

Introduction¹

Some of the most dramatic changes in intellectual property (IP) in the United States occurred in the mid-to-late 1990s, and *Kairos* was among the voices attempting to understand these changes as they occurred, most notably, in [*Copywrite, Plagiarism, and Intellectual Property \(Kairos, volume 3.1, 1998\)*](#). By the late 1990s, online environments had become not only possible but prevalent, with legal, ethical, and academic challenges to traditional notions of creators, distributors, and consumers. Responding to these changes by highlighting the opportunities they offered, the 1998 special issue was extensive and innovative. It introduced (by name) the emergent, multivocal, hypertext genre, the CoverWeb. The CoverWeb included 14 texts by 16 contributors that addressed plagiarism in online venues, definitions of authorship, new models for academic publication, IP laws and myths, and—from the Conference on College Composition and Communication’s Intellectual Property Caucus (CCCC-IP) a set of position statements on citation/attribution under the collective identity, “The (In)Citers.” In addition, three Feature webtexts addressed the changing context for composition by reflecting on the pedagogical possibilities of MOOs, by illustrating a multivalent reading of a text, and by discussing congressional hearings. The special issue continued with an interview with Michael Joyce and Mike Bernstein, news and interactive pieces, and eight reviews of books, listserv threads, and online resources (including a review of ten OWLs established before the Purdue OWL). The extent and variety of the special issue’s contributions reflected the pervasiveness and importance of ownership, authorship, and copyright issues in digital composition.

Over the intervening decades, so much has changed.

Our technological landscape has been transformed—with the emergence of social networking tools, systems, and spaces—and this landscape has become increasingly mobile—with the seeming ubiquity of smartphones, wearables, and wireless hubs. The multimodal composing ecology has expanded, both in terms of production tools (examples include Apple iMovie, the Adobe Creative Suite, Audacity, Canva) and in terms of publication spaces (e.g., YouTube, Tumblr, Pinterest, Instagram, Adobe Spark, Prezi). Our pedagogical resources have grown, not only those seeking to increase formal efficiency (such as learning-management systems), but also those supporting informal learning (such as infotainment videos, podcasts, and museum websites). As new technologies and ways to use them have emerged, so have new issues involving ownership, authorship, and copyright. For instance, copyright bots (web-crawling software that parses language and metadata to identify potentially unauthorized uses of copyrighted material) represent just one innovation that academics must now take into account as part of the larger legal-technological ecology where our work happens and lives.

Our cultural landscape has also evolved. *Copywrite, Plagiarism, and Intellectual Property* (1998) predates several shifts in law, technology, and of course, the popular acceptance of the Internet.

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According to the Pew Research Center, [only 41% of adults went online in 1998, and 57% worried “not at all” about whether they were missing out on anything](#) by not going online. This apparently FOMO-free (Fear Of Missing Out) landscape began to wobble as Google launched in September of 1998. In the immediate wake of the *Kairos* special issue, the United States Congress passed the Sonny Bono Copyright Term Extension Act, a 20-year extension to copyright terms (a move that several of the special issue’s contributors anticipated and vocally opposed). Also in 1999, Shawn Fanning invented Napster in a Boston dormitory, driving both awareness and use of peer-to-peer technologies. The *Kairos* special issue arrived the same year as the first commercially released MP3 player, but the game-changer of this category, the iPod, would not be released until 2001. The iPhone was almost a decade away, as were Twitter and popular acknowledgment of “Web 2.0.” The *Kairos* special issue arrived at a moment when “remix” was *only* a musical term, and the notion of a “remix culture” trafficking in viral creative play with cultural artifacts via the Internet was only faintly imaginable. The popular understanding of the Internet circa 1998 is [neatly encapsulated in the trailer for the feature movie “You’ve Got Mail.”](#) For those outside this scholarly community, America Online was the Internet, and it was a weird, confusing, and unnatural space. The Internet was widely understood as a space for reinvention and distance from a “real-world” persona, as opposed to a space for extensions of “real world” personae.

In short, the changes in our culture, especially those at the intersections of writing, communication, technology, and law since 1998 have been *seismic*.

