3

Aesthetic Dematerialisation: The Semiotic/Network Model

"Economic and scientific modernization succeeds when it is accompanied by a cultural
creativity that revolutionizes the way we see the world." *Charles Leadbeater*

INTRODUCTION

As suggested in Chapter Two, the creative concepts of 'invention' and 'originality'
derive from the discourse of rhetoric. Such rhetorical concepts of creative labour have
long been utilised in the legislation, and doctrine, of copyright and patent laws. As a
practical theory, the rhetorical conceptualisation of creativity centred on the *labouring*
capacity of individuals. As suggested in Chapter Two, from very early on in 'modern'
systems of intellectual property, the rhetorical system has made alliances with theories
derived from *metaphysical* discourses. However, despite being frequently linked to
theories of the creative subject (such as that of genius), the operation of the rhetorical
model of creative labour was/is not dependent upon any *particular* theory of the
subject.[1] The accretions of subject theories notwithstanding, the rhetorical system, as
most commonly encountered, has operated simply as a 'technology' for producing,
storing and disseminating knowledge.

The first concerted challenge to the rhetorical view of creative labour came in the
music world of the late 1950s, and, under the guise of dematerialisation, in the art
world of the 1960s. The new theories focussed on challenging the rhetorical concept
of composition, and associated assumptions as to the nature of creative labour. These
moves tended to 'desubjectivise' the production of art works. Whereas the theory of

---

[1] For example, in the 19th century, the individualism inherent in the rhetorical model, made complex
partnerships with other discourses/ideologies. The stress on the concept of individual genius, in statute
and doctrine, has to be seen in light of the broader concepts of the subject at play in society. Whether
expressed in Carlyle's view of history as a lineage of 'great men', or the instigation of the Nobel Prizes
for science and literature.

rhetoric stressed the training of *individuals* for particular creative tasks, the new model approached the view that creativity occurred not *within* individuals, but in the relational spaces *between* human (and non-human) 'actors'.

This chapter examines the challenges to the rhetorical model in the era of aesthetic dematerialisation, and the subsequent emergence of new theories of composition and creative labour. The new theories sought to distance themselves from 'material' definitions of art and the wounding divide between 'art and life' that such definitions purported to sustain. In the process, the new theories of creativity also sought to reconceive the practice of art by moving beyond the economic metaphors of production and consumption through which it was routinely understood. One result of such dematerialisation was the diversion of attention from the 'discrete' or 'unique' art object, towards the 'concept' that generates such material objects. This was achieved by refocusing the balance of 'responsibilities' within the artist's 'portfolio of labours', emphasising the conceptualising work of the mind, at the expense of the physical labour of executing art works in material form. In its early stages then dematerialisation actively re-explored the forms of conceptual *labour* represented within intellectual property law.

The new theories of creativity that emerged from this period of experimentation led in two directions. The 'strong' interpretation of the new theories of creativity took shape in the art world of the late 1970s and early 1980s, where the challenge to the rhetorical view of composition was developed into an assault on its cognates in intellectual property law. In the work of artists such as Sherrie Levine, and in the critical theory of Douglas Crimp and Rosalind Krauss, copyright law came to be regarded as the defender of an 'outmoded' aesthetic and cultural order.[2] The 'weak' interpretation of the new theories took up the desubjectivising narrative of production and the new strategies of 'creative collaboration' that had developed in the wake of the assault on the rhetorical model. In the 1970s and 1980s, dematerialisation's attempt to move

---

[2] See Krauss, op. cit. See also, Douglas Crimp, *The Museum in Ruins*, M.I.T, London, 1995. A fuller discussion of appropriation art is undertaken in Chapter Five, Part II.

beyond the economic framework of 'author-producer'/'consumer-viewer', and the aesthetic frame of 'subject-object', was taken up in sociological approaches to art and culture which viewed production as a 'field' made up of a network of human and non-human factors. The new 'de-subjectivising' sociological accounts were paralleled by studies of creative production in science and industry, which brought the cultural *theories* of creativity into line with long standing *practice* in those sectors.[3]

The general agreement reached across a number of fields by the 'weak' version of the new theory, marked the beginning of a new *'ideology of creativity'* – the 'semiotic/network model' – from which broader conclusions about social organisation have been drawn.[4] Crucially, this version of the new model avoided direct confrontation with rhetorical concepts, and instead concerned itself with developing the desubjectivising narratives begun by aesthetic dematerialisation. The new ideology focussed not on the eradication of rhetorical models of creativity, and its cognates in intellectual property law, but on how to *manage* the claims to such property.[5] As suggested in the Chapter One, establishing the dominance of the 'weak' interpretation of the semiotic/network model has been crucial in ensuring co-existence with the rhetorical model essential to the operation of the knowledge economy.[6]

---

[3] The individualistic implications of rhetorical concepts made (and still make), odd bedfellows with the actual practice of science and technology – particularly where such individualism is linked to theories of the subject, like that of genius. For most of the 20th century, university departments and Research and Development departments in business, have been organised collectively. However, the concept of 'invention' at the centre of patent law, is a cognate of rhetoric, and was (in the 19th century), embroiled with the discourse of genius. Outside the law, scientific endeavour has been periodised by prizes (such as the Nobel), similarly predicated on a belief in the outstanding contributions of 'great' individuals.
[4] The 'cultural turn' in economic and political theory will be dealt with in Chapter Four.
[5] The increasing use of versions of Actor Network Theory in management theory might usefully be viewed as the extension of the 'Death of the Author' to the fields of economic and industrial relations.
[6] The role of these models will be dealt with at the end of this Chapter and in Chapter Four. The reining in of 'strong' interpretations of the model will be dealt with in Chapter Five.

DEFINING DEMATERIALISATION

GENERAL DEFINITIONS

The term *dematerialisation* is now most commonly associated with the American critic Lucy Lippard who gave a retrospective focus to the notion in her famous book *Six Years: The Dematerialisation of the Art Object* [7]. As Richard Williams has argued, the term was not Lippard's invention, nor was it confined to her writing, but was in widespread use in the 1960s and 70s in order to describe a loose and generalised tendency in minimalist, conceptual, performance art and happenings that appeared across Europe and North America.[8] Dematerialisation can be presented in a number of ways: as a shift from object to idea, inspired by Duchamp's readymades of the early teens of the 20th century; as a defiance of the commodity status of the art object; as an attack upon the notion of the masterpiece and its allied notion of genius; as a rejection of 'Berensonite' connoisseurship and the Romantic fetish made of the artist's hand. All such views stem from the rejection of what, by the early 60s, had become a ruling hegemony of American art theory - the notion of 'objecthood'.

Clement Greenberg's insistence upon the formal aspects of art practice stressed, above all else, the blunt fact of painting, its material nature – a revelation which, in Greenberg's view, was entirely coextensive with the trajectory of modernist painting initiated in the early 1860s by the crude brushwork of Manet's painting; a trajectory that led decisively away from the 'mimetic' drive of earlier western painting. In the

---

[7] Lucy Lippard, *Six Years: The Dematerialisation of the Art Object,* University of California Press, California, 1997. (Originally published, 1973). Here, Lippard presents a chronological anthology from 1966-1971 – including interviews, reports of works, happenings and exhibitionary events. The book's structure demonstrates the "chaotic network of ideas" shared by very different individuals and groups under the umbrella of dematerialisation. Ibid., p. 5.
[8] Richard Williams, *After Modern Sculpture*, Manchester University Press, Manchester and New York, 2000.

hands of Greenberg and a younger generation of critics, in particular Michael Fried,[9] the materiality of painting, that is to say its 'objecthood', was the most base and irreducible fact of an 'artwork', the condition of being which separated it from other forms of artistic expression. Objecthood was the primary material difference, the grounding fact, that differentiated painting and sculpture from literature, music and theatre, the aspect that it shared with no other art and which defined it as an area of specific creative investigation. Dematerialisation, insofar as it suggested a shift away from such material definitions of art, is often regarded as the beginning of, what retrospectively comes to be termed, 'postmodernism'. Robert Morris produced one of the most succinct articulations of the dematerialisation sensibility. Responding to the accusation that Minimalism had rendered the art object *unimportant,* Morris retorted that it was not that the object was unimportant but simply less *self-important.* This way of expressing dematerialisation indicates both the general shift from Greenbergian formalism and that the shift is in *doctrine* rather than a literal abandoning of the art object. In other words, dematerialisation still presented objects to the viewer, but objects that were stripped of the 'ideology of materiality' and 'objecthood' laid out by Greenberg's Modernism.

The view of dematerialisation as a challenge to the art object was key to early theorisations of 'post modernism' whose aim was to distance the production of art form the Greenbergian narrative. Retrospective accounts of the period, such as Rosalind Krauss' very influential essay *Sculpture in the Expanded Field,* [10] bought together the new theories and practices by applying models drawn from structuralism. Krauss' aim was to produce a 'relational field' of new categories within which to define art works that could no longer comfortably be contained in the historical, and material, category of 'sculpture'. This retrospective, semiotic account of the strategies that developed from dematerialisation was not produced until 1978, fifteen to twenty

---

[9] See in particular, Michael Fried's famous polemical essay, 'Art and Objecthood' in *Minimalist Art*, ed., Gregory Battcock, Dutton, New York, 1968, pp. 116-147. (First published in *Artforum*, June 1967.)
[10] Rosalind Krauss's essay 'Sculpture in the Expanded Field' (first published in *October*, 1978 and reprinted in her 1986 collection), attempts to account for art practices that are elsewhere described as 'dematerialised'. Such work is then placed within a 'relational field' of meaning linking specifically to the term "postmodernism". See Krauss, op. cit., p. 290.

years after the first murmurings of the dematerialisation. Despite attempting to move from the material ideology set for sculpture by Greenberg, the essay was dominated by the need to fill the critical space left vacant by the departure of 'the object'. Dematerialisation is therefore presented as a process that occurred to the art object, and by extension a problem that must be addressed by art criticism.[11]

While approaching dematerialisation as a problem concerned with evaluating art 'works' (as opposed to the discredited 'object') was important, it tended to overlook other important aspects of dematerialisation. In undermining the expectations as to what kind of 'work' an artist might produce, dematerialisation also challenged the kind of 'creative labour' an artist might reasonably be expected to engage in. The standard account of dematerialisation, established by Krauss' essay, therefore only considers one half of the production/consumption cycle. Dematerialisation is equally important for what it achieved with respect to the productive part of the cycle. Dematerialisation redefined artistic *labour*, challenging the rhetorical mode of creative labour that had been commonplace since the Renaissance.[12] When viewed from the consumptive part of the creative cycle, dematerialisation is merely a discrete development within art practice, a problem for art critics, with little bearing on anything beyond the art world. However when viewed from the productive part of the creative cycle, dematerialisation is not simply a discrete occurrence, but one which has implications for broader socio-economic relations. Since dematerialisation renegotiated what constituted creative *labour*, it also bore on how *property* was constituted from artistic labour. In other words, the issue at stake in dematerialisation was not what kind of *object* an artist makes, but what kind(s) of *property*. To be a little

---

[11] How, for example, is it possible to account for the artwork and its reception, without recourse to models of evaluation those artists themselves had rejected?

[12] Krauss's consideration of 'practice' is limited to a few sentences towards the end of the essay. Of particular relevance is the following: "From within the situation of postmodernism, practice is not defined in relation to a given medium – sculpture – but rather in relation to the logical operations on a set of cultural terms, for which any medium – photography, books, lines on walls, mirrors, or sculpture itself – might be used. … the space of postmodernist practice is no longer organised around the definition of a given medium on the grounds of material, or , for that matter, the perception of material. It is organised instead through the universe of terms that are felt to be in opposition within a cultural situation." See Krauss, op. cit., pp. 228-229. The implied question here, could be read as, 'what now constitutes a postmodernist artist's labour?' However, such a question bypasses many of the effects of *dematerialisation* in respect of labour and the production of property.

more precise, dematerialisation challenged normalised expectations of creative labour, producing new theories and practices that were different to the rhetorical models that informed, and were reified in, intellectual property law.

CREATIVE LABOUR, PROPERTY AND COMPOSITION

The Portfolio of Creative Labours

As suggested in Chapter Two, the division of idea, or concept, from its execution in material form has a long history. In the bottega's of the 14th and 15th centuries, the social and economic division of labour was based on such a separation. Rhetorically based theories of art noted significant differences between the labour of research, which produced a mental inventory from which the idea for a composition was invented, and the second level labour, the material execution of the actual artwork. While the basic concepts of rhetorical labour endured as the system of intellectual property developed, new variants on the rhetorical model of creative production came and went. However, by the 19th century the once separate functions of design and execution had become increasingly blurred within aesthetic theory. [13] Despite such fusions within aesthetic theory, within the law the property created by an artist fell into two conceptual domains. In producing an image, the artist created both corporeal and incorporeal properties. The production of a painting for example, created both rights to the image as a material object, and reproductive rights, the rights to make copies based on the composition of the painting. Selling the 'unique', 'movable', material object did

---

[13] For example, by the early 19th century, theories of connoisseurship and elements of Romanticism had come to regard the 'work of the hand' as the essential mechanism through which the totality of art was revealed. In the mid to late 19th as the official art academies begun their decline, this notion became more practically explicit. Exponents of the 'New Painting' (Impressionism) increasingly dispensed with the production techniques of academic painting. In practice this meant that the academic stages of production – preparatory drawing (design), painted sketch and final painting– were reduced to a single operation, that of the painted sketch. In the 'plein air' painting of 'Impressionists', observation, design and execution were generally regarded as entirely coextensive with each other and indissoluble.

not necessarily mean selling the 'image' in its entirety. [14] In this sense, a visual artist's labour produced a 'doubled domain' of property. While in theory all producers of copyrighted work produce such a 'doubled property', the dualism was/is far more socially significant in the art world because of the historically well-developed market structures exist for both 'original' works and 'reproductive' works. [15]

In the period of dematerialisation the old division of labour separating design from execution re-emerged. Sol Le Witt's famous statement – made with respect to his own 'minimalist' work – that the "idea is the machine that makes the work", was a radical departure in creative theory only insomuch as it suggested that the idea is *almost* enough in itself [16]. Le Witt's own practice involved the production of instructions to be followed by fabricators who manufactured his work within galleries or the homes of his collectors.

