

7 The Modern Author at Work on Madison Avenue

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No poet, no artist of any art, has his complete meaning alone.

—T. S. Eliot, “Tradition and the Individual Talent” (1919)

If we become large at the expense of the individual’s pride in himself, in the perfection of his own individual powers, we will reach a stage when the individual either is not happy in this organization, or when the organization is unable to attract the kind of individuals necessary to its perfection. It seems to me that if we become larger, we shall have to stress individual progress, individual cultivation of individual talents, very much more than we have been stressing them during the past four or five years.

—Bill Day, J. Walter Thompson executive (1950s)

In 1957, Howard Kohl, a senior executive of the J. Walter Thompson Company—then the largest advertising agency in the United States—sent a memo to members

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of the New York office of the firm.¹ The memo was part of a decades-long series of company efforts to bring professionalism and efficiency to the management of the creativity involved in advertising. The J. Walter Thompson Company, or JWT as the firm had come to be known, prided itself on having modernized the business of advertising during the 1920s and 1930s. At JWT, an account representative was in charge of relations with the client and coordinated the work of the writers, artists, and market researchers to design an advertisement. Kohl's memo warned that "the tendency of Representatives to use creative people and specialists in daily and regular contact work with our clients... does not serve the best interests of the client... and can be dangerous to the well-being of the company." Kohl identified several problems with allowing creative workers to have direct relationships with clients. It would undermine the company's ability to present clients with "our completely objective viewpoint.... The Representative should be a buffer between client and agency, should serve as a filter of the client's subjective points of view.... In addition, the fine work of a creative man or specialist can, on occasion, be rendered ineffective or unusable because of personality problems." Moreover, contact with clients could reduce both "the time creative people and specialists have available for actually producing and working on the problem" and "the number of problems creative people and specialists can work on," which would in turn "obviate their ability to bring a broad experience and the invaluable stimulation that comes from working on a variety of problems." Finally, the account representative would "reduce his value to that of a messenger boy if he places on others the major responsibility in presenting the agency's work."²

The company's executives were fond of saying that in advertising—an economic sector in which the firm's "assets ride down the elevator every night"—the key to success is the wise management of creativity. By assimilating the manufacturing of ideas, text, images, and sounds into the dominant system for manufacturing cars or managing finance, Kohl's memo embraced three aspects of the classic management theory of the twentieth-century office or factory. First, to be a professional, even in the world of writing and design, was to remove the idiosyncrasies of personality and individual point of view from the work process and product. Second, efficient workplace management demanded a sharp division of labor between creativity and management, an adaptation of Taylorist "scientific management" to creative production. And third, the success of the firm depended

1. Howard Kohl (long-time senior executive of JWT) to Winfield Taylor (senior executive at the New York office), memorandum, Mar. 8, 1957, Colin Dawkins Papers, box 2, Howard Kohl file.

2. *Ibid.*

upon managers maintaining control over the creative workers. Kohl's memo exerted just this type of managerial control even in the course of describing it.³

While Howard Kohl was urging that creative people be kept away from client meetings, other JWT executives were advocating just the opposite. They feared that bureaucratic management of the creative process was alienating creative labor. One cited a writer's complaint that he had been reduced to working in a "storyboard factory."⁴ Other employees had complained about feeling "lost" in a large firm where they churned out ideas, artwork, or texts and stuck them in the "out" box on their desks each day.⁵ Worried that bureaucratic employment practices could not easily be reconciled with individual creativity in writing, art, and design, one executive proposed that especially talented staff were "deserving of greater publicity," while another proposed that the public recognition of creative staff could reduce alienation and improve the company's reputation for creativity. Bill Day, a JWT executive who eventually left to form his own agency, urged the firm "to stress individual progress, individual cultivation of individual talents, very much more than we have been stressing them."⁶ According to this view, creative work could not be assimilated to the managerial model of manufacturing or office work.

This chapter will use the work relationships of creative employees at the JWT agency to explore the roles of the law and legal norms in mediating creation, ownership, attribution, and public recognition as dominant features of twentieth-century authorship. It might seem that modernism, which is conventionally associated with elite, formally difficult, autonomous works of art, would have nothing to do with the corporate production of mass culture, the anonymous and collaborative creative process of advertising, nor the legal rules that made mass culture a profitable industry. I hope to dispel that impression by showing that copyright is not the only place, perhaps not even the most important place, to study the role of law in shaping the nature of creative work in modernism. In both legal and literary studies, scholars have tended to focus on the relationship between

3. John Guillory argues that the memorandum was not "a bit player" in the development of modern corporate management but rather "a central instance of the control revolution." See Guillory, "The Memo and Modernity," *Critical Inquiry* 31 (2004): 108, 122.

4. Thomas Naegle to Dan Seymour, End of Year Report, Dec. 1956, p. 5, Dan Seymour Papers, box 2. Dan Seymour was the head of the JWT Los Angeles office.

5. Elton to Strouse and other executives, memorandum, 1957, and "Program for Growth and Development," JWT Company Policies file, Wallace W. Elton Papers, box 1.

6. This quote is drawn from an unpublished manuscript written in the late 1970s by another JWT vice president, Colin Dawkins, "Ain't It Hell on a Windy Day," 281–282. The manuscript is in the Colin Dawkins Papers, box 22.

copyright law and an individual, literary model of authorship. This scholarly focus on authors and owners has been incommensurate with the relatively small percentage of twentieth-century creative people whose efforts were rewarded through copyright ownership. Once we realize that much modern creativity is exercised in an employment setting where salaried creators sign away their rights in their work as a condition of hire—sign away, in effect, their very status as authors—we can see that the *attribution* of work, rather than *ownership* of the intellectual property represented in it, defines the modern connection between many creators and work of all kinds.

Modern authorship, I argue, is only partly defined by sole creation or by individual rights and incentives. Just as significantly, authorship is constituted by social and legal processes of *recognition*, processes that pertain to both individuals and firms. Like the working class in E. P. Thompson's description, modern authors were present at their own creation,⁷ which occurred through their recognition as public persons to whom works were attributed. Attribution often supplanted ownership because the work-for-hire doctrine, which was introduced into U.S. copyright law in 1909 and matured alongside modernism in the arts, defined employers as the authors of works made for hire. The project I undertake here is to show that modernism did not *coincidentally* grow at the same time as the corporatization of creativity. Rather, they unfolded in complex relation to each other. Advertising mimicked and capitalized on modernism as an aesthetic style, and it attracted employees with its promise of steady and lucrative compensation for the exercise of creative genius. Modernism, for its part, adopted a combative attitude toward mass culture even as many canonical works borrowed freely from it. What's more, modernist authors were more dependent for their livelihoods and reputations upon the techniques of modern advertising than is often acknowledged. If we look a little to the side of canonical modernists and their works, we can see how the borders of modernism overlap with an area of cultural production that previously seemed remote from it. And if we look to areas of law adjoining copyright, we will see how the author/artist was constructed, in part, through such neighboring regimes.