And, thankfully, our scholarly landscape has changed. In the decades since the *Kairos* special issue, a community of scholars associated with CCC-IP has produced a wave of books treating authorship, copyright, and ownership issues and specifically focused on themes regarding communication. Dànielle Nicole DeVoss and Martine Courant Rife (2014) explored the ubiquitous nature of intellectual property in everyday markers of culture and influence in *Cultures of Copyright: Contemporary Intellectual Property*. Steve Westbrook’s (2010) *Composition and Copyright: Perspectives on Teaching, Text-making, and Fair Use* connected educational practice to digital media to consider the impact of one on the other. John Logie’s (2006) *Peers, Pirates, and Persuasion: Rhetoric in the Peer-to-Peer Debates* examined rhetorical persuasion to consider how peer-to-peer sharing may be considered either criminal or a means to support innovation. Jessica Reyman’s (2009) *The Rhetoric of Intellectual Property: Copyright Law and the Regulation of Digital Culture* likewise explored how the entertainment industry has shaped the debates over remix and fair use, much to the detriment of academic interests. TyAnna Herrington’s (2001) *Controlling Voices: Intellectual Property, Humanistic Studies, and the Internet* examined constitutional policy in copyright and authorship, specifically as it furthers use of work as a foundation for fostering speech interests that support democratic interaction. Another Herrington (2010) book, *Intellectual Property on Campus: Students’ Rights and Responsibilities*, examined legal implications surrounding students’ rights in their intellectual products as well as their use of other authors’ works. Not least, there have been collections of works treating communication, rhetorical theory, acts of composition and use, as well as

pedagogy, such as Martine Courant Rife, Shaun Slattery, and Dànielle DeVoss' (2011) *Copy(write): Intellectual Property in the Writing Classroom*.

Moreover, intellectual property has been a recurrent focus for journals. *Kairos'* spring 1998 special issue, *Copyright, Plagiarism, Intellectual Property*, closely preceded *Computers and Composition's* special issue in August of that same year, beginning a tradition of focused work on legal issues that affect communicative interaction and exploration. *Computers and Composition* (2010) revisited these topics a decade later in a special issue on *Copyright, Culture, Creativity, and the Commons*, as did a special issue of *Technical Communication Quarterly* (2010) that focused specifically on discussing IP law. Both of these issues marked the 300-year anniversary of the (arguably) first copyright law, the British Statute of Anne (1710). A 2013 special issue of *College English* entitled *Western Cultures of Intellectual Property* continued this tradition of specially focused research in copyright, authorship, and ownership. These works are joined by multiple other journals' publications of articles on IP issues that appear interspersed among those treating other issues in communication, composition, and communication pedagogy. The monographs on IP law, edited collections that address copyright and authorship, the journal collections, and the interspersed individual works have sustained a continuous inquiry for over 20 years.

Focused and critical academic engagement with questions of ownership, authorship, and copyright remains crucial. Whatever the specific topic—open-access resources, ePortfolios, blogs, plagiarism-detection services, institutional repositories, gaming and massive multiplayer gaming, network production services, fanfics, augmented and virtual reality—changes in practices, policies, and regulations have direct impacts on scholars of composition and communication more broadly. Thus, this special issue of *Kairos* pauses and looks back over the past 20 years but, most importantly, focuses on our current communicative landscape and the futures we face in rhetoric and composition studies where ownership, authorship, and copyright are concerned.

ON OUR KEY TERMS . . .

In separating out the terms ownership, authorship, and copyright, we are following an artificial division that was embedded in United States law from the nation's foundation -- the idea that products of intellectual labor can be alienated from the agents who create them, and sold to and owned by other agents. This concept of alienation has been challenged both historically and recently. Non-Western scholars have repeatedly argued that ideas and artifacts are produced within certain cultural milieus, and in that sense are collectively produced whether or not explicit collaboration is invoked: thus, how can one author claim ownership? Likewise, the advent of the Internet has created venues that are shared spaces, venues whose essence relies upon repeated sharing, remixing, liking, and other collective activities. Who is "the" author of a meme, and who can possibly own one? Governmental responses to challenges to the idea of ownership have gone to different extremes -- from a doubling down on copyright restrictions (e.g., the Digital Millennium Copyright Act, European Copyright in the Digital Single Market

Directive, Copyright Clearance Center) to a call for open access (e.g., PubMed, Creative Commons). In thinking about the key terms for this special issue, then, we need to recognize their fluidity, instability, and the many ways they overlap. Likewise, the texts included in this special issue address all three areas, even when they foreground one.