In this sense then, dematerialisation involved a refocusing of the *doubled labour,* and *doubled property,* of the visual artist. The (re)bifurcation of the artist's labours recalled 14th and 15th century divisions of labour that had long been buried beneath later aesthetic theories and practice. The common interpretation of dematerialisation as an unravelling of the ideology of Genius is therefore not unreasonable since the 'new practices' of the sixties in some respects recalled the semi-industrial production of the earlier centuries. The fetish for an individualism expressed through the 'divine' hand of the artist-Genius, made an insoluble compact between the concept for a work and its execution. Separating out the functions struck a blow against the elements of Romantic ideology of Genius that had remained active, in somewhat muted form, in

---

[14]Since all property is formed from a bundle of rights, it is usual to view rights to images as a spectrum – across which corporeal and incorporeal are not greatly differentiated. However, the rights to corporeal property are subject to different constraints to those of incorporeal property. For example, *corporeal* property may in some cases, be regarded as 'cultural property', while, so far, this has *not* been the case for *incorporeal* property. Generally, rule tends to decree that rights to reproduction remain with the artist – unless explicitly handed over to the buyer by contract. In moral rights jurisdictions, the image tends to be seen as an extension of the artist's personality. Consequently, there are even more stringent restrictions on the rights of the buyer in respect of corporeal *and* incorporeal objects.

[15] For example, the market for literary manuscripts is insignificant in comparison. The main social and cultural value of a book, lays in its continued reproduction.

[16] Sol Le Witt, 'Paragraphs on Conceptual Art' in *Artforum*, vol. 5, no.10, Summer 1967, pp. 79-83.

Modernist accounts of painting. The 'return' to old divisions of labour was in part possible because the law had continued to allude to, and perhaps maintained, a property distinction that pointed toward such a division. The existence of copyright laws always suggested that there was more in the artist's 'portfolio of labours' than the straightforward execution of material property.[17]

As Le Witt's statement suggests, dematerialisation's departure from the material definitions of art involved a renewed stress on the artist's 'conceptual labour' at the expense of their handling of materials. In challenging the definition of art as 'objecthood', dematerialisation also, of necessity, challenged the view of creative labour such a definition implied. In distancing itself from the ideology of 'material objects' dematerialisation therefore involved the excavation of principles of creative labour entailed in the production of intellectual, rather than material, properties. Put simply, dematerialisation was grounded on the possibility of the artist retreating into the production of intellectual properties and its cognate forms of creative labour.

The definition art as 'objecthood' severely restricted what could properly be defined as artistic labour. Greenberg's famous suggestion that "even a stretched-up canvas was a work of art, though not necessarily a successful piece" succinctly sums up the view that the enabling ground, and ultimate limit, of painting was to be found in its material nature. By extension, the success or failure of the painting, as a work of art, can be measured by the artist's labour within the parameters of possibility and limitation set by such a definition. Within such a framework labour is, of course, both 'intellectual' and 'physical' but there is no possibility whatever that success may be achieved in the absence of the personal, physical labour of the artist on the canvas. The necessity of such physical labour was taken for granted by Greenberg. The escape from 'objecthood' suggested by dematerialisation was then predicated on *refusing* such a mode of labour, and stressing in its place the mental, or conceptual, labours of the artist. In practical terms this frequently meant farming out the manufacture of

---

[17] I use the term 'material property' to refer here to the singular object (e.g., a painting) that an artist executes. However, in this particular context, such a term could be used more or less interchangeably with the legal term 'movable property'.

'exhibitionary' objects to professional fabricators. This division of labour was in itself only possible by recourse to the modes of creative labour manifest in the realm of intellectual property.

Dematerialisation then was not a literal challenge to the art object, but to the 'doctrine' of 'objecthood'[18]. None of the artists involved eschewed physicality in its entirety, but all challenged *ideological* character of Greenberg's Modernism. Crucially while certain notions of craft and certain traditions of execution (and with them certain traditions of viewing interpreting and marketing art) were abandoned, making work in 'a fixed and tangible form' is not.[19] Though dematerialisation set itself against 'objecthood' and down graded the importance of the art object, making it 'less self important' in Morris' words, it reject objects entirely, nor was it, as many have assumed, an outright 'rejection' of the 'commodity form' of art.[20] Rather *rejection* the dematerialisation of the 1960s played a complex (if somewhat problematic) critical game of *relocation* with the commodity. While much dematerialisation art did attack the fetish for uniqueness and permanence traditionally attached to the object of display, it did so by relocating the site of creative labour from the ostensible art object to its documentation. Dematerialisation then was not just a retreat from 'physical labour' into 'intellectual labour', but more specifically, a shift from an intellectual labour based in the visual realm, to an intellectual labour that was largely 'literary' in character. [21] Though a number of dematerialised works presented problems for the commodity form, whether thought of as 'movable' or 'intellectual' property, the documentation of the work fell easily within the scope of copyright. Put simply

---

[18] However, one must be careful against over-determining this dichotomy between *mental* and *physical* labour and between tangible and intangible property. 'Mental' labour is not without 'physical' aspects and 'physical' labour, not without 'mental' activity – a writer has to lift a pen, a farmer must know when to sow his seeds, etc.

[19] Copyright law demands that the artwork seeking protection must be rendered as '*an expression in fixed and tangible form*'.

[20] Here I am thinking particularly of Levine and Krauss – and of those who have attempted to build a critique of *copyright* upon the critique of *originality*.

[21]The 'literary' character of 'dematerialised' art has long been recognised. See for example, Joseph Kosuth's essay 'Art after Philosophy', published in 3 parts in *Studio International*, vol. 178, nos.917-919, October, November, December, 1969. See also Art & Language, 'Concerning the article 'The Dematerialisation of Art'', in Lippard, op. cit., pp. 43-44. Similar sentiments expressed by Laurence Weiner, Hans Haacke, Jenny Holzer, Barbara Kruger etc.

dematerialisation achieved an ostensible critique of the commodity form by moving the site of copyright from images to texts.

The Issue of Composition

Dematerialisation then had a paradoxical relationship to intellectual property law. On one hand it depended on the framework of copyright law for its existence. On the other it threw out a nascent challenge to the conventional norms of composition inherent in copyright law. The site of challenge, as already suggested, was the rhetorical mode of composition that informed both the making of pictures and sculptures and the individual 'expression' protected in copyright law. However, the challenge to the rhetorical mode of composition was not general but limited to its application in the production of *visual art*.

In highly influential writings of the period, the minimalist artist's Robert Morris and Donald Judd attacked what they termed "*relational composition*".[22] The act of composing was held to be inherently *hierarchical* since it involved the arrangement of separate sub-elements of a painting or sculpture in relation to each other, and in relation to the thing to which as an image they referred, in such a way as to constitute a whole composition.[23] Every representational artwork involved a stress on particular parts of the visual field that in turn led the viewer's eye toward some areas and away from others – a portrait, for example, may involve a greater concentration of brushwork around the head than in the folds of the sitter's clothing. In this sense, the brush marks across the picture plane are related to each other, and the sitter, by an

---

[22] See Judd's 'Specific Objects' and Morris' 'Notes On Sculpture'. Neither writer attempted to trace the origin of this view of composition to rhetoric, but simply regarded it as inherited baggage from an outmoded 'European tradition'. See Donald Judd, 'Specific Objects' in *Art Yearbook 8*, New York, 1965. Reprinted in Judd, *Complete Writings 1959-1975*, Halifax Nova Scotia, 1975. Also, Robert Morris, 'Notes on Sculpture' in *Artforum*, Vol. 5, No. 10, Summer 1967.

[23] As we shall see later, the idea that such arrangements of sub-elements might be seen to refer to something *beyond* themselves had already been identified as a fundamental problem by Modernist theories of 'abstraction', which regarded references to the world beyond the surface of the painting as an anathema.

inherent hierarchy of parts.[24] As suggested in Chapter Two, this rhetorical notion of composition, the drawing together of sub-elements in a way that it is personal to the individual, was central to concepts of invention and originality that, from very early on, informed copyright law.[25]

The paradoxical relationship between dependence on, and nascent critique of, copyright law that emerged from dematerialisation stemmed from a double think. On one hand, in the visual realm, relational composition was an outmoded relic. On the other, the means of moving beyond it was achieved by shifting the centre of creative labour from the production of visual works that were 'rhetorical' in character, to written documentation that was 'rhetorical' in character. While the rhetorical mode of composition was eschewed in visual art, this was merely an effect of moving the site of creative labour.

TOWARDS DEMATERIALISATION

GREENBERG'S MODERNISM

The Material Object and Creative Labour

As has already been suggested, dematerialisation was an attempt to escape the hegemony of Greenbergian Modernism that dominated American and European criticism in the late 1950s and early 1960s. However, the attempt to overcome Greenberg's grip of the critical field in the 1940s and 1950s was not so much an outright assault on its orthodoxies so much as a mutation of them. The Greenbergian

---

[24]Parallels with composition in the realms of music and literature are fairly obvious – literary composition involves the arrangement of words, musical composition the arrangement of notes. Such a notion of composition in the realm of visual art seemed, by the late 50s/ 60s, to be irrevocably linked to notions of mimesis and illusionism that had pervaded the history of Western painting at least since the Renaissance. How and why that came to be seen as a problem will be dealt with later in this chapter.
[25] The notion of an artist's 'expression' is a cognate of the rhetorical notion of composition.

narrative was itself sustained by a series of arguments that place composition at the centre of debate in Modernist painting. A central aim of Modernist abstractionism was to overcome the 'alienation of art from art' – the state created by the historical striving for mimesis. On such a view, painters should distance themselves from any pictorial devices that referenced the world beyond the canvas. Within this ideology, 'relational composition' had already come to be regarded as just such a device, and therefore, a 'problem' to be solved. The artists most closely associated with Greenberg's project in the late 1940s and early 1950s can be read as following the position he staked out with some fidelity.

Pollock's compositions of the late 1940s were often painted flat on the floor, the density of the mark and tone sustained evenly across the surface of the canvas.[26] Pollock's famous 'drip technique' offered a measure of control over the whole canvas while significantly reducing the scope of possible marks that could be achieved. While not entirely able to escape the problem of 'internal relations', the consistent application of paint across the canvas managed to reduce the importance of relational sub-elements of the composition. Other artists associated, rightly or wrongly, with the New York School in this period – such as Rothko and Motherwell – found slightly different solutions to the 'problem'. For Rothko and Motherwell the composition issue was 'solved' by submitting all sub-elements of the picture to the logic dictated by the material limits of the canvas. Rothko's work reduced composition to rectangles of colour, superimposed one on the other, mimicking the rectangular nature of the support.[27] While in the broadest sense colour can be regarded as a compositional

---

[26] Leo Steinberg later suggested that the work represented a fundamental departure form the condition of 'verticality' that had traditionally informed the relation between artist and viewer. From abstract expressionism on, American painting operated 'horizontality' or as a 'flatbed', marking its departure from Renaissance, specifically 'European', traditions of mimesis. Steinberg's essay 'Other Criteria' was the first essay to use the term post-modernism with respect to 'flat-bed' work. A version of the essay was delivered as a lecture in 1968 and published in 1972. See Leo Steinberg, 'Reflections on the State of Criticism' in *Arforum*, New York March 1972 and his *Other Criteria: Confrontations with 20th Century Art*, Oxford University Press, London, 1975.