The argument proceeds in four parts. First, I will explain that, because law enabled employers to claim ownership of a huge swath of cultural production, many people who created texts and images for a living saw the attribution of the

work, not ownership of it, as the essence of authorship. And attribution was important not only for creative work in mass culture but also for the Arts and Crafts movement, which celebrated the creative labor embodied in beautiful and useful objects. Attribution also mattered for modernism, notwithstanding many modernists' insistence on the sharp divide between art and mass culture. Second, I will argue that social relations, particularly economic hierarchy and gender segregation within bureaucratic employment cultures, determined how work was attributed. While this is true to some extent of all work, we can learn more about the complex nature of authorship if we look away from the "great" artists and focus instead on the cultural practices of attribution within firms like JWT. The third section will explore attribution in the context of late twentieth-century debates about the legal meaning of authorship. Finally, in the last section, I will suggest that the tendency to propertize authorship—which became a tendency to propertize attribution—led to the late twentieth-century blurring of distinctions among the authorship of art, the authorship of persona, and celebrity. In sum, this chapter argues that, in the world of commercial cultural production, authorship has been an unstable blend of individual and collective creation and attribution. What authorship has meant was determined largely outside the purview of copyright law, and often outside any other formal law, bouncing endlessly back and forth between the individual and the corporation.

Attribution, Authorship, and Modernism

To be an author came to mean many things in the twentieth century, with particularly wide variation in the nature and degree of creativity involved and in the status accorded to different types of authorship. An author is an *originator*. An author is the one whose *name* is on the work. An author is one who is *recognized* as an originator. Under copyright law, an author is a presumptive *owner*. But under the work-for-hire doctrine, an author is the *employer* of a creator.⁸ Finally, in some contexts, authorship merged into the concept of a trademark or corporate brand and, eventually, into the concept of celebrity, in which an author is a *persona* or the creator of a persona. Authorship during the modernist decades partook of all of these meanings.

A major political project of modernism was to critique the alienation and exploitation of labor, which had its roots in factory production that redefined

7. E. P. Thompson, *The Making of the English Working Class* (New York: Vintage, 1963), 9 ("The working class did not rise like the sun at an appointed time. It was present at its own making").

8. 17 U.S.C. § 201; Catherine L. Fisk, "The Origin of the Work for Hire Doctrine," *Yale Journal of Law and Humanities* 15 (2003): 1.

creative labor. In the nineteenth century, the “art” of a worker was the particular skill and learning that defined respectable occupations and the people who performed them. Possessing an art conferred worth on the people who labored at those tasks, made them independent, useful, and therefore valuable members of society.⁹ One had not only to possess an art but also to be recognized as possessing it. For Marx, the worker’s recognition of and for the products of her labor was essential to her well-being, and the loss of that recognition—the alienation of the worker’s labor—was of course central to the Marxist critique of capitalism. In the twentieth century, what had formerly been the art of the skilled worker became the human capital of the workforce and, simultaneously, the human assets of the firm. But one thing remained constant: the desire to see the products of one’s labor as one’s own—if not in the ownership of the products, then at least in their attribution to oneself. The same concern with labor alienation existed, I argue, in the bureaucratic production of works customarily attributed to authors.

During the late nineteenth century, the Arts and Crafts movement prefigured modernism’s concern with the relationships among individual and collective creativity, artistic authenticity, and commerce. Where industrialism had weakened the connections among workers, their art, their labor, and consumers, Arts and Crafts insisted that those connections must be apparent and immediate. By attributing works to individuals, Arts and Crafts sought an antidote not only to the dehumanizing labor relations of the factory but also to the anonymity of mass production.¹⁰ Despite the movement’s anti-industrialism, however, its practice of individual attribution was short-lived; as time wore on, Arts and Crafts works tended to be sold under their founder’s or company’s name rather than being attributed to a particular artisan. The Craftsman ideal persisted with respect to high quality and pride in the work, but Madison Avenue increasingly dictated the names under which Tiffany glass, Rookwood pottery, and Stickley furniture were sold; commercial viability seemed to demand some degree of labor alienation.

An exhibit of Tiffany lamps at the New York Historical Society in 2007 revealed that some of the most celebrated creations of the glass design studio that bore the name of Louis Tiffany were the work of Clara Driscoll, the head of the Women’s Glass Cutting Department. Driscoll worked at Tiffany Studios from 1888 until 1909

and designed or supervised the creation of most Tiffany lamps, yet she was absent from the studio’s publicity.¹¹ After a dragonfly lamp designed by Driscoll won a prize at the 1900 World’s Fair, a 1904 article about the lamp credited it to her rather than to Tiffany, but this was a rare moment of recognition. Driscoll and the thirty-five other women who worked in the Women’s Glass Cutting Department enjoyed considerable autonomy within the firm; they worked on their own designs and successfully resisted attempts by the Lead Glaziers and Glass Cutters Union to eliminate them or reduce their sphere of influence.¹² Yet, as significant as the women’s role may have been, their names and their work were largely forgotten over time. Tiffany knew, as did modern art dealers and publishers, that attribution creates value both in the work and in the name of the person or firm to which the work is attributed. Today, some might deem Clara Driscoll’s lamps more valuable because they represent the creative and physical labor of women whose story was long forgotten and who struggled to exercise their creativity in a world dominated by men.¹³ To others, the value of the lamp depends on its attribution to Tiffany; they prize the value of the brand rather than the labor relations within the studio. But either way, value depends upon attribution of the work to a creator, not—as copyright law would have it—on the ownership of the intellectual property rights in the work.