Ownership

In thinking about ownership and copyright in the United States, we should recognize that we have inherited a legal construct codified during the 18th century. The Constitution and the Copyright Act of 1790 presume that a creator or creators can be identified who will be allowed to benefit, for the limited time of 14 years, from a monopoly on distributing copies of any “map, chart, book or books” (Copyright Act, Section 1). Importantly, the enforcement of this provision depended and continues to depend on the material conditions of how items are created, distributed, and consumed. For example, as Patricia Loughran explains, the pamphlet known as “America’s first bestseller” was Thomas Paine’s *Common Sense* (1776); written well before the Copyright Act, Paine nevertheless provided a “copyright” to the Continental Congress (p. 42). Paine also promoted the myth that his pamphlet was universally distributed to the colonies, and he claimed that 120,000 copies circulated within the first three months of distribution (p. 41). Later historians likewise have provided unsubstantiated estimates that, ultimately, 100,000 to 500,000 copies of the pamphlet circulated (p. 40). However, Loughran argues, the sheer lack of national infrastructure -- from the number of available printing presses and paper to produce the copies, to the roadways, postal workers, and booksellers to distribute them -- means that such numbers were, quite literally, impossible. Indeed, her most generous estimate is 75,000 copies, with a much broader distribution in the relatively print-rich New England areas than in the Southern colonies (p. 52-53; 56). In other words, available technologies and their supporting infrastructures play crucial roles in mediating what can be owned, what can be replicated, and who or what can control access to finalized products.

When material conditions change, so do the possibilities for the creation, distribution, and consumption of intellectual products. Today, for instance, we can easily distribute 500,000 copies of *Common Sense* with a few clicks. (Help yourself to a copy from [Project Gutenberg](#) or any of a dozen other sites.) When new information and communication technologies radically change what is possible, they both upend established practices and make visible the assumptions that have been entrenched within legal, cultural, and technological infrastructures. Often initially unregulated because existing laws have not accounted for them, technological innovations allow users to explore new conventions of control (or not) over intellectual products. In this sense, the current special issue shares a starting point with the 1998 issue on *Copywrite, Plagiarism, and Intellectual Property*. The technologies and digital cultures under discussion have changed, but the question of who is allowed to own what--and what moral, economic, and/or legal grounds warrant those ownership claims--has remained.

Several articles in this special issue consider the impact of technological innovations and their implications for different types of claims for ownership. Does someone or something own a

product of intellectual labor because of an implied right to and responsibility for continued access to and interaction with it? A right to not be exploited? A right to and responsibility for further development and creation? A right to control further use of the product? A right to profit? A right to claim agency? And what happens when, as in many cases, multiple agents may lay claim to any or all of these positions?

In “Copyright, Content, and Control: Student Authorship Across Educational Technology Platforms,” Timothy Amidon, Les Hutchinson, TyAnna Herrington, and Jessica Reyman address questions that have been of central interest for scholars, teachers, and institutions of higher education for some time: what rights do students have regarding the work that they produce in educational contexts? In particular, they look at the introduction of technology platforms such as Turnitin, Twitter, and learning management systems (specifically, Canvas). Such platforms tend to make or to facilitate certain copyright claims to uploaded work, both instructors’ and students’, through their licensing clauses on the basis of the services that they provide to users. These ownership claims are problematic, not least because they are not always visible to or explained to students. This piece provides a heuristic for thinking through the implications for students and instructors when the technology infrastructures supporting schooling belong to extracurricular corporations.

What happens if the creator of a piece is not (wholly) human? In “What Monkeys Teach Us About Authorship: Toward a Distributed Agency in Digital Composing Practices,” Jialei Jiang argues that current digital ecologies demand that we consider the roles that nonhuman agents play in intellectual labor and the ways that these agents complicate notions of ownership. Beginning with a discussion of a recent lawsuit over a macaque’s rights to a photograph that he took with a human’s digital camera, Jiang further raises the problem of determining both authorship and ownership when cyborg elements, artificial intelligence, and technological interfaces are also considered as contributing creators. Traditional notions of ownership might suggest, for example, that we should attempt to track back to the AI’s “original” software programmer (a person or company) to determine ownership, but the fluidity of the creators involved within current digital ecologies suggests that such efforts would be futile. Instead, Jiang persuasively argues that we need to develop models of ownership that accommodate the distributed, multiple agents involved in today’s creative environments.

In another take on creativity within digital environments, in a “Perspective on Modding and Ownership,” Samuel Fuller addresses the relative rights of video game franchise owners and those of users (modders) who program new components (mods) for those games. Informed by his extensive scholarship on the history of video games and the different ways that video game franchises and modders have interacted with each other, Fuller argues that modders have creative/artistic investments in games. Through this active, creative participation, they gain a type of ownership in those games that needs to be respected by traditional franchise owners.