[27] The drift towards the support was regarded by Donald Judd as the only achievement of Abstract Expressionism – a revelation of shape that had its future he suggested outside of painting in Minimalist constructions where the problem of illusion (caused by the effects of colour and mark making) could be solved by making allusions to pictorial space real.

device, in these works 'relational composition' (that derived from rhetoric) ceased to be a central concern of painting.[28]

On a general level then, within the critical avant-garde of the 1940s/50s, composition came to be seen as a remnant of an outmoded historical narrative that must, as far as possible, be eliminated from Modernist painting. It has become common in the last thirty years to point out that such a view of painting has an excessively exclusionary character.[29] The reductivist logic that pervades Greenberg's Modernism defines art ever more tightly by deciding what it is not.[30] The result of such a 'minimalising' ideology was to create an increasingly narrow and didactic vein of aesthetic 'research' dedicated to solving 'historical' issues delineated by the critic.[31]

The exclusionary logic demonstrated by Greenbergian Modernism was predicated on the notion that a hard dividing line must be maintained between the aesthetic realm and that of life. Within such a view of art, relational composition suggested a kind of littoral between the realms of art and life – an aspect of painting that was not *exclusive* to painting, an aspect that shared its identity with the world beyond painting. This issue is important because, quite apart from the overwhelmingly narrow role Greenbergian Modernism assigned to the creative labours of the artist, the desire to overcome the wounded divide between art and life was a major driving force of dematerialisation. Since composition had come to be identified as a 'problematic' issue, a site in which the discrete identity of high modernist art might be compromised

---

[28] Motherwell's work of this period is less rigid in this sense but the drift of the composition towards the shape of the support is nevertheless evident. These tendencies were worked out or, depending on ones view, ironised, by Frank Stella's work in the late sixties in which the support itself becomes shaped in order to reintroduce compositional shapes other than rectangles in to the field of 'painting'.

[29] This exclusionary logic is even present in Greenberg's early writing such as the infamous essay 'Avant-Garde and Kitsch,' (1939) where he suggests that most of the significant figures of European Modernism are inspired by their materials and that further more subject matter is something that most 'avoid like the plague'.

[30] The text in which Greenberg lays out his thesis of the separation of the arts – 'Towards a Newer Laocoon' (1940) is clearly influenced by Irving Babbett's Laocoon, a work which more clearly demonstrates the political exclusionism that such a position is clearly open to. See Clement Greenberg, *The Collected Essays and Criticism*, Ed. J O Brien, 2 Vols, Chicago, 1986.

[31] In dismissing Greenberg's view of abstraction Steinberg caustically (and mischievously) suggested a parallel between Greenberg's tendency to set problems for artists to solve and industrial approaches to problem solving found in the contemporary automobile industry!

and the division between art and life breached, it seemed logical that any attempt to diverge from that position might do well to re-consider the issue. As shall be demonstrated in later in this thesis, one consequence of this address to the art/life question, is that the semiotic/network model of creative labour that emerged from dematerialisation tends to dedifferentiate the realms of art/creativity and political economy.

The Art/Life Dichotomy and the Issue of Composition

Before examining precisely how bridging the gap between art and life was attempted it is important to account for how and why the 'schism' occurred in Greenberg's theories in the first place. The thrust of Greenberg's early essays, such as *Avant Garde and Kitsch* (1939), suggest a fear of the corrupt uses of art by totalitarian regimes and the corruption of refined cultural sensibilities by the developing mass culture in pre-war United States. However, from the point of view of the labour theories that concern us here, it is the adaptations of Marxist theory that pepper such early forays into art criticism that are important. From *Avant Garde and Kitsch* onwards the main loci around which Greenberg organised his theoretical outlook – the issues of medium and materiality, the problem of illusionism – had their roots in an analysis of art and labour that begun in the 19th century. However, while taking on some of the nostrums of those debates, Greenberg reversed the principle of such arguments. The effect of these reversals was to sever the carefully tended relationship in Marx's early work between theories of aesthetic labour and productive labour more generally. For many artists working under the rubric of dematerialisation, the notion of separating out the labour of the artist from productive labour more generally was an anathema, since it functioned a principle that divided the realm of art from society.

The relationship between the labour of the artist and labour generally had a central role in Marx's earliest attempts to analyse the social conditions of nineteenth century industrial capitalism. In his analysis of the *Economic and Philosophic Manuscripts,*

Alan Ryan suggests that the labour of the painter represented, for Marx, an ideal of 'unalienated production' against which the degradations of alienated, industrial labour could be measured. Margaret Rose has similarly pointed up this connection and done much to tease out the specific historical situation that informed Marx's early forays into aesthetics and their relationship to his later works on economics.[32]

Rose's analysis of the critical influences on Marx's early aesthetic theory is important because she situates some of the principle critical nostrums later utilised by Greenberg within their original historical context. Of particular interest, as regards the formation of Greenberg's thinking, are her accounts of the origin of the notion of an art/life divide, the notion of alienation and a general suspicion of 'illusionism' in painting.[33] Rose suggests that Marx's early writings are in effect an alloy of Feuerbach's critique of the official art of the Prussian state and Saint-Simon's concept of avant gardism. From Feuerbach's analysis of the yawning gap between painting and its viewer Marx gained a central plank of his theory of alienation. From Saint-Simon, he took the idea that a solution to political feudalism might be found in a forward thinking cadre of progressive forces of production – an avant-garde of artists and scientists. Feuerbach's attack on the official art of the politically repressive Prussian State focussed on the state support of an outmoded 'religious' art. The naturalistic illusionism of such work, he suggested, simultaneously anthropomorphised God and alienated the viewer from their own sensual, human, nature. The *illusionism* of such painting was then identified with the *alienation* of the viewing subject from their true nature by a religious, or pseudo religious, art tamed to the service of the state. Saint-Simon linked the political repression of such states to redundant feudalist power structures that remained at work even where such states were undergoing significant social change due to industrialisation. The Saint-Simonist 'solution' of a productivist avant-garde of artists

---

[32] Margaret A Rose *Marx's Lost Aesthetic: Karl Marx and the Visual Arts* Cambridge University Press, Cambridge, 1984 and Alan Ryan *Property and Political Theory*, Basil Blackwell, Oxford, 1986. The general agreement on this point is interesting given the very different political sensibilities the writers display.

[33] In Greenberg's writing, the 'problem' of composition is usually folded into his critical vocabulary under the term *illusionism*. Relational composition was a problem because it seemed irrevocably linked to a tradition that strove for mimesis or verisimilitude.

and scientists was taken up by Marx as bulwark against the alienation of the subject in the broadest sense of the term.

As both Rose and Ryan seem to agree, the notion of artistic labour, free from state patronage and censorship, provides Marx with a basic model of unalienated labour, against which the depravations of alienated industrial labour can be gauged, and an ideal to which all productive labour could aspire. Artistic labour then was allied in a fundamental way to all other forms of labour and production. Greenberg's adaptations of these 19th century debates[34] retained their general architecture, as sketched out above, but reversed their central arguments, the effect of which was to place artistic labour beyond political usages. In Greenberg's analysis the separation of the labours of the artist from labour more generally, and the associated gap between art and life, becomes the positive *aim* of art criticism. Conversely, for artists involved with dematerialisation who wished to close the art/life schism, de-differentiating aesthetic labour from other forms of production become a critical tactic.

In the position staked out by Greenberg from 1939 onwards, the point of rejecting 'illusionism' in art was no longer to rid the subject of their false and alienated consciousness. Eliminating illusion became merely a method of concretising the tendency towards non-representational art that had the separation of art and life as its central condition. For Greenberg it was not that illusionism distorted the life of the *subject*, so much as the fact that, via illusionism, life – the world of the subject – distorts *art*. The Saint-Simonist notion of avant gardism was similarly turned on its head. In Greenberg's analysis, the avant-garde no longer sought partnership with other forms of creative production in an attempt to lead society, but rather sought

---

[34] It is not possible to say how, when, or in what form Greenberg came into contact with these debates, though the Marxists inflections in his early work has long been noted. See for example T J Clarke's 'On the Social History of Art' in *Pollock and After: The Critical Debate*, Ed Francis Frascina, Harper and Row, London, 1985 and also his wonderfully titled paper 'Some Differences Between Comrade Greenberg and Ourselves' in *Modernism and Modernity, The Vancouver Conference Papers*, Eds. Benjamin Buchloh, Serge Guilbaut and David Solkin, Nova Scotia College of Art and Design, 1983.

'protection' from society, and the pressures of commercial kitsch and political commitment[35].

In other words, while maintaining the problematics of 'illusionism' and 'alienation', the site of alienation was radically shifted, from the *subject,* who produces, or views, an artwork, into the *artwork itself*. In this way the problematic of alienation was shunted from the realm of the *subject* – that of social, economic and political contention – into the aesthetic realm of art *object*. In Greenberg's hands it is the art object, the painting, that is alienated *from itself* by illusionism, not the productive subject form their labour. The subsuming of the notion of alienation into a purely formal, aesthetic realm, neutralised the connections made in Marx's early work between aesthetic alienation and economic and political alienation. In separating out the artist's labour from the political world in this way, Greenberg struck at the heart of Marx's labour theory, reified the division of art from life, and placed the avant garde into a super-social position, above and beyond the concerns of everyday life, their role to service the 'problem' of illusionism that separated art from its true *nature*.

The defence of non-representational forms of painting, and the push against illusionism, represented therefore, something more than a distaste for 'politically committed' art. It was also a strike against the alliance made between artistic labour and labour in general. One result of Greenberg's reversals was that the expectation of creative labour on the part of the artist became increasingly narrowed. Wrenched from the world, and relationships with other forms of creative production, the artist's labour came to be defined specifically in relation to the materials of art. The narrowing of what constituted artistic labour came to be regarded as highly restrictive by artists involved with the moment of dematerialisation. Challenging Greenberg's refutation of Marx's 'package' of alienation may not have been a conscious agenda for such artists,[36] rejecting the narrowing definition of creative labour however, certainly was.

---

[35] This is precisely the thrust of 'Avant Garde and Kitsch'.
[36] However it is interesting to note that both Judd and Morris were interested in Russian Constructivism where the Saint-Simonist notion of a productivist avant garde had been a working assumption, where the labour of the artist was clearly aligned with that of the factory.

As I have already suggested, for artists wishing to distance themselves from such restrictions and renegotiate the relationship between an artist's labour and labour elsewhere in life, composition was a vital mechanism. For Greenberg illusionism, and by extension relational composition, stood on a littoral between art and life, a part of painting that shared its identity with the world beyond painting. It was through composition that the world entered into the realm of art, breaching its integrity and muddying the distinctions between art and life that sustained the formalist autonomy of art. It was within the nexus of composition then, that the artists involved with dematerialisatio n saw the possibility of overcoming the art/life dichotomy, and at the same time radically renegotiating what can be said to constitute an artist's labour.

REINTEGRATING ART AND LIFE

The Challenge to 'Rhetorical Composition'

The first challenges to Greenberg's grip on the critical field came in the mid 50s in the work of Robert Rauchenberg and Jasper Johns. Both took on aspects of Greenbergian discourse – such as the issue of illusionism and materiality - but twisted them to their own ends. Johns's work of the period subverts the issue of flatness and illusionism by painting images of images that are already flat, such as flags. In Rauchenberg's work, the materiality of paint is taken on but subverted by the use of found objects, detritus from the 'life' around the painting, which is bedded down into the field of the canvas by layers of paint. Rather than painting compositional illusions, bits of the world literally impact on the canvas. In this way Rauchenberg did not create illusionistic images so much as relocate them from one realm to another. While ostensibly working within the strictures of Greenberg's Modernism, its exclusionary logic was subverted as references to, and bits of, life were sneaked into the realm of painting. [37]

---

[37] Rauchenberg's attempt to 'bed down' a stuffed goat onto the surface of a painting was famously unsuccessful. Since the gravity got the better of the goat, Rauchenberg placed the painting on the floor, moving the 'painting' from the vertical to the horizontal plane. Being neither 'painting' nor 'sculpture',

Given Rauchenberg's friendship and collaboration with John Cage it is perhaps not surprising to find similar approaches to the problem of the separation of art and life in Cage's experimental musical compositions of the period. Arguably more important for the spread of Cage's ideas about composition and creative labour than his relationship with Rauchenberg were the classes he held at the New School of Social Research in the late 1950s. These classes are important because they provide a direct link between Cage's theories of composition and later experiments in visual composition and creative labour, carried out under the auspices of Fluxus and Minimalism, which were later gathered under the rubric of dematerialisation. George Maciunas, the artist who gave Fluxus its name and did much to create its sense of identity, attended Cage's classes. Before his forays into Minimalism, Robert Morris, was also involved with Fluxus. As a consequence, the influence of Cage's theories on Minimalist theory is telling.

The issue of what constituted composition was at the centre of all these attempts to address the separation, or alienation, of art from life. The influence of Cage's theorisation of composition was crucial to such attempts. A central theme of Cage's writing and practice was the opening up of the discrete nature of the score in order to create compositions that were, in various ways, contingent upon chance and the vagaries of a particular time or place. The notion that what constituted 'a work' might be in some way variable, or available to the contingency of life, ran absolutely counter to formalist procedures staked out by Greenberg.

The best example of Cage's approach, and certainly the most infamous and influential manifestation his reconceptualisation of composition, is the piece 4'33'', which consists of a silence of four minutes and thirty-three seconds. Cage's intent was to empty the score, of notation in order to make it available to surrounding sounds, a strategy that effectively dissolved the conceptual boundaries between the work and its audience, rendering incidental noise, even the audiences breathing, a part of the work.

---

the work stood outside of the evaluative categories of Greenbergian Modernism and was thus central to the 'art/non-art' debates of the 1960s.

