

Stony Brook University



OFFICIAL COPY

The official electronic file of this thesis or dissertation is maintained by the University Libraries on behalf of The Graduate School at Stony Brook University.

© All Rights Reserved by Author.

Piratical Designations: Power and Possibility in Representations of Piracy

A Dissertation Presented

by

Michael High

to

The Graduate School

in Partial Fulfillment of the

Requirements

for the Degree of

Doctor of Philosophy

in

Comparative Literature

Stony Brook University

August 2014

Stony Brook University

The Graduate School

Michael High

We, the dissertation committee for the above candidate for the
Doctor of Philosophy degree, hereby recommend
acceptance of this dissertation.

Jacqueline Reich, Professor and Chair, Communication & Media
Studies, Fordham University, Dissertation Co-Advisor

Krin Gabbard, Professor, Cultural Analysis & Theory,
Dissertation Co-Advisor

Patrice Nganang, Associate Professor, Cultural Analysis & Theory,
Chairperson of Defense

Raiford Guins, Associate Professor, Cultural Analysis & Theory

Peter Decherney, Professor, University of Pennsylvania,
English & Cinema Studies, Outside Member

This dissertation is accepted by the Graduate School

Charles Taber
Dean of the Graduate School

Abstract of the Dissertation

Piratical Designations: Power and Possibility in Representations of Piracy

by

Michael High

Doctor of Philosophy

in

Comparative Literature

Stony Brook University

2014

This dissertation analyzes how designations and representations of piracy define, police, and challenge legitimate production and circulation. From antiquity through the present, the labeling of others as pirates has excluded the less powerful from the authorized distribution of tangible and intangible property. Such discursive exclusion not only defines piracy but also creates it, distinguishing it from other, sanctioned forms of appropriation. This exclusion generates political, legal, and cultural subjectivity, thereby allowing so-called pirates to affect the very discourses and processes from which they are excluded. The first chapter traces the term piracy from its linguistic origin in Ancient Greece to its extension to literary property in 17th century and its current use as a rhetorical weapon in the global information society. Isolating five necessary conditions, this chapter reads piracy across its maritime, intellectual, and digital manifestations, elucidating the success and failure of designations of piracy. The second chapter focuses on the destabilization of these conditions in Hollywood's representations of Caribbean piracy. Due to gaps in the historical record, historians have conflictingly interpreted Golden Age (1650-1720) pirates as criminals, rebels, and anarcho-libertarians. Following these interpretations, but adapting them to its own institutional and hegemonic needs, Hollywood has developed three types of pirates: an actively piratical villain, a reluctantly piratical hero, and a gender shifting temporary pirate. The third chapter develops a genealogy of the anti-piracy media and educational campaigns of the film and recording industries, locating in the 1980's "Home Taping is Killing Music" campaign the appeals that have dominated later campaigns. Recreating the reception of the campaigns of the early 2000's, this chapter combines humanities scholarship on copyright industry rhetoric with social science research on the efficacy of the campaigns to understand why these campaigns have failed to affect the copying norms and practices of

millennials. The final chapter analyzes the history and interventions of the groups leading the Swedish Pirate Movement, examining how the *Piratbyrå*, *The Pirate Bay*, the *Missionerande Kopimistsamfundet*, and the *Piratpartiet* humorously appropriate the labels and rhetoric of copyright industry representatives to define themselves and challenge anti-piracy campaigns and legislation.

Table of Contents

Chapter 1 – Introduction: Piracy, Globalization, and Media Convergence	1
Chapter 2 - Defining Piracy: Designations and Necessary Conditions	12
Chapter 3 - Pirates Without Piracy: Criminality, Rebellion, and Anarcho-Libertarianism in the Pirate Film	92
Chapter 4 - The History and Reception of Anti-Piracy Media Campaigns	130
Chapter 5 - Dialogic Piracy: Parody, Irony, and Comedy in Pirate Self-Presentation	187
Chapter 6 – Conclusion: Pirates and Piracy	247
References	250

Acknowledgments

First and foremost I would like to thank my dissertation committee. It is impossible for me to imagine finishing my course work, let alone this dissertation, without the continuous guidance, support, and friendship of Jacqueline Reich and Patrice Nganang. They have been amazingly generous, treating me like family as they shared their time, insights, and food. The other committee members, Krin Gabbard, Raiford Guins, and Peter Decherney, provided invaluable criticism and encouragement throughout the process. Although not on my committee, E.K. Tan was always available to listen and give advice, even though he was much busier than I. My gratitude also goes to the department of Cultural Analysis and Theory staff members Mary Moran-Luba and Alinda Askew for their help, humor, and patience.

Several of my professors at San Diego State also deserve recognition. William Nericcio and Gerald J. Butler introduced me to the study of media and cultural theory, which prompted my application to Stony Brook. Glover Davis and Marilyn Chin were instrumental in my entry into and graduation from SDSU's Masters program in Creative Writing.

Outside of academia, I would like to thank my parents, Richard and Shelly High, for all of their love and support, as well as my brother, Sam. Finally, I am grateful to Rosie Coppiano, whose encouragement and threats motivated me throughout the research and writing.

I would like to recognize the academic journals that have accepted versions of these chapters. The third chapter, "Pirates Without Piracy: Criminality, Rebellion, and Anarcho-Libertarianism in the Pirate Film," is forthcoming in *Jump Cut: A Review of Contemporary Media*, and a version of the fifth chapter, "Dialogic Comedy in Pirate Rhetoric," is in the revision process for *The Journal of Popular Communication*.

Chapter 1

Introduction:

Piracy, Globalization, and Media Convergence

On Saturday, October 12th, 2013, Belgian authorities arrested wanted “pirate kingpin” Mohamed Abdi Hassan and an accomplice after they landed at the Brussels airport (United Nations “Report” 20). Wanted since 2009 for financing an attack on the *Pompeii*, a Belgian construction ship, Hassan travelled from Somalia to Belgium believing he would consult on a film about his life as a pirate. That he was arrested for piracy while trying to promote himself in a pirate film was an irony journalists pointed out in headline after headline (Higgins and Kulish). Authorities set up the operation to capture the former civil servant, known as Afweyne (Big Mouth), as the financier of a pirate group based in the Harardheere region of Somalia. Allegedly, Hassan financed the group through venture funds similar to a “Wall Street IPO” (Bahadur 69). Although wanted by Interpol, Hassan had “retired” from piracy early in the year. At a press conference announcing his retirement, he declared, “After being in piracy for eight years, I have decided to renounce and quit, and from today on I will not be involved in this gang activity... I have also been encouraging many of my colleagues to renounce piracy too, and they have done it” (“Somali Pirate”). Though analysts attributed his retirement to the declining profits from Somali piracy, he was responsible for starting the Somali Anti-Piracy Agency in Mogadishu and

negotiating (a failed) nationwide amnesty and rehabilitation program for pirates, for which he received a pardon from the autonomous Somali state of Himan and Heeb and a diplomatic passport from the Somalian Transitional Federal Government (Bridger). As the weekend of Hassan's arrest ended, the Tom Hanks Somali pirate film, *Captain Phillips*, was the #2 film in the U.S. box-office and hundreds rallied in Somalia to protest Hassan's arrest and demand his release (Bridger; "*Captain Phillips*"; Jawaabood).

The confluence of cinema and piracy in Mohamed Abdi Hassan's capture initiates several of the issues at the core of this dissertation: the power and distance determining Hassan's governmental and juridical status, the sanctity of national sovereignty, the force of international law, and the ambiguous morality of piracy. All these issues hint at the complicated nature of designations of piracy. Hassan's career, retirement, arrest, and celebration prompt several questions: Was he a rehabilitated and crucial reformer or a media savvy criminal? Was the Somalian government's failure to extradite Hassan a testimony to the corruption within the fractured state or its rejection of mandates from the former colonial system? Were the Somalis protesting his arrest simply enamored with the mythos and success of a gangster or was their protest indicative of a rejection of the global order that makes piracy a lucrative and admirable industry in some countries and entertainment in others? Hassan's disastrous desire to see himself in film indicates not only the size of his ego (one does not earn the sobriquet Big Mouth for humility) but also the allure of cinematic representations of piracy. Was Hassan's capture the demonstration of a naïve belief that his life would become a romantic swashbuckler? Or did he have insight into the complex relationship between film and the cultural interpretation of piracy? Was he simply greedy? While the answer is undoubtedly some combination of all three,

Hassan's arrest is all the more intriguing considering he rarely left the safety of Somalia (O'Keeffe). It begs the question, what is the connection between film and piracy?

The last decade has been particularly piracy saturated, with print, television, and Internet news outlets reporting attacks on commercial and private ships off the coasts of Africa and other parts of the developing world; with the success of pirate films, television shows, video games, and the consumption of related merchandise; with the impact of digital piracy, both as a threat to established revenue streams and as the marketing for fledgling media firms and products; and with the disputes between corporations, governments, and other groups over the protection and scope of intellectual property. Yet for most of the last century, piracy was not a prominent issue. In 1925, Edwin D. Dickinson, future President of the Association of American Law Schools, wrote an article with the questioning title, "Is the Crime of Piracy Obsolete?" His article concerned the categorization of boarding and robbing boats serving liquor in international waters off the Atlantic coast during prohibition. Though Dickinson found that the robberies were not piracy, he did argue that the crime belonged "emphatically to the law in reserve rather than the law in history" (360), the question itself was valid, as maritime piracy seemed the stuff of legend and art.

Almost sixty years later maritime piracy still seemed fanciful: in 1980 Michael Ritchie premised his disastrous film, *The Island*, on the absurd horror of pirates unleashed on the modern day Caribbean. The film's last line stresses the incongruity of the contemporary world and piracy: a coastguard dispatcher incredulously responds to a distress call by asking, "Did you say pirates?" Even the pirate film, for much of the century, seemed to belong to another era. After the success of the studio era (1930's to the 1950's), the pirate film ceased to captivate audiences (or at least film producers). The commercial and critical failure of films like *The Island* and

Renny Harlin's *Cutthroat Island* (1995) consigned the pirate to the realm of children's entertainment, where the pirate served as a figure of adolescent freedom in loose adaptations of *Treasure Island*. While copyright and patent infringement (now both commonly called piracy) did occur during the last century, they were primarily the concern of businesses, not the public. The infringement warning from the Federal Bureau of Investigation that preceded VHS films, while consumed by the video viewing public, was intended for those who ran large-scale commercial copying operations. The occasionally infringing consumer was not a pirate, not even a consideration until relatively recently (Litman *Digital 85*). Yet over the thirty years since the spread of magnetic tape, accusations of intellectual and digital piracy have come to describe non-commercial infringement and feature prominently in news media.

Despite the lack of prevalence during the last century, the issues at the heart of piracy—property, power, identity, criminality, rebellion, and liberty—are perennially pertinent. Since the dawn of sea travel, piracy and pirate stories have populated tales of contact and conflict. With the publication in 1724 of Captain Charles Johnson's *A General History of the Robberies and Murders of the Most Notorious Pyrates*, pirate tropes received their first codification, one that has provided subsequent media producers and consumers the forms to imagine life outside the constraints of land and law. Though always present, piracy's movement from the margin to the spectacular center at the turn of this century resulted from an intensification of two particular phenomena: globalization and media convergence.

While there has always been contact and exchange between different groups of people, the frequency of contact and speed of travel and transmittal of information have steadily increased since the 15th century. Advances in maritime travel, followed by the mechanical reproduction of print and then graphic images, began the process of contemporary globalization

that exponentially increased with the advent of electronic communication media in the 19th century and continues with advances in telecommunications technology (Robertson 6).

Globalization is, like most important terms, a contested one, but in essence “refers to the expansion and intensification of social relations and consciousness across world-time and world-space” (Steger 18). The intensification of global consciousness and increasing interconnectedness of diverse locals and peoples enabled by developments in media and travel has led to complex interactions and interdependencies in the modern world. Activities no longer take place for, or even in, a single location, but rather are planned and coordinated on a global scale, creating new relationships between different areas. The amount of reciprocity in these relationships reflects the histories of colonial expansion, international relations, and unequally distributed economic power (Thompson, *Media* 150-151).

The intensification of globalization has created more opportunities for piracy and more knowledge about piracy. By increasing the amount of contact between diverse groups, the disparities in global capital and opportunity have become more prominent. While certain parts of and parties within the developing world have benefitted from participation in the global economy (China, India, and parts of South America and the Middle East), others have not, and it is not surprising that maritime piracy flourishes off the coasts of the formerly colonized territories that have least benefited from the economic processes of globalization. The reporting of piracy has also increased due to this interconnection, most significantly since the rise of the World Wide Web and the adoption of digital technology. There were, in fact, as many pirate attacks in South East Asia in 2000 as there were off the coast of Somalia in 2010 (Khondaker et al. 4), yet the former’s media coverage was nil in the U.S. The adoption of lightweight, digital video recording equipment and the ability to rapidly disseminate video facilitated the reporting of African piracy

(which also fit nicely with the continuance of stereotypes and representational strategies originating in the subjugation of Africa during the colonial period). By increasing the ease with which media flows between places, digital technologies and networks have accelerated the process of globalization (Ritzer 7).

This points to the second critical phenomenon in piracy's reemergence: media convergence. Media convergence refers to the process by which distinct forms of media content and media delivery systems blur, which digitization has enabled. Like globalization, media convergence has existed for millennia, when the first person drew or wrote what another had spoken. Like globalization, the intensity and frequency of convergence has increased over the last few centuries and especially at the end of the last century. In addition to blurring the distinction between media types and delivery systems, digitization also reduces the data size of media content, easing transmission and storage of media, as well as democratizing the production of media by decreasing its cost. The decreases in the price and size of computer technology over the last forty years have enabled personal and mobile computing, which when combined with the development of high speed and wireless digital telecommunications technology have enable the production and publication of media by anyone. It also refers to the process whereby media companies conglomerate, the increasingly concentrated ownership of commercial media outlets and telecommunications services by fewer and fewer companies. Conglomeration, and the horizontal integration and synergy enabled by it, have changed not only the production of media content but also the marketing and consumption of it, spawning planned transmedia products and media ecosystems. The two processes of convergence both facilitate and combat each other, as media conglomerates selectively embrace and restrain consumer

practices and consumers challenge and accept the dictates and practices of media companies (Jenkins 1-24).

The confluence of these two phenomena, globalization and media convergence, have rescued piracy from media and cultural obscurity. Today, pirates appear in the news, television shows, films, novels, video games, comics, graphic novels, animated cartoons, advertisements and songs (there is even a subgenre of punk music called pirate-core); they speak to something in the current moment, something perceived but not fully articulated in the zeitgeist. Increasingly, they speak across multiple media, as part of media franchises and concerted marketing campaigns. This resurgence of pirates *in* the media is related to but different from the prominence of pirates *of* the media.

Since the 17th century, one of the tactics for the protection of intellectual property (then known as literary property) has been the rhetorical invocation of “piracy.” First used somewhat inadvertently by Richard Atkyns in London in 1664 (Johns *Piracy* 33), the labeling of competitors as pirates and referring to their practices as piracy has become a rhetorical tactic for contesting the legitimacy of other media and commodity producers. As global digital networks have increased the speed of dissemination, collapsing spaces between consumers and creating alternative, unauthorized distribution networks, the relationship between consumers and intellectual property producers and distributors has changed significantly. Whereas previous disputes over intellectual property primarily occurred between commercial entities, now (particularly with regards to copyright) consumers using computers and mobile devices have the capability to infringe on a large and global scale. As the copying and distribution of text, audio, and video on a computer or mobile device occurs with little effort, few people associate these

simple uses with copyright infringement, creating a significant gap between copyright norms and laws (Jenson 537-539; Larson 21-23; Lessig, *Free* 122-125).

The same digital technologies which allow for copying also allow for greater enforceability of copyright regulations, as Internet protocol addresses and other digital data enable rights holders to penetrate the previously unobservable private domain (Johns, *Piracy* 497-508; Tehranian 549). Copyright holders have naturally tried to use this increased enforceability to change the norms of online behavior (Benkler 442). Using the advances in digital technology and the media at their disposal (media increasingly linked through conglomeration), they have attempted to convince consumers to cease the unauthorized copying and distribution of content. The concurrent selling and decrying of piracy marks a new moment in its history, causing a kind of semantic schism as the discourses and representations of maritime and intellectual piracy combine and collide.

The trends in globalization and convergence have likewise increased academic interest in all forms of piracy. Over the last 30 years, scholarship on maritime and intellectual piracy has steadily increased in the disciplines of History, Economics, Psychology, Criminology, Business, Anthropology, Sociology, Film Studies, Media Studies, Communications, Political Science, Rhetoric, Legal Studies, and Cultural Studies. Scholars have analyzed the laws, practices, and effects of maritime and intellectual piracy, and, to a lesser degree, the representations of piracy, their structure, deployment, and function. This dissertation contributes to this latter body of research.

Unlike most studies, this dissertation does not assume that piracy is a stable, empirical phenomenon, one that coheres in an action, object, or location. Rather, I argue that in order to

understand piracy, it is necessary to move beyond stipulative definitions, to approach piracy and pirates from a different vantage. By focusing on the various historical uses of the terms, the resonances and situations in which individuals have employed, rejected, or accepted the label of piracy and pirates, a much clearer and more detailed picture emerges. As Ludwig Wittgenstein famously stated, “For a *large* class of cases—though not for all—in which we employ the word ‘meaning’ it can be defined thus: the meaning of a word is its use in the language” (20^e). Wittgenstein stressed that in many instances “there isn’t anything which can properly count as asking the questions ‘What do the words [which have been spoken] mean?’ apart from a simultaneous consideration of questions such as ‘When was it said?’, ‘Where?’, ‘By whom?’, ‘To whom’, etc.” (Conant 239). The slipperiness of the terms piracy and pirates, as well as the conflicting and proliferating instances of their usage, force context specific analyses. This dissertation attempts such an analysis, examining four different, though related, representational contexts: in legal and institutional discourse, in Hollywood cinema, in the anti-piracy media campaigns of the music and film industries, and in the interventions of the groups comprising the Swedish Pirate Movement.

The first chapter analyzes the use of piracy in legal, governmental, academic, and business discourse to theorize the relationship between maritime and intellectual piracy. This chapter builds on recent work by scholars who have read across these different types of piracy to understand how the same term has come to signify robbing a ship at sea and the infringement of intangible property. I argue, in essence, that there are five necessary conditions for piracy: an act of appropriation, the use of a technology, a spatial relation (physical or metaphorical) between the parties involved, a speech act designating an action as piracy, and a discursive exclusion motivating and manifesting in such a designation. Each condition is analyzed at length,

demonstrating the various connections between them that contribute to the phenomenon of piracy.

The second chapter analyzes the representation of Caribbean piracy in Hollywood film. While not as consequential as the discourses analyzed in the first chapter, the cinematic representations of piracy have largely shaped the popular perception and celebration of maritime piracy. From the Black Pirate to Captain Jack Sparrow, the films of Hollywood have created more variegated representations than governments and businesses. In this chapter, I argue that because of the vagaries of the historical record, historians have created three competing interpretations of pirate activity that filmmakers have adapted in their portrayals: pirates as criminals, as rebels, and pirates as anarcho-libertarians. While individual historians usually portray pirates in one of these three ways depending on their political leanings, films often feature two if not all three of these types of pirates, adapting the interpretations to the conventions of action and melodramatic films. These adaptations, though pulling from history, speak to the needs of film producers and consumers in their particular historical moments.

The third chapter analyzes the reception of the anti-piracy media campaigns of the music and film industries. The easy reproducibility of media content, first through cassette tapes, then video tapes and finally through digital media, have prompted media companies and their trade groups to symbolically combat consumer piracy. Through public media campaigns, the film and recording industries have tried to convince the public that consumer piracy is both a threat to their respective media and a heinous crime. I argue that the scholarship on these campaigns has focused too narrowly on the rhetoric of the campaigns and on the hypothetical responses of survey respondents instead of attending to the historical contexts of reception. Through a genealogy of the campaigns, I reconstruct their reception and argue that while they may have

normalized the use of the term piracy for intellectual property infringement, they have not succeeded in affecting consumer norms or perceptions.

The fourth and final chapter focuses on the appropriation and embrace of the term pirate by the Swedish Pirate Movement. Building on the analysis of the earlier chapters, this chapter describes how the Piratbyrå (Pirate Bureau), a collective opposing the Swedish copyright lobby; its progeny, *The Pirate Bay* torrent website and the pirate religion, the Missionerande Kopimistsamfundet (Missionary Church of Kopimism); and the Piratpartiet (Pirate Party) pirate the rhetoric of the media industries to counter their anti-piracy messages. I argue that the groups leading the Swedish Pirate Movement use dialogical comedy to critique national and international intellectual property regimes, reflexively repeating the act of piracy.

These four analyses, taken together, illuminate the most widely distributed and consumed representations of piracy. As piracy results from contestations over the appropriation of tangible and intangible property, it is essential to study the representations of piracy to understand the function and limits of symbolic power. As constructions, such representations will not only affect perception, they will form the ground for the battle over that perception, and any struggles to change cultural and legal hegemony will need to both address, counter, and negotiate them.

Chapter 2

Defining Piracy:

Designations and Necessary Conditions

Indeed, that was an apt and true reply which was given to Alexander the Great by a pirate who had been seized. For when that king had asked the man what he meant by keeping hostile possession of the sea, he answered with bold pride, “What thou meanest by seizing the whole earth; but because I do it with a petty ship, I am called a robber, whilst thou who dost it with a great fleet art styled emperor.”

St. Augustine, *City of God*

In 2013 the Russian government arrested thirty Greenpeace activists aboard the ship *Arctic Sunrise* for protesting arctic drilling at the Prirazlomnaya offshore oil platform (Gutterman). Government security forces seized the ship, the Russian Investigative Committee (a federal investigative body answering to the president) charged all of the activists with piracy, and the Regional Court of Murmansk denied them bail. The piracy charges, according to a *New York Times*’ reporter, “signaled that the authorities intended to act decisively to thwart more protests against Russia’s ambitious plans to expand energy exploration in the region” (Myers). Rhetoric

from government officials described the activists as “extremists” and insinuated sinister, terrorist like intentions on their part, claiming their ship was full of “electronic equipment of unclear purpose” (Meyers). For the Russian government the control over the Arctic territory, a particularly contested and resource rich area, necessitated a discursive and legal act that transformed Greenpeace into villains, not just trespassers and protesters.

This attempt to make activists into pirates contrasts starkly with another recent incident: the protracted lawsuit filed by Viacom against Google and YouTube for copyright infringement. Originally filed in 2007, Google and Viacom settled their suit out of court in early 2014. While the case itself is another not particularly interesting attempt by a media company to circumspectly attack the safe harbor provision of the Digital Millennium Copyright Act (which shields website providers from damages for copyright infringing users), the way in which Viacom framed its suit outside of the courtroom reveals how the relationship between businesses and their positions within the media marketplace affects whether or not they accuse each other of piracy.

According to Viacom’s original press release upon filing the suit, the company sued because Google had “built a lucrative business out of exploiting the devotion of fans to others’ creative works,” which was “clearly illegal,” creating “victims” like Viacom. Such victims had no choice but to “turn to the courts to prevent Google and YouTube from continuing to steal value from artists and to obtain compensation for the significant damage they have caused” (Sullivan). Despite the rhetoric of theft and harm, not once did any employees of Viacom publically label YouTube or Google pirates or accuse them of encouraging piracy. While media companies and their representatives, like the Motion Picture Association (MPA), the Recording Industry Association of America (RIAA), and the Software Alliance (BSA), have designated

non-commercial infringers as pirates, when one of the biggest media companies launched a \$1 billion dollar suit against the largest internet company for “brazen disregard” of intellectual property law it did not resort to that particular rhetorical weapon (Viacom 2). Though Viacom argued in court documents that Google and YouTube “actively engage in, promote and induce” infringement (Viacom 3), inside and outside of the court room not a single company employee ever uttered the term “piracy,” as they surely would have if dealing with infringing consumers or a less prominent company.

Far from an anomaly, this case, as I will discuss, is typical in that it shows how paramount relations are to designations of piracy. Viacom did not claim its antagonists committed piracy, indicating that the lawsuit was simply business negotiations by another means (Sullivan). The importance of YouTube, and especially Google, in the digital media ecosystem determined the naming of their action as much as the action itself. After the settlement of the suit Google and Viacom released this joint statement: “This settlement reflects the growing collaborative dialogue between our two companies on important opportunities, and we look forward to working more closely together” (Kaufman).

Whereas Google, YouTube, and Viacom can imagine future business endeavors together, the Russian government most likely does not foresee any profit in future interactions with Greenpeace. Yet the government nonetheless had to drop the piracy charges. After several months of an international campaign to have the Greenpeace activists released the Russian parliament passed a bill granting the activists amnesty (Greenpeace). Before releasing them, the Russian government changed the charges against the *Arctic Sunrise* activists to “hooliganism,” with Russian President Vladimir Putin even agreeing that it was “absolutely evident that they are, of course, not pirates” (“Russia”).

While a first for Russia, this was not the first time a government has attempted to try environmental activists as pirates: in 1986, a Dutch court found the Greenpeace activists aboard the *Sirius* guilty of piracy for attacking two ships in an attempt to prevent pollution (Symmons 170). Similarly, a U.S. federal judge recently overturned a lower court ruling rejecting a preliminary injunction against the environmentalist Sea Shepherd organization. In the lower court ruling, the judge not only ordered the organization to stop operating, he specifically called them pirates, opening his opinion thus: “You don’t need a peg leg or an eye patch. When you ram ships; hurl glass containers of acid; drag metal-reinforced ropes in the water to damage propellers and rudders; launch smoke bombs and flares with hooks; and point high-powered lasers at other ships, you are, without a doubt, a pirate” (Institute 2).

Like the charges against the activists on the *Arctic Sunrise*, those against the *Sirius* activists were overturned during the appeal process, and while the case against the *Sea Shepherd* continues, it is unlikely a final ruling will mention piracy. Yet the attempts to prosecute activists for piracy demonstrate both the flexibility of definitions of the term, the political power needed to make those conditions matter in courts of law, and the underlying necessary conditions that frustrate such attempts. Rather than the hurling of “glass containers of acid,” the dragging of “metal-reinforced ropes,” and the launching “of smoke bombs and flares with hooks” making piracy, it is the use of ships and the special space of the sea that allows for a designation of piracy. However, the lack of the intention to appropriate dooms the attempts to turn activists into pirates. The power governments and corporations wield to define piracy is formidable, but it is not absolute. Other requirements are necessary for a designation of piracy to fit; yet such a designation does not necessarily follow the other requirements.

Taken together, Google/Viacom and the *Arctic Sunrise* incident demonstrate the linguistic and empirical conditions of piracy. On the most basic, lexical level of definition, piracy is the “action of committing robbery, kidnap, or violence at sea or from the sea without lawful authority, esp. by one vessel against another” (Oxford) [works cited]. As Gabriel Kuhn stresses, however, what constitutes robbery “has been highly contested throughout history, usually based on conflicting political interests” (7). Though kidnapping and murder seem distinct from robbery, kidnapping is simply another way to appropriate someone’s money, and killing at sea without the desire to appropriate would not be piracy, for there has never been (outside of Hollywood film) pirates who attacked ships solely for sadistic pleasure. Most importantly, this definition does not explain the dynamics of power at play in the *Arctic Sunrise* incident and a host of other historical cases. Recourse to the second meaning of the word, the “unauthorized reproduction or use of an invention or work of another, as a book, recording, computer software, intellectual property, etc., esp. as constituting an infringement of patent or copyright,” likewise does not account for why YouTube and Google are not pirates according to Viacom.

As these two examples show, while there is no single sufficient condition for piracy there are five necessary conditions: an act of appropriation, the use of a technology, a spatial relation (physical, metaphorical, or perceived) between the parties involved, a speech act designating an action as piracy, and a discursive exclusion motivating and manifesting in such a designation. The first two conditions reside in action, the third in the relation of the designator and designee, and the last two in language. Which is to say, two correspond to the designee and two to the designator, and one problematizes such a distinction. Without all of these conditions, a designation of piracy becomes unlikely and unstable. As each condition is highly contingent and contentious, any designation of piracy must be analyzed in its historical moment. These five

together, however, distinguish other actions (appropriation, expropriation, theft, raiding, copying, manufacture, reproduction, etc.) from piracy, and these five conditions apply to all forms of piracy: maritime, intellectual, and digital.

In order to illuminate the use of the term piracy and its meaning, in this chapter I analyze the scholarly definitions of piracy, detailing, critiquing, and modifying the recent work of scholars who like myself have tried to understand the amorphous nature of piracy. I demonstrate how maritime, intellectual and digital piracy involve appropriation in variable, relative spaces between contestants, detailing the relational and technological aspects of piracy that separate it from theft and other acts of predation. Finally, I trace maritime, intellectual, and digital piracy across its manifestations, focusing explicitly on the essential lack of stability of the term in legal, governmental, and academic discourses. As the scholarship of piracy primarily analyzes 18th century, Golden Age piracy, I purposively focus at length on the ancient history of maritime piracy, long before the burgeoning nation state and mercantile capitalism waged war on the pirate as “the villain of all nations.” Through this history, I reveal the speech acts, discourses, and symbolic power that structure piratical designations.

This chapter, by delineating the performative and relational aspects of piracy, lays the foundation for the later chapters, which look specifically at how Hollywood film makers, the music and film industries, and the Swedish Pirate Movement construct their representations of piracy. Due to the clustering of the different conditions of piracy, the representations created by these groups must conform to conventions of usage codified over centuries, selectively focusing on the conditions that suit their differing economic and political needs. While the necessary conditions of piracy limit the possibilities of labeling others as pirates, they also allow for the reconfiguring of the normative status of piracy. In the battle over representation, contestants do

not actively dispute the conditions, but rather which conditions matter and how the public should understand the conditions and the relationships between them.

Scholarly Definitions Across Piracy

Few scholars have attempted to bridge the gap between maritime and intellectual piracy, to illuminate why a term for theft at sea has become the lynchpin for rhetorical and economic battles over intangible property. There are several reasons for this lack of comparative analysis: first and foremost, the histories and legalities of maritime and intellectual piracy are extremely complex, requiring specialized study that often precludes interdisciplinary analysis; second, media and cultural studies scholars (and increasingly legal scholars), who would primarily study representations of piracy, do so from entrenched political positions, ensuring that the representations themselves serve larger arguments for or against the status quo of intellectual property law or international relations; finally, while piracy, as a term for infringement, has been used since the 17th century, many scholars still view the use as metaphorical. Patricia Loughlan, for instance writes, “Much of what can be said about the use of the term ‘theft’ to describe and denigrate the unauthorised user of intellectual property, even where the unauthorised use is not in fact illegal, can also be said about the use of the term ‘piracy’, but there is one important difference. The use of the term ‘pirate’ is clearly metaphorical and not even the most naive of participants in the discourse of intellectual property could or would take it literally” (“You Wouldn’t” 3). However, as all language is symbolic, and hence metaphorical, the use of the term piracy for copyright, patent, and trademark infringement has long since ceased to be explicitly figurative. As the representations and discourses of piracy on sea and on land are imbricated, the

similarities of practice, perception, and intention over diverse historical periods necessitate combined study.

To rectify the lack of critical attention, anthropologists Shannon Lee Dawdy and Joe Bonni attempt to “account for the different types [of piracy] hiding behind the mask of metaphor” in their article, “Towards a General Theory of Piracy” (674). They propose a general definition of piracy as “*a form of morally ambiguous property seizure committed by an organized group* which can include thievery, hijacking, smuggling, counterfeiting, or kidnapping” (695). This provisional definition, developed through a comparison of 17th and 18th century maritime piracy and the “virtual media” piracy of today, navigates both historical, literary, and cinematic representations to not only define piracy but to locate it as a response to monopolistic neoliberal practices. Pirates’ current pop cultural appeal is a response to constraints of global capitalism, in that pirates are “cultural archetypes who colorfully embody currents in today’s tense political economy” (674). Framing piracy as first and foremost a social act committed by groups, Dawdy and Bonni argue that today’s “virtual pirates, like Golden Age pirates, can become heroic social bandits when the legitimacy of the political-economy begins to break down due to the system’s own contradictory excess” (694).

Their definition productively aligns maritime and digital piracy and adapts the less pejorative term “seizure” to describe the ambiguous appropriation inherent in piracy. It links piracy to economic and historical conditions, locating the popular celebration of maritime and digital pirates in “their *attempt* to resist the most monopolistic phases of capitalism’s cycles” (696), a resistance with current resonance in the debates about global wealth inequality. As well, the definition stresses the ambiguity of piracy, which can appear as either villainy or heroism (695). While it explains the current fascination with pirates, their definition is too narrow to

function as a general theory of piracy, as piracy has existed from the beginning of maritime travel and the folk relevance of pirates has persisted just as long.¹ By limiting piracy to neoliberal capitalism (an admittedly provisional limitation), they restrict the ambiguity of piracy to capitalism as an economic and social system, forgetting the well-documented ambiguity of piracy amongst the Ancient Greeks (Ormerod 68). If pirates are “cultural archetypes” then their importance transcends histories and cultures; piracy is not ambiguous because of the reactions to neoliberal capitalism, but rather because there is a contradiction at the heart of all property, a contradiction that allows for two possible attitudes towards appropriation.