This complex negotiation among artistic authenticity, labor alienation, and financial success persisted in the development of modernism, which, like Arts and Crafts, celebrated the individual talent of the artist. Of course, modernism exhibited a more individualistic notion of the creative process and a different relationship to commerce than did Arts and Crafts or Madison Avenue. It tended to imagine the creative process as an act of sustained rebellion against the industrial and commercial circuits of mass production. Thus, for many practitioners and critics of modernism, authorship was the unique individual’s exercise of total compositional control over a unique work. According to the critic Clement Greenberg, the “great works” are derivative of nothing and are about nothing; they

11. Jeffrey Kastiner, “Out of Tiffany’s Shadow, a Woman of Light,” *New York Times* (Feb. 25, 2007); Martin Eidelberg and Nina Gray, *A New Light on Tiffany: Clara Driscoll and the Tiffany Girls* (New York: New York Historical Society, 2007).

12. Eidelberg and Gray, *A New Light on Tiffany*, 34, 49, 119–121.

13. Feminist art historians have enjoyed discovering that many of the late nineteenth- and early twentieth-century artworks sold under the company names of men were in fact executed or designed by women. For example, many famous Currier and Ives lithographs were done by Frances Flora Bond Palmer. Ellen Mazur Thomson, “Alms for Oblivion: The History of Women in Early American Graphic Design,” *Design Issues* 10 (1994): 27, 29–30.

9. Sean Wilentz, *Chants Democratic* (New York: Oxford University Press, 1984); David Montgomery, *The Fall of the House of Labor* (New York: Cambridge University Press, 1983); Paul E. Johnson, *Sam Patch, the Famous Jumper* (New York: Hill and Wang, 2003).

10. Eileen Boris, *Art and Labor: Ruskin, Morris, and the Craftsman Ideal in America* (Philadelphia: Temple University Press, 1986).

“maintain the high level of . . . art by both narrowing and raising it to the expression of an absolute.”¹⁴ A celebrant of what Andreas Huyssen has called the “great divide” between high and mass culture in modernism’s self-conception, Greenberg insisted on the artwork’s autonomy and dismissed as kitsch the cultural forms—“popular, commercial art and literature with their chromotypes, magazine covers, illustrations, ads, slick and pulp fiction, comics, Tin Pan Alley music, tap dancing, Hollywood movies, etc., etc.”—created and marketed by firms like JWT.¹⁵ In response to Greenberg, Huyssen observes that a modernism defining itself in opposition to mass culture depends intimately on that mass culture for its identity.¹⁶ And now we are in a position to see that Madison Avenue and modernism were secret sharers in another, more specific way: their tendency to define authorship by recognition and attribution.

The Madison Avenue model of authorship emphasizes the mixture of hard work, fortuity, and marketing that enables works to come into existence and those who create them to capture the public eye. This model derives some of its energy and much of its cachet from the modernist idea of the author as visionary rebel. But Madison Avenue insists that an author’s economic viability and social relevance come primarily from the *perceived* relation between an author and her work. And it embraces the fact that this perception is created by the investment of time and resources in marketing. To be an author is to be a felicitous mix of inspiration, labor, money, cleverness, talent, and luck, which together enable a person and her work to seize fifteen minutes of fame. Madison Avenue knows that the genius of the author cannot be divorced from the cleverness of the publicist. This mingling of authorship and attribution may be parasitic upon modernism, but it is distinct. Whereas modernists, like the romantics before them, insisted publicly on the aesthetic purity of their motives while deemphasizing their commercial canniness,¹⁷ Madison Avenue openly embraced the interdependence of creativity and commerce in producing and disseminating *all* work.

As I have already intimated, neither the modernist nor the Madison Avenue view of authorship is a pure type. As scholars of modernism have demonstrated since the 1990s, the reputations enjoyed by many modernists both during their

14. Clement Greenberg, “Avant-Garde and Kitsch,” *Partisan Review* 6 (1939): 34–49.

15. See Andreas Huyssen, *After the Great Divide: Modernism, Mass Culture, Postmodernism* (Bloomington: Indiana University Press, 1986); Greenberg, “Avant-Garde and Kitsch,” 5.

16. Huyssen, *After the Great Divide*, ix.

17. Clement Greenberg, “Modernist Painting,” in *Modern Art and Modernism: A Critical Anthology*, ed. Francis Francina and Charles Harrison (London: Harper and Row, 1982), 5, 6; see also Amy Adler, “Post-Modern Art and the Death of Obscenity Law,” *Yale Law Journal* 99 (1990): 1359, 1363–1364.

lifetimes and in the present are partly the result of successful marketing.¹⁸ Conversely, in the heart of Madison Avenue, right alongside the norm of corporate attribution that governed any JWT ad campaign, there was a deep faith in the transformative power of originality approaching that of modernism à la Greenberg. Both the creative people and the company managers valued some of the same qualities in agency employees that they valued in “noncommercial” writers and artists: creative and compelling uses of words, images, and sounds. The talented and highly educated people who worked at JWT esteemed both *modernity*, the condition of a mass-produced now, and *modernism*, an array of critical and symptomatic responses to modernity. At times, they saw themselves as “apostles of modernity,”¹⁹ at others as purveyors of modernism to the world at large. In 1923, Helen Landsdowne Resor, an influential company leader, hired Edward Steichen to bring his modernist photographic eye to several ad campaigns.²⁰ A lifelong admirer and collector of modern art and a trustee of the New York Museum of Modern Art, Resor clearly saw the potential to blend “serious” and commercial art. Steichen himself embraced the artistic merit of the

18. In addition to Huyssen, see Robert Jensen, *Marketing Modernism in Fin-de-Siècle Europe* (Princeton, NJ: Princeton University Press, 1994); Kevin J. H. Dettmar and Stephen Watt, eds., *Marketing Modernisms: Self-Promotion, Canonization, Rereading* (Ann Arbor: University of Michigan Press, 1996); Lawrence Rainey, *Institutions of Modernism: Literary Elites and Public Culture* (New Haven, CT: Yale University Press, 1998); and Catherine Turner, *Marketing Modernism between the Two World Wars* (Amherst: University of Massachusetts Press, 2003). Lawrence Rainey, for example, has shown that the publication of the 1922 *Ulysses* involved clever marketing deeply attuned to the possibilities of capitalizing on wealth and a whiff of scandal—as against the received account in which a heroic author (Joyce) and literary promoter (Sylvia Beach) succeed despite “a benighted legal system, philistine publishers, and a hostile or indifferent public.” Rainey, *Institutions of Modernism*, 42. Later, when Samuel Roth was publishing a bowdlerized *Ulysses* in the United States, Joyce’s lawyers had recourse to a state law of unfair competition because the book was not under U.S. copyright. As Robert Spoo puts it, Roth was enjoined “from using the name of the plaintiff [Joyce] for advertising purposes or for purposes of trade.” Thus, attribution did for Joyce what copyright could not. See Robert Spoo, “Copyright Protectionism and Its Discontents: The Case of James Joyce’s *Ulysses* in America,” *Yale Law Journal* 10: (1998): 633–667, 640, quoting *Joyce v. Roth* (N.Y. Sup. Ct. Dec. 27, 1928), in *Letters of James Joyce*, vol. 3, ed. Stuart Gilbert and Richard Ellmann (New York: Viking, 1966), 185.