4'33'' was however more than a simple expansion of the borders of composition. It was also a refusal to compose a 'hierarchical' score of relational parts. For this reason it was also, ostensibly, the refusal to create a composition as recognised by copyright law. The Cagean reconceptualisation was both a *reduction*, and an *expansion*, of the notion of composition. On one hand it reduced and minimalised, pairing down of the creative labour of the composer. The creative labour of the composer consisted in presenting an opportunity, in bringing about of a set of circumstances, whereby art might exist.[38] Cage's 'refusal of composition' was also thereby a renegotiation of the relationship with the audience. The art object, or 'commodity', thus defined, confounded the expectation of its audience. In opening 'the work' to include the audience in their act of listening, the 'composition' took on a temporal and highly 'uncertain' aspect. In this sense the concept of composition was enlarged and simultaneously made mutable in ways that were unavailable to rhetorical, 'relational composition'. Enlarging the concept in this manner expanded the artwork, allowing its autonomy to be compromised, or infiltrated, by 'life'[39]. The reconfiguration of the creative labour of the composer, and the notion of composition, broke down the formal apparatus used to hold the realms of art and that of life as distinct entities.

Composition and Copyright: The Doctrinal Challenge

In Cage's experiments, changing one component – re-imagining the constitution of composition for example – meant, necessarily, refiguring the corresponding subject spaces of composer/producer and audience/consumer. Or from the opposite vantage, changing the roles of either producer or consumer meant, necessarily, changing the 'object of exchange', the composition, that stood between them. Put another way,

---

[38] Cage argued that by doing so the tyranny of the artist/composer was evacuated. As John Tilbury (Dept of Music, Goldsmiths College) has pointed out, this is a debatable point insofar as the role of composer is still unitary and domineering. Tilbury suggests that in fact improvisation provides a better answer to the questions that exercised Cage, providing a collective, collaborative, decentred event that can be orientated in ways unavailable to scored music, no matter how minimal.
[39] 'Temporalising' the composition in this way shattered the autonomy of the artwork, helping to pave the way for later views of the artwork as a creative network.

challenging the roles of composer and audience meant challenging the artwork – or in property terms, 'the commodity'.[40]

In this sense then it is possible to read 4'33'' as a nascent theoretical challenge to copyright doctrine. Since it refuses the rhetorical mode of composition, it is difficult to see how four minutes thirty-three seconds of silence can constitute a personal 'expression' of the composer. If 'the composition' is read in such a way, then surely it is an annexation, or 'appropriation', of a section of time – but what section of time exactly? When precisely, and in what way, would *that* section be, in any way, distinguishable from any other?[41] Though presenting a theoretical, or *doctrinal*, problem for copyright, in actuality 4'33'' presented few practical problems for the law. That it did not do so is testament to the rhizomatic nature of copyright law, and indicative of the fact that the doctrinal narratives are never entirely co-extensive with the actuality of the law and its implementation. For while the ostensible 'object' of Cage's 'composition' appears to be an unspecified moment of time well beyond the scope of copyright, the score itself, insofar as it comprises a set of written instructions, falls easily within its scope. [42]

---

[40] Changes in what constitutes *property* in other words necessarily involve renegotiations of what is thought to constitute creative labour, and consumption (and vice versa). As we shall see in Chapter Four, in parallel to this general rule, the expansion of the envelope of copyright to include software in the 1980s necessarily involved reorganisation of patterns of productive labour and consumption.

[41] As will be demonstrated later in this chapter and in chapter five, Cage's 'compositions' have be read this way. Having been played out in Minimalism, the refusal of composition was taken up as 'appropriation art', which in the 1970s was read as direct critique of copyright law.

[42] One might then be tempted to ask whether if I rerecorded a recording of a performance of 4'33'' at Carnegie Hall I would be breaking copyright – how after all is silence itself copyrightable? The answer is actually provided by Cage himself – silence is a concept, never an actuality – every 'performance' of 4'33'' is different. As far as intellectual property law is concerned, the performance at Carnegie Hall is constituted by recording a series of sounds and intervals that approximate to 'silence', that are in themselves unique. Performer's arrangements as such, are covered by a branch of copyright law that is usually indicated by a 'P' in a circle. 4'33'' then, like any other performed score, appears as the copyright of John Cage (or his representatives) and under the 'P' indicating a separate group of rights stemming form the performers or producers of the specific recording (or their representatives.)
(It is telling of the times that since writing the above arguments with respect to Cage an infringement case has flared up. Mike Batt – a commercial composer best known for his seminal hit 'Remember You're a Womble' – is being sued by Cage's estate for a parody called 'One Minute of Silence'. The PR puff suggests that the Cage estate is attempting to pursue a claim for ownership over the concept of silence as music!)

4'33'' presents than a paradox as far as copyright law is concerned. On one level it *appears* to elide the law, producing conceptual problems for copyright doctrine – how can a moment, or 'temporal composition', be the subject of property law? On another level, since the law is based not on a single deciding doctrinal principle, there is actually little problem in accommodating such work within the fold of the law. This paradoxical aspect of Cage's work re-emerged when his compositional principles were applied to the production of artworks in the 1960s. The paradox of dematerialisation – on one hand enabled by concepts of intellectual labour represented in copyright law and on the other, developing into a critique of that law – was an essentially Cagean paradox.

For artists attempting to challenge the hegemony of Greenberg's formalism the attraction of Cage's theoretical work is obvious. Cage's theories provided an escape route from the art/life dichotomy. The fact that this was achieved through a challenge to composition cohered with the problematisation of illusionism (composition) that was already well established in visual art. Most importantly, a fresh way of conceiving of composition meant, necessarily, reconceiving what constituted artistic *labour* in an age when the materialist narrative of Greenbergian Modernism had narrowed its definition to a few technical operations.

REDISCOVERING DUCHAMP: THE READYMADE AS COMPOSITION

While the uptake of Cage's ideas within dematerialisation was crucial, it was paralleled by a reassessment of Duchamp's legacy, and in particular of the 'unassisted readymade'. As with Cage's theories, the unassisted readymade posed fundamental questions about the nature of composition and aesthetic labour. During the 1960s, Duchamp's early works – such as *Fountain* (1917) – came to be 'rediscovered' as the

'founding' works of conceptualism. [43] Though posing a radical challenge to the conventions of rhetorical composition and creative labour, the implications of *Fountain* (though explored later by Duchamp) did not become common currency until the period of dematerialisation. *Fountain* confounds the viewer's expectation of image making. *Fountain* is not in fact an image.[44] It is equally difficult to assess in terms of aesthetic labour.

Duchamp's unassisted readymades were objects removed from their usual use-context and placed in another context – that of the aesthetic. It is difficult therefore to read such works through the concepts of rhetorical composition as emerging from the *labour* of the artist.[45] A large part of the labour of production consists of the act of recontextualisation. As far as the labour of the artist is concerned, the composition of the piece is not sustained *within* the object itself, but in the *relation* of the object to its context. Viewed in this way – as it was in the 1960s – *Fountain* is both a reconceptualisation of artistic labour, and an expansion of the notion of composition. On this view, composition is no longer a function of the interior relations of a 'discrete' art object but is rather a function of the relationships established between the object displayed *as* art, and the particular context in which it is consumed *as* art.[46] Like the Cagean view of composition, in refiguring creative labour, Duchamp also necessarily refigured the 'work' and the position of the viewer in respect to the work.

---

[43] Duchamp's unassisted readymades were cited by Joseph Kosuth in 'Art after Philosophy' (originally published, *Studio International*, 1969) as the crucial work that redirects the direction of western art.

[44] *Fountain* comprises a gentleman's urinal, up ended through ninety degrees, and placed on a plinth, it is signed 'R. Mutt', and dated 1917.

[45] Though of course there are relational elements within the urinal itself which have nothing to do with the labours of the artist.

[46] The specific parallels between this work and works produced under the rubric of dematerialisation will become obvious later in the chapter.

Duchamp's contemplation of what constitutes creative labour[47] – what might be termed his interest in the *ontology of creativity* – was part and parcel of his general interest in the 'conceptual boundaries' of art.[48] In posing questions about the relationship between the 'creative' realms of art and industry, *Fountain* also posed questions about the different kinds of creative labour entailed in such divisions. On one hand, *Fountain* invited the possibility that the products, and creative labours, of the ceramics industry be viewed as art. On this view, *Fountain* could be read as begging the question of what might happen if one viewed *all* creative labour as art. On the other hand, *Fountain* could be read as an expansion of the artist's portfolio of labours. In refusing to make a composition in the rhetorical sense, the artist absorbs and subsumes other forms of creative production into the fold of art. On this latter reading, any object could, through the almost mystical labours of the artist, become an artwork.

The theme of what constitutes creative labour, and in what ways art is divided from industry, was taken up in later works. *Fresh Widow* of 1920 comprised a set of French Windows set on a plinth, with a copyright symbol placed on the bottom right hand side of the sill. This *could*, and has, been interpreted as an 'appropriative claim' by the artist Duchamp over the products of industry.[49] In so far as 'industrial' products – such as French Windows – *might* possibly fall under the protection of patent law, stamping the windows with a copyright symbol may mark the act of transferring, and

---

[47] As Rosalind Krauss suggests, the effect of so minimal amount of creative labour is to raise a question, the question as to how it is possible that *this* object is art – a question that is quickly followed by the insight, what qualifies *anything* to be art? *Passages in Modern Sculpture*, MIT Press, Cambridge, Massachusetts, 1993, p. 79. (First published, 1977) Here Krauss says "…the artists creative act is so obviously minimal, the transformation itself so absolutely negligible (leaving the urinal exactly the same as all other examples of its kind), that instead of feeling that we have found an answer, we must confront a whole new set of aesthetic questions."

[48] Brian O'Docherty, in *Inside the White Cube*,1976, analysed Duchamp's interest in the *material* boundaries of art, arguing that works from the 1930s such as *Mile of String* and *1200 Bags of Coal*, developed from the line of thought initiated by *Fountain*, demonstrating Duchamp's growing interest in the walls of the gallery/exhibition space as boundaries that both enable and limit the artwork. O'Docherty analysis was elaborated by Hal Foster in the essay 'Who's Afraid of the Neo-Avant Garde' (also known as 'What's Neo about the Neo-Avant Garde?') in *The Return of the Real: The Avant-Garde at the End of the Century*, October, MIT, Cambridge Massachusetts and London, 1996, pp. 1-34.

[49] Molly Nesbitt's observations were made in the wake of the 'appropriation art' of the late 70s and 1980s. Her view co-opts Duchamp into a defence of 'appropriation art' as an art that has the *right* to unilaterally subsume any and every cultural production that it sees fit. See Nesbitt, op. cit.

subsuming, them from that realm into the aesthetic realm. However, as usual with Duchamp, the conclusions that can be drawn are ambiguous. It is reasonable to suggest that suc h works display his interest in the *topography of creativity*. The use of a copyright symbol on an object clearly not 'made' by the artist invites speculation as what separates one creative realm, or category of creative labour, from another. In this sense, *Fresh Widow* appeared to push the interrogation of the borders of art and industry (and their different forms of creative labour) that was implicit in *Fountain*, into an interrogation of the forms of *property* that resulted from such different categories of labour. The work indicates that Duchamp was, to some extent, aware of the role intellectual property in functioning social divisions between the '*subjective*' creative labour of the artist and the '*objective*', and alienated, creative labour of the factory worker.[50]

As far as dematerialisation was concerned, the main effect of Duchamp's legacy lay in his concern for what, properly, constituted artistic labour. As with Cage, challenges to the concept of composition necessarily involved challenges to concepts of creative labour, and by extension, the role of the audience. As with the take up of Cage's ideas, Duchamp's challenge to the rhetorical mode of composition cohered with an already existing problematisation of it within abstraction. Again, as with Cage, alternative ways of conceiving what was meant by composition and creative labour provided an escape root from the narrowed possibilities of Greenbergian Modernism.

---

[50] Despite the fact that the role of intellectual property was an interest, there is no evidence that Duchamp pursued any a particular analytical or ethical view of its role. When Duchamp actually 'appropriates' images, in works such a *LHOOQ*, (a print of the Mona Lisa on which he drew a moustache) his intent is playful and investigative rather than didactic. There is no evidence that such 'appropriations' displayed an antipathy towards intellectual property. As with most things, Duchamp's approach was speculative and mildly amusing. In a letter to Tristram Tzara in 1922, he speculated on the possibility of marketing gold insignia with the letters DADA much as one might market a corporate logo, or brand, as a 'universal panacea'.

DEMATERIALISATION AND THE NEW MODELS OF COMPOSITION

As already suggested, the aim of dematerialisation was to move beyond the ideology of 'objecthood' and the modes of artistic labour such a definition of art implied. In challenging 'objecthood', it also challenged both the narrowing definition of aesthetic labour and the division of an artist's labour from other forms of productive labour that, in effect, maintained the division between art and life. A new critical engagement with theories of composition drawn Cage and a re-engagement with the possibilities suggested by the Duchampian readymade were vital inspirations to the move away from Greenbergian Modernism.