Similarly trying to account for the current cultural importance of piracy, Rodolphe Durand and Jean-Phillipe Vergne put forward a definition that encompasses maritime, intellectual, and digital piracy, but also excludes many forms of activity commonly labeled piratical. For these two management scholars, Somali Pirates and infringing downloaders are merely criminals, not pirates (*The Pirate* 56). Redefining piracy, they hold that true piracy only occurs from “pirate organizations,” groups in organized conflict with the state that operate in uncharted territories, develop their own alternative communities and norms, and “represent a threat to the state because they upset the very ideas of sovereignty and territory by contesting the state’s control and the activities of the legal entities that operate under its jurisdiction” (*The Pirate* 15). The “pirate organization” allows them to distinguish between piracy that functions for the state (like corsairs and privateers), piracy that challenges the state (like the famed Captain Blackbeard and WikiLeaks), and piracy they feel does neither (like brand counterfeiting) (*The Pirate* 15). The pirate organization is an enemy to capitalism (which Durand and Vergne view as monopolistic and opposed to *actual* free markets) and is simultaneously its innovation engine, a

¹ As well, the term “seizure” implies force and physical possession, an etymological legacy that does not fit well with digital piracy.

necessary contradiction within the capitalist system. In this sense, their work recalls Matt Mason's *The Pirate's Dilemma*, which describes "Punk Capitalism" as a piratical business strategy of the disenfranchised that both critiques and becomes capitalistic practice (Mason 1-33).²

Durand and Vergne's focus on norms and territories, on the interrelation of practice, boundaries, and legitimacy, is an insightful and necessary corrective to the attempts to define piracy in particular actions. By locating piracy in the "fringes of capitalism," they foreground the often spatial relations of power that contribute to designating acts as piratical. They do not, however, follow their findings to their logical conclusions. For instance, they claim that piracy "is the product of geopolitics, since it appears precisely at the point where territorial space and the normative network emanating from a sovereign authority meet," that as "a state seeks to expand its reach, the number of individuals it considers to be pirates tends to increase" (*The Pirate* 39). Yet they also hold that what "makes a pirate is what he set his sights on, what he seeks to change, what he proposes as an opponent of a particular society" (*The Pirate* 10). Their desire to describe how perspective and power creates piracy conflicts with their desire to posit a stable organization that "develops original strategies where speed of execution, the effect of surprise, and adaptive adoption of the appropriate means to deal with the enemy of the moment" (Durand "No" 266). The vacillation in their work between piracy as a creation of power and piracy as a reaction to power undermines both claims.

Both Dawdy and Bonni and Durand and Vergne's formulations resist acknowledging that the designating of piracy is a performative act, one which results in discourses determined by the

² As well, their pirate organization is extremely similar to Guiles Deleuze and Felix Guattari's conception of the war machine (Deleuze and Guattari 351-422).

relations and power of those designating actions as piratical. While several internal necessary conditions define piracy, without what Alexander Dent calls “piracy’s performativity” (“Understanding” 666), scholars cannot account for the moral and semantic ambiguity of piracy. For Dent, piracy’s performativity combines the “structure of expectations for the production and reception of discourse,” the genres and poetics of piracy, and the accomplishment of linguistic tasks focused on the “reinforcement” of the justice or injustice of boundaries protecting goods and ideas (“Introduction” 668). This focus on structures, poetics, and tasks allows Dent to explain how all societies protect objects and ideas, yet only certain violations of those protections become piratical. Rather than envision piracy as empirical, Dent locates piracy in speech acts with specific cultural and social conventions. This performativity tends to bifurcate into positive and negative appellations: positively as a form of social banditry that inspires change and negatively as a parasitic threat to the social order. The performance of piracy therefore functions as ideology, trying to naturalize discursive boundaries and the normative response to the violations of those boundaries (“Introduction” 667-668).

Dent, however, does not hypothesize why the trespassing of some boundaries receives the appellation theft, fraud, or piracy; why piracy exists alongside other categories of violation. There is something archetypal about appropriation at sea that has allowed the term piracy to describe infringing on patents, downloading songs, patenting DNA, running unlicensed bus services, and prospecting on the knowledge of indigenous peoples; there is something beyond the linguistic performance. More than simple invective and less than objective fact, the designation of piracy consistently details empirical acts *and* the symbolic power of a legitimate authority or producer. The empirical aspects separate “thievery, hijacking, smuggling, counterfeiting, or kidnapping” from piracy (Dawdy and Bonni 695), while the performative linguistic aspects

separate piracy from allotment, repossession, expropriation, and other complimentary or non-pejorative categories of taking.

Several recent studies have focused on the rhetorical construction of piracy, especially in relation to intellectual property disputes and copyright reform. Media and legal scholars have generally attempted to chart the copyright lobby's strategic use of the term (Gates 57-73; J. Lewis 145-150; Logie; Loughlan "You" 401-405; Loughlan "Pirates" 211-226; Mirghani 113-134; Wu "Copyright's" 278-366; Yar "The Global" 677-695; Yar "The Rhetorics" 605-623; Yu 887-900), to deny the metaphorical appropriateness of the term (and the related "theft," "robbery," and "parasitism") (Laddie 253-260; Litman "Sharing" 23; Litman *Digital* 77-88; Patry 15), to distinguish between supposedly morally acceptable and unacceptable forms of piracy (Lessig *Free* 66; McLeod 203-206), and to advocate alternative phrasing to redirect the debate towards consumer rights or supposed constitutional principles (Miller et al. *Global Hollywood* 143-144; Vaidhyanathan 15). For these scholars, language and representation decide the contest over intellectual property, but they do not view piracy in itself as an object of study. For them, designations of piracy are primarily a persuasive tactic.

Other scholars, analyzing a single class of piracy from the discipline of history, have come closer to recognizing the discursive component of piracy. In *Piracy in the Graeco-Roman World*, Philip de Souza structures his history around "the use of the labels pirate and piracy in their historical and cultural contexts ... to determine why the individuals or groups described as pirates have been labeled in this way" (2). He stresses at the beginning of his study that pirates "are men who have been designated as such by other people, regardless of whether or not they consider themselves to be pirates" (1). Similarly, Adrian Johns, in his monumental study, *Piracy: Intellectual Property from Gutenberg to Gates*, limits his subject to "some person, thing, or act

[that] has to have been characterized as piratical by contemporaries” (7). In order to study “piracy,” which he often places in quotation marks to signify it as an appended label, Johns must study not acts *per se*, but rather acts that “*would* be grouped together as piratical” (19; ital. orig.). Johns does not define intellectual piracy as the creation of legal doctrine or as the violation of intellectual property laws because to do so would “exclude many instances in which piracy has been recognized to be going on, but where intellectual property *per se* is not at issue” (6).³ The continuous use of the passive voice by de Souza and Johns signifies that piracy can only exist as a designation, as a barometer of the relations of naming and power, though neither author fully and explicitly commits to such a formulation. What de Souza and Johns recognize implicitly is “piracy’s performativity.”

Synthesizing, modifying, and expanding on the work of these scholars, I propose not a definition of piracy but a set of necessary conditions that consider the present moment and the history of piracy, a set that can describe both maritime appropriation and intellectual property infringement. Piracy, as a distinct phenomenon, results from a verbal designation, but as with all designations it is the act of naming that differentiates. As languages are not free systems in which subjects can act as they please, codes and conventions limit the type of statements and speech acts possible, which are themselves determined by the relative power of different subjects and groups. In addition to the linguistic and discursive aspects, largely determinate in the designation of piracy is the spatial relation of the involved parties. I use spatial in both a literal and a metaphorical sense, in that the spatial difference between those on land and those on the sea originally prompted the separation of piracy from banditry, yet the metaphorical spaces of parties within different “fields” informs allegations of intellectual and digital piracy. The spatial

³Johns never attempts to define piracy, deferring such a definition so he can analyze as many designations as possible.

difference also determines the use of technology (i.e. the ship) in maritime piracy, a condition that continues in the other forms of piracy. Finally, appropriation, which is value neutral, is the necessary root action of piracy. It is the neutrality and ubiquity of appropriation that gives piracy its ambiguity.

This set of conditions has several advantages over the definitions mentioned. It distinguishes piracy from other designations that often accompany it by focusing on very precise conditions that hold across all forms of piracy. Most importantly, it highlights the conflict over legitimacy at the heart of piracy, a conflict that begins with the genesis of property and manifests in discursive exclusion. The limitation of this approach to understanding piracy is that it becomes a highly protean phenomenon. Rather than a physical act, or a linguistic one, it becomes a hybrid of both, necessitating a combination of historical and textual analysis. Significantly, pirates themselves retreat into the background of study, as analysis primarily focuses on the users of the term piracy and the representations they create. It becomes the study of the discourses of piracy as discourses, and the institutions that produce, reproduce, and promote them, shaping the perception of reality through production and reproduction.

First Acquisition and Property's Aporia

The intent and success of all piracy depends on the appropriation of another's property, whether goods, wealth, or ideas. Piracy without appropriation is not only historically undocumented, it is nonsensical, as the costs involved in both maritime and intellectual piracy necessitate commensurate benefit in order to continue themselves. While the appropriations of piracy appear antithetical to the nature of property, in fact all property begins with an act of

appropriation, as any “chain of ownership or title must have a first link” (Rose “Possession” 73). As humans cannot create *ex nihilo*, the beginning of all property comes from claiming something as one’s own.

The philosophers and jurists who have most influenced piracy law also theorized property extensively. Cicero’s views on property and, as will become clear, sovereignty, are particularly important because of the influence of his writings on the legal discourse of piracy. In the *De Officiis*, he writes, “There is, however, no such thing as private ownership established by nature, but property becomes private either through long occupancy (as in the case of those who long ago settled in unoccupied territory) or through conquest (is in the case of those who took it in war) or by due process of law, bargain, or purchase, or by allotment” (1.22). Property arises through taking, either from nature or another, and building on that appropriation. Implicitly built on an earlier initial appropriation, “law, bargain, or purchase,” as well as (presumably) governmental “allotment,” simply continue the initial appropriation. Cicero and other early philosophers and legal commentators acknowledged that property begins, in all cases, through *occupation*: etymologically rooted in taking possession and seizing (C. Lewis). Philosophers of property generally call this seizing “first acquisition.” Overtime, first acquisition becomes simple occupation; with objects, possession; with information, the right to reproduce.

Although it is unclear exactly when the concept of property developed, it is clear that the institution of property arose through the claiming of personal and exclusive right to objects and land. This first acquisition, however, is morally problematic as it precludes later comers from the same procedure. This conundrum has caused philosophers to hypothesize justifications for the institution of property. Hugo Grotius, a 17th century scholar who also wrote significantly about international law and piracy, posits an explicit or implicit agreement that authorizes the

institution of private property (Grotius 75), not unlike the fiction of the social contract. The agreement necessarily justifies the exclusivity of objects by one person, as “God gave to mankind in general, dominion over all the creatures of the earth, from the first creation of the world” (Grotius 72). John Locke, whose views on property have been so influential in the U.S., likewise believed in a communal state of nature. He, however, justifies property in his *Two Treatises on Government* through the natural right of labor: “Though the earth, and all inferior creatures, be common to all men, yet every man has a property in his own person: this no body has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his” (5.27). This property though is not a loss to others, as “he who appropriates land to himself by his labour, does not lessen, but increase the common stock of mankind”(5.37). While Locke makes initial acquisition irrelevant through the right of labor, he does add a proviso: “for this labour being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good, left in common for others” (5.27). As Peter Garnsey points out though, this condition would have been impossible in England even during Locke’s day, so he developed his theory of property to justify the expropriation of land from native peoples (144). The 18th century Scottish philosopher David Hume posits property as the basis of society and justice and, circularly, claims that no property can exist before society. He writes, that at some point “all members of a society...bestow stability on the possession of those external goods, and leave every one in the peaceable enjoyment of what he may acquire by his fortune and industry,” and that this “convention for the distinction of property, and for the stability of possession, is of all circumstances the most necessary to the establishment of human society” (3.2.2). Negating the moral question of first

acquisition, Hume creates a paradox that obscures the beginnings of both property and society (3.2.2).⁴

Yet none of these attempts to justify or deny first acquisition are successful, as there is a fundamental ambivalence at the instantiation of property: either nothing belongs to anyone, and is therefore ripe for the taking, or everything is communal, and therefore not up for grabs (Garnsey 139). 17th century German jurist Samuel Pufendorf first acknowledged this negative and positive prehistory of property. Imagining its development, Pufendorf held that “negative communion” preceded “positive communion,” that a lack of any ownership preceded common ownership, but from common ownership came private ownership. He held that human society first decided that no one owned anything, then decided on communal ownership, only to later agree to private ownership, though he does not describe why this course of events followed or why the community of humanity did not own the world together in the first instance (362).

The indecidability of the prehistory of property results in two possible stances toward it. If the state of nature results in positive communion, then first acquisition amounts to a theft from the community for the sake of privatization. If it results in negative communion, then first acquisition institutes property justly, at least as long as there is abundant land and objects for all. Locke’s proviso is a key justification for private property, yet as his own history within the colonial project demonstrates, there is never enough for everyone. It is, therefore, impossible for

⁴Georg Wilhelm Friedrich Hegel has also influenced thinking about property. He holds that it is essential for the exercise of free will, and also establishes it: “when I as a free will am in possession of something, I get a tangible existence, and in this way first became an actual will. This is the true and legal nature of property, and constitutes its distinctive character” (55). As such, it is not initial appropriation that establishes property, but the infusion of will. This theory has had little influence on physical property rights and general intellectual property rights, though it has influenced the European concept of moral rights in intellectual property (Schroeder 1).

first acquisition and negative communion to result in just access to private property. First acquisition is an appropriation that forecloses further appropriation through the institution of property, as there are natural physical limitations on the amount of land or objects available on earth. As well, the temporal limitations ensure that latecomers (those born after initial occupiers) will be at an inherent disadvantage, excluded from the initial grab (Sanders 377). In order to avoid this injustice and justify the initial seizure, Grotius hypothesized a pact, which Pufendorf adopted, and Locke qualified his labor-desert theory with a provision for lack of abundance. Yet at the heart of private property lies an aporia, an unconstrained appropriation that forbids or limits future appropriation, one for which there “is no Holy Grail” (Garnsey 175), no philosophical justification or moral defense (Sanders 369).

It is useful in this context to consider the relationship between the state and violence in relation to the institution of property and acquisition. As Walter Benjamin observes, the legitimacy of violence is always contingent and must always protect itself through exclusion of other’s violence: “the law’s interest in a monopoly on violence vis-à-vis individuals is explained not by the intention of preserving legal ends but, rather, by the intention of preserving the law itself; that violence, when not in the hands of the law, threatens it not by the ends that it may pursue but by its mere existence outside the law” (239). Benjamin sees the monopoly on violence, and not the ends of violence, as the “meaning of the distinction between legitimate and illegitimate violence” (238). A very similar relation exists with property, in that the state or dominant group likewise decides what constitutes legal appropriation and legitimizes its own forms of appropriation and monopoly. This is especially true in the case of the modern nation state, in that it maintains sovereignty over areas: the control over the legality of ownership of land is paramount to modern sovereignty and legitimacy.

The distinction between legitimate and illegitimate appropriation leads to two possible attitudes towards property. For those who hold that the prehistory of property was positive communion, a positive communion that continues beneath the institution of property, as do Jean Jacques Rousseau, Pierre-Joseph Proudhon, and Karl Marx, property is the source of all “crimes, wars, murders... miseries and horrors” (Rousseau), “*is robbery*” (Proudhon 36), and should be abolished (Marx and Engels 13). For those who posit the prehistory of property as negative communion, as do Aristotle, Locke, and Hume, various justifications and utilitarian considerations override any logical inconsistencies, moral shortcomings, and the institutionalization of inequality.⁵

Intellectual property continues the injustice of initial acquisition, although only secondarily. Because the publication, advertising, and reproduction of ideas or concepts necessitated (until relatively recently) a large initial sum of capital, intellectual property law favored those who had the money to purchase copyrights or patents from others and disseminate or produce them (Wu “Copyrights” 339). As well, though ideas are certainly private in origin, they are not created *ex nihilo*, but rather through the appropriation of other ideas (Hughes 5). This is why intellectual property is not technically property, but rather a *statutory monopoly* (and lawyers referred to it as such until the 20th century) (Fisher 20). Intellectual property accounts for the contradiction of first acquisition by limiting the term of monopoly and allowing fair use, therefore ensuring innovation and creativity through appropriation (Hughes 6).⁶ Hence, legal scholars have traditionally seen copyright, and all IP law, as a balance between competing

⁵See Aristotle’s *Politics* for an utilitarian critique of Plato’s ideal property regime (2.1260b-1265b).

⁶Trademark law, the other traditional branch of intellectual property, does not acknowledge the prehistory of ideas. It does, however, allow for the dismissing of a trademark if the mark is not maintained through use or becomes so widespread as to signify a type of product instead of a brand, as in Xerox and aspirin.

interests of producers and consumers, who are intimately wed in a cycle of codependence and co-creation.

According to the U.S. Constitution, Congress has the power to establish copyright to “promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries” (1.8.8).⁷ The constitutional clause, successive federal legislation, and U.S. case law have led to several other monopoly rights in intangibles: patents, design patents, trademarks, and trade secrets.⁸

Copyright, at its most basic, covers original forms of expression; it does not cover ideas, which cannot be copyrighted, but rather the expression of ideas. The distinction is a problematic and subjective one, as a personal (i.e. judicial) interpretation is often necessary to abstract the idea from its expression, yet language is not so easily separated. The sign is always both signifier and signified, so the idea is never simply one of the other, but their confluence in a sign. Separating the idea from the expression, or determining whether or not an idea is adequately different in various expressions, is never objective or concrete. This holds for all IP, not just copyright. As Paul Goldstein insists, “Marking off the boundaries of intellectual assets is like drawing lines in water” (1). Despite the ambiguity of intangible assets, as well as the subjective nature of determining their contours and differences, legislators have tried to construct a rigid framework for their regulation.

⁷Though IP laws and their history differ from country to country, there is not enough space here to focus on the full and diverse national development of this type of regulation. For the sake of brevity, I will only focus on the history of the U.S. IP regime, as its laws and justifications have been the most influential on those of other countries.

⁸ Most recently, many state legislators have granted celebrities and prominent figures the right to publicity, i.e. the right to control their image and likeness.

The inequities of intellectual property are most clearly demonstrated through copyright law.⁹ The 1790 Copyright Act established the first U.S. federal regulations for copyright, bringing uniformity to various state legislations of the time. The act's first line reads, "An Act for the Encouragement of Learning, by securing the Copies of Maps, Charts and Books, to the Authors and Proprietors of such Copies, during the Times therein mentioned" ("The First"). The act provided for an original fourteen-year copyright term, followed by a fourteen-year renewal period, if the creator of a map, chart, or book registered the text with the copyright office and was a citizen of the U.S. As well, the registrant had to provide a copy of the text to the Library of Congress. The act allowed for civil action against a copyright infringer, injunction against infringing texts, and a fine of fifty cents per infringing physical text (about \$7 today), provided the complaint was brought within one year of the action.

Under current legislation, copyright covers any text of expression (written texts, audio texts, movies, graphics and images, computer programs, among others). Copyright is instant and no registration is necessary, though registration, for the fee of \$35, provides added legal benefits. Besides a proof of copyright, registration within three months of publication allows for a copyright holder to opt for statutory damages instead of actual damages in a civil action (this is ideal as actual damages are difficult to determine, especially in the case of non-commercial infringement).¹⁰ Statutory damages range from \$750 to \$30,000 or up to \$150,000 for willful

⁹Due to the later analyses of anti-piracy media campaigns and the Swedish Pirate Movement, I have chosen to focus on copyright law when discussing intellectual property. This is admittedly reductive, as the infringement of other forms of intellectual property may lead to different conclusions. Hopefully, what is lost in precision is more than justified by brevity and manageability.

¹⁰ According to Pamela Samuelson and Tara Wheatland, "The prompt registration requirement for statutory damages has not become a meaningful inducement to registration for all authors who value copyright protection, but rather a substantial boon to major copyright industry

infringement per work, with a minimum of \$200 for each unaware infringement (commuted at judicial discretion).¹¹ Injunctive relief is still possible, with the addition of impound and disposition. The current term is the life of the author plus seventy years, or ninety-five years if a corporate work. Due to the work-for-hire doctrine, employees retain no rights to the work they create under contract or employment; all rights are the employers. Courts may grant attorney's fees to the prevailing party in civil suits and suit must be brought within three years of the infringement. Willful infringement for commercial gain is a criminal offense, as is non-commercial infringement of one or more works (or copies of a work) with a retail value of \$1000 when distributed digitally and the non-commercial distribution of a leaked commercial work pre-publication/release (U.S. Code 17.5.1-6). The No Electronic Theft (NET) Act of 1997 criminalized non-commercial infringement with a possible punishment of five years in prison.

The changes between the 1790 Copyright and the current code are substantial. Copyright terms have increased (assuming a life of 80 years and publication at age 30) 8.57 times, and 4.28 times if renewed. Notably, copyright term now surpasses the author's period of creative production (i.e. their life) by as long as they might have lived. Damages have increased 107:1 to 4,285:1 for regular infringement and 21,428:1 for willful infringement. A criminal offense for infringement, originally added in 1897, now extends to non-commercial infringement, and since that time Congress has changed the crime from a misdemeanor to a felony (Hardy 315-317).

This change in law has mirrored a change in economics: as the U.S. economy has profited more from the exchange of information, the law has increasingly protected copyright

players-the commercial exploiters of copyrighted works whose rights largely derive from the Act's work for hire rules or assignments from authors" (439).

¹¹ Courts routinely find infringement willful, applying it to "those who merely should have known their conduct was infringing" and even defendants who claim fair use (Samuelson and Wheatland 441; 443).

and other forms of intellectual property (Fisher 11). Correspondingly, the U.S. has become the most aggressive proponent of international IP treaties, often mandating other nations change their national laws to receive trade benefits, thereby undermining (or at least negotiating) foreign nation's sovereignty to fit U.S. interests (Wang 93).¹² Yet the U.S., for the first two hundred years of its existence, was a net copyright importer, and abstained from entering into the international Berne Convention until 1989. However, "as investment and innovation migrate to other regions—most notably Asia—there is no assurance that the United States will continue as the world's leading intellectual asset exporter...nor that American citizens will continue to benefit from high intellectual property standards in their own country" (Goldstein 184). As U.S. economic interests change, the exportation of copyright protection through international treaties may become problematic for the U.S. if it cannot maintain its import/export ratio.

While technological, economic, and geopolitical change certainly spearheads legislation, the scope of the expansion over the last two hundred years, especially the extension of copyright beyond the author's life and the criminalization of non-commercial infringement, indicates more than a change in production and international relations. The change in copyright law results, primarily, from allowing media industries to write the legislation through inter-industry negotiations. At the beginning of the last century, Congress encouraged the Librarian of Congress to meet with representatives from interested industries, in the belief that copyright law had become too complex for legislators to decide without outside assistance. As Jessica Litman details, in order to adapt the law to new technologies, Congress ceded legislation to the interested industries: "authors, dramatists, painters, sculptors, architects, composers, photographers,

¹² To put this focus on intellectual property in perspective, and to show what the value U.S. legislators place in it, note that "software piracy in China has triggered a much sterner reaction from the United States than has widespread human-rights violations" (Fisher 11).

publishers of various sorts of works, libraries, and printers' unions," but not the newer industries of film, piano rolls, or phonographs (*Digital* 39). The process was one of different groups pushing for their agenda: "Industries for whom the old law worked well sought to retain their advantages; industries that found the old law inadequate sought profound changes in the way the copyright statute treated them" (Litman *Digital* 37). In order to reach compromises, the differing industries generally agreed on broad rights with narrow exemptions, satisfying each other but severely limiting the possibility of the law adapting to changing practices, technologies, or new industry challengers: "Narrow provisions became inapplicable or irrelevant as technology developed, while those interests absent from the meetings of industry representatives encountered significant legal barriers to their activities" (Litman *Digital* 37). Most importantly, the legislators who were supposed to represent the consumer's interests ceded authority, in effect making copyright legislation a protection for industry status quo and not a promotion of "the Progress of Science and useful Arts" (Litman *Digital* 35-69).

This original instance of industry input has become standard practice: interested industries hash out the law amongst themselves and then lobby for the legislation that they helped craft.¹³ The result, "as one would expect from that delegation of legislative authority, has been an ever-expanding set of copyright holder rights, riddled with narrow exceptions for various interested parties present at the bargaining table" (Netanel 5). Congress has extended copyright terms 11 times (retrospectively) in the last fifty years, after extending it only twice in the first 150 years (Lessig *Freedom* 107). Not surprisingly, representatives of the copyright industries have drafted contentious copyright legislation to protect their interests, like the Audio Home

¹³ A good, recent example is lobbying effort behind the Stop Online Piracy Act and the Protect Intellectual Property Act. See Ben Dimiero, "How Much Did Media Companies Spend Lobbying On SOPA and PIPA?"

Recording Act of 1982 (which mandated electronic encryption of the data disk), the Sonny Bono Copyright Term Extension Act of 1998 (which prevented Mickey Mouse from entering the public domain), and Digital Millennium Copyright Act of 1998 (which granted copyright industries limited control over DVD and computer manufacturers and website operators).

The collaboration with government by interested industries has even extended executive power and affects the drafting of international treaties. Through industry lobbying, the U.S. President gained the power in 1984 to impose trade sanctions against countries that fail to adequately protect American intellectual property. Correspondingly, the copyright industries now regularly petition the U.S. Trade Representative to impose sanctions against foreign nations (Netanel 5). In 2009, Eric H. Smith, President of the International Intellectual Property Alliance (whose members include the Motion Picture Association of America, the RIAA, the Association of American Publishers, and Business Software Alliance) was chairperson of the Industry Trade Advisory Committee on Intellectual Property Rights during the secret negotiations of the Anti-Counterfeiting Trade Agreement (Love). Through Smith, U.S. copyright industry representatives were privy to international negotiations while the president's administration repeatedly denied citizen Freedom of Information requests about the agreement "in the interest of national security" ("USTR").

By giving copyright industries legislative authority, the government has abandoned the balance codified in the Constitution: "To promote the Progress of Science and useful Arts, by securing for *limited* Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." That is to say, the government grants a monopoly right in a particular form of expression for a limited time to promote the progress of science and the arts. The limited monopoly supposedly provides an incentive to creation, but only if there are limits on the

monopoly to ensure that a robust public domain enables creation (i.e. there are texts and ideas available for all to use without restraint). According to Larry Lessig, the “balance between free and controlled resources is precisely the balance that the law must strike in intellectual property contexts generally” (*Freedom 72*).¹⁴

Yet even this idea of balance between two groups is not historically accurate. Early U.S. copyright philosophy coalesced around four purposes: to secure an author’s right, to promote learning, to provide order in the book trade, and to prevent monopoly. The relative importance of each of these purposes depended on the formulation of copyright. For instance, the pre-constitution states’ legislation (1780’s) held author’s right highest; the Constitution valued learning; the act of 1790 stressed statutory governance and order; and the *Wheaton v. Peters* (1834), the first U.S. Supreme Court case on copyright, stressed limiting monopoly (Patterson 180-202). What is important is that all four aspects previously animated copyright law, while now only two, market order and author’s right (transformed into property owner’s right), animate the law. Especially problematic is the ignorance of the anti-trust aspect of copyright, which is part of a larger trend of neoliberal deregulation.

The “propertization” of intellectual property (Fisher 20-22), which has erased most of the anti-trust safe-guards, has made it more like physical property, more connected to the disparity of first acquisition. Therefore, both tangible and intangible properties share in an essential contradiction, the former inherently and the latter because it is built upon, and continues, the system of the former. This aporia at the heart of property is important because of the complex and essential connection between property, sovereignty, and law. As the arbiter of property disputes and the protector of the institution of property, a sovereign power (whether individual or

¹⁴ See David McGowan for his discussion of copyright not as a balance but as a continuum (8).

democratic) fundamentally establishes, defines, and maintains the institution of property. As well, for most of human history sovereignty was coequal with ownership of land, which jurisprudence tellingly terms “real property” (J. Williams 7).¹⁵ Most importantly, initial acquisition and the property relations established through it determine legal regimes. According to Jurist Carl Schmitt, “In every case, land-appropriation, both internally and externally, is the primary legal title that underlies all subsequent law... Land appropriation thus is the archetype of a constitutive legal process externally (vis-à-vis other peoples) and internally (for the ordering of land and property within a country). It creates the most radical legal title, in the full and comprehensive sense of the term *radical title*” (*Nomos* 46). Land appropriation creates the basis of the law, interstate relations, production, and sovereignty (Schmitt *Nomos* 47, 327, 354). The link between law, production, and society demonstrates the tremendous importance of legitimizing initial appropriation. Mythological explanations of power in the ancient and feudal world (the Greek ruler’s descent from Gods, the Chinese mandate of heaven, and the European divine right of kings) undoubtedly attempted to legitimate force and appropriation. Through divine mandate, feudal sovereigns justified the inequalities of initial acquisition. Though modern democracies make some attempts to correct the gross inequities of wealth engendered by initial acquisition and the primitive accumulation of the colonial period, they generally do not address the structural injustice of the property system.

This aporia accounts for the ambiguity of piracy and all supposedly illegitimate appropriation. As first acquisition limits future appropriation, later acquisitions will bifurcate into positive and negative actions. All appropriations deemed illegitimate by those whose property facilitate their sovereignty and legal claims will view the appropriations as piracy,

¹⁵The possession of land granted feudal barons de facto sovereignty, and the “state continued to be the prince’s estate” until the 18th century (Cohen 9).

banditry, theft, rapine, etc. Those that contest the status quo that stretches back, however strangely, through millennia of property relations, will view the appropriations as positive.

Machine Technology

In the beginning of his study of ancient piracy, De Souza distinguishes between banditry and piracy by emphasizing that “piracy involves the use of *ships*, which require greater initial commitment of resources and offer a greater range of freedom of opportunity to the would-be plunderers than can be obtained from wholly land-based activities” (11). This technological aspect of piracy is key, and applies as well to intellectual and digital piracy. As maritime piracy takes place in liquid space that is not naturally hospitable to humans, technology is essential to facilitating it. With intellectual piracy, the speed and volume of reproduction enabled by manufacture transforms copying, which is slow, private, and legally *de minimus* (outside the concern of the law), into piracy. This change in speed can also transform the consumer from a copier to a distributor, and therefore change the relationship between the consumer and the rights holder. With digital piracy, it is the computing power necessary for interpreting and copying binary code, as well as the telecommunications technology for accessing the code, which enables and facilitates piracy.

While some scholars have held that a key difference between pirates and criminals is that pirates are always social and work in organized groups (Dawdy and Bonni 675; Durand and Vergne 50-56), many criminals operate in groups, such as gangs or crews, and they may have high levels of structural organization, such as the mafia and drug cartels. It is more accurate to see the need for social organization as a response to the spatial and technological nature of

piracy. As technologies are inherently social, both the pirates and the merchants from whom they appropriate commodities are part of social formations that preexist them.

Technology is, however, notoriously difficult to define (Faulkner, Lawson, and Runde 1; L. Marx “Technology” 965-983). Relatively new, the word “technology” came into the English language in the 17th century and only became popular after World War I (L. Marx “Technology” 966). Its root is the Greek *techne* (τέχνη), which variously means “art, skill, cunning of hand,” “craft,” and “handiwork” (Liddell). In normal usage, technology can refer to tools, hardware, or machinery; to rules for the use of tools, hardware, or machinery; or to parts of a technological system. In the first instance, it is the objects themselves that are technological, and by this broad definition both humans and animals are technological, in that from time immemorial they have used tools in some capacity. In the second, software, rules, and the means/ends of the use of objects makes them technological. For instance, a hammer in itself is not technological, but using it to hammer a nail is. In the final instance, objects and rules only cohere into technology when they become part of a system, enveloping objects, rules, and the social organizations that produce, sustain, and perpetuate them (Dusek 31-33). The last definition, technological system, is the most persuasive in use, though all three appear in both philosophical and quotidian discussions of technology. Though often equated with science (especially applied science), as these three definitions show technology is much older than science (Ihde xix).

The technologies of piracy correspond to the first instance, that of tools, hardware, and machinery. Piracy, however, is not the technology of tools, but rather that of hardware and machinery, in that those technologies allow for the navigation of the space of piracy (by boat, possibly plane, space ship, and certainly by networked computer) or change the productive capability of a consumer (through printing press, record press, some other type of manufactory,

computer, etc.).¹⁶ The hardware of maritime, intellectual, and digital piracy are all complex and correspond to what Don Ihde, in his phenomenology of technology, calls hermeneutic relations.

According to Ihde, there are three types of human-technology relations: the tool relation, hermeneutic relations, and background relations. The simplest form is the tool relation, which involves embodiment relations: the extension of the human body through the tool. In this phenomenological focus, a hammer extends and embodies the feel of the human hand, allowing for an experience of the nail *through* the hammer. The tool relation is a perceptual experience of the body. Hermeneutic relations, however, phenomenologically foreground the experience of the technology itself. Instead of experiencing the ocean through the boat as a part of the self, someone on a boat experiences the ocean through the boat but has constant knowledge of the boat as other. This is experience *with* the technological artifact (Ihde 6-13; 54-55).¹⁷ In this relation, the machine is the “focal object of experience” (Ihde 13), not the body connecting to the machine. The final phenomenological relation, background relations, encompass lights, heating systems, air conditioning, etc.; all of the technological environment of modern life that are familiar yet not primary to conscious focus (13-15).