19. Roland Marchand’s classic study of advertising in the 1920s and 1930s said, “The American advertising man of the 1920s was the most modern of men . . . an exuberant apostle of modernity.” Marchand, *Advertising the American Dream: Making Way for Modernity 1920–1940* (Berkeley: University of California Press, 1986), 1.

20. Staff Meeting Minutes, Oct. 16, 1932, box 5. In describing the history of the Jerger Lotion campaign, Ruth Waldo noted the contributions of “Miss E. Lewis,” whose “copy gives the story an unusually human and moving quality.” Waldo added: “Mr. Steichen, by the way, has taken the photographs almost from the beginning of the [Jergers] Lotion advertising.” Waldo commended those who “worked with Mr. Steichen and succeeded in getting some very charming illustrations on what hands can do in building romance.”

commercial work he did for JWT, taking care to include many of his advertising photos in exhibitions of his work during the 1920s and 1930s. As for fine art's supposed purity, Steichen pointed out that patronage made the artist "a glorified press agent for the aristocracy" and confessed that, having produced fine art, "wrapping it up in a gold frame, and selling it to a few snob millionaires who could afford it—after I got to thinking about it, I did not feel quite clean." But in his work for JWT, he said, "I have an exhibition every month that reaches hundreds of thousands of people through editorial and advertising pages."²¹ In the work practices of JWT, as indeed in much contemporary art, the modern and the modernist converged.²²

Authors on Madison Avenue

Advertising, then, was both an agent and a site of the dramatic twentieth-century changes in the nature of cultural production and the meaning of authorship. Advertising agency employees were reminded daily that copyright did not fully capture the social and economic significance of authorship. What mattered to them, and to consumers and corporate clients, was whose name was attached to the product as its creator and in what contexts. They valued the claim of an authentic connection between creators and works, but the criteria of authenticity, and the varieties of connections between creators and works that could satisfy these criteria, were flexible.

Like other advertising agencies, JWT competed for clients on the reputation of its human capital, in today's corporate parlance. Company lore claimed that JWT had played a crucial role in transforming advertising from nineteenth-century hucksterism into a modern profession through the particular talent of its staff in applying science to marketing and modernism to art and design.²³ The modernization and professionalization of advertising, as they saw it, entailed hiring Yale

21. Patricia Johnson, *Real Fantasies: Edward Steichen's Advertising Photography* (Berkeley: University of California Press, 1997), 35, 37, quoting Carl Sandburg, *Steichen the Photographer* (New York: Harcourt Brace, 1929), 51–52; and Presentation of Edward Steichen, Minutes of the Representatives Meetings, Jan. 31, 1928.

22. Jackson Lears, *Fables of Abundance: A Cultural History of Advertising in America* (New York: Basic, 1994), 224–227.

23. On the role of JWT in introducing professionalism and "science" into advertising, see Robert Haws interview, Nov. 18, 1964, pp. 1–2, Bernstein Company History files, box 1; biographical file on Paul T. Cherington, Bernstein Company History files, box 4; *JWT News*, Feb. 1924, Bertram Metter Papers, box 2. *JWT News* was the company's internal newsletter.

graduates as writers and university professors to conduct market research.²⁴ Internal office memorandums portrayed excellence as the result of collaboration, and executives insisted that JWT, not the individual writers, artists, or account representatives, was the author of the advertisements it produced.²⁵ Stanley Resor, the long-time head of the agency, "would never let anyone have credit for even an ad. It was a 'Company' job. The whole thing was 'Company.' No one person." Walter Lord, who was a copyeditor for the firm before he published *A Night to Remember* (1955), said, "The Thompson Company deliberately beclouded the matter as to who was responsible for a particular ad. Mr. Resor believed so firmly in the team idea... that an individual was never known as the person who wrote such-and-such an ad... Keep yourself out, if you want to get your idea across, is the cardinal rule in dealing with the Old Gentleman."²⁶ Excessive attention to individual contributions—indeed, almost any form of obvious self-promotion—was considered unprofessional, gauche, and counterproductive. Because the name of the firm was valued above the names of those who worked for it, there weren't names on office doors, and senior JWT employees described the corporate form of the organization as "a picket fence" rather than a pyramid. There was supposed to be no hierarchy, just collective achievement through individual creative effort and spirited collaboration. "That's why we depreciated titles—we didn't have labels or titles," said one employee; "we didn't sign our names individually to projects, we signed our work 'J. Walter Thompson,'" said another.²⁷

By contemporary standards, JWT was somewhat relaxed about intellectual property rights in employees' work. The company employed thousands of creatives to produce a range of materials that were protected (or protectable) as intellectual property, including photographs, texts, symbols, music, films, and radio programs. Employees also generated less tangibly fixed creations, including ideas and ad campaigns, that were valuable but not protectable by copyright. The firm did not use written contracts for any of its employees for most of the twentieth century, nor does the paper trail left by the employees deal much with copyright and trade secret law. Nonetheless, it was generally understood as a matter of the corporate culture that both the intellectual property and the ideas that worker

24. Robert Haws interview, Nov. 18, 1964, pp. 1–2, Bernstein Company History files, box 1; biographical file on Paul T. Cherington, Bernstein Company History files, box 4.

25. Henry Flower interview, pp. 6–7, Helen and Stanley Resor file, Colin Dawkins Paper box 3. "The phrase he said, 'I don't ever want to hear you say that's your account. It belongs to the Company. It belongs to your partners.' He kept emphasizing that over and over again."