In order to demonstrate how this critical engagement was manifested, the following sections will focus on two case studies from the plethora of material available from the period of dematerialisation. Works undertaken under the auspices of Minimalism and the Fluxus group demonstrate different approaches to the renegotiation of composition and creative labour. The Minimalist work of Donald Judd and Robert Morris in the mid 1960s demonstrates both the influence of a Cagean notion of composition and a re-engagement with the questions set by Duchamp's readymades. The specific aim of Minimalist work was to remove 'composition' from the art object and externalise it, rendering it a condition of the relationship between the object and its viewer at its moment of consumption. In a different approach to challenging the concepts of the rhetorical model of composition and creative labour, the Fluxus group developed collaborative and networked forms of creative labour. The analysis of these specific cases of dematerialisation provides a clearer picture of how the rhetorical model of creative labour was challenged and how the new 'semiotic/network' model developed and the role of intellectual property in that development.

MINIMALISM AND THE TEMPORALISING OF THE COMPOSITION

Minimalism has been described as an "apostate modernism".[51] Though Minimalism was a departure from the conditions of practice laid out by Greenberg, as the term 'apostate' suggests, that departure was more a renegotiation of its terms than an outright break with them. Minimalism followed a trend in American art identifiable as far back as Harold Rosenberg's essay 'The Fall of Paris' (1940) insofar as its departure from the rhetorical mode of composition was viewed as part of an attempt to break with a specifically *"European tradition"* of art making. Donald Judd gave voice to this when he described 'illusionism' as 'one of the salient and most objectionable relics of European art.'[52] That 'tradition' was seen to be at work in the 'heavy metal' sculptors, then the predominant strand of Modernist sculpture on both sides of the Atlantic.[53] Maintaining some of the thrust of Greenberg's position Judd and Morris objected that though notionally 'abstract' such sculptures too easily lent themselves to being read anthropomorphically.[54] They were in other words insufficiently 'Modernist'. In contrast, Judd praised elements of 'Abstract Expressionist' painting for their relative success in escaping such anthropomorphic illusionism.[55] Rothko's work was particularly singled out in this respect. The rectangles that reflected the material limits of the stretcher went some way to 'solving' the problem of relational composition however such works were only partially successful due to the spatial effects of colour. Judd's solution was to suggest that the 'shape' discovered by such

---

[51] Charles Harrison's introduction to Morris's writing in *Art in Theory* succinctly captures the position of Minimalism with respect to Greenbergian Modernism. See Charles Harrison & Paul Wood, *Art in Theory 1900-1990: An Anthology of Changing Ideas*, Blackwell, Oxford, 1993, pp. 797-802.

[52] As I suggested earlier with reference to Greenberg the anxiety about the corrupting effects of relational composition were routinely referred to as a problem bought about by the desire for mimesis or 'illusionism'. This specific formulation is drawn from Donald Judd's essay *Specific Objects* originally published in The Arts Yearbook in 1965. This quote can be found in the edited version of the essay in *Art in Theory*, op. cit., p. 813.

[53] The artists most commonly associated with such work were the American David Smith and in London Anthony Caro and his allies at St Martins.

[54] The best overview of this moment and of the issue of anthropomorphism is provided by Michael Fried in his famous attack on what he termed 'literalist' art in the essay 'Art and Objecthood'*;* originally published in *Artforum* in 1967, op. cit. A full version of the essay is reprinted in *Minimalist Art*, op. cit. It is also worth noting that the term 'anthropomorphism' was derided by both sides of the critical bust up and used as a critical insult. (The idea that there is something corrupting about anthropomorphism in painting had its roots in Feuerbach's analysis of the anthropomorphisation of God in early 19th 'religious painting')

[55] Donald Judd, 'Specific Objects', 1965, op. cit.

painting had its future 'outside of painting' as three-dimensional constructions in which such 'spatial illusions' were eliminated by rendering them in real space.

The characteristic work of both Judd and Morris in this period comprises a linear arrangement of cubes and or rectilinear boxes, a 'one thing after the other' logic, as Judd termed it. Sometimes the 'objects' are sealed units; at others, the viewer is presented with open, or partial, forms. In his 'Notes on Sculpture', written in part as a critique of 'Modernist' sculpture and part as explanation of Minimalism, Morris gives a valuable account of this new non-relational form of composition.[56] The organisation of such works take the internal arrangement of parts found in relational composition and externalises them. The linear arrangement of parts therefore refuses the hierarchical aspects of such rhetorical approaches to composition. Composition in Minimalism then lies not *within* the art object but in the relationship between the 'object' and the viewer. Using Gestalt Theory Morris describes the movement of the viewer around the object as effectively the 'moment' of composition. Composition occurs as an interaction between the sense of shape the viewer holds within their mind and their actual bodily experience of the shape in the gallery. Composition in this sense does not reside in the object, and is effectively a temporalised affect of the presence of the viewer. Since composition is constituted by the relationship between the art object and the viewer, the object itself can no longer be seen as a discrete entity with a certain identity. In a sense, the viewer comes to be seen as a 'variable component' of the composition and thus the composition itself never entirely knowable.[57] Like Cage's compositions, such a claim poses a problem as far as the rhetorical concepts of composition represented by copyright law are concerned. Before

---

[56] 'Notes on Sculpture', first published, *Artforum*, 1966. For relevant excerpts, see *Art and Theory*, op. cit., pp. 813-822.

[57] Morris was involved with Fluxus prior to his Minimalist phase and Fluxus was itself rooted in Cagean concepts of composition. There are also obvious correlations between the concepts of composition in Minimalist work of this period and the position staked out by Roland Barthes' in 'Death of the Author' 1967, op. cit. The notion of composition as a temporal collaboration between object and viewer, and of the 'work' as never complete *in itself*, places great emphasis on the subjectivity of the consumer. This parallels Barthes contention that the text was not complete in itself but is effectively (re)created differently by the subjectivity of each successive reader. For a longer analysis see *Appendix A*.

addressing that issue however it is necessary to address the issue of creative labour in such works.

Minimalism took up the themes identified in Duchamp's *Fresh Widow* – particularly the idea that the division between art and industry is sustained by a *divided topography* of creative labour. The speculative elements of Duchamp's engagement with the two realms of creative endeavour – that of the subjective artist, the ideology of originality and unalienated labour, and that of industry, the realm of invention by the few, and the alienated labour of mass production – were revisited both in Morris's 'Notes on Sculpture' and in his practice as an artist. Morris's believed that industrial 'forming techniques' were central to the developmental history of mankind and indicative of a certain level of human development. It was therefore the artist's responsibility to work with such techniques and, where necessary, farm out the labour of production to fabrication companies. In a sense, the collaborative nature of such a practice recalls the division of labour between design and execution that pertained in the organisation of the bottega.[58]

The splitting of concept and actual execution is however a little more complex. Devolving the execution of the work to the fabricators is not a market driven expedience but a part of Morris's creative ideology[59]. It is an answer to the narrowing of the envelope of artistic labour under Greenbergian Modernism. While aspects of Greenberg's Modernism are retained, Morris refuses to have his labour defined in relationship to his action on materials, which in turn define the parameters of art.

At the level of composition, Morris's work, like Cage's, attempted to overcome the art/life dichotomy by dissolving the rhetorical compositional unity of the artwork, opening it to the contingency of spatial context and the temporal contingency of the viewer. On the level of labour however, Morris *maintains* the division between artistic

---

[58] With the obvious qualification that the collective work of the Bottega was executed within familial and kinship networks quite unlike the social conditions of production of late twentieth century United States.

[59] In the early 1960s, Morris expressed irritation at having to make the works himself because he could not afford professional fabricators.

labour and labour more generally. For Morris there is clearly a difference between the labour of 'the artist' and the labour of the fabricator's shop. But, the division is not seen as socially and culturally divisive. The work of modern fabrication plant is indicative of human development, the artist can do no better than work with such industrial creativity. In other words the old leftist notion that the mixed, unalienated labour of the artist represented an indictment of the divided and alienated labour of industry is gently elided. This is made possible, as suggested earlier, by a shift in the portfolio of labours of the artist. The shift is achieved by stressing those aspects of the artist's labour that are mental or conceptual in character – historically the aspects associated with the concept of invention and design – and a corresponding reduction in those aspects of an artists labour that are manual in character. In particular, the shift represents a decisive shift away from the idea that artistic production can be measured by the effective coordination of mental labours and their physical execution within the limits set by materials. One historical effect of this process is that after aesthetic dematerialisation it is no longer possible, as it was for nineteenth century thinkers, to hold up aesthetic labour as an ideal against which the social, moral and political problems of alienated labour can be gauged. Though obviously differentiated, the labours of artist, and that of the factory, are no longer differentiated *ideologically*. Modern industrial organisation is equated with an historical high point of human development, rather than an alienated and exploited labour force. Industrial 'modernity' becomes an equal partner with Modernist, or Greenbergian terms, post Modernist, avant gardism. While this is a riposte to Greenbergian Modernism's attempt to maintain the avant-garde as a super social category, it draws on an earlier moment – that of a Saint-Simonist avant gardism. However there is little to suggest that this Saint-Simonist alliance of art and industry that there is anything like a *political* project. As far as political ideology is concerned, the best one can say is that, for Judd, the move away from relational composition is identified with the project of producing a specifically American art, and that for Morris, the kinds of industrial organisation and fabrications techniques available to him in the United States of the 1960s were indicative of a high point in *human* development.

This moment of dematerialisation is interesting because it represents a reintegration of the labour of the artist with other forms of labour, but in such a way that the long hoped for integration is effectively *depoliticised*. The realignment of artistic labour towards conceptual practice necessitated a different relationship with industrial technology, in doing so the well-worn argument about alienation was laid to rest. Morris's dematerialised work of this period provides a fascinating echo of later modes of economic organisation that are currently referred to under the rubric of the weightless, or knowledge, economy. The shifts in the portfolio of creative labours that characterised dematerialisation are paralleled by presaging of mental, or conceptual, aspects of production in 'modern' economies. Playing down the importance of the physical aspects of labour in such contemporary economic theorisations has served as a prelude to relocating manual industries in less well developed economies. The consequence of such a division of labour for modern economies, as for the artists of the 1960s, is an increasing concern for the 'ontology of creativity', what is it, how can its production be maximumised, and for businesses, how can the rights that flow from it can be 'managed'.[60]

In order to clear the ground for analysing such relationships at the end of this chapter and in the next, it is necessary to account for how Morris, and others in the moment of aesthetic dematerialisation, achieved the shift of balance from one part of the labour portfolio to the other. The enabling mechanism was – as it is currently for the knowledge economy – intellectual property law. The paradox for Minimalism, as already suggested, was that its deconstruction of rhetorical modes of composition was achieved despite its dependence on copyright law that was historically built upon rhetorical concepts of creative labour.

MINIMALISM, CREATIVE LABOUR AND INTELLECTUAL PROPERTY

---

[60] A more detailed exploration of these 'parallels' will become evident later in this thesis.

The composition practice developed by Morris and Judd did not set out with the intention of conflicting with copyright law. However, in dismantling 'relational' composition both artists produced works which, at the visual level, were practically interchangeable. Any possible arguments that might, 'in theory,' have arisen between the artists as regards copyright would have been difficult to settle in terms of the usual doctrine of 'substantial similarity', given that both created lines of identical, 'primary' units.[61] The very basic nature of such forms was, at least as far as Morris's gestalt theory was concerned, in order to ensure that the repeated elements of the work were as common, primary and *irreducible* as possible.[62] In this sense minimalist works were, by definition, part of a common and extremely basic, visual vocabulary. In this sense, the display objects 'produced' by Minimalist artists were, like Cage's 4'33', difficult to comprehend as expressions of an individual within the ostensible framework of copyright.[63]

Given these minimal visual and stylistic differences between Minimalist objects of display, defining the edges of one artist's contribution from another was, theoretically, problematic. A plethora of devices that did not depend on copyright law were in operation. Good faith and practical, or literal, differences between works in terms of material, exhibitions site, presentation, context and other 'non-legal' aspects of authorship were all employed.[64] These were supplemented by other devices, with well-established histories, drawn from practices in the field of print and photography, such

---

[61] 'Substantial similarity' is based on whether a 'disinterested party' (i.e. a non-expert) could tell the works apart.

[62] As far as the minimalist notions of composition and Gestalt are concerned, Morris stated that he wished to find primary forms that could not be further reduced into sub-elements that were in any way different from the forms he was already employing. As far as Morris was concerned, half a cube was still cubic if not a true cube. The point of such severity was to ensure that the objects that formed the composition were not themselves comprised of elements that could be described as relational. See Morris, op. cit., p. 815.

[63] To the best of my knowledge, no cases regarding infringement and minimalism were pursued in the 60s and 70s.

[64] The term non-legal in this context serves simply to differentiate methods that do not specifically rely on intellectual property law.

as special editions that limited the works by number or use of special materials,[65] and extensive use of paper trails and provenances.