As I discuss below, maritime piracy occurs in an alternative and extra legal space, in the sea, and the technologies of piracy, in its original iteration and its digital iteration, are necessary for mediating variable spaces, making the machine (ship or computer) the “focal object of experience.” The machine/tool distinction also distinguishes copying from piracy, as the

¹⁶It is tempting to include language as the fundamental technology underlying all the technologies of piracy, as well as all technology. To do so, however, would “stretch the concept of technology near the tearing point” (Ferré 24).

¹⁷The internet of things is rapidly becoming part of the background relations of modern life, and at some point it is likely that digital piracy, if storage capacity and automated file sharing keep developing, will function in the background and take place away from consciousness completely.

movement from hand to manufacture affects the designation of the appropriation. It was no doubt the similar necessity of machine technology to facilitate appropriation that allowed for piracy to describe intellectual property infringement. As well, the technologies of piracy distinguish it from the banditry and thievery: traditionally pirates used the ship (machine), whereas bandits used tool technologies like a sword, knife, or club, or were even non-technological (in the case of pummeling someone with fists). The advent of firearms would collapse this distinction, as would modern cyber theft, but the distinction between the two types of illegitimate appropriations predates the development of those latter machine technologies (as discussed below).

Paralleling the hermeneutic relation, several writers have distinguished between tool and more complex machine technology by highlighting the inherent otherness of machine technology. Most influentially, Thorstein Veblen wrote, “The machine process compels a more or less unremitting attention to phenomena of an impersonal character and to sequences and correlations not dependent for their force upon human predilection nor created by habit and custom” (307). Machine technology sits in a fundamentally different relation to humans: its production capacity both invariably testifies to human production and its difference from it. It is clearly man made yet no one isolated man can possibly create it, as it is only possible through a complex division of labor and social collaboration. In this way, machine technology is both familiar and strange; it is uncanny.

For Freud, the meaning of the *unheimlich* (the “uncanny” in English) is elucidated in the dual senses of its antonym and root, the *heimlich*: that which is “familiar and comfortable,” and that which is “kept hidden” (*The Uncanny* 132). Literally home (*heim*) and not (*un*), the *unheimlich* is that which is not home, but somehow strangely conjures it. Within the literal

meaning of the word the familiarity is missing, and the missing literal meaning signifies the repressed relation to the familiar. The feeling of *unheimlich* follows from that which is repressed coming to light, that which was familiar, but unknown, suddenly coming to consciousness. The *unheimlich* is not actually strange, but rather it is “estranged” from the psyche (148).

Importantly, Freud tentatively links this feeling to the repetition compulsion, noting that what is familiar becomes strange upon its repetition, which assumedly forces it into consciousness in a way that activates and distances it from previous iterations (144). The products of machine technology likewise bear the *unheimlich*, the marks or evidence of production beyond human-tool capability in their uniformity, material, or other detail.

Most importantly for this discussion, machine technology when used for piracy is doubly *unheimlich*, as the technologies of piracy mirror those of the legitimate production they appropriate. The pirate plies the seas with the same technology as the merchants he robs, just as the record bootlegger a vinyl press similar, though smaller in scale, to the one used by the record company. While it is possible to argue that the merchant, unlike the sea pirate, does not rob anyone, and the author or inventor, unlike the book or patent pirate, does not rob anyone, the histories of these different types of production demonstrate lots of illegitimate appropriation. Historically, maritime trading went hand in hand with maritime raiding (as I discuss below), and even today the colonial encounter still overwhelmingly affects the balance of wealth generated through international trade. As well, the history of intellectual property industries is a tale of formerly designated pirates becoming designators of piracy, and any discussion of piracy that focuses primarily on authors or inventors fails to accurately portray the historical development and realities of intellectual property law (Gillespie 278; Sterk 1198). This mirroring of technology is one of the reasons that piracy conjures the injustice of initial acquisition: it is not

the act of attacking another ship, printing a book or digitally copying a file that is different, it is only the right to do so that separates the two activities.

Piracy is also *unheimlich* because the movement from accused pirate to designator of piracy demonstrates a failure of the hermeneutic circle. As articulated by Hans-George Gadamer, the hermeneutic circle describes the process whereby an individual projects a whole meaning onto a text through the encounter with particular parts of it. In the textual encounter, meaning does not result solely from the text or the reader's objective interpretation of it, but rather from subjective "fore-projections" that are absolutely essential to the process of understanding. In order to correctly revise understanding in accordance with the different projections developed through the encounter with the text, a person trying to understand must "guard against arbitrary fancies and the limitations imposed by imperceptible habits of thought" (266). As Gadamer views reality as linguistically mediated, his focus is on textual understanding, but the hermeneutic circle describes the mechanism for all understanding (266-270). The failure to view pirate designees as similar to designators shows a lack of revision in iteration, a repression of an earlier understanding.

The *unheimlich* normally manifests in horror, in abhorrence, and this is often the case in designations of piracy. Colonial authorities represented pirates as the devil incarnate as they themselves proceeded with one of the largest campaigns of rape, murder, and theft in human history (Rediker, *Villains* 127-147). Likewise, protectors of intellectual property often cast their appeals for regulation in alarmist and terrorized terms. As Jack Valenti famously declared before a Senate subcommittee in 1982, "I say to you that the VCR is to the American film producer and the American public as the Boston strangler is to the woman home alone" ("Hearings"). The horror provoked by piracy is no doubt part of the rhetorical protection of property, but it also

betrays the discomfort caused by the return of the repressed. Property rights function to limit the rights of others over tangible and intangible goods; when those rights are violated, the violation testifies to the essential neutrality and necessity of appropriation. Piracy's *unheimlich* quality results from the repetition of the actions of legitimate appropriators from a space of difference.

The Spatial Relations of Piracy

Perhaps the most productive way to understand the relational aspect of piracy is to conceive of every appropriation outside one's *domain* as a possible piracy. Domain and *dominion*, the Latin term for property, come from the *dominus*, meaning both master and proprietor, but also banquet (C. Lewis). *Dominus* is a feast, but not a feast for the entire community; it is private. The word is rooted in the Greek *damazo* (δαμάζω), to overpower or tame (used for both women and animals), and *damnimi* (δάμνημι), to force or seduce (Liddell). At the basis of all dominion is the original act of making something subject, of breaking someone or something else to one's will. Simple theft is a minor threat to dominion, one which the legal system accounts for and has mechanisms for correcting. A designation of piracy testifies, however, to a significant lack of power and control, a lack of dominion over field or space, and is also a mechanism to establish power and control in the relation. This lack and attempt at power is why, in the Ancient world, when a collective or ruler wanted to convey their power, they tried to contain piracy: Corinth, Athens, Philip II of Macedon, Alexander, and Eumelus all set themselves the task of curbing piracy as a sign of their ambition (Braund 202-203), and the early Roman Republic, in "its first entry onto the political stage of the eastern

Mediterranean, [...claimed] for itself a new title: that of supreme antagonist of piracy” (Heller-Roazen 49).

From the Greek word *peirates* (πειρατής) the Romans developed *pirata*, and the English pirate and piracy. *Peirates* is related to *peira* (πειράω), “attempt, endeavor, try,” and *peiratn* (πειρατῶν), “pierce, run through” (Murray). While the two related words, *peira* and *peiratn*, appear in the much earlier epics from the Mycenaean Age (1100-600 BC), *peirates* first appears in inscriptions in the 3rd century BCE (Ormerod 59 n. 2). In writing, it only becomes common once the Roman Republic exerts influence in the Mediterranean, thereafter occurring frequently in Polybius’ *The Histories* (circa 170 BCE), Strabo’s *Geography* (circa 18 CE), and Plutarch’s *Lucullus* (circa 75 CE) (*Perseus*).¹⁸ Before *peirates* became common, Homer and other Ancient Greeks used *leistes* (ληστής), literally “robber” (Murray), to describe both banditry *and* piracy. The ancient semantic conflation of banditry and piracy signals a similarity between these two types of appropriation and their relation to those in power that hints at the spatial relations of these types of appropriations. The ancient Greeks, having neither dominion over the sea nor the area outside of their city-states, considered pirates and bandits the same. The spread of a term

¹⁸The classical Greeks (500-300 BCE) did have a word that only meant pirate, *καταποντιστής* (*katapontisths*, literally “one who throws into the sea”) (Liddell), which appears in Isocrates writing in the late fifth century BCE. The word must not have been common, as it does not appear often in other texts. When it does appear in Isocrates and Demosthenes (384-322 BCE) it appears next to *leistes* or *peltastai* (πελταστής) (mercenaries; literally “one who carries a light shield”) (Liddell). The word only becomes common around the end of the Roman Republic in the writing of Pausanias, Lucian, Claudius Aelianus, and Cassius Dio for reasons that are not altogether clear. All statements of word usage refer to the statistics compiled by the *Perseus Digital Library*’s searchable texts and index.

solely for piracy during Roman hegemony signals a different relation between power and space, one in which perceived control over land and sea differed.¹⁹

Unlike their later descendants, the Mycenaean Greeks did not distinguish between piracy, robbery, and hunting: the “plundering of neighbors was to the primitive inhabitant of the Mediterranean area a form of production, which was sanctioned and encouraged by the community, so long as it was directed against the people of a different tribe” (Ormerod 68).²⁰ By the time of Athens’ rise to power during the fifth century B.C.E., writers view piracy as parasitic, and the word *peirates* spreads. It is not surprising that the discourse of piracy begins in the Greek polis, as the Greeks viewed the function of the city-state as “a kind of organized remembrance” (Arendt 198) in which the laws as much as the walls created the physical space in which people could mutually recognize each other (Arendt 192-199). The Classic Age Greeks excluded the pirate from this mutual recognition, as they did the woman, the slave, and the foreigner. It was through this exclusion that Plato and Aristotle formulated their idea of the polis, designating the ruling class as “the only true men” (Schlatter 19).

In *The Enemy of All: Piracy and the Law of Nations*, Daniel Heller-Roazen stresses the spatial nature of exclusion in what he calls “the pirate paradigm.” For Heller-Roazen, the pirate paradigm in political and legal thought in the Western tradition has four characteristics that follow from each other: first, piracy “involves a region in which exceptional legal rules apply,”

¹⁹The Roman term *praedo*, like *leistēs*, literally meant “one that makes booty, a plunderer, robber” (C. Lewis), and could be used to mean pirate as well, but the concurrent existence and frequent usage of *pirata* indicates an overarching category, not a lack of different categories.

²⁰ Athenian historian Thucydides, noting the earlier evaluation of piracy still prevalent in his own time (5th century BCE), decried “the honor with which some of the inhabitants of the continent still regard a successful marauder, and . . . the question we find the old poets everywhere representing the people as asking of voyagers—‘Are they pirates [λησταί]?’—as if those who are asked the question would have no idea of disclaiming the imputation, or their interrogators of reproaching them for it.”

traditionally “the high seas and international air space”; second, piracy “involves an agent who...displays an antagonism that cannot be defined as that of one individual with respect to another or of one political association to another,” appearing general and universal; third, piracy “brings about the confusion, and in the most extreme cases, the collapse of the distinction between criminal and political enemy”; and finally, piracy “entails a transformation of the concept of war,” as the pirate is neither simply criminal nor political enemy (10-11). The pirate paradigm allows Heller-Roazen to read across thousands of years of legal thought, isolating these four characteristics as they manifest in the writings and pronouncements of sovereigns, jurists, and philosophers. It allows for the understanding of how the pirate can be the presupposition of legal authority, “that against which the civil order must variously strive, and in whose absence it would not be itself” (38).

The key to Heller-Roazen’s pirate paradigm is the space of piracy, in that piracy provokes exceptional responses because it takes place in alternative or liminal spaces. The ancient semantic conflation of banditry and piracy, as well as their eventual distinction from each other, illuminates the changing relationship between sovereignty and space. Rather than treat all space as physically determined, the changing perception of banditry and piracy suggests a changing conception of space vis-à-vis power, a social construction of space. Piracy is not an act “in itself,” but an act produced through social relationships.

Henry Lefebvre, more than any other theorist, has detailed the connection between physical space, social space, and mental space (i.e. thoughts about space) (Merrifield 104). Lefebvre’s work is critical for understanding piracy, in that he focuses not on space “in itself,” but rather on “the production of space and the social relationships inherent to it” (Lefebvre 90). In *The Production of Space*, Lefebvre proposes three concepts for understanding how societies

produce space: spatial practice, representations of space, and representational spaces. Spatial practice is the “projection onto a (spatial) field of all aspects, elements and moment of social practice” (8). It is the “production and reproduction” of space by members of a society (33). Representations of space “are tied to the relations of production and to the ‘order’ which those relations impose” (33), the representations that produce “the dominant space in any society” through scientific calculation, planning, and engineering (39). This is the space that finds “objective expression” in the organization of nature (Merrifield 109). Finally, representational spaces are symbolic spaces of representational art and the imagination, often revealing repressed desires (33-39). These three concepts form a triad of “perceived—conceived—lived” space (40).²¹

Lefebvre postulates this triad to understand the relationship between the different practices and conceptions of space within a society, and the relationship between capitalist production, ideology, and space. Representations of space “intervene in and modify spatial *textures* which are informed by effective knowledge and ideology” (42), and therefore have the most power to determine spatial practice. The wealthy and powerful in a society use representations of space to dominate peripheral spaces, “to reduce the obstacles and resistance” they encounter there (49). Representations of space, technology, and spatial practice, when combined, create “dominated spaces,” whose “origins coincide with those of political power itself” (164), indicating the earlier mentioned connection between discourse, law, and the space

²¹The similarity between the terms “representations of space” and “representational space” is regrettable, as is Lefebvre’s labeling of social practice as “perceived” instead of “lived.” Social practice, as the physical manifestation of the social production of space, would seem the most lived, yet he wants to highlight that there is a dialectical relationship between the perception of this space and the interaction with it (Merrifield 110). He labels representational space as “lived” because it is “space as directly *lived* through its associated images and symbols” (Lefebvre 39). This *living*, however, is not liberatory, as it takes place in “the dominated—and hence passively experienced—space which the imagination seeks to appropriate” (Lefebvre 39).

of the city. Much of the space in the modern world is dominated space, and all dominations of space begin with the appropriation of physical space. Dominated space and appropriated space should therefore coincide, though they often do not: families appropriate private space for their own uses, and the appropriation of space by political groups can be quite powerful, as the recent protests in Egypt's Tahir Square and the U.S.'s Zuccotti Park have shown. Appropriated space is like art, and therefore related to representational space (though Lefebvre is unclear as to how these two are similar). As representational spaces are symbolic, they have much less potential to affect spatial practice, often acting as repositories for difference (49-50). These two types of spaces may be combined, but actually the "history of accumulation" clearly shows that domination of space has outpaced the appropriation of space for non-capitalist purposes (Lefebvre 164-166; Adams).

Though Lefebvre's project is to articulate the relationship between capitalist production and space, he applies his concepts and taxonomy of spaces to earlier epochs, and they are useful for understanding why banditry and piracy were coequal for so long. According to Jennifer L. Gaynor, piracy occurs through deixis, which "organizes a context-dependent structure of perception in which position and orientation refer both across the structure and beyond it. Political authority operates through such deictic mechanisms, not only to monopolize the legitimate means of violence, but to craft legitimacy itself and deny it to others in an effort to manage the limits of sovereignty. Designations of "piracy" signal those limits" (852). The same can be said about banditry, in that when banditry existed as an equivalent criminal category it testified to spaces outside of dominion. In the ancient world, the lack of the capability to efficiently reshape nature hindered the ability to dominate physical space, to bend it to human will. Only the discrete space of the city, and occasionally the space of the road, could be

dominated. While representations of spaces abounded, spatial practices outside of the centers of power were not under the control of a sovereign. The pirate and the bandit were a threat because they testified to a lack of power, a lack of control of space. Both bandit and pirate demonstrate how sovereign power produces social space, and how social space delimits sovereign power (Durand and Vergne 15).

According to Brent D. Shaw, in the Roman Empire the space of the bandit was the gap between the “Roman Society” and the “Roman State”: the disjunction between the two “resulted most often from geopolitical factors that inhibited the state from effectively extending its networks of communication and control over whole regions” (Shaw 42). Bandits arose not from actions or individual choices, but rather from competing systems of relation and definition: the “ebb and flow of state-defined power in the ancient Mediterranean which automatically created, in the very process of definition, groups of men called bandits” (Shaw 35). As Rome solidified control and developed its territories, more aspects of local society came under its purview and supervision, reducing the space of disjunction. As this happened, Roman law ceased to treat the bandit as a non-person and instead, once he became some form of Roman subject, treated him as a criminal (Shaw 6-8). Those outside of Roman hegemony remained excluded from state defined personhood.²²

As the polis became the polity and the polity became the state, control over land through the domination of nature and increased security and surveillance tactics transformed the bandit

²²Durand and Vergne make a corollary observation about piracy in general: “as a state seeks to expand its reach, the number of individuals it considers to be pirates tends to increase...[and piracy] appears precisely at the point where territorial space and the normative network emanating from a sovereign authority meet” (39). They do not, however, account for why the territorial space and the normative network repeatedly fail to align in the spaces of piracy. See discussion below.

into the criminal. Though highway robbers and carjackers still operate, as well as criminal organizations like mafias and gangs, banditry as a discursive category has disappeared. The control of space within the territorial state, while never complete, has subjective reality as long as the territorial state has legitimacy and the appearance of control. As long as people act toward the territorial state as if it was an entity, their spatial practice will give it solidity. If its citizens perceive of crime as a symptom of social and national life, and not a threat to it, “theft” will describe illegitimate land-based appropriation and banditry will remain a historical category. The invocation of piracy, like that of ancient banditry, is an attempt to exert control over peripheral and liminal spaces. By labeling a practice piratical, one extends the law to that space. Piracy therefore testifies both to control and the limits of control, because sovereignty, as Lefebvre claims, “implies 'space', and what is more it implies a space against which violence, whether latent or overt, is directed — a space established and constituted by violence” (280).

Today, maritime piracy naturally flourishes in places where the “legitimacy of the state is contested” (Møller 13), such as parts of Indonesia and the Philippines, and in so-called “failed states,” like Somalia. Somalia, specifically, is a particularly telling example. Due to corruption in the Somalia Transitional Federal Government, the lack of a national coastguard, and the lack of international recognition for any of the governments within the Somali territory, Somali waters do not receive international maritime protection. The Somalian Sea, an unregulated zone since 1991, has been a dumping site for the developing world. Corporations and organized criminal groups, under contract from developed states, have dumped toxic and industrial waste in the sea since the collapse of the fall of the Barre regime (Abdullahi).

As is typical in the dialectic of piracy, from an international perspective the lack of security and stability in “failed states” is only important in relation to international trade (not in

relation to the inhabitants of the state itself), and piracy predictably receives military (as opposed to humanitarian) attention from former imperial and colonial powers (Gaynor 851). According to many of the Somalis, the “pirates” were originally “coastguards” protecting their shores from illegal fishing and dumping. Sugule Ali, a spokesman for a group of Somali pirates, put it thusly, “We don’t consider ourselves sea bandits (“sea bandit” is one way Somalis translate the English word pirate). We consider sea bandits those who illegally fish in our seas and dump waste in our seas and carry weapons in our seas. We are simply patrolling our seas. Think of us like a coast guard” (Gettleman).

While the Somali pirates’ coast guard narrative certainly serves many functions for the Somalia’s repeating it (Bueger), the lack of the narrative’s coverage in Western media and consideration in anti-piracy initiatives highlights that “the line between pirate and coast guard is defined by long-distance juridical perception that is informed more by the security interests of the UN Security Council and the appeals of multinational corporations than by local political realities” (Dawdy “ Why” 367). Predictably, as security and international coordination have reduced the success of Somali piracy and the pirates have become accustomed to money, they have engaged in other crimes, branching out into human, arms, and drug trafficking, and even protecting the same illegal fishing they originally attacked (Guled). It is impossible now to know if the original fishermen turned pirates would have returned to fishing if the deaxis of power did not predetermine the illegitimacy of the self proclaimed Somalia coastguards.

That maritime piracy continues, yet banditry has disappeared as a legal and common category, testifies to more than the social production of space. Unlike the spaces of banditry, there is something inherently different about the spaces of piracy for those in power. In *Land and Sea*, Schmitt writes, “Every basic order is a spatial order. To talk of the constitution of country or

a continent is to talk of *its fundamental order*, of its nomos. The true, the authentic, rest essentially upon distinct spatial delimitations” (37; ital. orig.). World history, according to Schmitt, is determined by incommensurate orders, by the “elemental opposition between land and sea” (6). The opposition between them, the essential incongruence of the *nomos* of the earth and the *nomos* of the sea, creates the distinct space of piracy and will structure its later, land-based manifestations.

With regard to physical space, air and water differ significantly from solids in their atomic structure, which gives them a fluidity that solids lack. Traditionally, physicists classify matter into three states: solid, liquid, and gas, based on their mechanical properties, which is to say how they respond to external forces. Temperature is the determinate external force, as cold induces freezing (i.e. solidity) and heat liquidity and evaporation. However, experiments have shown that above a certain temperature, waters will continue to heat without changing into gas, meaning that liquids and gasses exist in the same state: “the *fluid state*” (Dhar 1124).²³ The difference between the solid and fluid states is a difference of order: solids usually demonstrate long-range order of regular particle arrangement throughout their structure, whereas fluids, if they demonstrate any order (gases do not), demonstrate only short-range particle order without regular arrangement through their structure.²⁴ Because of the differences in order, solids appear not to move (though they do actually vibrate within their regular arrangement).

²³Some physicists assert that plasmas are a separate state of matter, but a plasma is an ionized gas and hence fluid. Like gasses and liquids, gasses and plasmas are not sufficiently distinct from each other to affect this discussion.

²⁴Admittedly, some synthetic solids do have long-range order. Any absolute distinction between solids and fluids fails, as ‘solid-like’ and ‘fluid-like’ behavior is a matter of length and time scales” when applied to all naturally occurring *and* manmade matter (Dhar 1128). The order distinction, like other possible distinctions between solids and fluids, breaks down depending on the time and perspective of measurement when considered for all (naturally occurring and

The long-range order of solids allows for movement on top of the earth. The short-range order or lack of order of fluids allows for moving through them in a way that is impossible with solids.²⁵ This physical difference causes a difference in the ability of humans to dominate and control land compared to water and air. Leif Dahlberg has written on the liquidity of piracy by adopting Aristotle's distinction between places, spaces, and things (*Physics* IV.i and IV.iv). He claims, "The sea is a space without borders that swallows all traces of deeds: it is a placeless space" (262). Whereas a thing can move places, a place is always in its place (Dahlberg 277 n. 3). Water, however, is always lapping, moving, and changing: it is never in place. The sea as a place is impossible, in that it is always a space between places. The sea is also impossible to control, as it renders everything liquid and ephemeral; it can never be put in its place. The sea moves forever in time and space, resisting domination through representations of space, as any attempt to control the spatial practices of the sea must extend from the land (from a pier or a ship) or up from the ocean floor (like an oil rig). These attempts can never actually indent, capture, or reshape the sea, as they are always temporary and contingent on land based stability.

This distinction between *place* and *space* aligns with the use of these terms by the cultural theorist Michel de Certeau, and his use is insightful for understanding why the sea remains a problematic area for social control. De Certeau influentially theorized that place and space are dialectical terms that describe the difference between ordered, proper arrangements of

manmade) matter. For this discussion, however, I only consider natural mixtures of matter in and on which piracy can take place: earth, water, and air.

²⁵Air, while fluid, is a more difficult space to appropriate in. If theft between planes became common, it would undoubtedly be called "air piracy." In the 1970's and 1980's, lawyers began using the terms "air piracy" and "aerial piracy" to discuss plane hijackings. This term did not stick because appropriation is not the intent of hijackings, but rather terrorism. It is easy to imagine space pirates though, roaming the cosmos and raiding unsuspecting space ships, and they commonly feature in sci-fi literature. This indicates that even the lack of matter in space would align with the lack of order in gases. See Daniel Heller-Roazen for the history of "aerial piracy" (174-177).

things and actual movements and operations. While in place, “the elements taken into consideration are *beside* one another, each situated in its own ‘proper’ and distinct location, a location it defines. A place is thus an instantaneous configuration of positions. It implies an indication of stability” (117). Place therefore, is very similar to Lefebvre’s representation of space, in that place must be ordered by some power or system external to or outside the area, and for de Certeau it is the urban planner and the textual system (*langue*) which orders cities and texts. Space, on the other hand, is “in a sense actuated by the ensemble of movements deployed within it. Space occurs as the effect produced by the operations that orient it, situate it, temporalize it, and make it function in a polyvalent unity of conflictual programs or contractual proximities” (Certeau 117). Space, then, is created by spatial practices, by the actions of those who use an area, not by those who plan it for others. It is the walkers and speakers who create a place through their movements or speech (*parole*). In short, “*space is a practiced place*” (Certeau 117; ital. orig.).²⁶ Or, as the geographer Yi-Fu Tuan simplifies the distinction, “Place is security, space is freedom: we are attached to the one and long for the other” (3).

Using this distinction, it is possible to see why the sea appears as a threat to those in power on land: it is never in place, it is never ordered and proper, and it is never secure, as its physical composition precludes any kind of stability to its surface or interior. It has no fixity and, in a certain sense, no history, as it cannot be settled, colonized, or held without unceasing effort. While it is possible to mark particular places within the ocean through the geographic coordinate

²⁶Of course, the ordering of things determines the movements around them (without completely limiting them), and although de Certeau does not focus on it, Lefebvre is much more clear in discussing the power of representations of space in creating dominated space. De Certeau does, however, link place to property, propriety, ownership, and control, and he associates oppositional practices with space (Highmore 157, 171). For a detailed discussion of the process of ordering, see Allan Pred’s “Place as Historically Contingent Process: Structuration and the Time-Geography of Becoming Places.”

system of longitude and latitude, that system exists in reference to the stability of land, particularly to the longitude of Greenwich, UK, and therefore the history of land based British colonial power. Those coordinated places within the sea are not of the sea, but rather places overlaid on the space of the sea. Amorphous and mutable, the sea, like space, is determined by “vectors of direction, velocities, and time variables,” “composed of intersections of mobile elements” (Certeau 117), not coordinated places.

The affinity between Lefebvre and de Certeau’s conception of the relationship between social practice and space also correlates with Gilles Deleuze and Félix Guattari’s conception of smooth and striated spaces. According to Deleuze and Guattari, there is a constant struggle for control over territory between sovereign powers and marginal groups, a struggle that both affects and is affected by the physical aspects and social practices of space. In their dialectic, smooth spaces are amorphous, non-formal, heterogeneous spaces that one does not occupy so much as move through, as nomads move through the desert without settling in it. More haptic than optical, smooth space allows for limited, close range vision, and movement follows trajectories more than lines between points. As smooth spaces are not the spaces of occupation, they resist placement, and therefore smooth space deterritorializes. Striated spaces, on the other hand, are organized, formal, and homogenous; they are the spaces of military maneuvers (474-500). They are defined “by the requirement of long-distance vision: constancy of orientation, invariance of distance through an interchange of inertial points of reference, interlinkage by immersion in an ambient milieu, constitution of a central perspective” (494). The line between points determines

the trajectory of the striated space, space that is metric and allocated “according to determinate intervals” (481).²⁷

Deleuze and Guattari’s formulation of smooth and striated spaces correlates nicely with the short-range order and long range-order of matter, the stability or lack thereof of fluids and solids, respectively. Not surprisingly, they find the sea to be “a smooth space par excellence” (479), just as the “city is the striated space par excellence” (481). For Deleuze and Guattari, however, the two spaces are not mutually exclusive: “the two spaces in fact exist only in mixture: smooth space is constantly being translated, transversed into striated space; striated space is constantly being reversed, returned to a smooth space” (474). Without land underneath the sea, the land in *place*, the smooth space of the sea would not cohere, and without the striated space of the land, humans could not build cities in the smooth *space* of the air. The smooth and the striated always build upon each other, “because when the striated attains its ideal of perfect homogeneity, it is apt to reimpart smooth space, by a movement that superposes itself upon that of the homogenous but remains entirely different from it” (Deleuze and Guattari 488).

Although they do not mention the pirate, Deleuze and Guattari’s smooth, nomadic space is undoubtedly the space of piracy. Whereas the merchant moves between cities and ports, point to point, the pirate moves between the merchant’s lines of travel, intersecting the merchant around the bend of a cape or from a hidden lagoon, at the point in which he cannot view the pirates approach.²⁸ Furthermore, a pirate collective, when designated as such, mirrors their war machine as that which remains exterior to the state (Deleuze and Guattari 360). Though states

²⁷De Certeau’s space, as defined by ““vectors of direction, velocities, and time variables,” fits particularly well with smooth space, just as the central perspective of striated space correlates with the properness of place.

²⁸Though the openness of the sea seems to allow for greater distance of vision, it actually shows nothing: blue above and blue below, an almost flat picture. To understand this in relation to the sky, imagine a jet fighter flying “blind” without instruments.

can internalize all kinds of appropriations, they can never internalize piracy as “piracy.” It is therefore possible to understand maritime piracy as appropriation in smooth spaces, while theft, expropriation, land reform, and enclosure correlate to appropriation in the striated spaces of the state or city-state. This spatial dialectic explains why early banditry and piracy were semantically identical. From the fixed perspective of the city, the heterogeneous forests, filled with all possible dangers, were alien, opaque and threatening areas outside of the dominion of the sovereign. The polis, especially the Roman city, according to Lefebvre, “gave rise to a particular representation of space. The way citizens 'thought' their city was not as one space among others but instead as something vaster: the city constituted their representation of space as a whole, of the earth, of the world” (244). Everything outside the city, outside of their world, was naturally other. Likewise, from the stable perspective on the shore, the sea is an ever-encroaching threat, liable to bring anything over the horizon. Within the city, however, one can always determine exact location by the walls, the palaces, and where doors and guards block access. While the people within the city, the citizens, can be counted, contained, and silenced, those outside are innumerable and therefore seem infinite, more horde than human.

Yet, as Deleuze and Guattari insist, striation leads to smoothness (488). In the era of GPS and shipping corridors, a period in which every inch of the planet seems mapped, accessible, and secure, maritime piracy has reemerged, slipping out from the nooks and crannies between states and within states. The well-drawn maps of nation states are slowly changing under the processes of globalization, while trade blocs and interstate agreements act to resist and restratify global space (as globalization does not so much deterritorialize as reterritorialize the nation state) (Agnew 243; von Benda-Beckmann et al. 6-8). Through globalization, new interstices develop, creating new powers that will designate new pirates.

In its intellectual iteration, piracy functions more complexly. On the one hand, the relationship between spatial practice and representations of space (as envisioned in IP laws) produces piracy. A recurring theme of Johns' study of intellectual piracy is the domestic nature of piracy. According to Johns, "piratical practices have depended on how people understood such things as borders, domestic thresholds, and the nation" (*Piracy* 14). The domestic space of the home, primarily outside of the sight the state (yet still inside it), was naturally the initial space of piracy (*Piracy* 434). The disconnect between regimes of authority in the private sphere and the public sphere, while not totally separate, has allowed for a perspectival differentiation of piracy from production: "Classically, if something took place in the home, it was not piracy" (*Piracy* 434).

As Johns point out, however, the home "is not a static entity" (*Piracy* 434), and the battles over digital piracy have demonstrated both the dynamic nature of the home as a space and as a private sphere. The increased fluidity "between private and public in digital media and on the internet...affects the relationship between the juridical and the political," according to Dahlberg (276). As modern media piracy takes place in the "extended private space created through the interconnection of individual private spaces" (Dahlberg 276), the juridical space striates the smooth, private space of the home, and likewise political space striates the public space (Dahlberg 278). Dahlberg specifically invokes the Swedish Pirate Movement as an example in which the reach into the private space has spurred a movement into the public space of politics, in order to reassert the very sanctity of the private space. Through a paradoxical dynamic, attempts at control are leading to attempts to control the controllers.

The domestic also figures prominently in piracy as one perspective on the relation between states, as the disjunction between intellectual property regimes opens spaces of piracy.

Another oft-discussed example is the early U.S. copyright regime, which did not acknowledge foreign copyright until 1891. Primarily an intellectual property importer in its early history, as the U.S. came to export more intangibles it gradually agreed to previously rejected international treaties and has now become the leading exporter and enforcer of intellectual property protections (Vaidhyathan 50-53). In this situation, state power and lack of regulation define the striated and the smooth in a constantly shifting relation: the pirate state looks like a free, anarchic space compared to one's own place, although previous relations demonstrate power and interests rather than law and order.