26. Walter Lord interview transcript, Colin Dawkins files, box 17.

27. Interview with Sam Meek, Bernstein Company History files, box 1.

generated belonged to the firm.²⁸ J. Walter Thompson made its money by selling its employees' ideas and works to its clients, so it generally acted as if both the intellectual property rights and the credit for creating the property were the agency's to sell.²⁹ Yet the agency did not always claim ownership of the work vis-à-vis its employees. In the days when the agency wrote and produced radio programs for its clients to sponsor, the show's writer might own the script even though he or she was technically a JWT employee (they were only sometimes independent contractors).³⁰ Composers of music for radio programs often retained the rights to the music, and JWT licensed the songs under the ASCAP system just as a broadcaster would have. In some of the shows it produced for clients as sponsors in the early days of television, JWT hired writers without a written contract and simply assumed that it owned the scripts as works made for hire. In some cases, the writer owned the script although it had been written for JWT or its clients.³¹

Just as the agency did not uniformly insist on the property side of authorship, it was inconsistent about attribution. In the early days of JWT's move into radio advertising, the company's handling of credit still reflected its general culture of anonymity and corporate attribution. As one executive recalled:

As you look back at the credits for writing, directing, and producing these and other JWT shows another striking thing stands out. The credits look like a roster of JWT Radio Department talent In those days, JWT wrote all of the material their stars used on the air. The stars might be getting five thousand to seventy-five hundred dollars a week, and the writers and

28. William Howard to John Devine, June 16, 1949 ("I emphatically share your views on the lack of desirability of contracts with employees"), Edward Wilson Papers, box 48. Readers might object to my claim that ideas were the firm's property by adducing that only expressions, and not ideas, are copyrightable. But ideas can be owned as trade secrets, even if they cannot be copyrighted, and JWT insisted that it owned its employees' ideas.

29. Employee work that was not copyrightable, such as ideas and concepts for campaigns, was protectable under trade secret law. I found no evidence in the JWT files of disputes between employees and the firm over the ownership of ideas as trade secrets. Sometimes, the agency's lawyers negotiated with clients about whether JWT or the client owned unused material. For example, the JWT agreement regarding a print advertising campaign for Parker Pens in 1969 provided that all of the agency's work product—"sketches, layouts, art work, copy, plans, ideas, trade names and product concepts"—"shall, as between agency and client become client's exclusive property when paid by client." The general counsel of JWT rejected the idea, initially proposed by Parker, that the agency would convey the property to the client when the client *approved* the work: "Unless the client actually uses and pays for material which we have shown him, we should not be precluded at a later time from using it for another client." Edward Wilson Papers, box 51.

30. Edward Wilson Papers, boxes 48, 65.

31. Edward Wilson Papers, box 65.

directors might be getting that much a year, and no credits on the air or in the trades. Ours was an anonymous society, and our only accolade, after a particularly fine show and one which "broke new ground," was an orchid, which we would find on our desks the morning after—from [JWT Vice President] John Reber.³²

Later, when JWT began producing television shows for its clients to sponsor, screen credit was handled on the same terms and under the same collective bargaining agreement provisions used for any other TV program, which meant that sometimes JWT employees received screen credit and sometimes they did not.³³ But those were the early days of TV, when the authorship of programs had not yet been regularized by the elaborate system the Writers Guild of America later constructed to wrest authorship away from the whims of studio moguls, who had previously doled out credits like party favors.

Privately, and within the world of ad agencies, JWT did attribute work both to itself as a firm (in the case of ads that were nominated for awards) and to individual employees. Attribution was made for many purposes. It was a strategy of bureaucratic rationality. The business of managing creative talent required processes for spotting and nurturing talent, which in turn required tracking the work of individuals.³⁴ Dossiers of employees' accomplishments were used, for example, to set their salaries "as nearly as possible in proportion to individual contributions."³⁵ These same dossiers were used to match the talents of individual employees to the

32. "Ain't It Hell on a Windy Day," 335–336, Colin Dawkins Papers, box 22 (some internal punctuation omitted).

33. In the lengthy labor negotiations in 1950–1952 between television producers and networks, on one hand, and the Writers Guild, on the other, the ad agencies (including JWT) attended as interested observers (ad agencies typically produced the shows they prepared for clients). It was understood that the agencies would adhere to the collective bargaining agreement for all shows they produced.

34. Robert Haws, the long-time personnel director of JWT, described the process of finding an account representative in the early 1960s: "Is he very exciting from the standpoint of what he *may* be able to do here? Either in the form of talent or your estimate of the way he will grow in a general way." "[W]e keep sort of like an executive recruiting file, internally here, of people that we know. So we immediately call over there for background, on all sorts of fellas. In addition to that, we start an intelligence team working" to spot talent. Robert Haws interview, Nov. 1964, pp. 5–7, Bernstein Company History files, box 1. Later, each JWT office was directed to compile a list of its "top ten contributors." The goal of inventorying names and qualifications, as the company's general counsel explained to a manager of the London office, was so that "we can receive the qualifications of outstanding persons we already have when we are in need of particular talents in another office." Edward Wilson to George D. Johnston of JWT London, cable, Jan. 12, 1971, Edward Wilson Papers, box 43.

35. "Notes on JWT Compensation Policies, Written 1949 by EGW-LL," Bernstein Company History files, box 7.

demands of particular clients and campaigns.³⁶ Other mid-twentieth-century tenets of bureaucratic management insisted that the organization should present a human face to its employees. The company newsletter, which was published weekly or biweekly for decades, routinely profiled individual employees and often attributed slogans, ideas, or other aspects of ad campaigns to them.³⁷ In addition, the background and development of particularly successful ad campaigns—like the “Uncola” 7-Up campaign of the late 1960s and early 1970s, or the “She’s Lovely, She’s Engaged, She Uses Pond’s” campaign of the 1940s—were covered in the newsletter and typically credited to group leaders and at least some of their team. Company lore sometimes lionized the past accomplishments of particular company leaders as a way of dignifying the firm and inspiring younger employees. For example, Helen Landsdowne Resor was praised for her uncanny ability to understand what would appeal to the female consumer, for her pioneering work in introducing emotion and, especially, sexuality to advertising campaigns (“A skin you love to touch”), and even for the development of managerial strategies (she was credited with hiring and promoting women into creative and responsible positions within the Women’s Editorial Department).³⁸ And, sometimes, authorship was attributed as a matter of what seemed to be common decency but may also have been a motivational tactic; when particular commercials garnered unusual praise, the account representative considered it gracious to pass along the compliments to the head of the group that had worked on it.³⁹

When authorship was acknowledged, there were discussions about how it should be done fairly. The desire that credit be given where it was due, without

36. Interview with Robert Haws, Bernstein Company History files, box 1.

37. JWT Newsletter files. See *JWT News*, Nov. 21, 1962 (Pan Am ad campaign won awards; firm credited as a whole); *JWT Michigan Avenues*, May 1, 1970 (“Uncola” campaign credited to a group headed by named individuals).