The use of documentation was vitally important for Minimalism, and Conceptualism more generally, since such paper trails were themselves protectable by copyright. An awareness of the importance of the law as a means of supporting an artwork that was, ostensibly, 'non-material' was apparent across the whole of dematerialisation. An example of such awareness Morris's 1963 work *Statement of Aesthetic Withdrawal* is informative.[66]

The 'statement' followed an incident in which Morris failed to receive payment for a small sculpture. In a legally notarised statement, he withdrew 'all aesthetic content' from the work[67]. The document, and a small photograph identifying the sculpture, thus formed the new work 'Statement of Aesthetic Withdrawal'. By 1969, Morris was creating works entirely from such documentation. His work *Money*, conceived for the appropriately named exhibition *Anti-Illusion* held at the Whitney, was composed entirely of legal documentation. $50,000 was held in a bank account during the exhibition gathering interest. The curators were invited to exhibit any documentation of the work they saw fit. Should 'the work' be sold, the loan would simply be taken over by the buyer, Morris's price being half the interest accrued while the capital was active. Were the work to be sold in such a way it could be terminated by the withdrawal of the capital from the bank.

Morris was acutely aware of the role the law can play in securing the existence of a work which, at least as far as the object on display is concerned, has 'refused composition' in any sense that might be defendable in terms of copyright. Since the objects displayed in exhibitions of Minimalist work distanced themselves from the

---

[65] A good example of such practice is Carl Andre's especially manufactured bricks for the *Equivalent* series.
[66] For a brief description of this piece, see Richard Williams, *After Modern Sculpture: Art in the United States and Europe 1965-70.*
[67] The statement, dated November 15, 1963, pronounced his withdrawal of "all aesthetic quality and content" and declared that "from the date hereof said construction has no such quality and content." As cited by Lucy Lippard, op. cit., p. 27.

rhetorical model of composition and creative labour, and *potentially* presented 'difficulties' for copyright law, it is tempting to see in them the beginning of the critique of copyright that later developed out of dematerialisation under the aegis of 'appropriation art'. However, the achievement of Minimalism was not to critique copyright but to shift the *location* of copyright away from the 'revealed object', the exhibitionary object, and place it in its documentation.[68]

In addition to reinstigating the old division of labour between idea and execution, and formalising that division operating in partnership with industrial fabrication companies, Minimalism achieved a further division at the level of property. While its exhibitionary objects seemed able to elide or defer copyright law, and could even be read as a nascent critique of some of its concepts, control of the work was maintained through what one might call the *literary objects* of the artist's labour. The idea of a 'linguistic turn' in the practice and theory of art in the period is nothing new. However, it has generally gone unremarked that the turn was as much practical and legal, as it was, theoretical and linguistic.[69]

---

[68] In this respect, the practice of Minimalism (and of much conceptual work of the 60s) paralleled 19th century theorisations of copyright. The latter suggested that any 'object' under copyright was only ever partly revealed in material form, thus implying that the 'full' work always lay somewhere beyond the *material* realm. It is tempting to characterise such a view as Platonic/Neo-Platonic. The view however, developed from rather more prosaic concerns. As Sherman and Bently have observed, by the 19th century there was considerable pressure to expand the scope of copyright in order to account for 'derivatives'. For example, authors found that although their books were under copyright control, characters or plot lines could still be reworked by 'pirates' and made into, for example, a play or musical. Under the basic principle that an author's words should not be copied verbatim, there was nothing wrong with such practice. The scope of the law was therefore increased in favour of the author's claim to such derivatives. In this sense then, the 'actual' work, the line of words written down, was never entirely complete-in-itself – but incorporated also, future manifestations that had yet to be set down in material form. Though it is possible to read this as a neo-platonic conceptualisation of the law, the formulation merely *describes* the law rather than *constitutes* it.

[69] This legal turn can be viewed as the beginning of what is currently hyped as the new phenomenon – the author-as-brand. The division between concept and its material manufacture has moved from critical strategy to general practice in the last thirty years. However, its current prevalence is almost entirely the result of market conditions. Commercial theories of branding have heightened the awareness that the name of an artist is worth more than the material objects they produce. Where market demand outstrips the capacity of an individual farming out manufacture is a practical option. While this phenomenon has gained a new self consciousness in the era of knowledge economies – Tom Clancy's novels are reputedly turned out by a team of writers working up short plot outlines he produces – the claim to newness is not sustainable. The contemporary demand for Raphael's work was so great that he even delegated the disegno, as well as the execution of final works to his assistants. Generally speaking, the early Renaissance bottega operated in much the same way as a 'brand'. The current claim to newness can only be sustained against a shallow history that takes Romanticism as its starting point.

COMPOSITION AS NETWORK: FROM FLUXUS TO MAIL ART

The influence of Cage on the direction taken in visual art is evident in the way Minimalist artists, such as Morris, attempted to empty the composition into its surrounding environment. Minimalist 'compositions' punctured the 'discrete' identity of the relational composition, the new form turned composition into a collaborative event acted out in time, somewhere between the gestalt shape, held in the mind of the viewer, and the actual shape of the material object, encountered in the gallery. Composition in this sense was not the prerogative of the artist, but of the encounter they functioned between the viewer and the 'work'. Minimalist composition then, unlike rhetorical composition, was never complete in itself. Temporal, unstable and essentially unknowable in its entirety, Minimalist composition was, in theory, never able to be experienced in the 'fixed and tangible form' required by copyright law.[70]

Another way of expressing the temporalisation of the composition in Minimalism is to say that it is not constituted in its entirety by the artist but by an entire field of possibilities, a network of 'human actors' – artists, viewers, critics, historians – and 'non-human actors' – the object, the gallery, the catalogue, the review – and 'temporal factors' – the conditions of the particular moment in which the event of 'composition' occurs.[71] Minimalist composition, and many other strategies of dematerialisation, can

---

[70] By making the viewer a variable component of the composition, Minimalist Art therefore sought to erase the artist-object-viewer hierarchy. This technique was lifted directly from Cage. Though not mentioning him directly in 'Notes on Sculpture 2', Morris is quite explicit in making the Cagean claim for the role of the viewer, op. cit., p. 818. Opening the composition in this manner was crucial for both artists, since it erased the barrier between art and life. In refusing the rhetorical mode of composition, both artists raised question marks over the applicability of copyright, or the 'commodity form of the composition'. While both *could* be taken as examples of artists' interrogating, or escaping the commodity form, such a view might equally be seen as illusory—since both simply relocate the site of copyright from the ostensible art work to its production notes or score. Thus, rather than attempting to position such work as a nascent critique of copyright, it is more fruitful to see it as an attempt to solve old problems – such as that of the subject/object divide, the art/life division, the producer/consumer dichotomy. The central observation that, (capitalist) economic models underpinned the conceptualisation of aesthetic relations, and that therefore, a concerted attack upon composition might reconfigure them – was almost entirely the result of Cage's vision.
[71] It is worth mentioning here that Duchamp, in a sense, foresaw some of these issues. His lecture 'The Creative Act' made during the American Federation of Arts Convention, 1957, stakes out an interesting

be viewed as shifting the burden of 'creation' from the solitary individual artist onto a broader network of social relations. During the 1960s, such desubjectivisation of production was largely avant gardist strategy, an attempt to detach a younger generation of artists from the outmoded beliefs about the art object and artistic labour that had become ever more narrow and oppressive under Greenberg's Modernism. The strategy of Minimalism was however not the only way that a composition might be sustained collaboratively, as an active relation between artist and viewer. A different stand of dematerialised art can be traced through the classes Cage held at the New School of Social Research.[72] From its beginnings under the guiding figure of George Maciunas, Fluxus was an event-orientated grouping that, like many stands of dematerialisation, was highly suspicious of commodification. Maciunas' communism contributed greatly to the shape and identity he gave to the group. His influence is particularly potent in the famous 'Purge' manifesto, written entirely by Maciunas without consulting any other members of the group.[73] Maciunas' ire was particularly

---

alternative to the views above. Duchamp suggests that the network of producer and consumer, of artist and viewer, is temporal and historical. There is what he calls an "art coefficient" at work in the creative act. The artwork is in a sense created by a form of "esthetic osmosis" that transfers itself from artist to spectator via the medium of the art object. The artist's work necessarily involves a chain of subjective decisions that render the artwork divided between the artist's intention and the realisation of the intentions. The art coefficient is the "relation between the unexpressed but intended and the unintentionally expressed" as Duchamp puts it. The role of the spectator is to refine the coefficient bringing "the work into contact with the external world by deciphering and interpreting its inner qualifications" thus adding his contribution to "the creative act". This role may occur long after the death of the artist and in that sense the creative network in not merely temporal but historical. All quotations here from Duchamp, op. cit., p. 139.

[72] Maciunas initially planned to use the term 'Fluxus' for a journal that would publish experimental compositions by artists and musicians drawn from Cage's classes. In addition to Cage's classes, Maciunas also attended a class in electronic music given by Richard Maxfield, at the New School of Social Research – and it was h ere that he met La Monte Young. Young knew Cage and provided Maciunas with his introduction to the New York avant-garde. Classes held at the New School, created a wealth of material – the latter of which was collected by La Monte Young and then published, in collaboration with Jackson Mac Low, under the title *An Anthology*. Maciunas was responsible for the general design of the anthology and collected the out takes which in 1962 he took to Wiesbaden where he had taken a job as a designer/architect with the US Air Force. His plan was to publish the overflow of material in a journal for which he chose the name *FLUXUS*. See Elizabeth Armstrong and Joan Rothfuss, eds., *In the Spirit of Fluxus*, Walker Art Centre, Minneapolis, ex. cat., 1993, p. 25.

[73] It must be stressed that this was fairly typical of both Maciunas and the 'group' as a whole. Fluxus (manifestos notwithstanding), was not a movement on the lines of the historical avant gardes. Maciunas drew up lists, flow diagrams and maps nominating people, works, things as 'Fluxus' – often without said artists' knowledge. By the same token, 'members' of Fluxus were excommunicated for offending George. The best account of the shape of Fluxus – with Maciunas as benevolent autocrat amongst the chaos – is given by Emmett Williams' autobiography, *My Life in Flux – and Vice Versa*, Thames and Hudson, London, 1992

directed against the socio-economic characterisation of art that were attached to the notion of the professional artist and keen to institute a more revolutionary model in its place. Amongst the definitions of the word Flux torn from a dictionary and pasted together for the manifesto, are three paragraphs written in Maciunas' hand. The first reads:

> Purge the world of bourgeois sickness, 'intellectual', professional and commercialised culture, PURGE the world of dead art, imitatio n, artificial art, abstract art, illusionistic art, mathematical art – PURGE THE WORLD OF 'EUROPEANISM'![74]

Emmett Williams quotes a letter Maciunas wrote to Tomas Schmit in 1963, about the time of the Purge manifesto, that goes a little further in explaining Maciunas' ideals for the group as regards the role of the artist and the issue of commodification.

> There is no such thing as an amateur or professional revolutionary. Revolution is for participation of all…One basic requirement: a revolutionary should not practice something he is trying to overthrow (or even worse make a living from it). Therefore Fluxus people should not make a living form their Fluxus activities but find a profession (like applied arts) by which he would do best Fluxus activity. [75]

In Maciunas' view, the Fluxus artist should be all that the 'traditional' artist was not. Such 'professional' artists had to produce work that was "complex, pretentious, profound, serious, intellectual, inspired, skilful…" in order to make their living. In contrast he suggested the work of the Fluxus artist should be *"obtainable by all and*

---

[74] The other two paragraphs read: "PROMOTE A REVOLUTIONARY FLOOD AND TIDE IN ART, Promote living art, anti-art, promote NON ART REALITY to be fully grasped by all peoples, not only critics, dilettantes and professionals." And "FUSE the cadres of cultural, social and political revolutionaries into a united front and action". Williams suggests that most of the individuals associated with Fluxus at this moment took exception to the manifesto. See Williams, op. cit., p. 38.

[75] Ibid., p. 39. Characteristically, Maciunas ends the letter with a stylish ultimatum: "You then have a choice of dissociating yourself from Fluxus and becoming a social parasite and beatnik. Give careful thought to it and let me know by next mail." Ibid., p. 39.

eventually produced by all", as such it should be, "simple, amusing, unpretentious, concerned with insignificances, require no skill or countless rehearsals, have no commodity or institutional value…".[76] Williams also records another example of Maciunas' mixing of revolution and comedy. Maciunas was so concerned by the encroachment of commodification on Fluxus practice that he explored the possibility of producing all Fluxus publications in ink that would disappear, on paper that would disintegrate. However, a more serious strategy to avoid the fetish for individualism that sustained the art market was the development of unattributed, collective acts of production. The best-known examples of such collaborative production are boxes, which were passed amongst members of the group to be reworked and adapted. The intention of these collaborative, networked, productions was to elide the orientation of the market towards the condition of 'authorship'.

In later years an increasingly networked notion of creative labour developed within the group. The collaborative and anonymous production of *Flux Boxes*, (which had their root in the event-orientated, collaborative happenings), was more fully refigured into a fully networked compositional practice. Often regarded as the brain-child of Ray Johnson, an American member of Fluxus, the underground movement of Mail Art employed/employs the mail network as a system/institution for enabling the production and consumption of artwork that is, in principle at least, collaborative and which entirely blur the division between the subject spaces of 'creator' and 'consumer'.

Like Fluxus, this off-shoot regards commodification and the art world institutions and devices that facilitate it – such as galleries, museums, art critics – as attempts to refine/define/confine and ultimately control art. In order to avoid the institutional nexus Mail Artists operate within a network of addresses through which work that is collaborative, and often extremely ephemeral, is passed. Techniques, similar to those used for chain letters, were devised to enable the free circulation of collaborative works within a *closed* system. The only access to Mail Art is through production.

