the Bible in his mathematical logic, a very time-consuming project that he never completed. Wershler-Henry’s project, if carried out in full, would arguably take a lifetime to complete.
 58. Rachel Zolf, *The Tolerance Project* (2009), <http://toleranceproject.blogspot.com>. Quotations appear in section “How the Tolerance Project Works.” See also “Statement to MFA Workshop” (3 October), at *Tolerance Project*, http://thetoleranceproject.blogspot.com/2009_10_01_archive. After completing her MFA in May 2011, Zolf published a useful account of the project. See “*The Tolerance Project*: Projection of the Intimate into the Historical” (July 2011), Jacket 2, <https://jacket2.org/article/tolerance-project>.
 59. Henry Louis Gates Jr.’s collaboration with PBS, *Faces of America*, provides an accessible overview of this research and its implications for race studies. See *Faces of America*, at PBS, www.pbs.org/wnet/facesofamerica/. See also Gates, African DNA, www.africandna.com.
 60. See Roland Barthes, “Death of the Author,” in *Image–Music–Text*, trans. Stephen Heath (New York: Hill and Wang, 1978), 142–48, quotation on 145.
 61. Rachel Zolf’s project was met with immediate resistance. An unnamed faculty member raised concerns when Zolf apparently violated the “privacy” and “sanctity” of the MFA workshop by including her classmates’ feedback on her blog. Aside from the comments being listed anonymously, Zolf assumed that the institutional space of the

university workshop was a public not a private one. Also, for Rachel Zolf's assessment of Andrea Fraser's work, see "Statement to MFA Workshop," at *Tolerance Project*, http://thetoleranceproject.blogspot.com/2009_10_01_archive.html; and Rachel Zolf, *Human Resources* (Toronto: Coach House Books, 2007), 42.

62. A consortium of legal scholars, theorists, and digital activists has recently begun to revive discussion of the commons. I am indebted to several scholars on the topic; in particular, see Boyle, *Public Domain*; David Lange, "Recognizing the Public Domain," *Law and Contemporary Problems* 44, no. 4 (1981): 147–78; Litman, "Public Domain"; Lawrence Lessig, *The Future of Ideas: The Fate of the Commons in a Connected World* (New York: Random House, 2001); Carol M. Rose, *Property and Persuasion: Essays on History, Theory, and Rhetoric of Ownership*, New Perspectives on Law, Culture, and Society series (Boulder, CO: Westview Press, 1994); David Bollier, *Silent Theft: The Private Plunder of Our Common Wealth* (New York: Routledge, 2003); Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action*, Political Economy of Institutions and Decisions series (New York: Cambridge University Press, 1990); Paolo Virno, *Grammar of the Multitude: For an Analysis of Contemporary Forms of Life*, trans. Isabella Bertolotti, James Cascaito, and Andrea Casson, Foreign Agents series (New York: Semiotext[e], 2004); and Michael Hardt and Antonio Negri, *Commonwealth* (Cambridge, MA: Belknap Press, 2009).
63. A comprehensive study of the commons should also recognize the Aristotelian notion of *sensus communis* taken up by Immanuel Kant in the *Critique of Judgment* (1790). For my purposes, I limit my analysis to a largely materialist conception of the commons and its juridical enclosure.
64. James Boyle, "The Second Enclosure Movement and the Construction of the Public Domain," *Law and Contemporary Problems* 66, nos. 1–2 (2003): 33–74, quotation on 57; and Litman, "Public Domain," 967.
65. James Boyle, "An Environmentalism for Information," in *Public Domain* (see note 16), 230–48.
66. In particular, the commons names the "body of the people . . . as distinguished from those of rank or dignity" (hence the term *common* can mean vulgar, ordinary, and poor) (*OED*). If the public domain names the remaindered body of texts lacking the distinction of property, then the commons as a social entity is the community without distinction of nobility.
67. I mention earlier Lawrence Lessig's conflation of "free markets," "free speech," and "free elections." David Bollier remarks, the "commons is not the communism of the Soviet Union, which brutally suppressed feedback mechanisms, but the Commonwealth of the United States, which, in principle at least, honors open, robust feedback and democratic change" (*Silent Theft*, 184).
68. Michel De Certeau, *The Practice of Everyday Life*, trans. Steven Rendall (Berkeley: University of California Press, 1984), xiv–xv.
69. Renato Poggioli, *The Theory of the Avant-Garde*, trans. Gerald Fitzgerald (Cambridge, MA: Belknap Press at Harvard University Press, 1968), 25, 67–68.