38. James W. Young interview transcript, Nov. 1963, p. 6; client file on Chesebrough-Pond’s, Bernstein Company History files, box 5 (the Pond’s slogan); biographical file on Ruth Waldo, Bernstein Company History files, box 5 (gender segregation of departments); Colin Dawkins Papers, box 1, Offers and Staff file on Carroll Carroll (attributing the Woodbury Soap slogan, “A skin you love to touch,” to Landsdowne in 1911).

39. Robert Castle to Peggy King, memorandum, June 25, 1956, John F. Devine Papers, box 37 (Personnel):

The favorable reaction to our 1½ min. Skol commercial has exceeded the usual response. The client has repeatedly spoken of its high quality and has asked me to express their thanks for an excellent job to all concerned. In addition to this, I have heard from several people in the industry already—who have gone out of their way to contact me and comment favorably on this commercial. One of these was a long distance call from Mr. Walter H. Annenberg, owner and Managing Editor of *TV Guide*, who wanted me to know it was the finest commercial he had ever seen on television.

regard to interpersonal power dynamics, explains some significant and otherwise mystifying features of the organization. In particular, it was often cited as a reason that JWT maintained separate men’s and women’s editorial groups. As at Tiffany Studios, women decided to maintain a gender-segregated creative department precisely so that they could be, and be recognized as, autonomous authors of their work within the firm, knowing that the company would be recognized as the sole author of their work outside the firm. They used gender as a tool to prevent the total alienation of their creative labor.

The origin of the separate departments was typically attributed to Helen Landsdowne Resor, who had been employed as a copywriter around 1911 and married Stanley Resor, the head of the company, in 1917. Mrs. Resor insisted, and other senior women agreed, that if women worked with men in gender-integrated departments the men would get all the credit for the good ideas, copy, and artwork created by women. In an early 1960s interview, recently retired senior executive Ruth Waldo, who had joined JWT in a clerical position in 1915 and became its first female vice president in 1944, explained why she supported the policy even though women newer to the firm thought of it as discriminatory:

When a woman works for a man or in a men’s group, she becomes less important, her opinion is worth less, her own progress and advancement less rapid. Then she does not have the excitement and incentive to work as hard as she can, nor, in a men’s group, does she get the full credit for what she does. . . . But with the knowledge and confidence of Mrs. Resor’s support, a woman at Thompson could advance in her own group without having to compete with *men* for recognition of her ability. She has greater independence and freedom; a woman’s ideas could be judged on their value alone. It was one less handicap.⁴⁰

As another woman put it, “I think you cannot have a strong woman’s department unless it is separate. . . . [O]f course the men have had women writers, over the years. But no woman writer in the men’s department has ever been made group head, for instance.”⁴¹

The agency thus maintained a flexible array of practices with regard to individual attributions and branding itself through its employees’ creativity. Its business was to focus on promotion of the client’s brand. It persuaded its clients of its fitness to do so by focusing on the abilities of its creative staff, and this attention

40. Ruth Waldo bio, Bernstein Company History files, box 5.

41. Interview with Margaret King Eddy, Bernstein Company History files, box 1.

in turn required JWT to promote its own brand of professionalism and polish. It prided itself on a workplace culture in which some individual contributions were lauded but no person was a brand on his or her own. It was a clever and adaptable blend of individual and collective authorship. And none of it rested on a creator's copyright in a work. Authorship was determined largely outside the purview of the law, and it was both claimed and obscured for reasons of bureaucratic rationality according to a variety of management theories pervading the large mid-century corporation.

The Many Facets of Authorship in the Legal Imagination

Having looked at the workplace practices at JWT to understand the attribution of authorship in commercial art, I now will consider a range of legal means by which authorship in a more general sense was constructed during the twentieth century. The many facets of authorship—origination, ownership, attribution, and recognition—are reflected in the multiple legal theories that people invoked to assert their claims of authorship. In law, as in culture, the value of genius became inextricably tangled with the value of regard. Twentieth-century copyright law embraced modernism's portrait of the artist as innovative dissident at every opportunity. Lawyers seeking to expand property rights in valuable mass-cultural commodities, such as movies, photographs, or popular music, frequently invoked the iconic modernist notion of the creator's unique and transformative vision as the reason that law must protect property rights in the work. Yet these encomiums to the creative genius of individual authors usually served the goal of securing corporate legal rights to mass-cultural artifacts. Modernism became Madison Avenue's friend, at least so far as copyright law is concerned.

Because this claim may seem counterintuitive, it is worth going over again more slowly. The oppositional aesthetic of many modernists linked the power of artistic creation to a project of social transformation aimed at reducing labor alienation, economic exploitation, and social conformity. To some, then, modernism was part of the class struggle.⁴² By the time this oppositional aspect of modernism filtered into the world of mass culture, it had been simplified to something like "alienation of labor is bad and creativity is good." This version of the modernist critique,

42. This is, of course, an oversimplification of a complex phenomenon. See Raymond Williams, *The Politics of Modernism: Against the New Conformists* (New York: Verso, 1989); Matei Calinescu, *Five Faces of Modernity: Modernism, Avant-Garde, Decadence, Kitsch, Postmodernism* (Durham, NC: Duke University Press, 1987).

watered-down as it was, had a surprisingly strong influence on the law relating to creative work. It was one source for the development of legal rules that, in theory if not in fact, insisted upon a right of attribution and a right of self-ownership, which became the right of publicity. As studies of modernist icons have pointed out, authors, publishers, lawyers, marketers, and others exploited the market value of marquee names like Virginia Woolf or James Joyce, wholly apart from the value of the books that bear their names.⁴³ The result was a conscription of the right of privacy and trademark law, legal categories that came into being separately in the early twentieth century, to the formation of a new property right in the manufactured or imagined self. Emerging around mid-century, this new right of publicity benefited the entertainment elite but turned out to be unavailable to those anonymous company employees who helped to turn the reputations and images of modernist icons into valuable commercial properties.⁴⁴ The legal regime under which such creators worked deprived them of the material conditions—the intellectual and financial independence of an entrepreneur-in-ideas—conducive to the kind of creativity imagined by modernism. What remained, then, was just the reputation for being innovative and the ability to market oneself as a generator of novelty—the Madison Avenue version of authorship.