---

[76] Williams, op. cit., p. 41. This is Williams' quotation of Maciunas' words – no source is given.

Once one has gained access to addresses in the system – in the early days this was done through word of mouth, in recent years addresses have been published in zines available at events and performances – the potential viewer/consumer of Mail Art must first create a work and pass it on into the system. The first *gift* of work gains the viewer/producer responses from others on the network. What comes back is confined by only one requirement – that it can be sent by post. (Consequently paper collages feature heavily in the system.) On receipt the viewer may simply bin it, stick in on their wall, photocopy it, add to it, deface it or change it in some other way before sending it, or photocopies of it back through the network.[77] The strategies and idealism of the system would be familiar to anyone with experience of the Internet in its infancy. Mail Art activists were some of the first to spot, and utilise, its potential for networked production. Much of the early creative ideology of the net paralleled exactly the Mail Art debates of the 1970s and 1980s.[78]

Mail Art actualised the creative ideals set out by Fluxus, and took some of its techniques to their logical conclusion. The Minimalist temporalisation and decentring of rhetorical modes of composition, though in a sense networked, remained within the commodifying institutions of the gallery and museum. The achievement of Fluxus/Mail Art – very much in the spirit of Maciunas' high avant-garde ideals for the group – was to challenge the practice of composition by rolling up the labour divisions of producer and consumer into a single position.[79] Blurring the boundaries of the rhetorical mode of composition, and the division it functioned between creative labourer and audience, was common to many of the practices carried out under the

---

[77] The ad hoc, underground character of such work mitigates against its commodification. No system however, is perfect and spillage often occurs (of which this passage is one such leak.) Attempts to create museums from personal collections of this very ephemeral art have met with death threats by return of post.

[78] When draft of this chapter was made in 2000, no attempt had been made by art historians to address Mail Art. However, Craig J Saper has recently covered some of the ground between Fluxus and Mail Art covered here. See *Networked Art*, University of Minnesota, Minneapolis, London, 2001, pp. 51-67.

[79] This type of creative loop is now a characteristic of much cyber theory with respect to creative labour and production – see for example the (Richard) Stallman view on open software. Paradoxically, it is also central to theories of managing knowledge capital. An analysis of Charles Leadbeater's problematic use of such concepts will be undertaken in Chapter Four.

rubric of dematerialisation. Fluxus/Mail Art is however the best example[80] of a challenge to the author-composition-audience nexus that employed the fluidity, anonymity and collectivism of a fully networked production to elide institutional commodity forms.[81]

These two strands of dematerialised work, though emerging in order to address similar problems, lead in different directions. Minimalism presented one of the clearest and coherent attacks on the rhetorical concept of composition. Though this entailed reconfiguring the shape of creative labour, the challenge to the unitary authority of the author was muted. To paraphrase Morris, it was not that the artist became 'unimportant', just less 'self-important'[82]. The challenge to the rhetorical mode demonstrated by Fluxus/Mail Art is of a different order. The site of challenge was not – as it was for Minimalism – the 'composition' in itself, but the way it was approached by creative labour. Where Minimalism identified composition as a way to challenge the mode of labour, Fluxus/Mail Art identified labour as the site to challenge the exchange value of the artwork. The approaches led in different directions. For Minimalism, *desubjectivising* production, giving the viewer a decisive role in the production of the work, was a theoretical ideal. For Fluxus/Mail Art *desubjectivising* production was a practical, material possibility.

The dual aspect of the 'semiotic/network' model of production that developed from dematerialisation reflects these differences. One strand of the model, represented in the case study of Minimalism, provided a coherent attack on the rhetorical modes of composition and creative labour inherent in copyright law. The other strand, represented by the case study of Fluxus/Mail Art, provided an *actualisation* of the desubjectivising ideal entailed in such an attack. As shall be obvious later in this thesis, the 'strong' interpretation of the semiotic/network model (that has the potential to threaten copyright law) has its antecedents in 'the Minimalist strand', and the

---

[80] The second best example is probably the work of the Situationist International between 1964 and 1972. For more on Situationism art, see Iwona Blazwick, ed., *An Endless Adventure, an Endless Passion, an Endless Banquet: A Situationist Scrapbook*, I.C.A. and Verso, 1989.
[81] Mail Art literally hides the artwork both from the gallery museum and from copyright law.
[82] Morris, 'Notes on Sculpture 2', op. cit., p. 819.

'weak' interpretation of the model (that helps facilitate claims to intellectual property) in 'the Fluxus/Mail Art strand'.

The significance of these developments in creative theory was as resonant beyond the art world as within. Dematerialisation produced a complex challenge to the rhetorical model of creative labour and composition. In the art world, the delegitimation of notions of individual creative autonomy was filtered through market and media structures that remained focussed on individual authorship.[83] It was therefore the challenge to rhetorical composition that proved most potent. As will be demonstrated in Chapter Five this was particularly so in appropriation art's strategy of sampling.[84] Elsewhere however, the delegitimation of notions of individual creative autonomy had peculiar resonance. In the wake of dematerialisation and the emergence of the semiotic/network it became possible for those wishing to accumulate intellectual property rights, to delegitimate individualist claims to creativity by asserting that such a view of creative labour was 'outmoded'. In this way, cultural and aesthetic ideology made an increasingly comfortable alliance with the contractually based creative practice of industrial research and development.[85]

NETWORK THEORY AND THE SOCIOLOGY OF CREATIVE LABOUR

As suggested earlier, in the late 1970s retrospective attempts were made to gather the disparate strands of dematerialisation under conceptual models drawn from semiotics.

---

[83] While this authorial figure was pressurised, market forces and media representations of art prevented the desubjectivisation of production from making serious inroads. For a view on the media's role in mediating developments within the art world, see B. Buckley and J. Stapleton, <u>Making Public Spectacles of Ourselves</u> in '***Do You Really Want it That Much?' - . . . 'More***! ' ex cat. Ursula Bickle Foundation/Venice Biennale/IMMA, 1999.

[84] A strategy summed up in Hal Foster's observation that appropriation artists do not so much 'originate' images as 'curate' them.

[85] Within R & D creative rights had long been organised by contract. (Much in the way that the art business encountered in Chapter Two hired cutters and engravers.) Interestingly some areas of 'aesthetic production', such as technical draughtsmanship in the engineering industry, were historically excluded from copyright protection.

Rosalind Krauss gathered the 'products' of dematerialisation within a 'relational field' developed from structuralism, claiming the work, and the methodology, for the 'new epoch' of post modernism.[86] Krauss' approach was one part of a general flowering of various methods derived from semiotics enacted through waves of structuralism and post structuralism across many academic disciplines, in the 1970s and 1980s. The semiotic approach was not confined to discussing the 'products' of dematerialisation. The approach also fitted well with the 'desubjectivising' thrust of dematerialisation, where the individualism of the rhetorical model of creative production had given way to idealist, and practical, attempts to 'network' production. The semiotic approach also suited older, Marxist approaches to history/art history which were generally suspicious of subject-centrism, and which situated artistic production in the context of broader economic and social developments. The result of these correspondences was the development of a new *consensus* about creative production, what might be termed a new 'common sense', that was antithetical to the subject-centricism of accounts derived from rhetoric.

The 'semiotic/network' model of creative production was not simply an art world phenomenon but a complex, cross-disciplinary trend. The general level of agreement about creative production across a number of fields, recalled the type of social and cultural consensus achieved in the 19th century by theories of originary Genius. Were it not for the development of economic theories presaging the role of intellectual property however, the development of such a consensus would have been of little interest beyond the various disciplines in which it was active. However, as the quotation at the beginning of this chapter points out, attempts at scientific and economic modernisation succeed when accompanied by cultural shifts that change the way we see the world.[87]

---

[86] Krauss, *Originality of the Avant Garde*, op. cit., pp. 298, 290. The application of linguistics to visual culture had a longer history of course, beginning with Barthes' famous analysis of the saluting 'French' soldier on the cover of Paris Match, in his 1956 essay, 'Myth Today'. See Roland Barthes, *Mythologies*, Paladin, 1973, pp. 117-174.
[87] Leadbeater, op. cit., p. 288. (Though Leadbeater would object, the best words to describe such a cultural and economic consensus are 'ideology' and 'hegemony'.)

FIELD THEORY AND THE SOCIAL HISTORY OF ART

In 1993, Pierre Bourdieu published an essay in the journal *Poetics*. "Few areas", suggests Bourdieu, "more clearly demonstrate the heuristic efficacy of relational thinking than that of art and literature".[88] Conceiving of art and literature as a "relational field of production", Bourdieu suggests, represents a "radical break" from the "substantialist" mode of thought that privileges the individual, and the relations between individuals, "at the expense of structural relations". [89] Put simply, the 'relational field' can account for creative production without the ideological blockages caused by the 'traditional' emphasis on creative individualism. Bourdieu's 'field' built on the desubjectivising tendencies intrinsic to the art practice of the preceding twenty years, and the structuralist/post-structuralist theorisations of authorship active in France since the late 1960s.[90] In Bourdieu's hands, semiotics provided a sound methodological schema with which to concretise the theoretical and practical challenges to cultural production enacted under dematerialisation. The Saussurian notion that meaning resided not in words themselves, but in the relational play of differences between words, allowed Bourdieu to conceive of a field of productive forces in which creativity was not located in specific individuals, but in the relational play between individuals and other, non-human factors.[91] Rather than locate production in a specific individual, a James Joyce for example, or in the subject-space they occupy, that of authorship, Bourdieu considered cultural production as the product of a field of power constructed between subject spaces that were themselves the result of the relational powers at work in the field.

---

[88] 'The Field of Cultural Production, or: The Economic World Reversed' (1983). As cited in Pierre Bourdieu, *The Field of Cultural Production: Essays on Art and Literature*, trans. Richard Nice, Polity Press, London, 1993, pp. 29-73.
[89] Ibid., p. 29.
[90] Specifically of course, Foucault and Barthes, and in particular Barthes' concept of the 'text' as a collaborative function of both the 'author', or 'scriptor' and the reader. See Roland Barthes, 'Death of the Author', op. cit. See also, Michel Foucault, 'What is an Author?', op. cit.
[91] There is an interesting parallel between this linguistic view and Cage's interest in the musical interval, which similarly draws attention away form, the notes towards the play of spaces between them.

Such an approach attempted, as artists of an earlier generation had, to move beyond the characterisation of art within 'traditional' (i.e. capitalistic) modes of economic exchange. In doing so, it attempted to take account of both material and symbolic production. Where the remit of the social history of art stopped at considering "the social conditions of the production of artists, art critics, dealers, patrons etc., as revealed by indices such as social origin, education and qualifications" – field theory attempted to account for – "the social conditions of the production of a set of objects socially constituted as works of *art*, i.e. the conditions of production of the field of social agents (e.g. museums, galleries, academies, etc) which help to define and produce the value of works of art'. In other words, 'the whole set of agents whose combined efforts produce consumers capable of knowing and recognising the work of art as such". [92]

Bourdieu's approach was part of a developing practice in social sciences that has more recently been described by terms such as 'actor network theory', or the 'semiotics of materiality'.[93] Insofar as such a semiotic/network avoids privileging human actors above the non-human actors – such as galleries or catalogues – it provides a more inclusive view of the actual mechanisms of production. As a consequence, it also has a powerful *denaturalising* effect on the individualism of the rhetorical ideology of creativity.[94] So, while social or cultural narratives may place an undue weight on the role of the author this will not be allowed to skew what Bourdieu calls the "science".[95]

The desubjectivising analytical position of the 'field' paralleled that of dematerialisation, which effectively temporalised the composition and/or sought to spread its labour out within a network. However, like dematerialisation, Bourdieu's

---

[92] All quotes here from Bourdieu, op. cit., p. 37.

[93] See John Law and Kevin Hetherington, 'Materialities, Spatialities, Globalities' in *Knowledge, Space, Economy* eds., John R Bryson, Peter W Daniels, Nick Henry, Jane Pollard. Routledge, London, 2000. See also, John Law and John Hassard, *Actor Network Theory And After*, Blackwell, Oxford, 1999.

[94] And will be demonstrated, it also has serious denaturalising effects on the rights claims of individuals to what was (formally) regarded as 'their' creative labour.

[95] Bourdieu, op. cit., p. 35. As his opening remarks recognise, despite the dematerialisation, it was still common in 1983 (and still is) for cultural analysis to "uncritically accept the division of the corpus that is imposed on them by the names of authors ('the work of Racine') or the titles of works (*Phedre* or *Berenice*)." Ibid., p. 29.

field of relational forces did not escape the rhetoric-based notion of relational composition but rather *relocated* it. The attempt to overcome subject-centrism of the rhetorical mode was achieved by passing elements of that mode to the sociologist. Envisaging the 'field' entailed mapping a territory, collecting internal parts and arranging them in appropriate relation to each other, giving due weight to the eddies and flows of power that constitute them, in such a way that the parts approximate a reasonable representation of the whole social field under analysis. The network so produced, while desubjectivising production, was, in other words, itself a variant on the old rhetorical strategy.