On the other hand, digital piracy returns to the space/place distinction of piracy, as cyberspace is also a placeless space. Architect William J. Mitchell argued as far back as 1985 that the Internet is “fundamentally and profoundly antispacial. It is nothing like the Piazza Navona or Copely Square. You cannot say where it is or describe its memorable shape and proportions or tell a stranger how to get there. But you can find things in it without knowing where they are. The Net is ambient – nowhere in particular but everywhere at once. You do not go to *it*; you log *in* from wherever you physically happen to be” (8). For Mitchell, “geography is destiny” and the disembodied navigation of the web does not count as moving through space (Mitchell 10). Yet his language betrays not that the Internet is profoundly antispacial, but rather that it is *antiplatial*. That “you can find things in it,” that it is “nowhere in particular but everywhere at once” demonstrates that people conceive of it as space, and only a positivist, Cartesian conception of space would deny the social construction of *cyberspace* as space.

Rather, as Mark Nunes asserts, networked computer-mediated communication, unlike previous media, “‘overcomes’ space; the user experiences the medium itself as a spatial network—that is, as a space of interconnection” (xiv). Whereas users previously initiated media,

now they “enact” a medium through hand and eye movements, becoming operationalized within the computer as it becomes “an organizing concept for the spaces of everyday life” (xiv). Which is to say, people not only experience and interact with networked computers differently, but the ubiquity of computer technology and the Internet reshape physical space, as mobile devices and the burgeoning Internet of Things have already demonstrated.²⁹ Space in this formulation is both physical and social, with the two demonstrably affecting each other. Yet the space of the Internet, or rather the interconnection of spaces enabled by the Internet as mediated through screen technologies, is always personal space, “is always *my* cyberspace” (xiv). This is why cyberspace is a space and not a place: there is no proper placement of things within it because there is no embodiment within it. It is always personal space, and therefore out of place for everyone else.

“As a technical matter, of course,” insists Mark A. Lemley, “the idea that the Internet is literally a place in which people travel is not only wrong but faintly ludicrous. No one is ‘in’ cyberspace” (523). Rather, the Internet creates (and collapses) space through the interlinking of places, whether those places are understood as the cybernetic extensions of users in their physical locations or the physical servers that make such extensions possible. Nor are websites places, as they lack uniqueness, physicality, and the ability to be practiced (i.e. labored over) in their graphical (interface) form (Gieryn 463-465). While it is possible to *place* the Internet in its users, the computer hardware, *or* the cables that connect them, wireless technology problematizes this placing of the Internet, and the millions of miles of cables now spanning the globe (and homes) likewise obscures any specific placement. Like the sea, cyberspace is a

²⁹This enactment and experience of the computer technology is both Ihde’s hermeneutic relation and background relation.

variable, constantly shifting space that exists between more stable places, therefore crossing and problematizing the boundaries and regimes of sovereignty and law.

Speech Acts, Discourse, and Symbolic Power

For designations of piracy, performance and context are paramount, as the definition of piracy, even maritime piracy, has always been highly contested. A short examination of the two most influential contemporary definitions of maritime piracy will demonstrate the importance of an analysis based in usage and context, not stipulative definition. Maritime piracy, according to the United Nations Convention on the Law of the Sea (UNCLOS), is

(a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

(i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;

(ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State. (Part. VII, Art. 101)

The convention, signed in 1982, also holds that participating or facilitating such acts is a piracy as well. The UNCLOS definition of piracy limits the activity (which ranges from detention to murder) to the high seas or outside the jurisdiction of any state. This definition is problematic, as the vast majority of maritime piracy throughout history occurs not on the high seas, where ships are less likely to encounter each other, but rather in what the same convention deems the “territorial sea,” a limit of 12 nautical miles from the coast, and the “exclusive economic zone,” the 200 nautical miles adjacent to the territorial sea (Part V, Art. 57). The U.N.’s need to respect (and not impinge on) the sovereignty of its member states undoubtedly causes a problem of

definition, as the legitimacy of the convention rests on its acceptance and ratification by those states. By displacing piracy from where it predominantly takes place, UNCLOS sidesteps the conundrum of conflicting national laws, but undermines its applicability. The UNCLOS definition, rather than defining piracy, displays the conflicts of sovereignty in any international agreement and reveals the state's continued primacy in determining piracy.

As well, the legitimacy of the convention itself is questionable as it lacks the signature of the world's leading military power (Møller 18). Though the U.S. helped draft UNCLOS, it has never ratified it, as conservative politicians have feared it as a threat to sovereignty and for the (unlikely) possibility of an increased tax burden on American shipping (Wong). This lack of ratification also disrupts U.S. law, as the "Piracy and Privateering" section of the U.S. Code begins first and foremost by aligning national law to international law: "Whoever, on the high seas, commits the crime of piracy as defined by the law of nations, and is afterwards brought into or found in the United States, shall be imprisoned for life" (18 USC 1651).

In contradistinction, the International Maritime Bureau (IMB), a specialized division of the International Chamber of Commerce, uses a more inclusive definition than the U.N.: "Any act of boarding or attempting to board any ship with the apparent intent to commit theft or *any other crime* and with the apparent intent or capability to use force in the furtherance of the act" (3; ital. add.). This definition allows for piracy at any location, whether high seas, territorial seas, or docked, and includes all crimes and even unsuccessful criminal attempts. By locating piracy in the ship (instead of the ocean) and in any crime (instead of plundering and kidnapping,) the IMB definition expands piracy to any crime in any place a boat may be. The Bureau tries to retroactively limit the action by adding that it excludes petty theft "unless the thieves are armed" (3), yet the broadness of the description threatens to displace piracy from the sea and from the act

of appropriation. The definition suits the purposes of the IMB, however; as an organization representing businesses, the International Chamber of Commerce has an interest in higher piracy numbers, and the group admits that the definition is for “*statistical purposes*” (3; ital. orig.).

As these two definitions of maritime piracy demonstrate, it is impossible to comprehend piracy without taking into account the power, position, and interests of the defining party. Far from simple robbery at sea, the definition of maritime piracy is always dependent on the statements of historical actors and their needs. Rather than piracy existing separate from language, piracy must be enacted through language, instantiated by a speech act. In 1955 J.L. Austin described the performative aspects of language, which he called “speech acts,” to argue against the then prevalent notion that language focused primarily on the truth-value of statements, on statements correspondence with the world. According to Austin, the judging of a statement’s validity should occur not only on the true/false constative axis, but also on the felicitous/infelicitous performative axis. Whereas the constative axis focuses on a speech acts truth value, the performative axis focuses on whether or not a speech act successfully fits the social conventions for its invocation. In order for a statement to be felicitous, there “must exist an accepted conventional procedure having a certain conventional effect, that procedure to include the uttering of certain words by certain persons in certain circumstances...the particular persons and circumstances in a given case must be appropriate for the invocation” (14). Austin stresses the *conventional* nature of the performative aspect of speech, the roles of the speaker and listener in the acceptance of such speech. While many literary scholars have used speech act theory to analyze isolated texts, Austin’s insistence that the constative statements are performative *and* performative statements are constative blunts the use of speech act theory for

analyzing isolated statements (or isolated systems of statements, like literary texts) (Gorman 93-98). Instead, speech act theory, if taken seriously, must analyze extra-linguistic, social relations.

French sociologist Pierre Bourdieu adopts Austin's formulation of speech acts to understand the power of discourses to shape perception, the power of groups to shape reality. For Bourdieu, "The question of performative utterances becomes clearer if one sees it as a particular case of the effects of symbolic domination, which occurs in all linguistic exchanges" (72). The struggle over reality, or more accurately the perception of reality, resides in language and signification, as language distinguishes between similarities and demarcates differences. Those with symbolic power, which comes from symbolic capital (prestige, reputation, fame, etc.), exert force through language on others, typically those lacking institutional delegation. Institutions, collectivities, and groups work to achieve consensus on opinions and perspectives that justify their position within a particular field, converting other types of capital (economic, cultural, and social capital) into symbolic power. As the accreted weight of social relations and the authority vested in social groups, symbolic power determines the ability to dominate discussions and representations, which in large part determines perception. Yet because other relations may form, and other groups and spokespeople may accumulate symbolic power, such perception is always contingent on the hegemonic production and reproduction of discourse.

While the term "discourse" has several meanings, Bourdieu avoids Michel Foucault's anti-humanist sense of the term. Though both theorists understand "discourse as a system of representation" (Hall "Foucault" 72), Foucault's construction and subsumption of the subject in discourse is problematic because it radically limits agency and minimizes the role of the subject in determining action. Rather, Bourdieu's concepts of *symbolic capital* and *symbolic power*

better explain the ability of discourse to affect the world and the power of institutions to create subject positions that can activate change:

In the symbolic struggle for the production of common sense or, more precisely, for the monopoly of legitimate *naming* as the official – i.e. explicit and public – imposition of the legitimate vision of the social world, agents bring into play the symbolic capital that they have acquired in previous struggles, in particular all the power that they possess over the instituted taxonomies, those inscribed in people’s minds or in the objective world, such as qualifications. (239)

Bourdieu’s approach to naming and discourse highlights the power of states, institutions, and groups to affect consensus through “symbolic violence,” whereas the unaffiliated individual is less likely to affect common sense, as the individual position is singular and subjective without established support. Without the “strength of the collective, of the consensus, of common sense,” the speech of the individual is relegated to “the world of particular perspectives” and must constantly fight for recognition (Bourdieu 239). This struggle between the individual and the group allows Bourdieu to account for the power of titles, which authorize symbolic power in the particular field of the title and beyond.³⁰ Related to his discussion of capital, Bourdieu also puts forward the theory of the field (which he also sometimes calls the game or the market).

Stressing that individual always act in “specific social contexts or settings” (Thompson 14), Bourdieu’s theory of the field provides a spatial metaphor for understanding how individuals fight over and maintain capital in relation to each other. A “site of struggle,” the field is the “structured space of oppositions” of the various competing actors (Thompson 14). Most

³⁰As well, Bourdieu’s formulation of different types of capital affecting an agent’s position in different fields –social, political, religious, intellectual, scientific, etc. – and their linguistic efficacy (214, 230), allows for the discussion of economic power to affect discourses, a possibility that the immanence central to Foucauldian discourse theory precludes. Symbolic capital explains the power of money to justify itself, to purchase power for its holder that extends beyond economic buying power. Symbolic power extends wealth into the symbolic domain, an extension often used to further capital accumulation.

importantly, the struggle within the field sustains it: “the struggle tends constantly to produce and reproduce the game and its stakes by reproducing, primarily in commitment to the value of the game and its stakes which defines the recognition of legitimacy” (Bourdieu 58). To deny the economic field, artistic field, political field, etc., undermines its legitimacy, although the undermining of legitimacy is determined by the denier’s capital in their respective field. The relation between different fields and those within them determines the differing power relations of social life. The differing fields of symbolic struggle nicely align with the perceptions of designators and designees of piracy to their relative spaces, suggesting that the perception of spatial differences correlates with differences of symbolic power within and between fields.

Bourdieu’s concept of symbolic capital is useful for understanding which definitions and designations stick, which names and appellations structure social reality, and which individuals, groups, or acts are perceived as piratical. Designating an act piracy, or someone a pirate, not only claims that they are such things, but makes them so if the speaker has enough symbolic capital: enough “*recognition*, institutionalized or not, that they receive from a group” (Bourdieu 72). The word “piracy” highlights a conflict over the authorization and legitimization of appropriation, a conflict that always lurks behind property. “Piracy” can, however, exert a *theory effect*, which is “the effect of imposition of the principles of di-vision which occurs whenever an attempt is made to make something explicit” (Bourdieu 132). A theory effect is more likely if the “*classificatory properties* through which a group is explicitly characterized, and in which it *recognizes* itself, encompass more completely the properties with which the agents constitutive of the group are objectively endowed” (Bourdieu 135). Which is to say, whether or not an actor designated a pirate accepts the designation depends upon how they understand the conditions of piracy and how they understand their actions. As discussed, piracy overlaps and blurs with “legitimate”

forms of appropriation and production. The likelihood that people will accept piratical designations is directly related to how close their actions mirror representations of piracy, representations that overwhelmingly depict maritime piracy.

Designations of Maritime Piracy

The ability of the dominant group to name, to use symbolic power, obfuscates initial acquisition and allows for the criminalization of the actions of those marginal to them. As previously discussed, the establishment of the Greek city-state marked a change in the spatial relations of power. According to Heller-Roazen, many “ancient authors present the rise of commonwealths as marking not the end of acts of depredation but their formal and lasting establishment”(42). Hellenistic Greek city-states granted “the right of reprisals,” or *sylan* (σύλη), allowing an individual to pillage another individual’s ship, an individual to pillage another people’s ships, or an entire people to pillage another (Ormerod 65). *Sylan*, therefore, “pertains both to an act and a right to commit it, referring to a domain in which fact and law, events and claims, deeds and rules intertwine and grow difficult to tell apart” (Heller-Roazen 42). Against this right and act, Greek polities formed inter-municipal agreements of restriction, which they termed *asilia* (ἀσυλία), from which derives the term “asylum.” Both the right to and the restriction of reprisals “originated in a single power...The moderns would call this power “the state”; the ancients naturally gave it different names, depending on the circumstances. The essential point may be that, from the beginning, this power did not limit itself to seizing goods and persons, like the pillagers who roved beyond its borders. It also captured something else: the right to capture, with force no less than with legality” (Heller-Roazen 42). Claiming for

themselves the right to plunder, classical Greek collectives designated plundering on behalf of others as illegitimate. Through agreements between mutually recognized collectives, they both enshrined and forbid such pillaging. Those who they excluded from these agreements they called bandits and, eventually, pirates.

The practice of authorizing sea theft while decrying the action of others has never ended, as demonstrated most clearly in the Atlantic in the 17th and 18th centuries. During this period, pirates existed alongside privateers (called *corsairs* by the French), buccaneers, and freebooters; three other groups that plundered ships at sea. Colonial sovereigns granted letters of marque to privateers, authorizing them to attack enemy merchant ships during times of war as an extension of the state's navy. The privateer was, in essence, a maritime entrepreneur who furthered the war effort by attacking supply lines. During peacetime, the privateer would often still operate, though his sovereign deemed his actions illegal (while covertly supporting and benefitting from them). This kind of deniability especially benefited Queen Elizabeth against the Spanish, and allowed her to not only expand British commerce but to also train future naval recruits, as “nearly every maritime hero of the reign of Elizabeth – Drake, Hawkins, Grenville, Gilbert, Raleigh, Frobisher and many others – spent some of his days either as a pirate or as a privateer who engaged in piracy on the side or was an aider, abettor or employer of pirates” (Earle 23).

The distinction between privateer and pirate attempts to sanction and prohibit the same action, yet the “‘licensed privateer’ principle brings into doubt the ‘common enemies of mankind’ principle, which suggests that neither are actually principles at all, but depend on which way the money is moving” (Parker 182). The distinction between pirate and privateer for the sailors themselves was naturally fluid and strategic. Historian Lauren Benton argues that few “pirates ever sailed under the black flag...Far from embracing the role of rogues, most sought to

present themselves as privateers, that is, as legitimate agents of sanctioned violence” (“Of Pirates” 75).³¹ Sailors, understanding intuitively that piracy is a matter of perception and position, became extremely adept at “legal posturing” (“Of Pirates” 76). As the complex case of Captain Kidd, who left port a privateer and returned a pirate, demonstrates, sailors had to be laymen lawyers as the political contingencies on land often determined their status when they returned (“Of Pirates” 78). As one legal scholar puts it, “Privateering did not differ from piracy in the substantive nature of the conduct, but only in the attendant formalities” (Kontorovich “The Piracy” 214).

The ambiguity between privateer and pirate is not relegated to history, as the current moment “may be a golden age for the new privateers – mercenaries, security services and private armies” (Parker 182; Dawdy “Why” 362). Since the 1960’s, private military contractors have fought throughout the world, “sometimes as purely *freebooting* soldiers of fortune, at other times with the direct support and approval of Western governments” (Armstrong 3; ital. added). Private military contractors reduce the political costs of conflict by making it seem less perilous, which in turn benefits national political and military elites (while burdening their constituents with the costs of military campaigns they would not support) (Chwastiak 20). The U.S. military contractor Blackwater Worldwide even attempted to create a freelance pirate hunting market, which would have been, because of its private ends, piracy against pirates (Mazzetti; Dawdy “Why” 362).

³¹Benton implies that Marcus Rediker and those who follow him in championing pirates as nationless, social bandits have romantically over emphasized sailors self-identification with pirates and rogues (“Of Pirates” 75). See Marcus Rediker, *Villains of All Nations: Atlantic Pirates in the Golden Age*, especially 148-169, and the discussion of the interpretations of Caribbean piracy in the next chapter.

Further complicating the matter, contemporary nation states that share a more cohesive understanding of and prohibition against piracy still attack and seize merchant ships. Though the Paris Declaration of 1856 outlawed privateering, it is naïve to believe that “piracy became and remained beyond the pale of legitimate state behavior” (Burgess). Rather, states “arguably became pirates in all but name, and states such as France, Germany and the Soviet Union envisaged waging their maritime wars in more or less the same manner as they would previously have done by outsourcing the task to privates-turned-corsairs” (Møller 30). Instead of ending the practice of privateering, “with the *Paris Declaration*, the methods of economic warfare achieved recognition in treaty law” (Hanes 315). Privateering did not disappear, but instead came within the state’s purview, as states continue to attack non-combatants to weaken supply lines and infrastructure. This strategy, known as *guerre de course* or commerce raiding, was practiced by France in the 18th century, Germany in both World Wars (Møller 7), and by the U.S. to great success against the Japanese in World War II (Baer 234). German submarines in World War I even went as far as “leaving no trace” (i.e. no survivors and no wreckage) of the civilian ships they attacked, a tactic that traditional, economically interested pirates would not use (De Montmorency 134). Nor is “cruising warfare” limited to situations of war: the British Royal Navy boarded slave ships in the 19th century for humanitarian policing, and embargoes (police actions) and blockades (military actions) by international alliances against non-compliant states currently repeat the actions of pirates, though receive none of the opprobrium (Møller 7; Hanes 315-322). The distinction between private and public ends (always a problematic distinction), largely accounts for the lack of a designation for “state piracy” (Murphy 54-59). As British jurist J.E.G De Montmorency declared in 1919, “There is a profound unreality in the doctrine that the rulers of a state as such cannot commit crime. It is unreal to hold that acts, which committed by

individuals without authority would be criminal, cease to be criminal if authorized by a sovereign state” (141).

Buccaneers, one of the other traditional groups of maritime predators, began as farmers and hunters, or worked in other land-based occupations but turned to piracy after the Spanish tried to depopulate the northern side of Hispaniola (modern Haiti) in the beginning of the 17th century. In order to clear out the English and Dutch living in the wilds of the island, the Spanish destroyed their settlements, hunting camps, and attempted to slaughter the wild cattle off of which they survived, scattering them to the surrounding islands. Known as *boucaniers*—those who smoke and barbecue meat—this “remarkable blend of human flotsam” mixed with the French conquerors of Tortuga and began attacking Spanish ships and networking with other islands (Galvin 110). These men, who called themselves “The Brethren of the Coast,” may have been influenced by the British radicals of the New Model army and the Monmouth Rebellion, who “rejected a state church, supported full religious toleration, and often carried this over to advocacy of democratic, communist or antinomian ideas” (Hill 161). The Dutch, French, and British governments utilized, encouraged, and celebrated buccaneers for the damages they did to the Spanish trade monopoly, the plunder they brought into the colonial economies, and the defense they provided to settlements. Rather than criminal outcasts, the buccaneers were in fact the economic engine of the non-Spanish Caribbean during this period (Konstam 95–115; Earle 92–93). As the French, British, and Dutch buccaneers did not generally attack their own national or allied ships, they were considered heroic in their home countries and could easily reintegrate into legal society, as shown by the lieutenant governorship of Henry Morgan. Not in the direct employ of a crown, the buccaneer served the interests of the enemies of Spain and did not

receive from them the opprobrium and appellation of pirate. To the Spanish though, they were undoubtedly pirates (Turley 28-36; Leeson 7-8).

Freebooters were a contemporaneous, though less common, class of sea predators. Dutch sailors coined the term *vrujbuiter* to describe those who did not honor Spanish claims to the new world. Bypassing their intermediaries, Dutch traders (and many from other nations) went to the Americas to trade with Spanish settlements illegally. As Anne Pérotin-Dumon details, due to the prohibition against settlements trading with non-Spaniards and the intimate marriage of commerce and war during the early period of colonial expansion, merchants often attacked settlements as a strategy to both steal goods *and* to encourage prohibited trade (207). The “two words ‘raiding’ and ‘trading’ appear over and over in the literature [of ships logs] to describe these two modes of operation” (Pérotin-Dumon 209). The choice between one mode and the other “depended on a variety of circumstances, such as whether or not one was familiar with the potential local partners, far from or close to one’s base, at the beginning or the end of one’s venture, and so forth. What mattered was to be ready for either option” (Pérotin-Dumon 209). Freebooters, then, were traders who were also at times pirates, partly because they were prohibited from trading with the locals and often were forced to facilitate an excuse for their Spanish trading partners, and partly because raiding was economically necessary in inhospitable waters. They were, of course, pirates according to the Spanish government, demonstrating that “the trope of piracy has always been highly mobile, a marker of the very instabilities of those lines that define social and ethical standards” (Mackie 29). Freebooters, in this respect, are like the earlier Lukkans, who some historians claim as the first pirates.

According to Egyptian inscriptions from the 14th century BCE, the Lukkans, a tribe based in Asia Minor, raided Cyprus and aligned with the Hittites against the Egyptians. Like many

Mediterranean “sea raiders” (Konstam 10), the Lukkans attacked on and from the sea, blurring their piracy with that of traditional war and conquest, as well as blurring the space of piracy. More importantly, the Lukkans and other tribes of “sea peoples” were not solely pirates, but rather mixed trading with depredation (Konstam 11). Yet if ancient sea peoples practiced these two economic activities in close combination, the separating of them by moderns is problematic. Like the later Dutch freebooters, ancient sea peoples did not define their activities as piratical, but rather as part of a larger practice of maritime labor. Both problematize the relationship between maritime trade and piracy, undermining the discursive boundaries that designations of piracy attempt to establish.

As these different classes of pirates testify, piracy arises primarily not from acts, but from changes “in the political realm – either [from] the will of a state to establish commercial hegemony over an area where it had previously been weak or non-existent, or from the conflict between two political entities, one an established trading power and the other a newcomer” (Pérotin-Dumon 197). The latter applies to the Dutch freebooters described above, while the former describes the practice of states labeling smugglers as pirates after said states decide that they would no longer tolerate (or no longer need) black market networks to supply their territories (Pérotin-Dumon 222-226). In these instances, piracy is piracy because one power decides it is, and another power can easily come to a different conclusion.³²

³²Also, because piracy often happens on the high seas, not just in territorial waters, states must extend their jurisdiction to international waters, where their laws and their power do not normally extend. Only the force of law defines piracy in such instances. International law would seem to answer such a dilemma, however there is no court or international body with the power to override state sovereignty (nor has there ever been such an entity), and there is no agreed upon definition of piracy in international law (as discussed earlier). As well, international law primarily defines the relations between states, not the relations of states with non-state actors (Murphy 11-21).

In 1588, Italian jurist Alberico Gentili had the honesty or audacity (depending on the viewpoint) to actually define piracy in this way. In his *Commentaries on the Law of War*, Gentili, pulling selectively and somewhat incorrectly from Roman law (Rubin 22), held that pirates could not engage in legal war because war “on both sides must be public and official and there must be sovereigns on both sides to direct the war” (qtd. Rubin 22). For Gentili, recognition by a sovereign made sea depredations legal and lack of recognition made them piratical, in effect invalidating any action centered definition of piracy and creating a plurality of competing and conflicting domestic legal regimes (Rubin 20-26; Wilson 458). Although sovereigns of the time found Gentili’s positivist legal position attractive because it allowed them to deem any oppositional power or individual piratical, later legal scholars like Hugo Grotius rejected it for a natural law, objective definition of piracy. Grotius held that a pirate collectivity could never “become a state, although they may preserve among themselves that degree of subordination...[because for pirates] the commission of crime is the sole bond of union” (274).

Though Grotius’ definition proved more influential, by his logic the Barbary Pirates were not pirates (Rubin 27), a position at odds with all of European opinion during his time (De Montmorency 133). From the 16th to the 19th century, several North Africa states encouraged pirates to attack Christian ships for slaves. Rather than treat these pirates as the common enemy of all and attempt to destroy them, the governments of Europe and the Americas paid tribute (Lane-Poole 4). The Barbary pirates even provided passes to the nations in good standing, and played the Christian powers against each other (Montmorency 136-140). Of course, the European powers would have considered the Barbary Pirates as privateers or, to use a modern phrase, coast guard, had they been part of Christendom, but as Muslim others, they were pirates.

As this short analysis of the categories of maritime predators demonstrates, the power and interests behind categories betray the discursive nature of piracy. Fundamentally, without discursive exclusion there is no piracy. Uncertain terminology indicates not uncertain concepts, but rather concepts that shift with the perceptions and power related to an object or action. Rather than revealing an empirical action, every usage of the word “piracy” will reveal suppositions, interests, and the relative position of the speaker and target. As Jody Greene claims, “the semantic instability” of piracy enables “relations of force,” as “control over terminology is not a weak form of power, subservient to the kind that has violence at its disposal. In the international arena, the dominant power will inevitably be the one that manages to control the interpretation of a situation, whether by argumentation or by force or by some combination of the two and, in so doing, changes the course of global events” (687). Symbolic power, economic capital, and physical force determine who is a pirate and what actions are piratical.

If, as pirate historian Marcus Rediker proclaims, “No matter who or what he actually was, the pirate was reduced to a criminal pure and simple, the very negation of imperial social order” (*Villains* 174), the pirate stands in a fascinating relation to the imperial or sovereign order, a relation of antithesis and differential definition. Jean Bodin, in one of the first European works to define sovereignty, writes, “Sovereignty is that absolute and perpetual power vested in a commonwealth.” Yet by his own definition, a commonwealth “may be defined as the rightly (*droit*) ordered government of a number of families, and of those things which are their common concern, by a sovereign power.” Rather than sovereignty originating in the power vested by a commonwealth, the power can only come from a group already “rightly ordered... by a sovereign power.” The key to this circular sovereignty is the exclusion of robbers and pirates (*les brigands et corsairs*), which Bodin expels from the republic by echoing Cicero: “With them one should

have neither intercourse, commerce, nor alliance.” Though Bodin, unlike Grotius, admits that robbers and pirates have community amongst themselves and therefore possibly constitute a commonwealth, “the terms *amity*, *society*, *share* cannot properly be used of such associations. They should rather be called conspiracies, robberies, and spoliations. Such associations lack that which is the true mark of a community, a rightly ordered government in accordance with the laws of nature.” According to Bodin, lacking a *recognized* sovereign, pirates and robbers lack right and law.

The pirate and brigand, deemed outside of the commonwealth and nature, in fact authorize the sovereign’s right. Through an exclusion of the pirate and the robber, Bodin constitutes government as just, regardless of its actions. As the sovereign is “the image of God,” he is in accord with the laws of nature. The pirate and the robber are naturally the inverse of this image, almost the spawn of the devil. Bodin’s theory of sovereignty is especially instructive because it isolates the operation of piratical exclusion. In order to define the space of sovereignty, Bodin must exclude the pirate and bandit to create the interior of the commonwealth, demonstrating the process whereby symbolic power utilizes discourses of exclusion to perpetuate itself.

The exclusion of the pirate from the human community originates before Bodin, however, in Roman law. The Roman Jurist Ulpian, in an extremely influential passage from the *Corpus Juris Civilis*, distinguishes between lawful enemies and bandits: “Enemies are those upon whom the Roman people has declared war publicly or who have themselves declared war upon it: the rest are termed bandits or pirates [*latrunculi vel praedones*]” (qtd. Braund 198). Though Ulpian does not use the word *pirata*, but the more general *praedones* (plunderer) and *latrunculi* (robber or brigand; the root comes from the Roman word for mercenary), the

distinction has influenced later legal perceptions of piracy. In Roman civil laws, the plunderer and robber were not public enemies (*hostis*), or personal enemies (*inimicus*), but rather between both: not part of a recognized collective, and therefore worthy of the name enemy, but also not criminal citizens. Bandits in Rome “were, quite literally, ‘out-law’...lumped together with the other outcasts of Graeco-Roman society: the slave and the insane” (Shaw 22). This legal exclusion has influenced later legal formulations, though its actual *de facto* application in Roman law was inconsistent. As Pompey’s war with the pirates in 69 BCE shows, Romans did declare war on pirates, several times (Dio).

Western and international law, which is heavily influenced by Roman law, deems the pirate *hostis humani generis*: the enemy of all mankind. This statement supposedly originates in Cicero’s *De Officiis*, in a passage on the obligations regarding oaths towards enemies: “for a pirate [*pirata*] is not included in the number of lawful enemies, but is the common foe of all the world; and with him there ought not to be any pledged word nor any oath mutually binding” (3.107). Cicero’s usage here is not legal, as the obligations Cicero describes throughout *De Officiis* are for “the universal bond of our common humanity” (1.53; Heller-Roazen 13-22). While later writers repeatedly (even today) attribute *hostis humani generis* to Cicero as a Roman law support for sovereign power (Rubin 10), Cicero’s exact phrase in *De Officiis* is *communis hostis omnium*: common enemy of all. *Hostis humani generis*, the phrase that international law adopted for the legal status of the pirate, is actually a later emendation by the 14th century Italian Jurist Bartolus de Saxoferrato. The slight change by Bartolus adds a provocative nuance to the meaning.

Dan Edelstein, tracing the history of the phrase, reveals that it originally referenced the devil and not the pirate. Appearing in Christian texts as early as the 4th century C.E., the use of

this phrase for the devil later links the pirate with “a menace to each and every soul,” a menace for which “the imperative for extermination [is] all the greater” (Edelstein 31). As the original Christian figure both outside and inside the cosmological order, the Devil correlates perfectly with the pirate as a figure whose exclusion defines the internal order. Beginning in the Middle Ages with the writings of Gregory the Great, the devil is against god yet a creation of god, his opposite and his tool (Russell 94-97). The devil, like the pirate, problematizes the distinction between friend and enemy, and his exclusion establishes Christian morality.

This phrase, and the statements that stem from it in writers like Pierino Belli, Balthazar de Ayala, Alberico Gentili, Hugo Grotius, Charles Molloy, Christian Wolff, and others, often serves as the legal basis for universal jurisdiction over pirates (Heller-Roazen 103-118). The discursive continuity of the pirate as the enemy of mankind, in a circular logic, allows for all mankind to kill the pirate (Dawdy “Why” 374). In a recurring paradox of humanism, it is “in the name of the *humani generis* that less fortunate *humani* must be killed” (Edelstein 29). Legal scholars often cite Emrich de Vattel’s *Law of Nations* as a key source for the universal extermination of pirates: “Poisoners, assassins, and incendiaries by profession, may be exterminated wherever they are seized; for they attack and injure all nations by trampling under foot the foundations of their common safety. Thus, pirates are sent to the gibbet by the first into whose hands they fall” (I.233). Though Vattel probably did not intend for the statement to justify the universal jurisdiction of pirates based on a judgment of the monstrosity of the crime (Kontorovich “The Piracy” 233), the echoes of Bartolus and the text’s import have allowed for such a connection to justify not only universal jurisdiction but also summary execution. The status and treatment of the pirate therefore rests on the weight of this discourse, and the role the

pirate played in earlier understandings of sovereignty and international relations determines to a large extent the pirate's position today.

As conceived in international law, the pirate functions similarly to Giorgio Agamben's theorization of the state of exception: as an excluded inclusion and an included exclusion at the heart of the law (Thorup 15).³³ Agamben's work on sovereignty, in both *Homo Sacer* and *The State of Exception*, focuses on a central paradox of sovereignty articulated by Schmitt: the sovereign is the one who decides to suspend the law in the state of emergency to ensure its continuance. The sovereign is therefore both inside and outside the law, both the protector and destroyer of it (Schmitt *Political* 6-12). This strange paradox, in "which something is included solely through its exclusion," Agamben calls the "the *relation of exception*" (*Homo* 18). The relation of exception allows Agamben to account for the rise of totalitarian states and totalitarian practices by democratic states. These totalitarian states and practices, by designating certain populations as bare life and less than human, create an exceptional category of beings within the law to which the law does not apply.

Agamben's formulation is useful for thinking about piracy, although the piratical relation functions somewhat differently. While the sovereign suspends the law to ensure its continuance, the pirate exists within the law to justify the appropriations of sovereign power (hence the increased designations of piracy during periods of territorial expansion). The pirate is an included exclusion, an other who looks, upon closer examination, like the self (hence he is *unheimlich*). Assigned "to a zone of relative exteriority," the pirate conveniently does not include

³³ Jody Greene finds that the pirate is "the constitutive exception, the extralegal figure without whom that body of legal thinking [international law] would not have been able to delimit itself in the first place" (695).

one's own moment, people, or place (Heller-Roazen 38).³⁴ This relative exteriority allows jurists and rulers to overlook the similarities between their polity and those of supposedly piratical peoples.