Authorship

How many times have we heard that the Author Is Dead, only to be asked to arbitrate a plagiarism case involving students and colleagues?

That not-altogether-rhetorical question encapsulates many writing scholars' experiences with today's ambiguous, contradictory notions of authorship. Since 1967, Barthes's "Death of the Author" has been countered by arguments that the Author has risen, Lazarus-like, from his (sexism intended, as the construction of The Author is certainly gendered) momentary grave. But in rhetoric and composition, the push towards the reader embedded in Barthes's argument responds to Western Rhetoric's long bias toward the audience, extended back at *least* as far as Aristotle's enjoinder that [the "hearer" is the person who "determines a speech's end and object."](#) That valuing of the hearer/reader/viewer was also highlighted in the theories of Bakhtin, as well as by the cultural-historical activity theorists who have followed his ideas that all utterances are multivocal as they anticipate and/or echo other utterances, and who have extended the agency for utterances to technologies, tools, institutions, documents, organizations, and other nonhuman agents. Remix culture likewise has embraced this view, with its celebration of multiple, distributed, and embedded points of authorship and the active recombination of elements by both composers and hearers.

A generation of scholars, moreover, has pursued collaborative scholarship, following the pathbreaking work of Andrea Lunsford and Lisa Ede on collaborative composition, most notably in their 1990 book, [Singular Texts/Plural Authors](#). This theoretical challenge to authorship-as-usual has since been complemented by the arrival of tools that effectively facilitate collaboration, even [real-time-collaboration](#) among joint authors that has been a substantial (and, at present, unremarkable) part of the editorial processes for this issue. If we view the concept of the author as worth maintaining (and "composer" sure seems a much less sexist and sedimented term) then we need to find ways to underscore the practical reality that something like authorShip or authors-ship is increasingly routine. And if that recognition erodes some of the power and *authority* that has been encoded into the figure of The Author, well, that's what Barthes, Foucault, and Helene Cixous (among many others) were warning against in the first place.

And yet, simultaneously, Deborah Brandt argues in *The Rise of Writing: Redefining Mass Literacy* that, in the United States, the privileged position of reading over writing in standard definitions of mass literacy has been shifting ever since the publication of the first *Kairos* special issue. Drawing on interviews with 90 people conducted since 2005, Brandt traces a shift in attitude towards the relative values of reading and writing. Whereas reading was (and often still is) promoted as literacy for much of our country's existence, today, writing is starting to be increasingly valued in its own right. Many of the active writers she interviewed, for instance, did not see writing as a supplement to reading, and they did not buy into the received wisdom that "to write better, one must read more." Rather, writing is valued as a means of actively participating in culture, whether through organizations or social media. In fact, some of her younger participants claimed that they wrote and shared materials widely on social media and

blogs without spending much time reading others' works at all. What we -- or, at least, our students -- seem to be experiencing is a cultural shift in the relative value of reading and writing.

Perhaps that shift partially explains why, despite twenty years' development of remix practices in digital spaces, the author is dead except when it comes to accusations of plagiarism. Clancy Ratliff's "Plagiarism and Authorship: A Review and Retrospective of the *CCCC Intellectual Property Annual*" traces the past decade's responses to plagiarism questions: arguments about how to redefine questions of plagiarism, citation, and attribution; assessments of how punishments and their effects differ for students, celebrities, and international composers; and examinations of the impact of new technologies on plagiarism issues.

In a similar vein, Alexis Teagarden's webtext, "Stories of Plagiarism / Theories of Writing: How Public Cases of Plagiarism Reveal Circulating Theories of Writing," applies a new method of coding materials to determine which notions of authorship are at play when the claim is made that a public figure has plagiarised materials, or when the public figure provides defenses against such accusations. As does Ratliff's retrospective on the *CCCC-IP Annual*, Teagarden's research offers writing specialists new, systematic ways to understand today's varied ethical approaches to authorship.

Copyright

At the time of the first *Kairos* issue on this topic, there was hope that the law would shift in recognition of the advent of new communicative tools (the computer, primarily, and the still-very-new Internet). The law has shifted, but more often than not these shifts in law and legal precedent have been directed at perpetuating a foundationally-print focused model within Internet spaces (and any other spaces that seem to be potential candidates for protection, including [boat hulls](#) and — in a thankfully failed gambit — [the flavor of cheese](#)).