In the popular imagination, authorship has little to do with copyright ownership. High school students learn that Shakespeare was the author of *Hamlet* and Woolf of *Mrs. Dalloway* without being asked to consider those works' copyright status. (At the same time, the moral force of copyright law still rests on the equation of authorship and ownership, as those students learn when they are lectured about the evils of unauthorized downloading of music and movies.) Yet scholarly debates about authorship in copyright law continue to underplay the extent to which authorship and ownership have been disarticulated. Setting aside the canonical works of modernism—poetry, novels, concert hall music, gallery art—a huge amount of the creative work of the twentieth century, including much that is an essential part of how we today envision twentieth-century culture, was done by employees who did not own the copyrights in their work. A great deal of the work that translated the modernist aesthetic to a mass audience—including writing, designs, illustrations, and music created by anonymous, creative ad agency employees who were admirers of modernism—was owned by and, in law, was "authored" by the agencies.

43. See, for example, Brenda R. Silver, *Virginia Woolf, Icon* (Chicago: University of Chicago Press 1999); Maurizia Boscagli and Enda Duffy, "Joyce's Face," in Dettmar and Watt, *Marketing Modernisms*, 133–162.

44. Jane M. Gaines, *Contested Culture: The Image, the Voice, and the Law* (Chapel Hill: University of North Carolina Press, 1991).

Although legal rules developed to protect authors, companies, and publishers from the misattribution of work, none protected creative employees from misattributions by their employers or co-workers. After the divorce of creation from ownership made attribution a new, *cultural* form of authorship within companies and in the market at large, the question arose whether attribution, in turn, would become as alienable from creative labor as copyright had become. It did. As attribution became a valuable commodity in a highly mobile labor market, and as advertising created awareness of the value of a brand, the law allowed companies to treat attribution as a form of property that, like everything else, was alienable from the labor of creation.

In economic terms, an innovation or someone's talent or a bit of knowledge can produce two separate revenue streams: one from the intellectual property itself (e.g., the copyright to *Mrs. Dalloway*) and one from the attribution of the intellectual property to a person (Virginia Woolf's valuable reputation as the author of *Mrs. Dalloway*).⁴⁵ Together, attribution and reputation help to constitute a valuable persona. The right of publicity has evolved to protect a person's right to the revenue stream associated with that persona. Like copyright, it embraces multiple visions of what it means to be a creator, including the modernist conception of the author as a unique, transformative force. To be a persona is to be an author of oneself, which has come to entitle one to be recognized as the author of one's creative work. Here again, advertising has been both an agent and a site of the legal change in the meaning of authorship. The 1988 case *Midler v. Ford Motor Company* involved a car ad whose soundtrack was a song made famous by Bette Midler and performed, without the singer's permission, by a Midler sound-alike. In finding for Midler, the court deployed the modernist image of the creative genius and emphasized the uniqueness of the self: "The human voice is one of the most palpable ways identity is manifested. . . . The singer manifests herself in the song. To impersonate her voice is to pirate her identity."⁴⁶ The court also embraced the anticommercial posture we have come to associate with modernism, pointing out that Midler was harmed by the unauthorized use of a sound-alike because she refused as a matter of personal philosophy to perform in advertisements.

Yet the right of publicity also drew heavily upon the Madison Avenue vision of authorship. A leading case involved an advertisement parodying Vanna White, the on-screen assistant on the TV game show *Wheel of Fortune*. The ad depicted a robot wearing a blonde wig and sparkly jewelry turning over letters on a board.

45. Catherine L. Fisk, "Credit Where It's Due: The Law and Norms of Attribution," *Georgetown Law Journal* 95 (2006): 49.

46. *Midler v. Ford Motor Co.*, 849 F.2d 460, 463 (9th Cir. 1988).

Finding that the robot ad infringed White's right to control depictions of her persona, the court reasoned:

Television and other media create marketable celebrity identity value. Considerable energy and ingenuity are expended by those who have achieved celebrity value to exploit it for profit. The law protects the celebrity's sole right to exploit this value whether the celebrity has achieved her fame out of rare ability, dumb luck, or a combination thereof.⁴⁷

In White's case, there may have been no essential genius, no transformative authorial vision, but there was a "trademark" wig, gown, smile, and gesture, and the law protects those. Yet the modernist attribution of a creative accomplishment to an individual, not the Madison Avenue habit of noting the promoter, played a role in the case too. The court treated the case as if White alone were the author and owner of her persona; the opinion entirely disregarded the fact that she had developed her persona while employed by a TV program. Neither the case nor the voluminous commentary on it has asked whether White or her employer owns the right to defend (and profit from) her persona when what was parodied was not White herself, but White in her customary poses and costume at work.

Like JWT's creatives, Hollywood celebrities came to be seen as the corporate assets that rode down the elevator every night. Because the human capital of employee reputation was so easily slotted into the category of a firm's marketable assets, it could become one more thing that the employee signed away to the employer as a condition of hire. A famous case involving the image of Bela Lugosi as Count Dracula probed the question of whether employees sell their personas along with their copyrights as a condition of employment. When Universal Pictures made money selling Lugosi's image as Dracula on T-shirts and trinkets, Lugosi's heirs filed a lawsuit claiming that his image was their inherited property. The California Supreme Court eventually ruled against the heirs on the basis that the right to exploit one's name and likeness ends with death and cannot be passed to heirs. But one justice who joined the majority opinion also pointed out the following in a separate opinion: because Lugosi had created the Dracula persona while employed by Universal and had signed an employment contract giving Universal the right to use and exploit his name, voice, and likeness, that persona had not belonged to him even during his life.⁴⁸ It is at best unclear, then, under what cir-

47. *White v. Samsung Electronics America, Inc.*, 971 F.2d 1395, 1399 (9th Cir. 1992).

48. *Lugosi v. Universal Pictures*, 25 Cal. 3d 813, 824-828, 603 P.2d 431, 434 (1979) (Mosk, J., concurring).

circumstances employee-creators are the authors of their personas. If voice and persona manifest a person's uniqueness such that their impersonation violates her identity, then the sale of one's persona as a condition of employment begins to look like a sale of identity, a profound alienation of the self from the self.