The exclusion of pirates functioned in the Colonial period as the legitimization of national self-interest through rapine and murder. The excluded pirate (as well as his brethren the brigand, the native, and the tyrant) allowed the early modern state to justify any crime outside its own territories as a necessary evil, a means to end, without acknowledging the affinity between outlaw and sovereign.³⁵ While the idea of territorial sovereignty originates in the 17th century, it did not stem from internal state events but rather from the extension of sovereignty through corridors and vectors of the ocean, as ships carried law and sovereignty with them and encountered other ships and their legal claims (Benton "Legal" 702). The protuberance of sovereignty across the ocean coincides with the Treaty of Westphalia (signed in 1648), in which European states recognized each other as territorial entities. Once the nation state cements as a concept, legal category, and territorial entity, an international order forms and sovereignty requires not just the acceptance of the ruled but also "reciprocal recognition" of other states (Wallerstein 44). Not surprisingly, during the nation state's genesis it was the pirate who became the antithesis of the international order as the European nations devoured the rest of the world and its peoples. Extending their sovereignty by recognizing each other and excluding the pirate and others, the colonial powers created the "rightly ordered government of a number of families" (Bodin), each with its own sovereign (Schmitt *Land* 16-26).

³⁴As Heller-Roazen translated Agamben's *Homo Sacer* into English, it is not surprising that his understanding of piracy shows affinities with Agamben's ideas about sovereignty.

³⁵For a recent example, consider the rhetoric invoked against Saddam Hussein, the countless illegalities of the Iraq War, and the hundreds of thousands killed and the million displaced and maimed in the name of freedom from tyranny.

Designations of Intellectual Piracy

As previously stated, piracy is not a legal term in intellectual property law, and intellectual property itself is a relatively new term for what lawyers previously called monopolies (Fisher 20; Mar “The Rhetorics” 613). Rather, those who violate the copyright, patent, or trademark rights of another face criminal charges or civil damages for infringement. This difference in legal terminology has led several legal and cultural scholars to hold that the use of “piracy” to describe infringement is simply rhetorical or metaphorical. Jurist and law professor Stephen Waddams, for instance, stresses in an oft quoted passage that “the taking of a photograph, the rebroadcasting of television signals, the use of confidential information, or the copying of a design cannot, in fact or in law, be piracy, robbery (on or off the highway), or theft, and if it were any of these things the rhetoric would be unnecessary” (175).

Yet the usage is not simply metaphorical or rhetorical: though the terms pirate and piracy are definitionally problematic, people nonetheless use them with a stable logic (i.e. in accordance with the conditions outlined in this chapter) when discussing maritime and intellectual piracy. Just as the competing powers of the early modern period labeled each other as pirates when vying for the territory of the new world, so too do actors in the developing information society label each other as pirates. It is therefore not surprising that the exclusionary designation used during the primitive accumulation of the colonial era is the same one hurled now, during the expansion of globalized capital and mediated communication (Land 170-171, 185-186). As Johns puts it, “It sometimes seems that there is only one charge that all players in the globalization game, from radical environmentalists to officials of the World Trade Organization, level at their respective foes, and that charge is piracy” (*Piracy* 4). There is, then, something

similar in the reaction to robbery at sea, to the mass reproduction of a work without copyright clearance, and to digital copying.

The use of the term piracy for non-maritime appropriation begins in 1664, when Richard Atkyns compared the London Stationers' Company to pirates (Johns 31). The comparison comes at the end of a pamphlet, titled *The Original and Growth of Printing*, in which Atkyns argues for the revocation of the Stationers' Company charter (the society of the printers and sellers of books in London), which granted the group the sole right to print books. Atkyns claimed their monopoly was a threat to the realm and the crown, and the king should curtail and control printing through a royal patent on books, an argument he extended to other livery companies as well. Claiming that the Stationers had increased sedition, rather than controlling it, he proposed the creation of a class of gentlemen patentees that would oversee (and profit) from printing. Like the patentees who held royal lands for the king, the book patentees would align their interests with the king's, keeping others from metaphorically poaching his deer. Alluding to St. Augustine's analogy that begins this chapter, Atkyns claimed that the Brewers' company, which was at that time petitioning parliament against an excise tax, was the pirate to the Stationers' Alexander: "And if the Brewers, who at most can but steal away a Flegmatick part of the King's Revenue, deserve the serious Consideration of the Supreme Council of *England*, how much more these, that do not onely bereave the King of his Good-Name, but of the very Hearts of His People; between whom there is as much oddes, as between a Pyrate that robs a Ship or two, and *Alexander* that robs the whole World." Although Atkyn's pirate analogy is more central to his meaning than designating the Stationers as pirates, this inadvertent comparison set the terms for many future copyright debates, and his appeal was initially successful as Charles II revoked the Stationers' charter. After the Glorious Revolution of 1688, however, the Stationers once again

controlled the book trade in London and called those who published without their permission pirates (Johns *Piracy* 30-40).

What is so interesting about this initiating designation is that Atkyn's attack, unlike later anti-piracy diatribes, was not against his supposed property, but rather against the established book trade. In order to attack the Stationers, he aligned himself with an even more established power, that of the king. In order to do so, he had to create a story of the birth of printing in Britain that contravened the known historical record: he conjured an alternative history of printing in England that claimed printing originated with royal rather than private enterprise. As the then king was attempting to seize the revenue of several different industries, Atkyn's appeal utilized royal symbolic power for his (hopeful) reception of a future book patent (Johns *Piracy* 39).

Whereas sovereignty establishes both symbolic power and occupation of territory (or more accurately, they establish sovereignty) in maritime piracy, as intellectual piracy is primarily policed through civil litigation, legitimacy must draw on established fields of power (in Atkyn's case that same sovereignty). Just as designations of maritime piracy function to exclude competing claims over territory and commodities at sea, so designations of intellectual piracy play an important role in regulating "competing disseminators" of information. Legal theorist Timothy Wu claims that the traditional way of discussing and debating the scope and utility of copyright (as a policy concerned with authors and incentives) is misguided (283). Authors (even with the current possibilities for self-publishing on the Internet) lack the distribution or marketing capability to properly exploit and profit from their work and must sell their copyrights to distributors or work for corporations on contract (without receiving rights in their work) (339). The exclusive rights of authors have therefore always been the contracted rights of

disseminators, individuals, or corporate entities who profit either directly or indirectly from copyrighted material. Instead of focusing on copyright's authorship function, scholars should instead focus on what Wu calls "copyright's communications policy": "copyright's poorly understood role in regulating competition among rival disseminators" ("Copyright's" 279).

In the quest to maximize profits and protect market share, incumbent industries attack new businesses that directly or indirectly profit from the copyrights of the incumbent industry. Yet while incumbents invariably act to protect their business models by invoking piracy, many new market entrants later become incumbents, and the potential profits generated by the innovations of challengers often produce new revenue streams for incumbents. New market entrants cover a historically broad range of businesses and groups, but notable recent "pirates" come from the electronics industry, the recording industry, the television and cable industry, the Internet search industry, and emergent distributors of digital content. With such conflicts as *John Philip Sousa vs. Piano Rolls*; *the MPAA vs. SONY*; *Hollywood vs. broadcast television*; *broadcast television vs. community access television*; and *the recording industry vs. Napster, mp3.com, etc.* (which opened the door for iTunes); the history of content dissemination is littered with cases of incumbents attacking newcomers as pirates. This leads to a predictable pattern of counter claims from the contestants: "The costs of piracy are invariably a complaint of incumbent disseminators, whereas new market entrants for their part complain about being squashed by incumbents" (Wu "Copyright's" 284).

Not surprisingly, when the focus of the copyright debate shifts from authors and pirates to rival disseminators, the debate loses its morality (and gains a David and Goliath narrative). Of course, Incumbent disseminators have more resources for litigation, public relations, and lobbying, and therefore their designations have a greater chance of success, although government

regulation can at times counterbalance the symbolic power of established corporations and initiate broad licensing legislation. Stripped of the designation of piracy, the question in every copyright debate is not who stole what, but rather, “Which forms of piracy today will be tomorrow’s norms? Which of today’s pirates will be tomorrow’s media moguls?” (Decherney 123).

As with maritime piracy, the relation between the two parties will in large part determine whether or not the supposedly offended party will designate the other as piratical, whether or not the offended party will view the offender as a similar entity. A particularly telling example that parallels the Viacom vs. Google lawsuit is the response of the young Bill Gates to the unpaid distribution of his early BASIC language amongst the Homebrew Computer Club. In an open letter published directly in that club’s newsletter in 1976, Gates chastises club members for the copying and distributing his language amongst themselves without permission or purchase (2). Though he uses the word “steal” and tells the hobbyists “the thing you do is theft,” he never calls the members of the club pirates (2), though the term was undoubtedly an option considering its use in the phone phreaking and computer hobby community (Johns *Piracy* 463-495). In the letter his indignation and moral calculus are clear, yet Gates resists the label piracy because the members of the club were the foremost computer programmers in the world. While they had taken his programming language, they were not pirates because they were the market for and authority on computing. Gates signals as much at the end of his letter when he asks them to send him money for the programming language and ends by tying his economic interest to the club’s own: “Nothing would please me more than being able to hire ten programmers and deluge the hobby market with good software” (Gates 2). To call the club members pirates, or their use of the software piracy, would be to deny their ability and eminence as programmers and computer

creators. Just as *hostis humani generis* excludes someone from the human community, designations of intellectual piracy likewise exclude from the field in question.

While designations of intellectual and digital piracy predominantly rest on symbolic power to legitimize private dominion, one particular use has cleverly invoked piracy in the name of positive communion, in the name of protecting collective property. “Biopiracy,” according to activist and scholar Vandana Shiva who coined the term, is “the use of intellectual property systems to legitimize the exclusive ownership and control over biological resources and biological products and processes that have been used over centuries in non-industrialized cultures” (*Plunder* 49.). Biopiracy describes appropriation that ignores “the centuries of cumulative, collective innovation of generations of rural communities” (*Plunder* 49). Typically, governments, trade groups, corporations, and other collectives designate acts against their interests as piratical. Activists like Shiva, however, use the term to marginalize the appropriative activities of those very groups and entities. In this instance, the autochthonous history of native peoples grants them more legitimacy than the governments and corporations that attempt to appropriate their plants and knowledge for profit. Shiva links biopiracy with the theft of lands from indigenous people in the colonial period, deeming biopiracy as the “second coming of Columbus” (*Biopiracy* 1): “At the heart of Columbus’s ‘discovery’ was the treatment of piracy as a natural right of the colonizer, necessary for the deliverance of the colonized.... Biopiracy is the Columbian ‘discovery 500 years after Columbus’” (*Biopiracy* 5). Shiva’s ironic use of “discovery” contests the claims of Western corporations and supportive governments, mocking their attempts to equate autochthonous knowledge with nature (a trope that echoes colonial notions of indigenous people as noble savages). For Shiva and others who use the term,

biopirates lack the authority to appropriate the biological and cultural diversity of native peoples who have prior claims to their lands, their bodies, and their genetic material.

Though Shiva critiques intellectual property and its limited notions of creativity in the name of indigenous peoples (*Biopiracy* 7-18), her arguments for collective ownership of knowledge and resources point beyond the particular exploitations of the developing world. As she states, “In my opinion, reclaiming the intellectual commons through asserting collective intellectual property rights represents the real model of equitable benefit sharing” (*Protect* 68). Likewise she argues for community ownership over water rights because “it is the ecological basis of all life and because its sustainability and equitable allocation depend on cooperation from community members” (*Water Wars* 24). These calls for greater commons inherently invoke the prehistory of property, the positive communion in which the materials of the world belong to everyone: “Knowledge...by its very nature is a collective, cumulative enterprise. It is based on exchange within a community” (*Protect* 21). The pleas for a greater commons rest on the belief that everyone needs and has a right to the world, both in its tangible and intangible forms. Biopiracy as a designation has the same necessary conditions as other piratical designations, it simply excludes appropriations in the name of private property. Inverting the private property system, it constructs appropriations from the community as illegitimate.

Unfortunately, the relatively sparse use of the term “biopiracy” outside academia demonstrates the lack of symbolic capital that professors and indigenous activists have in relation to corporations and politicians, who generally garner more media attention. While professors are respected in their own field (and their own disciplines within the academic field), in the journalistic field and the political field their symbolic capital, at least in the U.S., translates into much less power. This is partially because though the titles of academics, and their

institutional affiliations, undoubtedly grant them prestige, professors do not speak for their universities in the same way that a corporate, trade group, and political spokesperson speaks for their company, industries, and parties, and partially because the creation of news stories as entertainment blunts the ability of experts to disseminate correct information (Bourdieu *On Television* 3). Biopiracy, while a very apt term, and piracy, as appropriation from communal ownership, will not proliferate in popular speech unless corporations, journalists, and politicians begin to use the phrase. Considering the political mission of the phrase's proponents, and the economic resources of their opponents, that scenario is highly unlikely. Likewise, while indigenous groups, through their histories and longevity, garner some amount of symbolic capital, it pales in comparison to that of those who profit from the exploitation of their knowledge and resources.

Conclusion

This chapter has detailed the linguistic, relational, spatial, and technological conditions of designations of piracy. Rather than locating piracy in particular acts, it has argued that piracy distinguishes similar acts of appropriation from others through the discursive exclusion of the appropriators. The success of such exclusions depends on the differing levels and mobilization of symbolic power between the contestants. Originally, piracy and banditry were described with the same terminology as both categories took place outside of sovereign control, but as control of space spread from the city to larger territories, the differences of spatial control between land and the sea necessitated different terms. Correspondingly, the space of the sea required machine technology for navigation, a condition that continued as piracy became a term for the appropriation of intellectual property. The spatial differences that distinguished banditry from

piracy translated in intellectual piracy to physical and metaphorical differences: at times related to social and state boundaries, at other times based solely on the perceived relation between the designator and designee. The spaces of networked computing, however, reinstate the space/place distinction that structured the division between piracy and other types of supposedly illegitimate appropriation.

Although discursive exclusion attempts to delegitimize and morally code forms of appropriation, all appropriation is ambiguous due to an aporia at the heart of the property system. As the prehistory of the private property system is indecidably either positive or negative communion, any appropriation can be theft or justice, villainy or heroism. As well, because of the contradictory possibilities of ownership, piracy can designate both the violation of private property and the attempts to privatize communal property. The morality of piracy will depend on the perspective, interests, and beliefs of the people making the designations and evaluating them. The remainder of the dissertation analyzes how film producers, the anti-piracy media campaigns of the trade groups of the music and film industries, and a particularly innovative social movement responding to those producers and trade groups.

Chapter 3

Pirates Without Piracy:

Criminality, Rebellion, and Anarcho-Libertarianism in the Pirate Film

While designations of piracy conform to the necessary conditions described in the last chapter, representations of piracy in fiction films do not. In an early scene in *Pirates of the Caribbean: Dead Man's Chest*, Johnny Depp's widely popular character, Captain Jack Sparrow, faces a mutinous crew. The crew revolts because Sparrow has returned from his foray into a demonic fort without anything "shiny," because "dear old Jack isn't serving their best interests as captain," because under his command they have not done "a speck of honest pirating." Sparrow, as he so often does in the series, mollifies the crew with empty promises and verbal trickery, and they ignorantly proceed on a quest for the heart of an immortal sailor who ferries dead souls to the afterlife. This moment between the crew and Sparrow reveals an overlooked truth about the *Pirates of the Caribbean* series and the pirate film in general: film pirates rarely, and in many cases never, commit piracy. Far from celebrating piracy, the pirate film separates pirates from the act itself, eliding representations of robbery at sea and punishing those who commit it. In several ways, the *Pirates of the Caribbean* films bear the influence of their historical and cinematic intertexts, though they are updated for a more liberal cultural moment, in which film companies (even those as "family friendly" as Disney) recognize both the need to respect

traditional notions of gender and sexual behavior and the profit of coding their product for gay subcultural appeal (Griffin 119-214; Fradley 310).

A perennial figure in American cinema, the pirate has appeared in films every few years since its first appearance in *Three of a Kind: A Pirate's Dream* (1901). The most beloved and iconic pirate films, until recently, came from the classical Hollywood era (1927-1960), and specifically focused on pirates operating in the Caribbean. The success and cultural significance of Disney's *Pirates of the Caribbean* series, with four films released and a fifth film slated for 2015, has reinvigorated cinematic piracy after a relative dearth of films from the 1960's through the 1990's. The reemergence and success of film pirates after a forty-year lapse raises important questions about the congruities between the present moment and the first half of the last century, and between the earlier cinematic representations of pirates and the current ones.

Not surprisingly, Disney's current series has received significant academic study for its racial politics (Frank 58-62), open-ended nature (Jess-Cooke 205-222; Peterson 70-79), portrayal of gender and queer coding (Karremann 1, 5; Steinhoff; Fradley 294-312), countercultural appropriation (Pugh 1-12; Land 169-170), and transmedia transformations (Aarseth 6-8). Scholars have paid little attention, however, to its relationship to earlier American pirate films. This is especially surprising, as director Gore Verbinski, producer Jerry Bruckheimer, and screenwriters Ted Elliott and Terry Rossio have repeatedly expressed their debt to the earlier films and intention to, in the words of Elliot, "do a movie that embraces the story sensibilities of the golden age of the Hollywood pirate movies while appealing to the story sensibilities of the modern audience" (Shewman 51; Surrell 113-119).

The early and classical Hollywood pirate films, like the *Pirates of the Caribbean* series, are not bound by historical accuracy, but they are nonetheless limited by the cultural conceptions history has produced. All the films utilize three dominant interpretations of pirates: as criminals, as rebels, and as anarcho-libertarians. Resulting from the ambiguity of the historical record, these three tropes manifest in the earlier films as lecherous villainy, superficial rebellion, and gender transformation. These tropes and their manifestations continue in the current Disney series, though its refocusing onto Jack Sparrow after the first film has foregrounded the anarcho-libertarian aspects of the earlier films. Furthermore, while all the films utilize these three ways of understanding piracy to suite their own ideological and industrial imperatives, they do so by minimizing and at times erasing the act of piracy, which is to say that American films often disconnect pirates from the act that defines them. These films, by erasing the collective, economic transgression of pirates, undermine the rebelliousness of pirates and instead focus on individual villainy, heroism, and ill defined, idealized freedom. Although Verbinski believes that piracy is “rebellion distilled” (Surrell 119), he and other filmmakers have subverted that rebellion by mitigating the role of piracy within the films.

In this chapter, I analyze the historical basis for, and interrelation between, the dominant interpretations of pirates as criminals, rebels, and anarcho-libertarians. Next, I trace the mobilization of these tropes across the *Pirates of the Caribbean* franchise: in the *Pirates of the Caribbean* ride, in *Pirates of the Caribbean: Curse of the Black Pearl*, and then in the remaining films after Johnny Depp queered the pirate film and Disney reconfigured the series around his character. Finally, I will analyze the actualization of these tropes in the pirate films of the silent era and the classical Hollywood era, with particular focus on those set in the early modern period. While not the only possible ways to view pirates, irredeemable criminals, romantic

rebels, and utopian freedom fighters dominate historical, cinematic, and popular accounts of piracy because these interpretations have *some* historical validity and are malleable enough to fit differing historical moments, ideological agendas, and consumer desires.

Interpreting Pirate History

Though piracy is as old as maritime travel, the pirates and representations of piracy that have dominated America cinema and the popular imagination originate primarily from the Caribbean during early European colonial expansion. As Christopher Hill succinctly states, “Who says pirates says West Indies” (165). Henry Morgan, Captain Kidd, Blackbeard, Long John Silver, Captain Blood, Anne of the Indies – these pirates, actual and fictional, come from two adjacent periods of piratical activity centered in the Caribbean: the Buccaneer era from 1650’s to the early 1690’s and the “Golden Age” of piracy, from the 1690’s to the end of the 1720’s. These are notably rough periodizations, as historians do not agree on when the Golden Age began and its relationship to the Buccaneer era that preceded it. Even more disputed, however, are the varying interpretations of pirates’ intentions and the moral judgments of their actions during these periods.

David Cordingly declares, “Pirates have acquired a romantic aura they certainly never deserved. Pirates were not maritime versions of Robin Hood and his Merry Men” (xiv). Linda Grant De Pew similarly insists, ““Pirates are often heroes and heroines in novels and plays in which they would more rightly be cast as villains” (20). From this perspective, piracy is solely motivated by greed and the desire to harm others: “Pirates' motives are clear—others have what they want and they are determined to take it from them—but some pirates (though their primary

motivation was still material gain) had secondary motives—to attack and injure those of another religion, another area, or another nationality”(Bradford xi).

Directly opposing this interpretation, Marcus Rediker argues that sailors turned to piracy because it offered them an escape from the privations and injustices of merchant and naval service, because it “offered the prospect of plunder and ‘ready money,’ abundant food and drink, the election of officers, the equal distribution of resources, care for the injured, and joyous camaraderie, all as expressions of an ethic of justice” (9). Stephen Snelders likewise writes that “piracy can be seen as a form of grand marronage, where crews of seamen created an alternative society with alternative rules aboard their vessels” (3). For these historians, pirates are maritime “social bandits” who consciously choose to rebel against hypocritical and unequal social systems. According to Eric Hobsbawm, social banditry “is little more than endemic peasant protest against oppression and poverty: a cry for vengeance on the rich and the oppressors, a vague dream of some curb upon them, a righting of individual wrongs” (5). Social bandits fight against the tyranny of those in power, and piracy can be seen as a class based form of revolt, though not an attempt at revolution, not an attempt to create a new system (Hobsbawm 5).

In addition to these conflicting interpretations, which I will call pirate as criminal and pirate as rebel, there is the common view of pirates as anarcho-libertarians. Peter Lamborn Wilson, writing under the pseudonym Hakim Bey, advocates this view: “It is simply wrong to brand the pirates as mere sea-going highwaymen or even protocapitalists...their base communities were not traditional peasant societies but ‘utopias’ created almost ex nihilo in terra incognita, enclaves of total liberty occupying empty spaces on the map” (Bey 13). In Wilson’s conception, pirates’ idealized desire for freedom dissolves context and achieves the unattainable: full and untainted liberty. This interpretation, while having less historical grounding (Kuhn 57-

58, 61), is currently the most appealing, animating much of the celebration of piracy in popular culture and the use of the Jolly Roger by anarchists and anti-capitalist protesters (Land 188). Rarely occurring in isolation, and clearly interrelated, these three interpretations articulate the dominant Anglophone conceptions of pirates as mobilized in both historical and fictional narratives.

These differing evaluations result from a dearth of verifiable historical information on pirates during the 17th and 18th century and the semantic instability of the term “pirate” itself (Burg xii). As very few pirates were literate, contemporaneous accounts of shipboard activities come second hand or from those captured by pirates (and biased by the experience). Due to this lack of pirate self-presentation, pirates’ motives and activities will forever remain a mystery, and conjecture, fabrication, and romanticization augment the gaps (Kuhn 2-4). Therefore, David Cordingly can insist, “Reason tells us that pirates were no more than common criminals” (xiii), while Robert C. Ritchie can assert “piracy was never *merely* robbery” (iv) and Christopher Land can claim “pirates opened onto a radical form of social organization that moved beyond a simple revolt toward a revolutionary consciousness” (183).

Also contributing to the disagreements is the definitional problem of piracy, as a “wide definition of piracy competes with a narrow one” (Kuhn 7). As discussed in the previous chapter, at its simplest definition maritime piracy is robbery at sea, and those who commit that act are pirates. Piracy can include other forms of maritime predations, such as raiding (attacking land from sea), kidnapping, destruction, and murder, but without the intent to seize property such actions are not piracy. As Gabriel Kuhn stresses, an understanding of what constitutes robbery “has been highly contested throughout history, usually based on conflicting political interests” (7). Designations of piracy, therefore, construct the illegitimacy of different forms of

appropriation, and the structures of power and interest that allow for and prohibit such acts. Naturally, during the early colonial period several other maritime actors not designated as pirates appropriated property at sea without authorities labeling their actions as robbery. Pirates existed alongside privateers (called *corsairs* by the French), buccaneers, and freebooters, who all looted ships at sea.

Pirates, in the wide, inclusive definition used during the Buccaneer period, were those who overstepped their authority or robbed on the behalf of an enemy. However, following the War of Spanish Succession (1702-1713), pirates in the narrow definition appeared in the Caribbean attacking ships regardless of national affiliation. These formerly mobilized privateers returned to a flooded maritime labor market and many “went on the account,” bringing Caribbean trade to a standstill. Prioritizing trade over naval dominance, the colonial powers waged a “rhetorical, military, and legal campaign” against their former employees (Rediker 127). Declared pirates and therefore legally *hostis humani generis*, the “enemy of all mankind,” pirates were linked through legal phrasing with the tyrant, the brigand, and the savage (Edelstein 31). These “villains of all nations” were, actually or no, at war with the world and any naval power could seize and execute them without trial (Rediker 128). By 1728, the European powers had exterminated several thousand of them and ended the Golden Age of piracy.

All three interpretations (criminal, rebel, anarcho-libertarian) have some basis in reality, and inflect the moral judgments placed on the nominally different maritime predators. Pirates were undoubtedly criminals, breaking the laws of multiple states, and did commit horrible atrocities against those who did not surrender easily (and some who did). Edward Teach, known as Blackbeard, actively cultivated an image of cruelty and wickedness, “making his men believe he was the devil incarnate” (Johnson 61). One historian has even described pirate Captain Henry

Avery as "the very model of a pirate villain" and "one of that rarest of human creatures: a completely selfish man" (Sherry 67, 69).

Pirates were also undoubtedly rebels, reacting to the scarcity of maritime proletarian life and the absolute power of the merchant ship captain. According to *A General History of the Robberies and Murders of the most notorious Pyrates*, the early 18th century book from which most pirate lore and fact originates, the pirate Bartholomew "Black Bart" Roberts summed up the choice between piracy and honest maritime labor thus, "In an honest service there is thin commons, low wages, and hard labor; in this, plenty and satiety, pleasure and ease, liberty and power; and who would not balance creditor on this side, when all the hazard that is run for it, at worst, is only a sour look or two at choking. No, a merry life and a short one, shall be my motto" (Johnson 213). Underpaid, subject to horrible abuse, and lacking effective legal recompense or protection, many pirates viewed their actions as "doing justice to sailors" (Rediker 83-102).

And pirates were certainly trying to create something liberated, something radically democratic and possibly anarchistic (Land 190). Under the Jolly Roger, pirates chose their captains (and all policies) by democratic vote, distributed power between the captain and quartermaster, shared loot amongst the crew based on skill (and still the largest share was only 1 & ½), and lived everyday in carnivalesque excess (Rediker 60-82). Captain Charles Bellamy expressed the radical libertarian sentiment when he responded to a sailor who refused to join his crew: "*I am a free prince* and have as much authority to make war on the whole world as he who has a hundred sail of ships and an army of a hundred thousands men in the field" (Sherry 131). So apparent was the "freedom inherent in the pirate's life" that many people during the 18th century believed in the fictional pirate nation of Libertatia in Madagascar and its founder,

Captain Mission, even though there was no corroborating evidence of such a settlement or captain (Sherry 99).

The semantic ambiguity of piracy and the power inherent in designating piracy likewise affects moral judgments of pirates. The legality of privateering and the national celebration of buccaneering mitigate the opprobrium of more conservative historians, thereby creating a separate moral category for similar actors. The similarity of activity, but difference of legal and moral standing, highlights the social construction of criminality and the hypocrisy of rulers for the more socialist historians, and therefore undermines the moral condemnation of pirates. And the fact that men fought against the early nation states erases any ties (national and economic) they may have had to those states for the anarchists and libertarians. What differs is not the historical data but the meanings of the crimes, rebellions, and attempts at liberty. As Hans Turley, one of the first scholars to study representations of piracy, notes in an oft quoted passage, “These larger-than-life figures remain legendary precisely because there is no ‘truth’ that can be determined...The legend and the reality are woven into a fabric impossible to unravel. However, the *way* this fabric is woven can be examined” (7).

The Pirates of the Caribbean Franchise

Released in 2003, the *Pirates of the Caribbean: Curse of the Black Pearl* grossed \$654.3 million in worldwide box office and earned a Screen Actor’s Guild award for Johnny Depp in the role of Captain Jack Sparrow (“*Pirates of the Caribbean* Special Briefing”; “Awards *Pirates*”). The second film in the series, *Dead Man’s Chest*, grossed one billion dollars worldwide, while the third and fourth, *At World’s End* and *On Stranger Tides*, grossed roughly the same (“*Pirates*

of the Caribbean Franchise”). At this point, *Pirates of the Caribbean*, with four films released and a fifth in development, has brought in \$3.7 billion dollars worldwide in box office sales, making it the seventh highest grossing series ever (“Film Franchises”).

Disney executives began development on the *Pirates of the Caribbean* franchise as a way to capitalize on and cross-promote the various Pirates of the Caribbean rides. According to Walt Disney Studio executive Brigham Taylor, “We talked about the possibility of a pirate movie and the fact that we were the only ones who could call a pirate movie, *Pirates of the Caribbean*” (Surrell 114). Opened in in Disneyland in 1967, the Pirates of the Caribbean ride marked Disney’s entry into three-dimensional, animatronic story telling. The ride floats passengers on flat bottom boats through the haunted caverns of Dead Man’s Cove, between a pirate galleon bombarding a colonial fort, and through a besieged town as pirates torment captives, auction wenches, and attempt to escape from a subterranean jail. The ride, the “‘crown jewel’ of the Disney theme park experiences” (Surrell 7), was so successful that the company recreated it in each of the future theme parks, introducing the pirates to park attendees in Florida, Japan, and Paris.

Following the success of the films, the franchise now encompasses two young adult fiction series; an adult adventure book (*Pirates of the Caribbean: The Price of Freedom*); a comic book adaptation of *Pirates of the Caribbean: Dead Man’s Chest*; video games corresponding with the second and third films, as well as two prequel video games (*Pirates of the Caribbean: The Legend of Jack Sparrow* and *Pirates of the Caribbean: Armada of the Damned*), a mobile phone only game (*Pirates of the Caribbean Multiplayer Mobile*), and a massive multiplayer online role playing game (*Pirates of the Caribbean Online*); refurbished theme park rides that feature aspects of the films; and the more general merchandising and toy

tie-ins of modern blockbuster films. This kind of synergy, at which Disney excels, is only possible during the current period of media convergence, in which not only texts cross media barriers, but in which media company conglomeration facilitates such crossing through orchestrated production, marketing, distribution, and exhibition.

Yet the intertextual network that informs the films does not begin with the ride, nor does the ride particularly inform the later manifestations. As Anne Peterson stresses, “Although piracy, mutiny, and rogue sailors may have certainly existed, the manner in which they are displayed in the ride—as swashbuckling caricatures, bungling and gluttonous—is more a function of exposure to other media, not to factual pirate accounts”(64). The Disney “Imagineer” primarily responsible for the design of the ride, Marc Davis, was inspired by a conflation of graphic, cinematic and literary representations. Like Douglas Fairbanks and other filmmakers, Davis drew from the work of American illustrator Howard Pyle (Surrell 24), whose many magazine pieces and posthumously published *Howard Pyle’s Book of Pirates* single handedly codified the iconography of early modern piracy. Through his illustrations, pirate costuming developed as distinct from that of other sailors, and films have repeated the costuming and standardized the portrayal so thoroughly that bandanas, ragged breeches, open necked shirts, and faded doublets now signify a character type instead of the amalgamation of Stuart era fashion and proletarian clothing (Lubin 167-181). Yet in adopting Pyle’s visual motifs, later artists have ignored the “array of social and economic concerns” his drawings “symbolically addressed,” like class strife, economic policy, American aggression, and colonial oppression (Lubin 177).

While researching pirates for his designs, Davis felt the historical realities took “a lot of the glamour out of these characters.” According to Davis, pirates “would have to sign the [pirates’ contractual] ‘articles’ with their own blood. It turns out that there were very few battles

with pirates at sea. Most pirates died of venereal disease that they got in bawdy houses in various coastal towns” (Surrell 24). Davis’ disappointment betrays a desire for the pirate hero of the Hollywood film, the debonair aristocrats that save helpless damsels in distress. His “real pirates,” however, betray a blending of history and moral censure that produces a Puritan inflected view of pirates as sexual deviants and absolute criminals.

Tamed for a family audience, the Pirates of the Caribbean ride weaves together a series of tableaux in which pirates torment hapless citizens, auction off women, and chase gold. Irredeemably immoral, yet still bungling and dissolute, the pirates of the ride offer a stark portrayal of pirate life as one of unrestrained excess and predation. As Davis remarks, a ride “is not a storytelling medium [in the sense of a movie]. But it does give you experiences. You experience the *idea* of pirates” (Surrell 30). The riders’ experience of the scenes are not structured by their linear progression; the scenes exist simultaneously and independently, activating already present cultural conceptions (Aarseth 7). “The *idea* of pirates” within the ride is, of course, *an* idea of pirates that frames them within a particularly simplified, Manichean morality, in which crime is a mark of character, not a social construction. This portrayal combines anarchy and criminality while denying any rebellion in piracy.

Espen Aarseth, writing of the relationship between the ride, the first film (*Pirates of the Caribbean: Curse of the Black Pearl*), and the simultaneously released *Pirates of the Caribbean* video game, calls attention to the particular lack of shared content between the three media manifestations of the same property (7). Though the film and the game were released to exploit the ride, aside from the shared name and a few visual allusions, there is little overlap between the texts. Applying John Cawelti’s distinction between the cultural and structural levels of popular fiction to the Pirates of the Caribbean franchise and other transmedia properties, Aarseth argues

that what transfers across media is not content but rather concepts (7-8). What transfers between the history of pirates and the rides, the celluloid films, and the digital film and video game texts is not the stories of pirates, but rather the concepts associated with their stories adapted to the narrative, generic, structural, and industrial conventions of each medium.