This paradox was also an apparent in the Minimalist attempt to undo the rhetorical mode. Rather than *eliminating* rhetorical, or 'relational' composition, it was *relocated* from the exhibitionary object to, on one hand the paper documentation of the work, and on the other, to the situation in which the exhibitionary object(s) were consumed. Though it was possible to say that the exhibitionary object itself 'refused' relational composition, insofar as the very primary objects on display did not have internal compositional elements, those elements were effectively externalised, and made a condition of the viewer's relationship to the object. In a similar way, Bourdieu's field theory removed ultimate creative responsibility from the subject, and made it a condition of the field, however this image of the network was itself a compositional variant on the rhetorical mode. To put this simply, then the 'image' of production as a network is, itself, an *aestheticisation of production*.

Crucially then the semiotic/network is not an *outright* rejection of the rhetorical vision of creativity. However, it does provide a strongly desubjectivising account of creative production, which presents some substantial theoretical problems for copyright law, and for intellectual property law more generally.[96] On the 'weak' interpretation it suggests, that an artwork is not so much the result of an individual's creative labour, as it is the abstract product of a relational field of power. On the 'strong' (though as indicated above, deeply compromised) interpretation, it suggests that the rhetorical

---

[96] The concept of invention in patent law is also a derivative of rhetoric.

concept of composition has been superseded, and the forms of property associated with it, destabilised. Put simply, the semiotic/network manages an crucial balancing act, on one hand militating against the individual's claim to have created a composition, but on the other providing little in the way of an actual, material challenge to the law.

ACTOR NETWORKS: FROM THE SOCIAL HISTORY OF ART TO INNOVATION THEORY

As a theorisation of creative production, the semiotic/network had relevance beyond the confines of the art world. Though in the realms of science and industry, the day-to-day organisation of creative production had long been 'networked' through departments of research and development, widely held social beliefs about the nature of creativity still presaged individualism. The concept of 'invention' that operated (operates) within patent law, is a cognate of rhetoric, and thus implies the personal creative capacity of the individual. Outside the law, the fetish for the highly regarded individual, inherited from 19th concepts of Genius, was maintained, as it still is, through events such as the annual Nobel Prize and cult of celebrity. The growth of a new *cultural* model of creative production therefore helped to bring the prevailing *ideology* of creative production into line with actual practice. For the purposes of academic and business analysis, the semiotic/network model also provided a much more realistic account of how complex creative production actually occurs.

A good example of its application to the analysis of industrial innovation is Michel Callon's 'The Sociology of an Actor-Network: The Case of the Electric Vehicle'.[97] Callon's analysis of the innovation process involved in the (attempted) production of the *Vehicule Electriuqe* (VEL) by *Electricitie de France* (EDF) in the early 1970s, attempted to move beyond the "constricting framework of sociological analysis with its pre-established social categories and its rigid social/natural divide".[98] Callon aimed to supplement social and anthropological analysis of science that situated scientific

---

[97] See, Michel Callon, John Law and Arie Rip, eds., *Mapping the Dynamics of Science and Technology*, MacMillan, London, 1986, pp. 19-34.
[98] Ibid., p. 34.

power within a matrix of constraining and enabling social factors, such as political interest and economic demand, by instead turning attention towards the role of science in constructing the social field. Like Bourdieu, Callon's concern was to expand the vantage point from which the field was viewed, by moving away from the usual determining points of orientation.

In order to create the VEL, EDF brought together what, Callon termed an "actor world"[99] which he describes as a relational field of heterogeneous human and non-human entities – such as researchers, engineers, plant equipment supplies, rubber flange makers etc. EDF's actor-world is shown to be mutable as problems with the project lead to Renault setting up a competing project thus creating their own actor-world. While actor-worlds have perceivable structural relations then, they are also part of a broader 'actor-network' that means that such structures are mutable and susceptible to change. Like Bourdieu's field of production, the actor-network is relational network where power operates between heterogeneous entities that are themselves constituted by the relational powers of the network. Using this model Callon situates the innovation of the VEL within economic and political processes but also demonstrates how the operation of the actor-world created by EDF itself (re)creates that nexus and how tensions within the nexus reconstitute EDF's actor-world.[100]

In the years since the actor network theory of the mid 1980s, the semiotic/network model has developed from a mode of academic analysis that aimed to elucidate the social activity of innovation, into a mode of production. [101] The idea of a 'networked

---

[99] Ibid., p. 34.
[100] These kind of interplays are to the fore of course, in Duchamp's 'The Creative Act', op. cit. But such interplays recall also, the Borgesian paradox that 'every writer creates their own antecedents'. Borges finds precursors to Kafka in Zeno of Elea and Robert Browning. Had Kafka never written however, such influence would not be discernible. In other words, past and present continually remould each other. Robert Browning is not the same Browning in a world in which there is also a Kafka. See Jorges Luis Borges, 'Kafka and his Precursors' in *Labyrinths*, eds., D.A. Yates and J.E. Irby, Penguin, 1970, pp. 234-236.
[101] There are numerous examples, some of which will be examined, in the final chapter. One could for instance, discuss the innovation theory of Gary Hammel; the economic texts of Diane Coyle; Charles Leadbeater's work; Manuel Castells' *The Rise of Network Society;* Michael Hardt and Antonio Negri's *Empire;* a whole series of academic and populist economists and management theorists; Luis Suarez-Villa's *Invention And The Rise Of Technocapitalism,* Esther Dyson's *Release 2.1,* Kevin Kelly's *New*

economy' has, in other words, become a new 'common sense' of production. Where *desubjectivisation* was once thought a means to avoid the capitalist characterisation of aesthetic relationships, and *networks* an avant gardist strategy for avoiding the grip of commodification and overcoming the alienation of the art/life divide, they have in recent years come to constitute a new ideology for management theorists, 'Third Way' politicians and prophets of the Knowledge Economy.

INTELLECTUAL PROPERTY, INDIVIDUAL RIGHTS AND THE NETWORKED ECONOMY

Leaving aside the complex question as to whether the networked, de-subjectivised, account of creativity is a more accurate or desirable model of production than one focussed entirely through the prism of individual agency, it is necessary, as a prelude to the next chapter, to give some further account of how the semiotic/network model interacts with intellectual property law. For reasons that will become clear in the next chapter, over the last twenty years the envelope of intellectual property has been expanded, internationalised and toughened. The intensification of this area of property law has paralleled the development in creative ideology laid out in this chapter.

From the mid 1980s onwards, a process – sometimes referred to as '*economic dematerialisation*' – has occurred which presents some parallels to the aesthetic dematerialisation of the 1960s. The geographic relocation of heavy industrial production has led to an increasing concern with the intellectual, or conceptual, labours of production in 'post-industrial' economies. The question occupying business strategists, economists, and the governments of such economies, is how to maximise the production of the various forms of knowledge that constitute intellectual properties. This emphasis on creative, or intellectual, labours entails a second question

---

Rules for the New Economy, Clayton M. Christensen's *The Innovators Dilemma;* The Harvard Business Review's *Knowledge Management*, Richard Oliver's *The Coming Bio-Tech Age;* Thomas Stewart's *Intellectual Capital*; or Cooke and Morgan's *The Associational Economy*.

– namely how best to organise the property claims that attach to the production of knowledge.

Balancing the private rights against general public utility has been a central dynamic of intellectual property law at least since the late 15th century. In principle, there has always been a trade-off between maximumising 'innovation', and clogging the public sphere with a network of fenced-off resources held in private hands.[102] However, as Bernard Edleman has demonstrated, business requirements also have a strong determining effect on the application of intellectual property law. Despite the fact that intellectual property utilises rhetorical concepts that presuppose the creative labour of *individuals*, the law has also long accepted the concept of 'legally constituted subjects' such as groups or business entities. The principle of balancing 'private' ownership against 'public' utility has therefore often, and quite perversely, been inscribed as a battle between the 'rights' of the workforce against the smooth operation of capital.[103] To use the words of Edleman's analysis, the true 'creative subject' is capital, "it is animated, it speaks and signs contracts".[104] The contradiction between public and private, labouring subject and capital, re-emerges at the heart of the contemporary Knowledge Economy.

---

[102]This problem is at least as old as the Venetian privilege.

[103] Two historical examples from visual art are useful here. Edleman traced the development of copyright in photographic images in France. His research suggested that the granting of property rights to photographers had nothing whatsoever to do with the debate about the photographer's aesthetic *subjectivity* – the latter of which had raged from the late 1830s onwards. The decisive moment came, when the government recognised that the taking of photographs generated enough capital to warrant its being seen as an industrial activity. See Edleman, op. cit. Similarly, Molly Nesbitt has shown that 19th century French copyright law drew a sharp division between the drawings of artists and those of 'draughtsmen'. The former were regarded as expressions of a *subjective* maker and therefore deemed to be within the envelope of copyright. The latter on the other hand, were regarded as *impersonal* and *'objective'* and therefore beyond the scope of the law. Aesthetically speaking, the division was 'arbitrary', but as Nesbitt suggests, it was nevertheless necessitated by the need to manage businesses. If the rights connected with image making spread too far, they would effect the operations of industry. Draughtsmen might, for example, decide on a whim that the drawing they had undertaken of a machine part for one company, was *their* property. (Current copyright law with respect to software provides businesses with similar 'get-out' clauses.) For such 'practical' reasons then, 19th century French law maintained a sociological and economic division between the 'subjective' aesthetic realm and the 'objective' realm of industry.

[104] Edelman, op. cit., p. 57.

On the face of it, the expansion of copyright law in the 1980s to include the writing of software, *should* have led to a new economic era in which the creative subject, implied by copyright law, becomes central to the economy. Ostensibly, at least, the developing concept of the knowledge economy has indeed led to a new ideal of economic subjectivity that is creative in character. However, the increasing emphasis on creative, intellectual labour has necessitated an ever-greater need on the part of business to 'manage', or control, the assets developed from such a 'cultural' turn. In theory, the expansion of intellectual property law has the potential to proliferate rights claims by individuals to the results of '*their*' creative labours. Therefore, in order to avoid the threat of a democratisation of the asset base of the new economy, and the consequent disruption of current vested interests, it has proved necessary to produce justificatory narratives that aid the limitation of individualist claims to the properties that flow from creative labour.

As suggested above, 'strong' interpretations of the semiotic/network model of creative production have the potential to make 'doctrinal' challenges that theoretically challenge the rhetorical concepts within intellectual property law. However, the 'weak' interpretation of the semiotic/network strongly desubjectivises production in favour of networked concepts without producing a threat to the law, it is therefore highly useful in managing the rights claims to such property.

Examples of the tensions between still widely held individualist beliefs about the nature of creativity, and the network theory adopted by corporate entities can be seen across the knowledge economy. A direct example of such a conflict was the case bought in Texas against Evan Brown by DSC Communications. The case involved a legally successful, but practically unenforceable, attempt by DSC to compel Brown to divulge his idea for a software programme he claimed would automatically convert old software codes into new languages.[105] The case stemmed from Brown's sacking by

---

[105] A brief account of the case is given in Seth Schulman's, *Owning the Future*, Houghton Mifflin, New York, 1999. DSC won in all the lower courts. At the time of Schulman's book, Brown was appealing. Whatever the result of the case, DSC's argument is problematic. Even with judgement in its favour, it is difficult to see how Brown could be *compelled* to divulge the idea – or if he did divulge an idea,

DSC after ten years of employment. Before leaving Brown mentioned 'his' idea to his superiors. Despite the fact that the idea was not developed during his employment, DSC claimed Brown was legally bound to divulge his idea, because his employment contract specifically stated that all ideas an employee might have that relate to DSC's line of business are company property. The company's legal representative succinctly expressed this point when he suggested that 'If a janitor came up with a method of cleaning a hardwood floor suggested to him by his work in cleaning a DSC hardwood floor, technically the idea belongs to DSC'.[106]

CONCLUSION

Brown v DMC clearly demonstrates a conflict between different ideologies with respect to the nature of creativity, individual sovereignty, and property. In an economy where knowledge is defined as capital, and where employment contracts stripping employees of individual property rights are becoming standard practice, the notion that an individual's internal thought processes can be made the subject of an employers property right, still runs counter to old, and deeply ingrained, ways of thinking about, creativity, individual agency and property. However, from the point of view of DSC, the case is straightforward. *It* operates as the *creator* of an *image of production*, an actor-world, comprised of heterogeneous human and non-human factors, from which it expects innovations, and property assets to flow. So, despite the expectation that expansions of intellectual property law might lead to a corresponding expansion of property owning subjects, the 'image of production' presented by the semiotic/network model mitigates against such an eventuality.

As the creative capacities of individual employees have become crucial economic assets, justifying the tapping of the rights that flow from such creativity has become

---

whether it could be established to have had any provable relation to that one alleged to be at the centre of the case. There may, of course, have been no workable idea in any case.
[106] As cited in Seth Schulman, op. cit., p. 11.

essential. To this end, the preferred 'image of production' presents creativity as an effect of a relational field of heterogeneous actors. For DSC there is simply no difference between the creative capacities of the software programmer and the janitor, both are sub-elements of an image of production, or actor-world, they have initiated.