Modernism, Branding, and the Persistence of Interest in the Author's Labor

The long shadow cast by modernism over mass culture invited constant artistic and commercial engagement with the relationship between artist and creative work. As we have seen, advertising was both a provocateur and a field of battle in that engagement. The commercial value of attribution and anxiety about what that entailed for art became subjects of "high culture" at the same time that anxiety about creativity in a work setting became a subject of "popular culture." Everyone knew that marketing mattered; the relationship between publisher and author, dealer and artist, was an important feature of the modernist world in the 1920s. But the fraught relationship between the artist and the marketers, and the arm wrestling between modernism and Madison Avenue over the nature of authorship, gained new attention with the rise of pop art and postmodernism. Andy Warhol mimicked advertisements for soup cans, referred to himself as a brand and to his studio as "the Factory." He disclaimed authorship of some of his paintings by deflecting questions about the intent of his work to his assistants who, Warhol said, actually created them.⁴⁹ Warhol's combination of artistic talent, transformative vision, and hype does not make sense except against the backdrop of modernism's insistence on the separation between art and commerce; it invited ever more thorough confluences of authorship, attribution, branding, and celebrity in the twentieth century's final decades.

Warhol's critique notwithstanding, the emphasis on individual, artisanal creation that modernism shared with the Arts and Crafts movement persisted in the late twentieth century. In the 1960s and 1970s, it animated various trends in visual art and, especially, in popular music. Music audiences wanted some element of authenticity in rock groups despite (or perhaps because of) the growing

49. Amy Adler recounts this incident in her article "Against Moral Rights," *California Law Review* 97 (2009): 263, 296. "Boasting his lack of connection with his own objects, addressing a group of admiring interviewers, Warhol said: 'Why don't you ask my assistant Gerry Malanga some questions? He did a lot of my paintings.'" Quoted in Caroline A. Jones, *Machine in the Studio: Constructing the Postwar American Artist* (Chicago: University of Chicago Press, 1996), 422n35.

influence that producers and record companies exerted on the composition and sound of bands.⁵⁰ The search for authenticity through attribution continues even into the making of musical instruments. Thanks to internet discussion groups, Fender guitar aficionados began to discover a shared preference for electric pickups hand-wound in the 1950s by Fender employee Abigail Ybarra. A market grew for vintage guitars with Ybarra pickups. One can imagine this as Marx's revenge: an anonymous worker is valorized because her routine, factory-style work proved to be distinctive. But the Madison Avenue view of attribution is ever flexible: the Fender company began marketing "re-issue Abbys": new pickups wound and signed by Ybarra. The company thus capitalized upon the reputation of Ybarra—who had been entirely unknown to the world until guitar fans discovered her work—to enhance its own reputation, even as skeptics doubted whether vintage Stratocaster mojo could be attributed to the winding of a coil around magnets.⁵¹

Studies of the economics of artistic labor markets identify the crucial importance of reputation in determining the market value of creative labor. The law has both facilitated and reacted to a modern conceptualization of talent not as merely inhering in a person, nor even as being the product of an expressive person's effort, but as reflecting the investment of the promoter and the impresario, the TV hosts, the DJs, and even the social and serendipitous relation between the artist and the crowd. As the social theorist Pierre-Michel Menger has observed, one should understand the value of artistic labor as a matter of reputation as much as talent:

[T]he appraisal of art and artists varies with the organizational traits of each art world, since it reflects the cooperative and competitive activities of the various members. . . . Rather than being a causal factor, talent becomes a dependent variable, socially determined by the behavior of employers on one side of the market and consumers on the other side. This is why talent may be conceived as embodying not only artistic abilities and technical skills, but also behavioral and relational ones.⁵²

50. Matthew Stahl, "Authentic Boy Bands on TV? Performers and Impresarios in *The Monkees* and *Making the Band*," *Popular Music* 21 (2002): 307, 319.

51. I am grateful to Clyde Spillenger for pointing this out to me based on his reading of guitarists' internet discussions. For Fender's marketing of the Abbys, see www.fender.com/products/search.php?partno=0992114000 (accessed Aug. 22, 2009). Spillenger's observation that the craft involved in the manufacture of electric pickups may not be distinctive enough to merit the term "authorship" illustrates the term's elasticity. The cachet of being an author is great enough to provide the incentive to expand the definition as far as sense will allow.

52. Pierre-Michel Menger, "Artistic Labor Markets and Careers," *Annual Review of Sociology* 25 (1999): 557–558 (internal citation omitted). See also Howard Becker, *Art Worlds* (Berkeley: University of California Press, 1982), ch. 4.

Attribution was thus a function of the labor market and the consumer market, but it was distinctly valuable to the creative worker. As with other things of value, people began to think of both attribution and persona as species of property, and they did so principally by analogy with copyright. Where copyright propertized expression, the right of publicity propertized the commercial use of a name, likeness, and persona. And where copyright proscribed unauthorized copying, the right of publicity forbade misattribution and unauthorized mimicry. By 1988, Madison Avenue's marketing of pop songs and pop stars had made it possible to say that, when an ad agency asked a singer to sing too much like Bette Midler, it was doing nothing less than "pirat[ing] her identity."

Throughout the twentieth century, the relationship between creators and law was staked as much to matters of attribution and reputation as it was to copyright. The latter, a right to (try to) control the sale and duplication of a work, was usually managed and often owned by someone other than the artist: the employer, the publisher, the dealer, the heir. But because reputation was more intimately tied to the author's or artist's very self, it seemed that it should be at least partly inalienable. Modernism, after all, insisted that the author's genius was as inalienable as it was inimitable. Yet once reputation became really valuable (in the form of celebrity), it too became something that could be sold. And the work of reputation making—for example, the advertising that made Tiffany Studios a valuable brand—was often done by artists whose greatest talent lay in the creation and obscuring of others' reputations.

I have used "Madison Avenue" as a metonym for one of two contrasting twentieth-century visions of authorship, each accompanied by a rationale for its legal protection. But Madison Avenue was also, in both a figurative and a literal sense, a place where creators worked for intellectual property owners and, in so doing, worked out the nature and meaning of modern authorship. It was a place where the meaning of authorship mutated to emphasize the value of attribution over the value of creation. But by harboring these mutations, and by modeling how and why attribution should be alienable, Madison Avenue created the conditions that would give rise to a backlash—the search for the "real" artist or author behind the company name—even as the terms *artist* and *author* became ever harder to define.

Modernism and Copyright

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