Pirates of the Caribbean: Curse of the Black Pearl

The first film in the Pirates of the Caribbean series, *Curse of the Black Pearl*, complicates the ride's simple portrayal of pirate villainy by splitting the pirates into two groups. It tells the tale of Captain Jack Sparrow (Johnny Depp), Captain Barbosa (Geoffrey Rush), Will Turner (Orlando Bloom), and Elizabeth Swann (Keira Knightley) as they circumnavigate their various desires for treasure, revenge, the Black Pearl (a ship), and each other. Barbosa, who was previously Sparrow's first mate, helms the Black Pearl with his pirate crew. He and the crew search for a piece of cursed Aztec gold held by Swann, who is the governor of Jamaica's daughter, and, in tandem with the gold, a descendant of their former crew member Boot Strap Bill Turner, who is Will's father. Without the final gold piece and the descendant, they will continue on as cursed monsters that cannot "feel," lacking the pleasures of taste, touch, and smell. Sparrow wants to avenge himself on Barbosa for leading a mutiny against him and to once again be captain of the Pearl. Turner wants to marry Swann, though his station as a blacksmith's apprentice makes such a union seemingly impossible. The combinations of these various desires and each of the main characters' ignorance of the others' desire propel the plot, and eventually Turner, Swann, and Sparrow defeat Barbosa and his undead crew.

Barbosa, as the unregenerate pirate villain, proves himself bloodthirsty, heartless, and backstabbing. He and his crew are unregenerate sadists, literally incapable of feeling due to the cursed treasure and doomed to live forever without empathy or sensation like phantasmagoric sociopaths. Will Turner opposes Barbosa as the good pirate, though he is a reluctant pirate, who practices sword fighting “three hours a day” so that when he meets a pirate he “may kill it.” The first film is Turner’s journey to become a pirate, his growing understanding that, in his own words, one can be “a pirate and a good man.” Turner’s piracy, however, only encompasses the theft of a single navy ship, spurred by the British Royal Navy’s refusal to chase after Barbosa and crew after they kidnap Elizabeth. The film, in fact, crystalizes in the moment when Elizabeth tells her father that she will marry beneath her station. Replying to his comment that Turner is a Blacksmith, she murmurs lovingly, “No. He’s a pirate.” Yet his piracy is meager (at best), and “his transgressions are subordinated to the plot’s overarching focus on the quest for love” (Pugh 8). In his case, piracy clearly upholds the very laws that it breaks, but without questioning the social hierarchies the laws support. Governor Swann (Jonathon Pryce) sums up the film’s equivocation in the dénouement: ““Perhaps, on the rare occasion when pursuing the right course demands an act of piracy, piracy itself can be the right course.”

According to screenwriters Elliot and Rossio, “Elizabeth is the protagonist [in the film], representing the idea of the romance of the pirate” (Shewman 51). The daughter of the colonial Governor of Jamaica, she is more threatened by a marriage proposal than the attack of pirate, and her attraction to pirates clearly stems from the constraints of her gender and her class position. Aboard the pirate ship, she finds the freedom to admit her love for Will and erases all the previous limits society placed on her. As the series continues, she becomes not only a skilled

swordsman and mariner, but eventually the pirate King, leading all the world's pirates to war with the East India Company.

Her rejection of the limited options within patriarchal society recalls the stories of the infamous Anne Bonny and Mary Read. Both female pirates were captured upon the ship of "Calico" Jack Rackam in 1720 and sentenced to hang, but found respite from execution when they revealed their pregnancies. The many versions of the women's tales center on the transgression "of the lines separating men from women": the juxtaposition of femaleness, which saved them from hanging, with ferocity and cruelty (Paravisini-Gebert 92). For instance, Anne Bonny, when visited by her lover on the day of his execution, supposedly told him "that she was sorry to see him there, but if he had fought like a man, he need not have been hanged like a dog" (Johnson 131). Mary Read, similarly, pre-empted a duel between her lover and another pirate by challenging the contestant and killing him in a fight with sword and pistol (Johnson 123). Female cross-dressing during the early modern period, especially to pass as soldiers and sailors, was primarily a proletarian practice as working class women could fulfill the hard labor that went along with those careers. The women's stories, circulated in popular ballads of "warrior women" and celebrated by proletarian men and women alike, directly conflicted with the discourses of female nature prevalent at the time (Rediker 112-115).

Unlike her historical predecessors, however, Swann is an aristocrat, and therefore fits the pattern of deproletarianized heroes common in classical Hollywood cinema (Hark 4; Bond 315). As the series progresses, she cross-dresses and fights alongside the other pirates, becoming one of the most armed and (supposedly) dangerous women in the world (Fradley 303). Yet once extracted from colonial society, her rebellion against gender and class evaporate, and the series is

careful to never question her physical ability or to represent her as brutal and threatening. She ends her tale pregnant, on land, waiting patiently for her love.

Captain Jack Sparrow, the other main character, embodies the trope of the pirate as anarcho-libertarian. In his first encounter with Sparrow, Turner reacts in disgust to the pulling of a gun in a sword fight, saying, “You cheated,” to which Sparrow mockingly responds, “Pirate.” In all of the situations he enters, he transforms the standard codes of operating and roles of the participants, as symbolized by his strategy for escape and attack, which proceed without plan and metamorphose the mundane objects of his surroundings into whatever contingency demands. Sparrow explicitly articulates the alignment of piracy with liberty when he describes his desire to recapture his ship, which motivates him throughout the series: “Wherever we want to go, go. That’s what a ship is, you know. It’s not just a keel and hole and deck and sails. That’s what a ship needs. But what a ship is, what the Black Pearl really is, is freedom.” The running joke of the series, however, is that Sparrow is the best *and* the worst pirate ever, and the inconstancy of his desire leads to the endless loss and recapture of his ship, as well as his liberty. The character demonstrates the contradiction inherent in total liberty: that an individual’s total liberty will conflict with the liberty of others, and Sparrow’s desire to save himself causes the incarceration and near death of each of his comrades, as well as the constant mutiny of his crews.

It is also this free-floating, liberated desire that marks the character as queer. Depp’s performance, based on Keith Richards and Pepe LePew (Blunt), clashes pirate masculinity with glam-rock femininity. The performance, and Sparrow’s influence over the other characters, confuses distinctions throughout the film: alive or dead, friend or enemy, masculine or feminine, gay or straight. Heike Steinhoff, in one of the first articles to analyze the film, argues that “rather than simply reproducing cultural dichotomies, Captain Jack Sparrow’s representation unsettles

binary categorizations.” The film’s “ambiguities, self-reflexivity, and contradictory ‘maps of meanings’ characterize it as a post-classical and double-coded film” that “allows for queer readings without rendering the film explicitly queer” (Steinhoff).

Not surprisingly, the historical ambiguities of actual pirate lives have likewise spawned queer readings. “Among pirates,” claims B. R. Burg, “either aboard their ships or while living on isolated West Indian islands, homosexual acts were not integrated with or subordinated to alternate styles of sexual contact. They were the only form of sexual expression engaged in by members of the buccaneer community” (xxxix). The homosocial nature of pirate communities suggests high incidences and acceptance of homosexual activity, without the censure of the dominant homophobic culture (Burg 69). In this formulation, the rebellion of the sailor through the crime of piracy influences the rejection of social and religious prohibitions as a celebration of liberty (Burg 110). Turley sums up the logical connection between pirate criminality and pirate sexuality thus: “If we imagine a piratical subject... – a merging of the economic criminal and the cultural transgressor who ‘declares war against all mankind’ – we should be able to understand the implicit link between homoeroticism and piracy” (29). The semantic, legal, and moral instability of piracy, coupled with the lack of prohibitions in the same sex maritime world of the pirate, produce a subject that “highlights the instability of sexual and gendered identity, and the instability of dichotomies represented by gender, sexual desire, masculinity, and capital” (Turley 42).

Depp’s “pirating” of the pirate film foregrounded pirates’ sexual and gender ambiguities in a way that was not originally scripted (Peterson 75). In fact, the direction in which Depp took the character was so radical that Disney CEO Michael Eisner reportedly felt Depp was “ruining the movie,” and caused other executives to ask if the pirate was gay (Smith). Believing that this

ambiguity had the potential to derail the video game and merchandising efforts, as well as Disney's carefully constructed family image, the company downplayed Depp in prerelease promotional materials and instead foregrounded the sinister nature of the other pirates (Peterson 75). The film's overwhelming success and Sparrow's acclaim caused them to change strategies and the focus of the future films.

Beyond the *Curse of the Black Pearl*

With the success of the first film, Disney "quickly realized that the image on which to capitalize was...the leering pansexual pirate" (Peterson 75), and the second, third, and fourth films have all focused on Sparrow and abandoned any examination of the pirate as a criminal. A reincarnated Barbossa and some of his crew have even joined Depp and company in their fight for, in the words of Pirate King Swann, "freemen and freedom." The gender and sexual ambiguity have also become staples of the series, which is, according to Martin Fradley, "perhaps the contemporary high-water mark for the mainstreaming of queer theory" (297).

In order to transform the pirate into the perpetually sequelized play of anarchic desire, the series has increasingly disconnected pirates from the act of piracy. *Curse of the Black Pearl*, while not featuring any robbery at sea, clearly aligns Barbossa's undead pirate crew with previous acts of theft. As the series continues, however, it creates a fantasy world that is suspiciously lacking in maritime trade, populated instead by all manner of supernatural creatures. Each film centers on the recovery or discovery of some supernatural object or entity that is impossible to actually possess, some motivating, unobtainable McGuffin. Through these deferred objects of desire, the series dematerializes piracy and creates fantasy relations of exchange.

Piracy in the world of the films becomes, effectively, the desire for freedom and fantasy, and anyone who calls themselves a pirate becomes one. In *Dead Man's Chest*, the antagonist and director of the East India Trading Company, Lord Cutler Beckett (Tom Hollander), forces Turner to take an offer of pardon and letters of marque to Sparrow, so he may be “free, a privateer in the employ of England.” Turner objects that Sparrow will not consider “employment the same as being free,” and Cutler exposes that the goal of the East India Trading Company is precisely the destruction of that fantastical freedom: “Freedom. Jack Sparrow is a dying breed. The world is shrinking. The blank edges of the map filled in. Jack must find his place in the new world or perish.”

Though the films invoke maritime trade with terms like “it’s just good business” and “currency is the currency of the realm,” the exchange of goods is suspiciously lacking throughout the series and the goal of the colonial empires is not to secure commerce but to contain fantasy. In *On Strange Tides*, the most recent film, the British and Spanish sovereigns vie to prevent each other from reaching the fountain of youth, enlisting Sparrow and Barbossa as aids. The villain of the film, Blackbeard (Ian McShane), “the pirates who all pirates fear,” does not rob ships but rather magically shrinks them down and puts them in glass bottles. The pirating of pirates is not robbery but collection and exhibition; a process similar to the redefinition and containment of piracy within cinema. Blackbeard’s motivation for collecting pirate ships is never clear, and the narrative fails to distinguish him from a pirate hunter.

The films demonstrate the evacuation of the meaning of “pirate” most clearly through the characters of Murtagg and Mullroy (Giles New and Angus Barnett), who begin the series as British Royal Navy members and end it (in *At World's End*) as pirates. After pirates have destroyed the flagship of the East India Company and the British Armada retreats in fear,

Murtogg and Mullroy find themselves aboard a pirate ship. They quickly switch into pirate rags and scream out “Argghhh” and “Shiver me timbers,” in effect becoming members of the crew. Being a pirate, as Turner and Swann also demonstrate, is as simple as changing one’s clothes and following Jack Sparrow on adventures.

In the world of the CGI blockbuster, piracy is celebrated because it is not really piracy. Yet this is also a world in which gender policing and heteronormativity are remarkably absent, in which queer desire circulates freely. The *Pirates of the Caribbean* films, through the elision of capital, focus instead on the circulation of desire and the exchange of bodies and identity without social constraint. The cursed pirates of *The Black Pearl*, who become skeletal under the moonlight; the transmogrified pirates of the Flying Dutchman, part human, part crustacean; the goddess Calypso, trapped in human form; and the pirate drag of Elizabeth Swann and Angelica Teach; bodies within the film morph and change, crossing boundaries between male and female, human and animal, alive and dead. In this world, pirate liberty subsumes rebellion and criminality as piracy disappears within fantasy liberation.

The Classical Hollywood Pirate Film

The elision of piracy and the play of gender identity in the *Pirates of the Caribbean* series is less novel than it seems at first. In fact, both aspects, as well as the interplay of criminality, rebellion, and utopian revolt, operate in the earlier American pirate films, though much more conservatively. This is not, however, how critics have understood Hollywood’s pirate films. Jean-Loup Bourget and Brian Taves posit a coherent pattern of representation in the pirate film, in which pirates are exclusively rebellious. Bourget argues that the pirate film, as a subgenre of

the adventure film, “almost inevitably acclaims a pattern of social unrest and revolution” (57). Similarly, Taves situates the pirate film as a subgenre of the “historical adventure” genre, the spirit and conventions of which are summed up in the “Declaration of Independence itself” (219). For both scholars, cinema pirates are the embodiment of rebellion, the outsiders who fight to uphold liberty and equality.

Bourget and Taves rightly highlight *a* tendency of the pirate film to advocate revolt and democracy, but the rebel pirates’ eventual domestication and cessation of piracy counters this tendency, as does the numerous representations of evil pirate antagonists. Within the films, the love interest of the pirate protagonist features repeatedly as the agent of domestication, and the target of pirate sexual predators. While never morally compromised by brutality or wanton, selfish theft, the pirate protagonists must nonetheless prove their goodness and righteousness to their love interest. They must prove, ultimately, that they are not pirates, that they are not like their lecherous, sadistic pirate antagonists.

Mirroring the tripartite schema of pirate interpretation, Hollywood pirates fall into three broad types. The first, and most common, is that of the pirate villain. The second, most lauded representation, superficially celebrates heroic piracy. The third representation positions the pirate ship as a temporary site for the protagonist’s gender transformation. This final representation, the temporary pirate, is a caricature of pirate freedom, in which a radical utopian impulse becomes the correction of gender performance.

The Criminal Villain

The representation of pirates as unrelenting criminals that revel in cruelty repeats in film after film: the Pirate Lieutenant in the *Black Pirate* (1929), who ties up the princess to ensure he can have her after the battle; Long John Silver, the smooth-tongued villain of *Treasure Island* (1934), betrayer of friends and manipulator of children; Captain Levasseur in *Captain Blood* (1935), who kidnaps a woman to help ease his “loneliness,” whether she likes it or not; the brutal pirate boatswain of the *Dancing Pirate* (1936), who beats and berates the shanghaied dancing instructor; Captain Billy Leech in *The Black Swan* (1942), who torments a female captive before carrying her off; The Hook, the “most bloodthirsty buccaneer in history,” who kills his loyal and able mapmaker to hide the location of the treasure in *The Princess and the Pirate* (1944); Captain Roc Brasiliano in *Against All Flags* (1952), who attempts to take the pleasure from Spitfire Stephens that she has denied him; and the cruel El Toro, in *Long John Silver* (1954) (the sequel to *Treasure Island*), who passes a death sentence on the men who have failed him. Backstabbing, dissolute, lecherous, and sadistic, these pirates are often grotesquely scarred and larger in size than the other characters, thereby making their morality visibly legible. Lacking motivations for their piracy and often a backstory, these villains, unlike the other two types of pirates, actually rob ships and commit acts of violence. Their violence is always extreme and unnecessary, as if violence was not a constant part of the 18th century maritime world (Rediker 15). They are also sexual predators, seizing any opportunity to accost an unprotected woman. Like the mustachioed antagonist of early melodrama, the sexual predations of the pirate counterpoise the virtue of the pirate protagonist.

Much of Hollywood cinema functions in the melodramatic mode, as Linda Williams has argued, mixing pathos and action to generate audience affect (42). The pirate film is particularly suited to melodrama because it provides constant sources of pathos, moral polarization, and

sensationalism through depictions of suffering bodies, decontextualized iniquity, canon blasts, sword fights, and last minute rescues (Singer 37-58). The pirate as criminal is reminiscent of the “male villains who exploit their greater size, strength, and sadistic guile” to victimize women in the early Serial Queen melodrama of the 1910’s and 20’s (Singer 253). However, as Ben Singer shows, the earlier Serial Queen films complexly combined victimization with female empowerment representative of the turn of the century ‘New Woman,’ addressing both anxieties about social change and the increased purchasing power of women during the period (232-255). The pirate films (as will be discussed below) are much more fearful of female power.

One of the earliest films to position the pirate as a villain is *The Pirate’s Gold* (1908), directed by D.W. Griffith. In it, Young Wilkinson (George Gebhardt) departs for sea, leaving his mother at home. Later, pirates come ashore and, squabbling, kill each other. Before one dies, he convinces Wilkinson’s mother to hide his gold, after which she is struck by lightning. Young Wilkinson returns, marries, and when he is deep in debt, attempts suicide. At the last minute, his wife pushes the gun aside, and the stray bullet reveals the gold, solving Wilkinson’s financial problems (Simmon 146).

In *The Pirate’s Gold*, the pirates are unimportant in and of themselves. They occupy the role of thieving backstabbers, a foil for Wilkinson, the loving son and husband, who goes off to sea yet does not become a criminal. The pirates’ place at the beginning of the film structures the rest though, defining Wilkinson’s attempted suicide as a righteous act, first because he would rather kill himself than steal to appease his creditors, and second because it leads to his deserving salvation. Whereas the pirates have no fidelity to anyone, familial piety defines Wilkinson: in his distress and posture, “arms to heaven, palm to breast, hands clutching head,” on the spot of his mother’s death; in his sunlit happiness with his new bride; and in his wife’s vigilance in

watching over him after their furniture has been taken, a vigilance that leads her to knock the gun away from his head, revealing the hidden treasure (Simmon 147). Although the film only has fourteen shots, it jumps forward in time four times (Gunning 132), yet through all the passing years, Wilkinson does not change, as his essential goodness remains intact and the inverse of the pirates' wickedness.

Another film that foregrounds this villainous representation of pirates, while also demonstrating the superficial celebration of piracy and the pirate ship as a space of transformation, is the Douglas Fairbanks vehicle, *The Black Pirate* (1929), directed by Albert Parker. Within the film, pirates are particular only in their general dastardliness. The first scene opens onto the pirate symbol par excellence, the Jolly Roger, and shows a pirate captain looting dead bodies as his crew binds seamen to mast before igniting a powder keg. To emphasize the pirates' depravity, the camera closes in on a small seaman below deck who furtively swallows a ring. The pirate captain, while reveling at the gunpowder trail being laid, notices the act and orders another pirate to cut out the ring. The camera remains with the captain while his order is carried out, as he picks his teeth and spits, showing no concern for the loss of human life. He then wipes the ring off, looks at it approvingly, and pockets it.

The pirates' viciousness in the film is significantly different from the advertising strategy of the film. A promotional poster for the Apollo Theatre repeatedly designates Fairbanks as the daring pirate hero, while the film itself shows pirates as barbarous villains opposing him. The film and poster utilize different conceptions of piracy: in marketing the film, the poster celebrates pirates as romantic figures, within the film though, the narrative revolves around Fairbanks defeating the murderous scourges of humanity. The title furthers this conflation by positioning Fairbanks as a pirate, though he is actually a Duke pretending to be a pirate in the

film. The variability of positioning and generic designation demonstrates the pragmatic (i.e. context and institutionally specific) nature of both piracy and genre.

The poster also betrays the homoerotic potential of pirate portrayals. Though the bottom of the poster asserts the character's heterosexuality, the top hints at Fairbanks sexual availability with his crotch thrust forward as he clutches two smoking cannons. Through the polysemy of the poster, the bold Buccaneer's body becomes "The Adventure Of A Lifetime!", which any viewer may have. Daniel Cornell writes that Fairbanks body functions within *The Black Pirate* as the motivating spectacle of the film, specifically coded as a site of sexual pleasure for both heterosexual women and gay men (79). Although Cornell does not consider heterosexual, identificatory male pleasure in Fairbank's body, his essay underlines the multiplicity of discourses operating within the film and its marketing, as well as the hypermasculinity of Fairbanks costuming and the coded relationship to his stalwart mate (86). While the narrative insists on its heterosexual plot, Fairbanks unclothed body and the sailors' homosocial bonds suggest other possibilities aboard the pirate ship. The film illustrates the liberty associated with the pirate ship through its sexual ambiguity and Fairbanks transformation from impotent victim of pirates to bare chested braggadocio and soon to be husband.

The Superficial Celebration of the Rebel Pirate

The problematic relationship between Fairbanks' *Black Pirate* and the act of piracy prefigures an entire era of Hollywood separating pirates from the act that determines their categorization. *The Black Swan* (1942) is typical of the studio films' rejection of piracy, as it relates the conversion of Captain Jamie Waring (Tyron Power) from buccaneer to pirate hunter.

This conversion begins with Waring's infatuation for a British Lord's daughter, Lady Margaret (Maureen O'Hara), who promises him on their first meeting that she will see him hang from the gallows after he forces himself on her. In this initial encounter, he slaps her unconscious, and, when interrupted while carrying her away like a caveman, throws her to the floor (with a distinctly emphasized crash). Their relationship develops in tandem with Waring's reluctant acceptance of his role as state agent under the direction of Captain Morgan (Laird Cregar), recently appointed governor of Jamaica.

The film ends after Waring has defeated his former comrades who refused to cease pirating, and the defeat allows Waring and Margaret to finally kiss and acknowledge their union. Captain Morgan closes the film, commenting, "There he goes; it's the end of the Spanish Main." While the "Spanish Main" signifies the territory claimed by Spain during the early colonization of the Americas, in Morgan's dialogue it means the pirate way of life, which is incompatible with monogamy and domesticity. *The Black Swan* makes strikingly clear the motivations of the pirate hero, as Waring's conversion from pirate to heroic pirate hunter intertwines with the pursuit of his former comrades and the abandonment of his casual, rough sexuality.

Within these films, pirate rebellion becomes the defeat of a particular villain, not a revolt against a corrupt system, and it ends in monogamy. The pretexts for the pirate hero come primarily from the novels of Rafael Sabatini, such as *Captain Blood: His Odyssey*, *The Fortunes of Captain Blood*, *The Sea Hawk*, and *The Black Swan*. Sabatini excelled in creating heroes who were "good and innocent men turned, through no fault of their own, to fugitives and outlaws" (Voorhees 201). In his novels, the heroes' goal is to prove that they have, in the words of Captain Blood, the "rags of honour" (Sabatini 169). Of course, they never act in such a way as to actually seem dishonorable, but their status as "pirates" prompts the love interests' initial disdain and

rejection. In this way as well, these films fit within the melodramatic mode, which “tends to become the dramaturgy of virtue misprized and eventually recognized” (Brooks 27).

The pirate overcomes his love interests initial condemnation by devotion to the woman, which, in Sabatini’s novels, is the “only religion of a hero” (Voorhees 201). Monogamous heterosexuality spurs the fight against piracy while proving the pirate has a conscience, a belief in justice, and a sense of patriotism. After pirates have accepted the yoke of monogamy, they can fulfill their duty as legitimate defenders of liberty and country, but only after. As David Bordwell, Janet Staiger, and Kristin Thompson observe, the classical Hollywood film features at least two interrelated lines of action, one almost always a heterosexual romance (16). In the pirate film, the resolution of the heterosexual romance invariably involves the renunciation or transcendence of piracy, intimately wedding the pirate’s redemption as legitimate citizen with the romantic line of action.

Richard E. Bond argues that studio era pirates model extralegal behaviors for US audiences. He claims, “many pirate films articulated the linkage between pirate behavior and the boundaries associated with legitimate political and legal action” (309). Cinematic pirates during the studio era modeled behavior for American audiences “because pirates’ own extralegal political systems were in greater accord with twentieth-century American democratic values and political practices than their fictive imperial antagonists or because their end goals resonated with contemporary American political and cultural needs” (309). According to Bond, though pirate films change with each decade, their concerns align with U.S. cultural values and governmental practices of the moment by casting pirate crimes within democratic principles, thereby authorizing their extralegal activities (and those of the U.S. government).

The films, like the U.S. government, at times advocate egalitarian and democratic decision-making, but they routinely subvert them as well. The pirate heroes repeatedly undermine such democratic decisions of their crew for the sake of their love interest. In *Captain Blood* (1935), the eponymous character played by Errol Flynn goes against the desires of his crew to return to Port Royal, where they are wanted for piracy. His decision to endanger all their lives is a paradoxical attempt to demonstrate to his love interest, Arabella Bishop (Olivia de Havilland), that he is not simply “a thief and a pirate.” After Blood has proven himself to her and saved Port Royal, he becomes the governor of Barbados, where he was once a slave (slavery and monarchical tyranny forced him into piracy). The film ends before Blood must oversee the same slave auctions and plantations from which he fled (Bond 314-315), containing his revolt in a closing two shot.

In the end, *Captain Blood* reintegrates its hero into the world he fought against without changing that world. Rather than structural transformation, the film advocates a change of management; in the end the pirate hero reinforces “a particular social order that is being menaced...the hero confronts the destabilizing force to reaffirm a well-ordered community” (Gerassi-Navarro 137). In this respect, the pirate is similar to the hero of the western and the film noir, in that they uphold the legal systems and social institutions yet exist outside them (Cawelti 245). Unlike the marginal figures of those other genres, the pirate ultimately reintegrates into society: whereas the cowboy rides back into the wilderness and the detective returns to his lonely office and bottle of scotch, the pirate hero ends the film in the arms of his beloved.

Pre-cinema pirates were romantic symbols because they resisted class-based injustice, not because they reaffirmed “a well ordered community” and upheld heterosexual coupling. The rewriting of class-based rebellion undermines their role as social bandits, the very role that

contributed to their popular celebration during the 18th and 19th century. Not surprisingly, many of the pirate heroes in these films are from the aristocracy or positioned superior to the men under their command (Earle 8; Bond 314). As “nobility allows the abuse of power” (Turley 39), the class position of these gentlemen pirates allows them to flaunt the law and reenter legitimate society, unlike social bandits who can only live short lives on the margin.

In order to facilitate this reintegration, the films downplay the pirate protagonists pillaging of merchant ships and finally discard the activity. *Captain Blood* mitigates Blood’s violence against merchant sailors by collapsing his piracy into a short montage of sword fights, hiding the human damage caused by forcibly boarding and subduing another ship.

The Crimson Pirate (1952) is the most self-conscious film in regards to its abandonment of piracy. Announcing the cessation of piracy upfront, the film begins with an extra-diegetic monologue in which the main character, the Crimson Pirate (Burt Lancaster), declares, “You’ve been shanghaied aboard for the last cruise of the Crimson Pirate.” It also features a running commentary on what is *not* piracy. The quartermaster, Humble Bellows (Torin Thatcher), protests throughout the film that the crew has strayed from piracy by helping rebels. Bellows complains that they are not engaged in piracy but other activities: gun running (which is “business”), not molesting a fair maiden, “letting a fat fish off the hook” (i.e. letting rebels go instead of ransoming them), and not being willing “to sell [one’s] friend, his sweetheart, or his mother.” Though “piracy” according to Bellows is stereotypically dastardly, his interruptions foreground that the film does not repeat its initiating act of piracy. Eventually, he is unable to remain in a pirate film and volunteers for a suicide mission, stating, “If I can’t live like a pirate, I’ll die like one.” *The Crimson Pirate* ends not with the pirates sailing away to pillage new

shores, but with a close up of the Crimson Pirate embracing the rebel leader's daughter, with whom he sided against his own crew.

In the two films featuring prominent female pirates, the women not only must cease pirating, they must also go through a process of feminization. In *Against All Flags* (1952), Spitfire Stephens (Maureen O'Hara), a pirate captain of the mythical Liberia, undergoes feminization at the hands of Brian Hawke (Errol Flynn), an English officer pretending to be a pirate. Hawke teaches Spitfire Stephens how ladies "attract the attention of the gallants," beginning her domestication through lessons in how to draw beauty marks and wear dresses. Through her love of Hawke, Stephen's betrays her pirate brethren, abandons her aggressive sexuality, and ends up a prisoner of the British, dependent on Hawke for her freedom and broken to his will. No longer called Spitfire, but rather her *real name*, Prudence, Stephens ends in the arms of her British spy. Over the course of the film, she goes from a pirate captain who takes pleasure from men to needing a man to rescue her.

The eponymous Anne (Jean Peters) of *Anne of The Indies* (1951) begins as the plague of the English, a pirate so cruel and fierce that all believe her to be a man. Very quickly though, her love for the suave Pierre François LaRochelle (Louis Jourdan), a French merchant captain pretending to be a pirate to capture her, undermines her authority and mission to destroy the English. Anne's transformation entails training from LaRochelle on how to dress like a lady, how to act like a wench, and to "wait for men to make the moves." His influence even leads to the betrayal of her mentor and surrogate father Blackbeard. Yet unlike Prudence, she has no intention to give up piracy, and the film concludes as she sacrifices herself and her entire crew to ensure that her former lover and his wife survive. As they go from self-serving rogues to dependent, "love blind fools" (*Anne of the Indies*), the female pirates of the films reflect the

ideological pressure placed upon women in the post-war period to abandon the independence they gained through wartime employment (Chafe 178-193; Cowan 203-207).

The pirate rebel/hero and the pirate criminal/villain thus signify radically different relationships to the act of piracy. Whereas the pirate hero journeys to respectability and monogamy through the eradication of piracy, the pirate villain embraces it as a means for sadism. The villain is a static and unchanging presence, committing piracy not for economic profit but for the pure love of brutality. He can neither develop nor regret. Only persisting in his corruption, he must be purged from the world for narrative closure. The pirate hero however, is capable of change, love, and redemption. His piracy within the films, though decried by his love interest, is often off screen, never brutal, and forgotten when he rejoins the now corrected society. The female pirate, when she appears, must rehabilitate under the supervision of a man, and cease to be a pirate.

The Liberty of the Temporary Pirate

Though the pirate film denies the radical democratic order pirates constructed on board the stolen merchant ship, it contains pirate liberty in gender transformation. In several films, temporary pirates find themselves underneath the Jolly Roger, absorbing the agency and masculinity of the pirates and thus inverting the original gender relations of the film. Pirate liberty manifests here only as a trace, as a temporary fracture, localized around the masculinization of a character. In *The Princess and the Pirate*, Sylvester the Great (Bob Hope) travesties and impersonates pirate Captain Barret (Victor McLaglen), usurping his masculine authority. Dressing in the guise of the vicious pirate, Sylvester's pirate drag disrupts the logic of

the narrative and turns his impotence (symbolized by a piece of celery going limp in his hand at the sight of Barret) into courage. Although Hope's character (and on screen persona) never fully loses his comical timidity, during his brief impersonation as pirate captain he becomes gruff and commanding, inspiring fear and awe.

The key moment in the temporary pirate films occurs when the protagonist assumes the place of the pirate, either by joining the pirate crew or, as in *The Princess and the Pirate*, by impersonation. The protagonist occupies the position only temporarily, however, and the pirate ship or the pirate's outfit functions as a space for the protagonist to redefine their position within the diegetic world, before, ultimately, giving up the position. The symbolic importance of the pirate within these films is often indicated by the prevalence of the pirate's name, or simply the word "pirate," in the film titles.

Captain Kidd's Kids is an early, blatant slapstick example of the type. This 1919 comedy short directed by Hal Roach relates the story of the Boy (Harold Lloyd) as he follows his fiancée to the Canary Islands after her mother prohibits their marriage. The boy is infantilized and incompetent in the beginning of the film, unable to be shaved by his butler without causing catastrophe. In a dream, he encounters female pirates (Captain Kidd's Kids of the title), with the captain and first mate played by the same actors as the Mother and the fiancée. The animosity between the Boy and Mother repeats, with the Captain forcing the Boy into servitude and humiliation. The Captain Mother slaps the boy around, makes him her servant, and elevates his butler over him. Eventually male pirates overrun the ship and the Boy summons the courage to rescue his love. Once awake, and strengthened by his encounter with pirates, he threatens the Mother with physical violence and reunites with his beloved.

After the dream sequence, the Boy is suddenly free from matriarchal authority, as is his fiancée. The power that resided in the mother is replaced by the boy's newfound masculinity, a masculinity that materialized through his encounter with pirates. The boy changes from the cause of disruption (slapstick pratfalls and miscommunication) to the source of order, defeating the male pirate crew and saving his fiancée. This temporary, oneiric empowerment translates into action, allowing him to dominate the castrating mother and resolve the narrative. The gendered nature of this transformation, and its ability to subvert the reigning relations of the non-dream world, echoes the utopian desire for liberty associated with pirates, though channeled into the plot and the character's lack of action.

In both historical and fictional accounts, the sea is a masculine space, a place to "make a man" (Rediker 110). Seafaring was and continues to be a male dominated profession, and enlightenment conceptions of the gendered social space strengthened the connection between the ship and masculinity (Creighton viii-xi). The pirate, as the aggressive, violent, hypermasculine anti-hero of the sea, furthered this connection, yet as Isabel Karremann has argued, the overwhelming excess of pirate masculinity can become effeminacy. Adopting Eve Sedgwick's notion of gender identities as "threshold effects," Karremann demonstrates through historical and literary analysis how "the quantitative augmentation of manliness, namely [the pirate's] conspicuous display of fierceness and physical prowess, can suddenly become visible as a qualitative difference, as something else altogether" (3).