That first *Kairos* issue also arrived just as the United States Congress engineered an ongoing 20-year (and counting?) pause in the entry of works into the public domain by means of a retroactive 20-year extension to the term of copyright. The landscape we now face is one where the public domain is impoverished relative to the 1990s' routine annual advancement of works into the public domain. As this is being written, [we stand on the verge of the first New Year's Day in which past works \(in this case from 1923\) will become available for unfettered scholarship, use, and commercialization](#).

Though this feels like the broader culture is trending towards a victory for members of the extended scholarly community who have participated in arguments against copyright laws and decisions that have limited public access, the concept of fair use is suffering due to increasing awareness of the possibility to deploy "notice and takedown" mechanisms enabled by the Digital Millennium Copyright Act, and — more generally — "slap" and nuisance suits that effectively cede copyright control to the deepest pocket.

Copyright is also a looming presence throughout higher education. Educators depend on texts, and in particular *current* texts. Because of academia's bias toward recency, academic publishing remains an especially lucrative niche market. Quality control within this space is usually assured by way of peer-review, usually involving no direct compensation for reviewers and often involving little to no compensation for those editors who are situated within educational institutions. Efforts to leverage the Internet to sidestep the existing academic publishing structures have been only partially successful (with [Kairos being among one of the longest-standing examples](#)). More generally, copyright's presence on college campuses has clearly not been making [textbooks](#) or [academic journals](#) more affordable.

The copyright-complicated academic workspace is front and center in Karen Lunsford, James Purdy, and Erika Carlos's "Mapping the IP Landscape: Reflections on Ownership, Authorship, and Copyright for Writing Instruction." This research project represents a sustained effort to aggregate the thinking of dozens of practitioners as they think through questions of authorship and ownership in writing classrooms, and weigh the degrees to which copyright laws serve as obstacles to their preferred pedagogical and professional approaches. Lunsford, Purdy, and Carlos offer a window into the challenges wrought by copyright laws in the contemporary academy, and the thoughtful and innovative approaches that scholars at every rank are using to cope with these complications.

Also presenting thoughtful reflections on the impact of copyright on academic scholarship, Daniel Frank, Jabeen Firasat, Eda Ozyesipinar, Nathan Riggs, and Joshua Wood, recently matriculated graduate students, comment on their experiences of producing a collaborative film project for a graduate seminar. Their webtext, "Collaboration and/against Copyright: Notes Home from the Information Technology Revolution's Battlefield," notes the many challenges they encountered when addressing copyright protections over media they wished to incorporate into their film -- to the extent that copyright became a tool for censorship. They particularly reflect on the international implications of copyright for freedom of speech and change in the world, and they illustrate the need for changing current copyright regimes.

LOOKING TOWARDS THE FUTURE OF IP

A little over two decades ago, *Kairos* was on the leading edge of academic venues addressing the significance of copyright law, plagiarism policies, and "intellectual property" for scholars of rhetoric, technology, and pedagogy. As the editing process for *this* issue draws to a close, we are conscious that *Kairos 3.1* looks prescient at times and quaint at other times (scholarship about the Internet often does not age well, and links in said scholarship even less so). We cannot help but wonder how this issue of *Kairos* will look two decades from now.

As we allow ourselves some satisfaction with respect to the scope, range, and depth of the work collected in this issue, we are also conscious of developments now underway or on the horizon that may well have transformative impacts on the conversation. Among these are:

- Increasingly restrictive approaches to copyright in the European Union, especially if paired with ongoing demands that the United States “harmonize” with European laws.
- Developments in artificial intelligence, and especially increased reliance on bots as composers of at least written texts, and perhaps of media texts more generally.
- Movement toward collective and collaborative composing tools, especially at the point where the “default” writing space is marked as a space for joint — rather than individual — composition.
- Generational developments in Internet technologies which may well make smartphones, rather than conventional routers, the main pathway for Internet delivery, and may offer bandwidth and speeds that transform the practical realities of media composition.
- New capacities for more users -- especially our students -- to innovate via new technologies, such as apps, haptic devices, wearables, AI, and robotics, and the copyright and patent questions raised when the technological infrastructures that allow them to do so are offered by campuses.

The purpose of a special issue like this is to offer a snapshot of where we stand, rather than to prognosticate. Nevertheless, we observe that the many scholars who participated in *Kairos 3.1* offered arguments that still reverberate, even in our dramatically transformed technological landscape. We hope and expect that this will be as true of the work collected here, even as the pace of technological change in our disciplines seems to accelerate with each passing year. We look forward to this work joining the conversation, and becoming part of how we understand who we are and how we compose at the end of the second decade of the 21st Century.

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