Pirate hypermasculinity, by pushing masculine gender performance to excessiveness, becomes effeminacy because it reveals the performative nature of all gendered behavior. Within the films under discussion however, pirate gender performance remains relatively constrained, rarely crossing the threshold between masculinity and femininity. Instead, the pirates in the films

are the threshold, the demarcation between the normal world and another, freer world crossed into by the protagonist. Whereas patriarchal ideology holds that gender aligns monolithically with physical sex, pirates activate the continuum of possible human behavior, changing effete boys into men, as in *Captain Kidd's Kids*, or correcting female behavior.

In the *Frenchman's Creek* (1944), Dona St. Columb (Joan Fontaine) leaves her incompetent husband and embarks on a romance with a pirate, joining him on raids dressed as a pirate. When he asks her to leave with him, however, she declines, returning to her family and her role as mother. She tells him, "A man may be free if at all costs he will, but a woman, a woman cannot escape for a night and a day." Her experiences, rather than liberating her, finally reveal her proper place: in the home. The liberty of the pirate ship thus exists as a potential, but one primarily dictated by the gender norms of the period.

The patriarchal thrust of the narratives is not absolute, however. Vincente Minnelli's *The Pirate* (1948), one of the famed Freed unit's musicals, betrays an alternative possibility. Manuela (Judy Garland) has an ongoing fantasy about the dread pirate, Mack the Black Macoco. As she is about to marry the town mayor, the traveling actor Serafin (Gene Kelly) attempts to seduce her. To fit her fantasies, Serafin pretends to be Macoco and takes the town hostage, leading to a series of comic misunderstandings. The film portrays the reverse metamorphosis of *Captain Kidd's Kid*, with Serafin morphing from hypermasculine cad to dependent lover. Serafin's first dance number, "Niña," establishes him as a philanderer who cannot remain attached to any woman. In it, he dances around the town square, moving from woman to woman, singing, "When I arrive in any town, / I look the ladies up and down, / And when I've picked my fav'rite flame, / This is my patter, no matter her name: / Niña, Niña, Niña, Niña." Yet his autonomy and lack of attachment slowly break down over the course of the film, as he pretends to be a pirate to convince Manuela

to join the acting troupe and, secondarily, to love him. In one number, “The Pirate Ballet,” Serafin becomes Manuela’s fantasy pirate, dancing amongst fire and sliding down rigging *a la* Douglas Fairbanks, creating a “flaming trail of masculinity” (*The Pirate*). Steve Cohan notes that the pleasure of the scene is “the erotic spectacle of Kelly’s scantily clothed body as he twirls and leaps against the fiery red backdrop” (179). The scene’s excesses cross the threshold of hypermasculinity, offering up Kelly’s body to Manuela and the audience.

The pirate’s ambiguity shifts the musical numbers from masculinity to femininity, from camp to sentimentality. The machismo of “Niña” becomes the homoerotic appeal of the male body in “The Pirate Ballet” described above, and leads to the admission of love in the sentimental “You Can Do No Wrong.” In this number, Manuela cradles Serafin after she beats him with a sword and throws an entire room of furniture at him. Once he is unconscious she exclaims her love: “I can barely wait / Till you make me your permanent date, / And from then on, sweet angel, / I shall worship you my life long, / For you can do no wrong.” The remaining musical numbers feature both characters singing in tandem as equals; a reversal from the previously over the top, isolated numbers. Cohan remarks that the plot of *The Pirate* follows a different trajectory than Kelly’s other films: “As the plot plays itself out, his multilayered masculine impersonations (performer as womanizer as pirate as performer) do not lead to his final disclosure of a more authentic male concealed by the macho mask, as happens in other Kelly musicals” (182). Instead, the masculine performance is shown inadequate and temporarily playing pirate corrects it.

The camp sensibility of the Freed unit and the flamboyant contradictions of the musical spectacles reveal the constructed nature of pirate hypermasculinity. Imbued with a gay sensibility, it reverses the more common correction of masculine and feminine behavior in the

temporary pirate films. Whether aligning with patriarchal notions of acceptable gender performance or undermining them, the temporary pirate is a liberating potential localized around gender. The temporary pirate reveals the return of the repressed sexual possibilities and gender performances aboard the pirate ship.

Conclusion

Hollywood cinema is ambivalent about piracy. When piracy is overt, it is villainous, threatening, and excessively violent. Yet it continues on, if only as a trace, in the pirate heroes who combat, erase, and preempt it. The continuance of pirates in cinema, even if disconnected from piracy, testifies to the power of the pirate as a cultural figure. But what is this power? What cultural desires do pirates without piracy tap into? Martin Fradley proposes that popular culture's fascination with pirates originates in the desire for "a malleable fantasy space into which individual and collective yearnings have long been displaced and projected" (300). For Fradley, these yearnings are primarily sexual, a response to the prohibitions of the "heterosexual matrix" for a "*queer outlaw*" (301). Yet the "piratical imaginary" need not only be about outlawed sexual desire and gender performance.

The projection of cultural transgressions onto the gaps in pirate history is, as Turley observes, intimately wed to the pirate's status as economic outlaw (41-42). As the films up until the 1960's show, American cinema decreed acts of piracy as iniquitous, but nonetheless relied on the figure of the pirate as a romantic, though highly limited, rebel protagonist. Villainous pirates and reluctant pirates fulfilled the requirements of melodrama, with its penchant for Manichean morality and the recognition of virtue, and of The Motion Picture Production Code (1930-1968),

with its imperatives that crimes against the law “shall never be presented in such a way as to throw sympathy with the crime as against law and justice or to inspire others with a desire for imitation,” that films should never make “criminals seem heroic and justified” (“The Production”).

That filmmakers and audiences turned to the pirate to fulfill these requirements speaks to a desire for economic rebellion as contradictory and ambivalent as the cinematic portrayal of pirates. It is highly suggestive that the pirate was continuously present in American cinema through the Gilded Age and the devastation following the great Depression, but ceased to speak to audiences during the prosperity which followed World War II. As the U.S. experienced the rapid expansion of its middle class and union power, as well as the Civil Rights and countercultural movements, production of pirate films slowed to a trickle. The films made in the decades following the 1950’s were neither critical nor commercial successes, convincing later filmmakers “that pirate films don’t work” (Surrell 118).

The success of the *Pirates of the Caribbean* series, and its embrace of “the story sensibilities of the golden age of the Hollywood pirate movies” (Shewman 51), has likewise coincided with American and global wealth inequality reaching volatile proportions. It has coincided with the implications of the second gilded age dawning on legislators and the public, with both lauded and largely unsuccessful grassroots attempts to reverse the effects of the disparity. The pirates of the current *Pirates of the Caribbean* series, who fight for freedom from stability, boundaries, and control, are strikingly similar to global capitalism, which defies prediction, problematizes local, national, and regional boundaries, and undermines attempts at regulation. Fittingly, the very films that promise and contain pirates’ economic transgressions are entangled in the same production, commodification, and exploitation of desire and labor that has

contributed to global inequality (Miller et al. *Global Hollywood 2* 111-173). The celebration of the pirate film during times of economic disparity suggests that pirates answer yearnings for action against inequality *and* the consumption that inequality and privilege provide. Perhaps the pirate film, with its ambivalent relationship with economic transgression, answers an equally ambivalent desire, providing audiences with criminals without crime, rebellion without revolution, and liberty without anarchy.

Chapter 4

The History and Reception of Anti-Piracy Media Campaigns

In 1981 the British Phonographic Industry (BPI) launched the first campaign against copyright piracy targeting the general public. The “Home taping is killing music” logo had the campaign’s slogan on top of a modified skull and crossbones, which featured a cassette instead of a skull. Underneath this technological Jolly Roger BPI insisted, “and it’s illegal.” Whereas previous anti-piracy efforts had focused on unauthorized commercial reproduction, the easy reproducibility of content enabled by the cassette tape “terrified the culture industries...because it implied a radical decentralization of cultural production” (Johns *Piracy* 432). Launched in October of that year with the original slogan, “Home taping is wiping out music,” BPI enlisted musicians such as Debbie Harry and Elton John for signatures on full-page ads in national U.K. newspapers (Robertshaw 1, 72). Record companies also began reproducing the slogan on the back of record sleeves for new releases shortly thereafter. The director general of BPI, John Deacon, hoped that the campaign (which also featured the logo in television ads for newly released records) would get the “message across loud and clear to consumers in their homes” (“U.K. K-tel” 3).

Like Atkins use of the parable of the pirate and the emperor discussed in the first chapter, this piratical designation of consumer behavior was probably more fortuitous than intended. It is unclear whether or not BPI intended the poison sign, the Jolly Roger, or a combination of both. The design of the skull and crossbones uses slim crossbones that are almost cartoonish, more

similar to chicken bones than the femurs that often appear on renditions of the Jolly Roger.³⁶ However, by 1984 British journalists were using the word “pirate” to describe the infringing use of twin cassette decks by consumers (“Watchdog”). Even if unintended, the “Home taping is killing music”³⁷ campaign’s equating of piracy with unauthorized consumer reproduction of media content through the twin appeals of harm and crime marks the beginning of a remarkably persistent rhetorical strategy, one which has dominated future anti-piracy media campaigns.

Since the turn of the 21st century, the music and film industry have portrayed consumer copyright infringement as a criminal and harmful practice. While there is a considerable amount of scholarship on anti-piracy media campaigns, it provides rather contradictory judgments of the campaigns’ efficacy. Humanities scholars generally view the campaigns as pernicious and effective, contributing to public ignorance of copyright law and moral panic. The research from the social sciences, however, begins with the premise that the campaigns have failed and analyzes consumer motivations and behavior to recommend policies that will decrease piracy. This chapter places these different judgments and methodologies in conversation, adding pertinent insights from media studies theories of audience reception. Through the documentation of the historical contexts of reception (as much as it is possible to reconstruct them) and a genealogy of the campaigns that have followed BPI’s campaign, this chapter argues that both the humanities and social science research on anti-piracy campaigns have misinterpreted the effect of these campaigns.

³⁶Although BPI may have intended a dual reference, during the early 1980’s the recording industry differentiated between home taping and piracy, which they also deemed bootlegging. As BPI representatives never mentioned piracy when discussing the campaign (Robertshaw), the symbol probably emphasized the killing, not the extension of the term piracy to consumer behavior.

³⁷Shortened to “Home Taping” for the rest of the chapter.

In this chapter, I argue that the anti-piracy media campaigns failed in spite of their deceptive rhetoric and often fraudulent claims, even though they used strategies that have since been validated by psychological and behavioral research. They failed due to the complicated historical circumstances affecting their reception and the intertextual relationships between them and the content they supposedly protected. After detailing the persistence of the piracy as crime and piracy as harm appeals, this chapter ends with a brief analysis of the most recent campaigns (2010-2013), which abandon the earlier appeals and repudiate their earlier claims.

By detailing the evolution of the campaigns, this chapter significantly contributes to the growing body of research on anti-piracy campaigns. In 2005, Nicole Leeper Piquero, noting that “the current state of knowledge regarding the nature and prevalence of intellectual property theft is scant” (56), called for a three-pronged research effort: greater, less industry focused data collection; increased theoretical models for piracy behavior; and the cataloguing of policy options, interventions, prevention campaigns, and the responses to such efforts (56-58). This chapter contributes to the final research effort, providing detailed historical documentation of the campaigns and their historical and social context, which other studies often ignore or omit.

Such an analysis of anti-piracy campaigns poses several problems and necessitates several limitations. The campaigns are, by their nature, short lived and ephemeral, making them difficult to study after the fact. Information about them mainly survives in industry press releases, newspaper articles, and, more recently, blogs and personal websites, which makes gauging their reception difficult: industry press releases invariably praise the campaigns and present questionable data about their success, newspapers often repeat industry claims as objective reporting, and those who blog and post about the campaigns represent a very small, particularly critical, segment of the population that encounters them. As well, the sheer amount

of campaigns is formidable, as is the number of groups producing them throughout the world. Compounding these problems is the difficulty in accurately measuring infringing behavior, the dearth of quality empirical studies of such behavior and of the intentions and opinions of those who practice it, and the difficulty in connecting the campaigns to changes in behavior.

Due to these issues, I have chosen only to focus on the most widely disseminated campaigns from the U.S., the U.K., Australia, and New Zealand. While this precludes understanding anti-piracy campaigns in the developing or non-English speaking world, it is justified by the striking continuity between the campaigns launched in these different countries and the relationships between the pro-copyright groups. The U.S. based Motion Picture association (MPA), which was formerly the Motion Picture Export Association of America, is the international arm of the Motion Picture Association of America (MPAA). It started and largely funds the British Federation Against Copyright Theft (FACT), the Australian Federation Against Copyright Theft (AFACT), and the New Zealand (NZFACT), as well as numerous other national film trade groups (Bohnet 70), and the British Phonographic Industry works closely with the Recording Industry Association of America (RIAA) and other local trade groups through organizations like the International Federation of the Phonographic Industry.

The lack of studies of film and music piracy has necessitated often drawing conclusions about Americans from studies of Brits, or applying insights from the Australian context to all the other countries. I have tried as much as possible to recognize cultural differences and note the context of research. Yet even these cultural conflation are somewhat justified considering how closely the various national campaigns mirror each other. As well, the target audience for these campaigns is the teen and young adult populations whom globalization has made increasingly similar. Marketers have targeted the “global teen” for over a decade now (Moses 2), and in 2005

the Institute of Medicine and National Research Council documented in *Growing Up Global* how the consumption of similar film, music, television, and other commodities contributed to the “construction of a global culture” (49). While there is disagreement as to whether the global teen exists (Klein 119), the convergence of cultures through global media and capitalism, especially as facilitated by the Internet, has undoubtedly changed how consumers understand their consumption practices.

I have also chosen to ignore the anti-piracy campaigns of the software and pornography industries, instead primarily focusing on the film industry’s campaigns, though often referencing similar campaigns by the music industry. This is less than ideal, as software piracy is the most measured and theorized form of digital piracy, but as it primarily takes place in the workplace, the motivations for and efforts to combat it are different (Gopal et al. 4, 19). As there are fewer organizational connections between the software, pornography, and music and film industries, their interventions are significantly different, making a combined analysis less valuable. As well, while the same conglomerates often own film and music companies, those companies do not usually own pornography and software companies.

Within the dissertation, this chapter functions as a continuation of the study of the meanings of piracy, though from a very different angle. The previous two chapters focused solely on the production, function, and logic of designations and representations of piracy. While this chapter does document those aspects of the anti-piracy media campaigns, it does so only to understand the reception and effect of the campaigns, to understand how the public has reacted to designations of piracy. As the campaigns aim to concurrently identify consumers as copyright pirates and to convince them that such piracy is wrong, it is imperative to understand their reception to understand what piracy means in the 21st century.

Anti-piracy Campaign Scholarship and Historical Context

The scholarship on anti-piracy campaigns falls roughly into two types. The first type, which comes from Legal Studies, Cultural Studies, and Rhetoric, uses a primarily textual approach to analyze the rhetorical strategies of the copyright industries. While some scholars limit themselves to analyses of the intention and rhetoric of campaigns without judging their efficacy (Deemers 11-13; Engelman and Scott par. 61-71; Gates 68; Lewis 145-150; Yar “The Rhetorics” 687) others have portrayed the anti-piracy campaigns of the 21st century as dangerously affecting public opinion and behavior (Callahan 1; Larsson 9, 97-98; Larsson and Hyden 200; Litman “The Demonization” 8; Litman *Digital* 86; Loughlan “The Metaphors” 213; Loughlan “You Wouldn’t” 1; Mirghani 116, 127; Patry 139-170).³⁸ Based, implicitly or explicitly, on theories of conceptual metaphors derived from cognitive linguistics, these scholars believe the use of words like “piracy,” “pirate,” “steal,” and “theft” predetermine the reception of the messages.

The theory of conceptual metaphor is most clearly described by George Lakoff and Mark Johnson in *Metaphors We Live By*. According to Lakoff and Johnson, “Our ordinary, conceptual system, in terms of which we both think and act, is fundamentally metaphorical in nature,” affecting “the way we think, what we experience, and what we do everyday” (3). Yet what Lakoff and Johnson stress, and the analyses that view the anti-piracy campaigns as effective

³⁸John Logie and Christopher Jenson provide two notable counterpoints to these scholars. Logie, a rhetorician, writes in *Peers, Pirates, and Persuasion: Rhetoric in the Peer-To-Peer Debates* that “the content industries’ efforts have proven demonstrably persuasive in U.S. courts and in the houses of Congress but also have demonstrably failed to persuade peer-to-peer enthusiasts to change their behavior” (7). From a legal studies approach, Jensen argues that the only “plausible explanation” for the extension of property rhetoric to the general public is “desperation,” as “social norms are a last resort” (559).

forget, is that the *system* of metaphors affects thought and action, not individual metaphors. In an example of this phenomenon, Lakoff and Johnson focus on the ubiquity of the conceptual metaphor “argument is war,” demonstrating no less than fourteen different expressions related to the metaphor, for which there is no corollary in speech about copyright infringement. Outside of the statements of anti-piracy campaigns and campaigners, expressions related to “copyright infringement is piracy” are lacking. While it has become normal to call non-commercial infringement piracy, unauthorized downloaders and those who buy counterfeit DVD’s do not describe their actions as “theft,” “pillaging,” “rapine,” “skull drudgery,” “plunder,” or any other related metaphors. By focusing closely on the rhetoric of the campaigns, the statements of industry representatives, and their supporting politicians, scholars overestimate the usage of piracy language in everyday discourse and therefore its affect on thought and action.

The second type of scholarship on anti-piracy campaigns, which comes from Criminology, Communication, Economic, Psychology, and Business scholars, uses qualitative and quantitative research to understand piracy behavior and theorize policy innovations. These studies generally detail the importance of formulating interventions to decrease infringing activity because earlier efforts have failed (d’Astous, Colbert and Montpetit 307; Al-Rafee and Cronan 238; Dilmeri, King, and Dennis 133; Gopal et al. 5-6; Kampmann 3; Malin and Flowers 718-719; Oksanen and Välimäki 709; Proserpio, Salvemini, and Ghiringhelli 44-45; Redondo and Charon 2043-2044; Shanahan and Hyman 1100; Taylor, Ishida, and Wallace 225). Whereas the first type of scholarship focuses on the language of anti-piracy texts, this scholarship is theoretical and hypothetical, creating experimental situations and surveying populations on their reported behavior. Its applicability to actual campaigns is limited in that it approximates the conditions of piracy and the conditions of the campaigns.

What both these types of scholarship lack is attention to the moment of reception. While analysis of anti-piracy rhetoric and the psychological, economic, and social factors of piracy are illuminating, they are incomplete if isolated from each other and from actual campaigns. As the analysis of the previous chapters demonstrates, the meaning and morality of piracy itself is contested and context specific, even within related discourses and representations. The power to produce media content and speak for institutions does not necessarily translate into the power to define the way consumers view their consumption practices. While reliable empirical data about the reception of the media campaigns is lacking, it is possible to reconstruct a tentative picture of their reception from historical context, extant consumer responses and reflections, and theorizations of the complexities and contingencies media reception.

The “Home Taping” campaign, when analyzed more closely, demonstrates the importance of historical and extra-textual context. Despite of the rhetoric from the director general of BPI, and the destination of the anti-taping messages, the campaign was only partially targeted at consumers. In a press conference discussing the change of the campaign slogan from “wiping out” to “killing,” BPI chairman Chris Wright and BPI rights committee chairman Michael Kuhn focused not on the practice of taping but on the need for a government levy on blank tapes. Notably, BPI initiated the campaign after two British government documents disputed the results of several BPI commissioned surveys on the threat of home taping. In order to counter the government’s findings, the BPI speakers stressed the recording industry revenue lost to home taping, downplaying the recession then affecting Britain. Yet this was not simply a difference in measurement or interpretation.

At the annual National Association of Recording Merchandisers’ convention in Los Angeles a few months later, Stan Cornyn, executive VP of Warner Bros. Records, presented a

Warner Communications Inc. (WCI) study showing home taping displaced \$2.85 billion a year globally (\$7 billion adjusted for inflation for 2012) (Sutherland “Taping” 1). Yet Mickey Kapp, President of Warner Special products and the head author of the study presented by Cornyn, stated at the same convention that according to WCI’s ongoing survey of the recording market, “Reports of the demise of this industry are grossly exaggerated” (Sutherland “Update” 9). Industry growth was stagnant, but not dropping, and cassette sales were projected to grow by ten percent in the next year (Sutherland “Update” 22). Even in the apocalyptic report on home taping, Kapp wrote, “We don’t deny that home tapers buy more prerecorded music and we have contended so in our research since 1978. But we’re consistent in our original assertion that regardless of the tape’s source, creators of the works aren’t being compensated” (qtd. Sutherland “Taping” 14). That the recording industry’s own studies belied the campaign’s message indicates that the rhetoric of the campaign was not intended primarily for the consumer (who was buying just as much as before, minus the recession), but rather for the politicians who had reached similar conclusions. Though BPI Chairman Wright claimed the “apparently innocuous practice [of home-taping] could well signal the end of the music business in Britain,” the primary focus throughout the aforementioned press conference was the government’s lack of action in regard to the domestic revenue supposedly going to foreign-owned tape manufacturers (Robertshaw 72).³⁹ As so often happens, the Recording Industry Association of America, the National Music Publishers Association, and the National Music Council, with the support of several other trade groups from film, television, and print publishing, launched a similar campaign shortly thereafter

³⁹ In 1985, the Federation Against Copyright Theft similarly lobbied the British government for a levy on blank videocassette tapes (Barker).

in the U.S. as “Save America’s Music” by (Horowitz 1). The American campaign likewise called on industry members to contact their government representatives, not the fans.⁴⁰

This first public campaign demonstrates several things about anti-piracy campaigns in general. First, understanding the intent and, especially, efficacy of such campaigns requires placing them within their historical context and reading the various parts of the campaigns against each other. Second, public campaigns, even though they may be aimed at the public, always have a secondary role in affecting the political perception of an issue. Following the launch of this campaign, BPI representatives lobbying legislators could point to a widespread public knowledge of the damages done by home taping, even though they fabricated that knowledge and it contradicted the government’s and their own studies. While this will not be a focus of this chapter, it is important to remember, as the campaigns function as an extension of lobbying efforts. Thirdly, and most importantly, this campaign demonstrates that the rhetoric of anti-piracy campaigns is not as important as the audiences consuming it.

Even though it was unsuccessful, the “Home Taping” campaign is the archetype for future campaigns, in that it concisely combined the two appeals that have dominated them: piracy as harm and piracy as crime. By claiming that home taping kills music, it directly linked infringing behavior to the future of the art form, and by trumpeting the practice’s (partial) illegality, it stressed the transgressing of laws and criminality of those who did so. Through a

⁴⁰ An important related aspect of BPI’s campaign attempted to broaden the perceived illegality of home taping. While copying records onto cassettes was certainly infringement, taping off the radio was not. The U.K. Copyright Act of 1956 expressly restricted the making of a “sound broadcast, or of a television broadcast in so far as it consists of sounds, making, otherwise *than for private purposes*, a sound recording of it or a record embodying such a recording” (Sec. 14.2; italics added). By conflating two regulations for home taping into one, BPI portrayed cassettes as a technology that only facilitated infringement. Though this was untrue, it furthered their argument for a levy by positioning the new technology as lacking non-infringing uses.

very clear process of copying and adapting, the film and music industry have used this original campaign to structure their response to digital piracy. The failure of the “Home Taping” campaign, which did not affect public behavior or result in import levies, makes its repetition in the early 2000’s all the more paradigmatic.

“Respect Copyrights” and Copyright Pedagogy

In 2003 the MPAA launched a multi-pronged campaign aimed at demonstrating the harm caused by counterfeit DVD purchases and infringing downloads to the film industry. With the aim of educating consumers about the illegality and criminality of such practices, the “Respect Copyrights” campaign crafted a website, a school curriculum, and a series of film and television advertisements. The website claimed that movie piracy resulted in four negative effects: reduced quality and out put of films for the consumer, increased likelihood of computer viruses and hacking, possible civil and criminal penalties, and that piracy threatened the livelihood over 500,000 below-the-line workers (Engelman and Scott 114-119).⁴¹ The website also linked to authorized online film retailers, though the offerings were very limited at that time.

The curriculum, “What’s the Diff? A Guide to Digital Citizenship,” specifically targeted middle school students (grades 5-9) to persuade them of the harm to the workers by having them mimic scripted viewpoints of film industry laborers. As well, students competed for prizes by creating anti-piracy campaigns in the “Xcellent Xtreme Challenge” (Howe; Gates 63). Junior Achievement, a non-profit youth organization, developed the program through a \$100,000 grant from the MPAA with the hope that students would leave the program with “a fundamental

⁴¹Though the website is no longer active, the original version can be accessed through the Internet Archive’s Way Back Machine:<https://web.archive.org/web/20030801072720/http://www.respectcopyrights.org/>

understanding of the free enterprise system” (Regardie).⁴² The point of the program, according to MPAA spokesperson Rich Taylor, was for “students to reach their own conclusions about being a good digital citizen” (Howe).

Social scientists that study piracy prevention recommend targeting children in early adolescence for highest efficacy. Alain d’Astous, François Colbert and Daniel Montpetit found that peer attitudes and previously downloading greatly influenced the perception of the morality of the action, thereby authorizing future behavior: “The more a person thinks that music piracy is a normal, habitual behaviour, the more favourable his or her attitude toward this behaviour, and the greater the likelihood of engaging again in this behaviour,” suggesting that anti-piracy campaigns should “foremost target younger consumers” before their behavior patterns solidify (307). Other research supports this recommendation (Malin and Fowers 721; Shanahan and Hyman 1100; Morris and Higgins 478).

Yet as several cultural studies scholars have claimed, such campaigns are alarming in their propagandistic intent. As Tarleton Gillespie states, the classroom “provides a more captive audience than these stakeholders can attain through other means. A message delivered by a teacher enjoys a special legitimacy, and making it a part of classroom exercise ensures that students must pay at least a modicum of attention to it” (276). Majid Yar finds these campaigns particularly worrying due to “the ease and effectiveness with which the copyright industries have co-opted the educational system as a collaborator in (re)educating children about copyright and the ongoing attempt to mobilize parents as agents of surveillance and disciplinary correction” (“The Rhetorics” 619). Kelly Gates likewise sees such curricula, “Respect Copyrights” in

⁴²The program, like others produced by corporations and corporately sponsored non-profits, utilizes cuts in public education funding, which have increased school class sizes and reduced the amount of time available to teachers for lesson planning. The result of such cuts and corporate education programs is the subversion of legislative and community oversight of school curricula.

particular, as attempts to redefine cultural citizenship by “translating copyright protections into good parenting skills as well as learning and self-styling skills” through the exploitation of “the economic insecurities of an individualized workforce” (63, 71).

Though these attempts to preempt teen behavior are alarming and, surprisingly, recommended, they are not necessarily effective. As Gates repeatedly notes, such campaigns are only effective “provided at least some of the children actually abide by the code of ethics and refrain from unauthorized copying” (63), and it “would be a mistake to assume the cultural policy initiatives...work entirely according to the intentions of the authorities that orchestrate them” (68). Following the campaigns launch, Jeff Howe, a reporter for *Wired* magazine, detailed the reaction to the “What's the Diff?” activities in classes of students at two different schools. The first class, a group of seventh graders at the predominantly middle class Sierra Vista Junior High in Santa Clarita, California, attentively and enthusiastically participated. However, Students at Commerce Middle School in working class Yonkers, New York, repeated their lines “in a sullen monotone, as if reciting some musty poem.” The Yonkers students also challenged the Junior Achievement volunteer, insisting that downloaders were “not selling” the content and often previewed it before buying. Rather than theft, they equated downloading with “borrowing” (Howe).

While this comparison is obviously anecdotal and unable to provide insights about social class and the effectiveness of piracy prevention programs, the literature on school prevention programs shows that their effect on youth behavior is small. The original Drug Abuse Resistance Education (DARE) program, for instance, which began in 1986 and was internationally implemented, is similar enough to provide an illuminating corollary. Though the DARE program deals with behaviors with far more harm potential, and receives more class time than any anti-

piracy program (10 hours), meta-analyses repeatedly found it ineffective. Susan T. Ennet et al. found that DARE's content, which uses "lectures, group discussions, question-and-answer sessions, audiovisual material, workbook exercises, and role-playing" (1394) (much like anti-piracy curricula), made it much less effective than other curricula that focused on peer-to-peer instruction (1398-1340). As well, they found that most "long-term evaluations of drug use prevention programs have shown that curriculum effects decay rather than appear or increase with time" (1398). A meta-analysis by Steven L. West and Keri K. O'Neal found that the effectiveness of DARE did not "differ significantly from the variation one would expect by chance" (1028). Ismail Sahin and Ersin Karapazarlioglu's meta-analysis found mixed results from the program, which stemmed from "importing and implementing the same DARE program without taking into consideration the specific characteristics of the schools or school environments" (75).⁴³

Howe's observation and the findings from the DARE meta-analyses suggests that programs like "What's the Diff?", which present a "tremendously one-sided view of copyright" to a diverse population (Howe), will not result in prevention. Rather than view these curricula as "an exercise in how efficiently you can brainwash students," as Electronic Frontier Foundation lawyer Wendy Seltzer insisted of "What's the Diff?" (Howe), it is more productive to see them as an attempt with mixed utility and efficacy. These programs, like the "Home Taping" campaign, can justify industry pleas to legislators for harsher copyright regulations (Gillespie 277), yet all the data on the population that went through "What's the Diff?" points to its failure to affect attitudes toward piracy and pirating behavior.

⁴³In 2009 the DARE program revamped its curriculum to make it more effective. All research here refers to the original program.

A recent (2013), large study (2303 participants) of “copy culture” by the American Assembly, a public affairs forum affiliated with Columbia University, found that 46% of Americans had acquired media in a illicit manner, with that number increasing to 70% for 18-29 year olds (Karaganis and Renkema 30). As well, only 52% of Americans, a very slim majority, believed downloading a song or movie from the Internet should be punishable, with that number decreasing sharply to 37% for those between 18-29 (Karaganis and Renkema 40).⁴⁴ This is significant, as research shows a correlation between belief in weaker laws and increased willingness to buy counterfeit goods (Furnham and Valgeirsson 684; Swami, Chamorro-Premuzic, and Furnham 823).

Encountering complexity can override simplistic lessons, especially as students have a personal interest in consuming content as cheaply as possible. Reductive elementary and middle school prevention campaigns will break down as students encounter actual situations of increasing complexity and moral ambiguity, and as they learn more about the economics of the industries. College students view the illegal downloading of music “as a complex issue entailing conflicts between competing claims” (Jambon and Smetana 37). Scholars have, unfortunately, not yet studied the views of the non-college educated population on this matter.

To argue that copyright campaigns in classrooms are failures is not to advocate that they should be ignored or even encouraged, as over 500,000 school children experienced the “What’s the Diff?” program before criticism from the National Education Association caused Junior Achievement to abandon it (Dana; Howe; Kay). Such programs clearly demonstrate the failure of schools to inform students of the complexity of copyright law and the squandering of classroom

⁴⁴The survey also found that file sharers reported less copying and downloading as their access to streaming services increased (Karaganis and Renkema 25), indicating that increasing the ease of access and decreasing the price of content lowered rates of infringing. This insight affirms long standing claims that affordability and access decrease piracy.

time on corporate public relations (Gillespie 299). However, looking at other youth campaigns puts into perspective the difficulty in preventing infringing behavior through reductive education, especially considering the short length of the curricula. While later anti-piracy educational campaigns have differed in their approaches,⁴⁵ integrating videos games and other activities into their curriculum, with one even offering activity badges to Boy Scouts for their knowledge of copyright's importance (Hernandez "Scouts"), the simplicity of their messages inevitably conflict with the complexities of copyright law, consumer desire, fair use doctrine, and peer behavior. Though the content industry groups and their representatives align against piracy, individual artists and smaller firms at times praise piracy and express other opinions that conflict with anti-piracy lessons, contradicting reductive messages and lending their symbolic capital to pro-piracy arguments. As piracy is not always harmful to content producers, and can in fact be beneficial for marketing and sales in limited quantities (Hill "Digital Piracy" 14-20), the *Just Say No* approach to copying will meet with the same success as its implementation in drug abstinence education.⁴⁶

"Who Makes Movies?"

Alongside the website and curriculum, "Respect Copyrights" launched a media onslaught on July 24, 2003, premiering the "Who Makes Movies?" advertisement series on 35 network and cable stations and in 5000 theaters as pre-film trailers (Goldstein). The first ad featured a set

⁴⁵ See Tarleton Gillespie "Characterizing Copyright in the Classroom: The Cultural Work of Antipiracy Campaigns" and Majid Yar "The Rhetorics and Myths of Anti-Piracy Campaigns: Criminalization, Moral Pedagogy and Capitalist Property Relations in the Classroom" for analyses of later curricula.

⁴⁶The Intellectual Property Office of Singapore in fact used just such an slogan, urging children to "Say No! To Piracy" through stickers placed on CD's, DVD's, and software packages as part of their HIP (Honour Intellectual Property) campaign (Chen).

painter, David Goldstein, discussing the pleasurable escape provided by movies, which films he had worked on (“I met my wife back in Georgia when I did *The Big Chill*”), and his impression of who film piracy hurts: “The piracy issue...will not affect the producers...it effects me, the guy working on construction, the lighting guy, the sound guy.” The ad combined his speech, stills and clips from from the movies he had worked on, and intertitles that stated, “WHO MAKES MOVIES? / A SET PAINTER. / DAVID GOLDSTEIN MAKES MOVIES. / PUT AN END TO PIRACY. / MOVIES. THEY’RE WORTH IT.”⁴⁷ A few months later, a second commercial featured Manny Perry, a stuntman, equated the theft of physical property with intangible property and stressed the lost value: “You know, you steal a candy bar from a store or you download a movie off the Internet—that’s wrong...A lot of people put a lot of time and energy, effort—and in my situation, lives—on the line...They’re doing all that, and then the person comes along and just hits a couple of buttons and they reap all that benefit. It’s just not right” (qtd. Benson-Allot 184). Both ads individualized the harm of piracy, making the workers the central focus and victims of piracy. While the MPAA only released the two ads, they had planned four others (Gates 61).

These advertisements were an adaptation of the recording industries early campaigns, which likewise stemmed from “Home Taping.” In 2002, the Recording Industry of Association of New Zealand launched the “Burn and Get Burnt” campaign, which featured the campaign’s slogan and supportive local recording artists CD’s and in newspapers,⁴⁸ and the U.S. based Music United for Strong Internet Copyright similarly launched “Who Really Cares About Illegal Downloads?” The latter featured stars like Britney Spears, Shakira, and Elton John in newspaper,

⁴⁷The advertisement is available at https://web.archive.org/web/20030801073303/http://wm9downloads.bur.synccast.com/mpaa/anti_piracy_128k.mov

⁴⁸The “Burn and Get Burnt” campaign placed logos on CDs cases, point of sale material and local industry advertising. Though it was “designed primarily as an educational initiative” it quickly became an effort to prompt increased police raids on disc bootleggers (Ferguson 38).

radio, and television advertisements, demonstrating who in fact cared (Norman 403).⁴⁹ In 2002 as well, the Copyright Society of America launched “Copyright Awareness Week,” a much more balanced campaign featuring a school curriculum and Copyright Kids website.⁵⁰ “Respect Copyrights” in many ways combined the different aspects of earlier campaigns, though who it claimed piracy harmed was wholly novel.

The “Who Makes Movies?” trailers were a conscious effort by those in the film industry to portray the effects of piracy on blue-collar workers, not stars, to frame copyright infringement as affecting the worker (Gates 61). In the words of then chairman of Fox Filmed Entertainment, Jim Gianopulos, “We need to teach this generation that stealing is stealing, in whatever form. People must be taught that the so-called victimless crime of downloading movies has the power to cost real people real jobs -- not just executives like me or others in this room, but hundreds of thousands of people who are involved in this process (of making and distributing movies)” (Kilday). By focusing on “real people” with “real jobs,” the MPAA not only aligned piracy with the interests of the below-the-line workers, but with the consumers’ entertainment interests. According to MPAA, who tested the commercials before and after releasing them, the ads were successful with test groups and the original set painter spot raised “awareness among one in five 13-24 year olds” (Goldstein; Kay).

The abrupt and silent cancellation of the commercials make such claims suspect though. After only two of the six planned ads, the MPAA ceased showing them. This is surprising considering that several studies have concluded that greater awareness of the negative effects of

⁴⁹A short ad from the campaign is available at https://web.archive.org/web/20050614031215/http://www.musicunited.org/images/spot_5.avi

⁵⁰Available at <https://web.archive.org/web/20030323204634/http://www.csusa.org/copykids/cbasicsframes.htm>

piracy will decrease infringing behavior. Antje Cockrill and Mark M. H. Goode recently (2011) studied the behavioral intentions of 300 students in the United Kingdom age 18-25 that downloaded, copied and bought pirated films. Their research, which analyzed the perceived harm and ethics of the action, found that respondents did not view their behavior as unethical because they did not perceive their behavior as harmful. They suggested in fact that the film industry might “develop strategies and advertising campaigns that focus on lost profits not just for the film industry but also for distributors and intermediaries and that are based on the effects of the ‘small people’, employees rather than ‘big bosses’, in the industries concerned. As long as the most serious pirates do not perceive any harm in their behaviour, appeals to morals and ethics will have little effect” (7). These suggestions align with several other studies that have analyzed the attitudes and intentions of high school students (Malin and Fowers 721); Middle Eastern college students who had not previously viewed anti-piracy messages (Al-Rafee and Rouibah 286); college students (Morris and Higgins 478; Al-Rafee and Cronan 248); general music consumers (Coyle et al. 1036; Kampmann 35; Risch 280; Taylor, Ishida, and Wallace 255); and the beneficial role of negative emotions in preventing future infringing downloads (Wang and McClung “The Immorality” 158). As well, when researchers have surveyed the neutralizations and rationalizations of college students who knowingly downloaded infringing content, the denial of injury was the most commonly used neutralization (Moore and McMullan 444). As consumers generally find participation in black markets less acceptable when the victim is an individual instead of an organization (Casola, Kemp, and Mackenzie 167), this type of campaign should work.

The quick cessation of the campaign hints at two aspects of anti-piracy campaigns that studies of intentions, attitudes and rhetoric cannot account for: first, it demonstrates the

complexity of media reception, and second the potential costs of allowing other voices than the authoritative, unified voice of industry trade groups into the piracy debates. The reception of a media message is not predetermined by the message, but rather an interaction between the production, distribution, reception, and historical context of the message and the personal experiences and social positions of those involved. As well, the advertisements differed significantly from those that came before by attempting to fight infringement by speaking in the voice of “real people.” In order to do so however, they combined the voice of a “real person” with the authoritarian voice of the industry (conveyed by the stark white intertitles on the black screen) and with the language of cinema. The appeal in the medium of the medium at issue was innovative, and the ads were a combination of documentary conventions (interview, film clips, stylized editing) and public service announcement conventions (intertitles). While previous campaigns already included the voices of stars, such advertisements subsumed the star in the anti-piracy message. In the Music United for Strong Internet Copyright’s advertisement, for instance, the voices and speech of musicians are edited down to a sentence or less each, erasing any individual specificity. The voice of the workers in “Who Makes Movies?”, however, was not voice the average film consumer would hear. Localized in the laborer and the laboring spaces of Goldstein and Perry’s workshops, their speech, while no doubt constrained by the message, had the stammer, contradictions, and sound of “real people,” and the campaign made its appeal in their names.

Media Reception, Polyvalence, and Dialogism

Anti-piracy media campaigns are very similar to public health campaigns, in that they attempt to educate their target audience and affect its behavior to, presumably, help it. The most

effective public health campaigns are those that use “a message design approach that is targeted to and likely to be effective with the audience segment; develop novel and creative messages; [and] design messages that will spark interpersonal discussions and may persuade individuals important to the target audience (e.g., influencers)” (Noar 25). As the “effectiveness of public communication campaigns is limited when receivers regard messages as offensive, disturbing, boring, stale, preachy, confusing, irritating, misleading, irrelevant, uninformative, useless, unbelievable, or unmotivating” (Atkin and Rice 530), it is much more difficult to succeed in affecting behavioral change than to fail (Wallack 223). While early media reception theory originally posited a passive, impressionable audience, the more recent theories stress the active nature of media consumption.

The earliest theories of media reception and media effects followed the use of propaganda during World War I. Shock from the devastation of the war and the success of British propaganda lead to beliefs that media consumers largely consumed and internalized media messages without contestation. This approach to media, which builds upon negative reactions to modernization, has been dubbed the hypodermic needle theory of media effects (Baran and Davis 30). In the 1940's, however, empirical research by sociologists like Paul Lazarsfeld challenged the notion of a direct effect between media message and receiver, holding that media messages reached consumers through opinion leaders (Lazarsfeld, Bernard Berelson, and Gaudet 1-12). This limited effects theorization competed with other, neo-Marxist approaches, which posited much more powerful ideological effects. Theodor Adorno and Max Horkheimer argued that mass culture, which they termed “the culture industry,” standardized artistic production for profit and produced a homogenized culture and public. According to Adorno and Horkheimer, “The most intimate reactions of human beings have been so thoroughly

reified that the idea of anything specific to themselves now persists only as an utterly abstract notion: personality scarcely signifies anything more than shining white teeth and freedom from body odour and emotions” (136). Though the Adorno and Horkheimer acknowledge that the public sees through the culture industries products and advertising (136), their disdain for mass culture overdetermines their totalizing view of its effects. In 1968, structuralist Marxist Louise Althusser provided the foundation for an even more powerful theory of ideology, in which the subject is unconsciously subsumed within it and powerless to escape its interpellations (164-176).

A few years later, cultural theorist Stuart Hall provided a model of media reception that posited activity on the part of the media consumer. For Hall, before a “message can have an 'effect' (however defined), satisfy a 'need' or be put to a 'use', it must first be appropriated as a meaningful discourse and be meaningfully decoded. It is this set of decoded meanings which 'have an effect', influence, entertain, instruct or persuade, with very complex perceptual, cognitive, emotional, ideological or behavioural consequences” (168). Hall’s placement of reception before effect foregrounded that any media effect follows from the process of reception, not from the media text. The decoding of a textual message is not the simple, perfect translation of the encoded discourse, as there is a disconnect between the “meaning structures” of the encoder-producer and decoder-receiver. As there is a “lack of equivalence” between the subjects in a communicative encounter, distortions and misunderstandings are an inherent aspect of the “relative autonomy” of those involved (69). The relative autonomy of the viewer or reader allows for different positions in relation to the mediated message, as “there is no necessary correspondence between encoding and decoding, the former can attempt to 'pre-fer' but cannot prescribe or guarantee the latter, which has its own conditions of existence” (173). This does not

mean that the receiver is free to interpret the message in any possible way, but rather that the interaction between producer, message, and receiver structures meaning and effect. Hall hypothesized three viewing positions: the dominant-hegemonic position, in which the viewer accepts the ideological message as encoded; the negotiated position, in which the viewer accepts the global ideological aspects of the message but selectively applies their own logic to parts of it; and the oppositional position, in which the viewer globally opposes the ideological content of the message (175).

John Fiske, building on Hall's model of codes, argues that the meaning of television texts (and all media) resides in the receiver: "texts are the product of their readers. So a program becomes a text at the moment of reading, that is, when its interaction with one of its many audiences activates some of the meanings/pleasures that it is capable of provoking" (13). This audience centered view foregrounds the active construction of meaning by the consumer when they engage with the "polysemy" of the text. A text, according to Fiske, "provides a potential of meanings which may be realized, or made into actually experienced meanings, by socially situated viewers in the process of reading. This polysemic potential is neither boundless nor structureless: the text delineates the terrain within which meanings may be made and proffers some meanings more vigorously than others" (14). Fiske's understanding of the viewers relations to the text, like Hall's, stresses the limits on textual meaning that are determined by individual viewer's identity positions (class, race, gender, etc.), experiences, and competencies. His focus on polysemy, however, adds a key aspect to the understanding of the ideological thrusts of such texts, in that polysemy is necessary for popularity: "the polysemy of the text is necessary if it is to be popular amongst viewers who occupy a variety of situations within the social structure" (14). As polysemy contributes to ideological variability of text, and therefore the pleasure of the

text, it is a necessary component of success. The dominant-hegemonic, negotiating, and the oppositional reader all take pleasure in the polysemy of the text, though from different parts and for different reasons (Fiske 233).

Fiske's lauding of oppositional reading, which comes from a detailed focus on fan cultures, is controversial though, as critics have accused him and other cultural studies scholars of overemphasizing the prevalence of such readings. Mike Budd, Robert M. Entman, and Clay Steinman view Fiske as emblematic of American Cultural Studies in general, which overemphasizes resistance without demonstrating how textual interpretation links up with actual political institutions. They argue, in essence, that active viewing is not political activism (175).

Celeste Michelle Conduit likewise questions the frequency and applicability of polysemic reading (194). Viewing polysemy as the various readings of the denotative aspects of texts, Conduit argues that readers generally agree on the meaning of a text and polysemic disagreement is less prevalent than Fiske and others would like to believe. Therefore, she suggests the term "polyvalence" to describe differences in audience evaluation of shared denotative meanings (497). As oppositional reading involves actively working against the denotative meaning of the text, it naturally takes more effort than dominant reading, leading to several consequences: silencing, decreased pleasure, and code dependence (500). The first and most common effect of the increased workload of oppositional reading is the rejection of a text's message that does not align with a receiver's ideological perspective, in effect silencing them in the textual encounter. This can result in turning off the TV or closing the book. Second, while viewers can take pleasure in oppositional readings, there is probably more pleasure in reading with the text. Constantly resisting the meaning of a text is not as pleasurable as accepting it, in that it negates the suspension of disbelief and halts the unfolding of the text. This seems especially true if one is

alone, whereas those reading with other, like minded receivers may communally oppose more enjoyably (hence the focus by Fiske on fan culture). Finally, the possession of decoding skills and counter rhetorics greatly enhances the ability of viewers to oppose texts (and derive pleasure from such readings) (Conduit 500-501). Rhetors and organizations with the visibility to disseminate their readings and, less often, their reading strategies, greatly affect the ability of individuals to read against the grain.

While Conduit's arguments are persuasive, it must be noted that polyvalence does not completely negate polysemy. Her research focuses on relatively simple texts with clear-cut messages and plots (*Cagney and Lacey* episodes). However, the increasing complexity and novelty of narratives, the complex interplay between visual, audio, and graphic aspects of a text, the selective focus of the audience, the innovative combination of generic conventions, the interaction of inter- and extra-textual references, and diverse cultural histories affect the reading of the denotative meaning.⁵¹ Whether or not, and the extent to which, connotation affects denotation depends on a plurality of factors which must be located in the particular viewer, not assumed before hand. However, Conduit's insights are a necessary corrective to and critique of the utopian celebration of polysemic reading.

The MPAA undoubtedly intended the "Who Makes Movies?" ads to express their message that piracy hurts movie production and film worker livelihoods. The clear denotative content of the message is unequivocal, and its target was any consumer that downloaded or purchased illegitimate copies and those who would do so in the future. For those who saw the ads on television, their reading position would have largely been determined by their ethical stance on and history of infringing. For those who saw them in the movie theater though, the

⁵¹In fact, the distinction between connotative and denotative meaning is not absolute (Bignell 88).

experience is more complex, in that they would have been paying customers who received the message. As one law student wrote of his experience with the “Who Makes Movies?” stuntman trailer, the context was paramount:

I was watching a movie with several of my friends when I saw Manny's ad for the first time. Immediately afterwards, most of them joked that they were going to find out which movies Manny had been in and put them all on the internet for everyone to download...

Look at how the ads were aired. They played before a movie we, the audience, already paid to see. If we were going to pirate the movie, then we wouldn't be sitting in the theater now would we?...

It's the stop-pulling-the-wool-over-my-eyes feeling these ads generate that turns audiences off. We all know that if George Lucas makes eleventy gabbillion dollars on Star Wars 6, or prequel 3, or influx negative 1, or wherever the next Star Wars film fits in its timeline, there is no way he will show up on Manny's doorstep with a new Ferrari for Manny and college tuition plans for his children. He'd probably be on his yacht drinking another cold one with Jar Jar instead. (Lofti)

This particular student posted his recollection for a class on copyright, an admittedly atypical context. The student had more resources (educational, economic, social, etc.) and practice with counter reading than the average viewer. Yet in spite of his resources, his reading is not oppositional: he negotiates the threat of infringement, implicitly acknowledging its legitimacy, but he argues that it does not apply in this case. The student's negotiation, based on knowledge of industry profits, indicates that information of film grosses and individual fortunes, as well as corporate exploitation of working class individuals can structure readings by those who are aware of such issues. Journalists at *The Economist* and the online magazine *The Morning News* made exactly the same critiques of the ads, thereby facilitating such readings (“Tipping”; Womack), indicating that Hollywood's common practice of touting film successes to encourage theater attendance may also contribute to resistance to their anti-piracy message.

If his recollection of his friends and other audience members groans are accurate and representative (and comments on anti-piracy ads online typically note resentment from paying customers), then rather than engage the ad, some spectators attempted to reject it by audibly overriding it, no doubt influencing the readings of others (either by offending the other viewers or by demonstrating a crude oppositional strategy). The ads, as well, also have polysemic qualities, in that they juxtapose content from previously released films into their own narrative, creating montages and new meanings for each text, though in this instance the polysemy is relatively contained within the message.

The most likely reason the MPAA discontinued the ads was the symbolic power they lent the below-the-line workers. As discussed in the first chapter, symbolic power comes from symbolic capital (prestige, reputation, fame, etc.), which exerts force through language (Bourdieu 239). By so prominently featuring laborers, the MPAA lent their institutional authority to these workers. David Goldstein and Manny Perry, had they so chosen, could have used their vested authority to advocate for other causes, even those antithetical to the anti-piracy message. By simply advocating for anti-piracy in the name of the film worker, instead of the star and auteur, the MPAA raised the visibility and symbolic capital of such workers.

This elevation of the below-the-line workers to spokespeople for the industry was as dangerous though. *The New York Times* and the *Los Angeles Times*, two of the largest newspapers in the U.S., both noted the contradiction between the film industry's appeal and their treatment of such workers. A.O. Scott began his piece for *The New York Times* noting that Hollywood is "headed for another record year," wryly regretting that the educational component of the campaign was not about "lessons in unacknowledged labor." While Scott admitted the power of the anti-piracy messages, he questioned its source:

This is a powerful statement, but how persuasive will it be? For one thing, if stars and producers have less to lose, why is the Motion Picture Association, which represents Hollywood's owning class, putting its muscle and its money behind these spots, and also behind classroom activities meant to foster awareness of intellectual property rights? (And why, by the way, are the studios, in search of savings on labor costs, giving more and more work to Mr. Goldstein's lower-paid counterparts in places like Vancouver and Prague?)

In the *Los Angeles Times*, Patrick Goldstein wrote,

No one is doing a multimillion-dollar advertising campaign about the evils of runaway production, even though it has eviscerated far more jobs so far than digital piracy for craftsmen like Goldstein. The income gap between studio executives and set painters is also bigger than ever. Goldstein makes an average of \$90,000 a year, while [Peter] Chernin earned \$14.6 million in salary and bonuses last year, plus \$2.6 million in stock options.

This was undoubtedly not the kind of national coverage the MPAA had hoped the campaign would generate. As runaway production presented “an arguably more significant and immediate threat to the livelihoods of US screen workers” (Gates 64), the initial press that registered this ethical lapse undermined the ethos of the messages and had the potential to foreground a more urgent and harmful issue than piracy.

The release of the second ad unluckily coincided with a maelstrom of bad press in the U.S. and beyond over the MPAA’s prohibition of Oscar screeners, the videos that enable members of the Academy of Motion Picture Arts and Sciences to vote on films. According to MPAA Chairman Jack Valenti, the ban on distributing the films was to prevent piracy, but filmmakers vocally opposed the ban and the logic behind it. In an open letter published in *Daily Variety*, 142 directors opposed the ban. Film veterans and younger filmmakers, studio directors and more maverick, independent filmmakers came together to protest (Rooney 1). A similar

letter followed from actors in *Daily Variety* and *The Hollywood Reporter* and spokespeople from the British Academy of Film and Television Arts, European Film Companies Alliance, and the National Association for the Advancement of Colored People also criticized the policy (“Screener Policy”; Tourtellotte). Norman Jewison, director of *The Cincinnati Kid* and *Fiddler on the Roof*, proclaimed,

Valenti represents seven major studios and 80% of the films that are seen in the world. These are multinational, global companies and essentially, they have to look out for themselves. But that doesn't mean you shouldn't stand up to them. I made a film called 'Rollerball' almost 30 years ago about the corporate structure taking over...And I think that the marketing forces dominate the thinking at most major studios. It's certainly not the creative production people. I think what you're seeing is reaction against that overwhelming domination and maybe that's what's pulling the directors together. (Rooney 1)

Viewed as a move against small budget and independent films, the dispute also brought to light the discriminatory practices of the Classifications and Rating Administration. As Chris Vognar reported in *The Dallas Morning News*,

The screener issue has sharply divided Hollywood's major studios and small distributors, who already have a hard time getting their films seen by a wide audience. The battle is new. But in a way, the war is old news: The MPAA's ratings board has long been accused of using a double standard in dealing with independent films and major studio productions ...In the middle of it all are those four mighty letters: MPAA. The organization may not be highly visible or glamorous. But its decisions have an undeniable impact that often ends up separating the big guns from the little guys.

Although a judge eventually ruled against the MPAA, the public flaunting of the monopolistic practices of the MPAA members, which legal scholar Ian G. Henry claims have “constructed a significant barrier of entry to the market, demonstrating anticompetitive conduct that restricts industry competition in violation of Section 2 of the Sherman Act” (423), could not have come at a worse time for their anti-piracy message.

As the early cancellation of this campaign demonstrates, the film and music industry create a liability when they attempt to demonstrate actual harm because their industries profit greatly from the exploitation labor. Toby Miller et al. have copiously detailed the New International Division of Cultural Labor (NICL), in which global corporations maximize profits through various processes of “productivity, exploitation, and social control” of labor (*Global Hollywood 2* 112). Corporate conglomeration and capital concentration; globalized labor processes; flexible production and specialization; neoliberal competition between states and localities, which decreases worker protections and stunts or fights unionization; contingent employment and job uncertainty; and work for hire copyright agreements; all contribute to the domination of capital over labor in the creative industries (Miller et al. *Global Hollywood 2* 111-172). Fittingly, Miller et al. specifically point to the “Who Makes Movies?” campaign as the moment when the “hypocrisy of global Hollywood’s masters reached its apogee” (*Global Hollywood 2* 171). To actually present the harm in piracy would necessitate accurately presenting the economics of the creative industries and the division of labor and profits within them. Whether or not this presentation would build empathy for those who benefit from the systematic exploitation of above and below-the-line labor is early to guess.

The “Who Makes Movies?” ads introduce another problem that will persist throughout the future anti-piracy campaigns: the problem of authorizing, utilizing, and controlling other voices in the piracy debates. If, as the social science research indicates, demonstrating harm to individuals is necessary for changing infringers’ behavior, ads must individualize the threat piracy supposedly poses. Yet these ads, by authorizing and invoking the perspectives of Manny Perry and David Goldstein, also create a situation in which their voices became part of the anti-

piracy discourse. Mikhail Bakhtin,⁵² more than any other scholar, has analyzed the interplay of voices within discourse, which he termed dialogue. Bakhtin, in his literary analyses, focused on the different forms of writing which draw on other discourses for their material. Stylization, parody, the Russian folk form of *skaz* (which is a form of improvised, oral monologue), and dialogue between characters were key areas of study for their ability speak in two voices simultaneously, or what Bakhtin called “double voiced discourse.” Like regular discourse, these genres, literary techniques, and metanarrative structures have a referential object they describe, but they are also directed “toward *another's discourse*, toward *someone else's speech*” (*Problems* 185). The ability of dialogue in the novel to represent the subjectivities and intentions of characters as separate and beyond those of the author led Bakhtin to champion the novel as the dialogical form par excellence (*Problems* 200).

Though dialogue can animate a text, authorial control can limit the dialogical interaction of discourses, constraining them into a monological context. This is most apparent in texts in which another’s voice is minimized, altered, or silenced, in which the “struggle between two voices within a single discourse for possession or dominance in that discourse is decided in advance, [in which] it only appears to be a struggle” (Bakhtin *Problems* 204). This denial of the other through the control of language is often evidenced in political rhetoric: xenophobic and nationalist rhetoric deny the subjectivity to other collectives and groups, thereby omitting or refuting their discourses (Holquist 51). Such monological voices speak not in the hope of being spoken to, but with the full confidence of their irreproachability.

⁵² After 50 years of critical discussion, there is not one Bakhtin, but many, a situation he would no doubt enjoy. His biography and his theory are a matter of much debate, but I focus here only on uncontroversial positions in his work. See Ken Hirschkop’s *Mikhail Bakhtin: An Aesthetic for Democracy*, especially the chapter, “Bakhtin Myths and Bakhtin History,” Robert Young’s “Back to Bakhtin,” and Allon White’s “The Struggle over Bakhtin: Fraternal Reply to Robert Young.”

Bakhtin's theories are particularly apt for analyzing designations of piracy in that the multiplicity posited by dialogism "manifests itself as a series of distinctions between categories appropriate to the perceiver on the one hand and categories appropriate to whatever is being perceived on the other" (Holquist 21). Like Wittgenstein, Bakhtin is interested not in abstract linguistic phenomena, but rather in language as people use it. As well, his theory of discourse nicely aligns with the discussion of linguistic practice and symbolic power in the first chapter of this dissertation. As the use of language always involves two parties (even, it can be argued, when one is talking to oneself), Bakhtin focuses throughout his various writings on the dialogue between speakers, even the dialogue between a speaker and their discourse (*Problems* 182). Like Bourdieu, Bakhtin does not consider language as free from power. Languages have histories, and these histories, however imperceptibly, reside in the words people use (*Problems* 202). The previous uses of words, which are lived meanings, continue to exert influence on their future uses, but they do not completely determine them. At the same time, there is no complete and total free use of language, as every speaker "receives the word from another's voice and filled with that other voice" (*Problems* 202). As dialogism is "extralinguistic," the study of it takes place both within the text and outside the text, in the "relationships between rejoinders" (Bakhtin *Problems* 183).⁵³

⁵³ While both theorists posit speech acts that exist in relations between speakers, in histories that determine the acceptability of utterances, Bakhtin is ultimately interested in the ontological condition of dialogue and Bourdieu is interested in social reality. Bourdieu's conception of discourse, grounded in particular social relations and fields of power, is more rigorous, in that Bakhtin's elevation of dialogue to ontological ground destroys any actual monologism. As Robert Young argues, there "seems to be a benign trust expressed [by Bakhtin] that whether individuals are aware of it or not absolute monologism is impossible, for heteroglossia will always ensure decentralization" (86). Bakhtin's ontological theories "almost seems to imply that the diverse languages of different social groups will in effect do our politics for us" (Young 86). To avoid this problem, I only focus on the insights of his textual analyses.

While Bakhtin was a literary scholar, he acknowledged that “dialogic relationships in the broad sense are also possible among different intelligent phenomena, provided that these phenomena are expressed in some semiotic material. Dialogic relationships are possible, for example, among images belonging to different art forms” (*Problems* 185). Within the “Who Makes Movies?” ads there are three active voices and one implied voice forming a monological message: the voice of the intertitles, which is the voice of the MPAA in essence, structuring the others; the voice of the workers, which support the intertitles, but also threaten its control over the message; the voice of cinema, expressed through the film clips and the conventions of the documentary; and the implied voice of pirates, who would claim that David Goldstein and Manny Perry are not the ones who make movies, that piracy must not end, and that movies are not worth it. These four voices affect the content of the message, its meaning determined by its narrative, focus, and structure. The last voice, which Bakhtin calls “hidden dialogicality” (*Problems* 197), is important because it is a ready resource for parody. The ads attempt to limit their dialogic nature, but cannot, in that they are a rebuttal, a reply to an assumed perception. As “an utterance is always an answer” (Holquist 58), the ads bear within them the discourses they negate. Each ad will always be “an answer to another utterance that precedes it, and is therefore always conditioned by, and in turn qualifies, the prior utterance to a greater or lesser degree” (Holquist 58).

The interplay between these different voices will come more and more to affect the reception of the anti-piracy campaigns as the groups revise and develop new campaigns, and as the implied voices become more vocal, diverse, and prominent on the Internet. The “Respect Copyrights” campaign attempted to stem the tide of digital piracy before most U.S. homes had high speed Internet access. It also preceded the rise of the larger video hosting websites, which

will become the platform for media campaign parody. As broadband service spread, and sites like Vimeo (2004) and YouTube (2005) began operating, online video became increasingly important in media consumption, as demonstrated by the rise and fall of Howard Dean and the importance and prominence of the online video of Al-Qaeda's assassination of Nick Berg in 2004 (Baron).

With the increasing ease of creating and hosting video and web content, the anti-piracy campaigns have had to contend with parody videos and sites mocking their efforts. The "Who Makes Movies?" was the first campaign to spawn such parodies, though their reach was no doubt small due to the lack of high-speed access and search architecture of the time. A mock website, RespectBootleggers.org, parodied the campaign, copying the format of the original Respect Copyrights site, but with a contrary message (and quotes from the *Los Angeles Times* article), a "Who Steals Movies?" video parody campaign, and links to file sharing services.⁵⁴ One Blogger called for anti-propaganda activism and urged people to shout down the ads, a call later revised to shouting pirate chants at the screen (Mark). The website R4NT.com (*Reading for New Times*) put out 3 parodies of the ads: "Zombies Make Movies,"⁵⁵ "Writers Make Movies," and "Fluffers Make Movies" in 2005.⁵⁶

As Kelly Gates cautions, careful "analysis avoids attributing too much agency to popular copyright-defiant actions" (68). These parodies and protests do not correspond to political action. Yet they can function as pedagogical tools for other viewers to construct non-dominant reading positions. The simplicity and crudity of the parodies, which substitute words along the paradigmatic axis to create incongruity, are easier to activate than more resource intensive, and

⁵⁴ Available at <https://web.archive.org/web/20040402093241/http://respectbootleggers.org/>

⁵⁵ Available at <https://archive.org/details/ZombiesMakeMovies>

⁵⁶ Available at <https://www.youtube.com/watch?v=DHKjWiUcUA4>

less pleasurable, critiques. They seize on the hidden dialogicality of the ads, insisting that the MPAA acknowledge other, silenced workers who are less empathetic; that people do benefit from piracy; and that some consumers do not believe movies are worth the price paid for them.

“Piracy is a Crime”

A year after “Respect Copyrights,” the MPA launched a global anti-piracy campaign centered on the “Piracy is a Crime” ad (Bolan). This campaign used the other appeal of the “Home Taping” campaign, focusing on the illegality and criminality of piracy instead of its harm. The campaign variously used two versions of the ad, which featured a frame narrative linking interior scenes of the theft of physical property to exterior scenes of teens buying bootleg DVD’s or downloading infringing content. Whereas the early campaign stressed the individuals affected by piracy, their names, stories, and lives, this campaign created a host of unidentifiable, faceless criminals and victims.

The trailers were paired with local initiatives to encourage harsher legislation against and police crackdowns on bootleggers in Australia, Malaysia, and Singapore, and the campaign eventually expanded to the U.S., the U.K., New Zealand, Hong Kong, and India, showing on television, before films in theaters, as DVD trailers, and even on airplanes (Chen and Ang; Partridge 13). In the U.S., the trailers followed the first lawsuits by the MPAA against file sharers in 2004 and the “Rated I: Inappropriate for All Ages” initiative, which featured posters bearing the initiative’s slogan above a hand perched on a computer mouse with the threat, “You Can Click But You Cannot Hide.” The initiative, which teamed with the Video Software Dealers Association, originally appeared in 10,000 video stores and later, as the MPAA won suits against websites, as the new webpages for shuttered sites (Hernandez “Movie”; “Movie Body”).

According to John G. Malcolm, then Senior Vice President and Director of Worldwide Anti-Piracy for the MPAA, the goal of the law suits against websites and individuals was “to make an example of these people so everyone in their neighborhoods realizes that those who steal movies online are not above the law,” and that the MPAA was willing to “go as many rounds as these Internet movie thieves want until we knock out every last one” (qtd. King).

The core of the “Piracy is a Crime” ads feature faceless thieves stealing a car, a woman’s purse, a DVD from a store, and an unwatched cellphone from a bar. Preceding each of the scenes is a corresponding intertitle: “YOU WOULDN’T STEAL A CAR... YOU WOULDN’T STEAL A PURSE... YOU WOULDN’T STEAL A CELLPHONE... YOU WOULDN’T STEAL A MOVIE.” The two frame narratives inevitably have the teens refusing the bootlegs and canceling the downloads, with final intertitles declaring: “BUYING/DOWNLOADING ... PIRATED... MOVIES ... IS STEALING ... STEALING ... IS AGAINST ... THE LAW ... PIRACY. IT’S A CRIME.” The trailers feature frenetic electronic music punctuating the action, stylized editing, short takes, text flying in from the sides of the screen, crane shots, reverse motion, and other techniques reminiscent of the film trailer, the action film, and the music video.

As Patricia Loughlan argues, this ad campaign and others like it attempt to adhere “new social meanings” to the “unauthorized use of intellectual property” (“You Wouldn’t” 401). Addressing the perception amongst the coveted 18-35 year old demographic that copyright infringement is not a serious crime, the ads must repeatedly restate that it is. The use of theft as shorthand for evil, the anxiety inducing editing, frenetic energy of the music, and the convoluted frame narrative endeavor to spread the “infringement is piracy” metaphor by conflating a statutory infringement with “highly negative images of lawlessness, and violent, predatory behaviour (pirates, predators), exercised against helpless victims” (Loughlan, “Pirates” 217). The

threat, and therefore the damage, of “piracy” becomes a threat to all of society, portrayed with the dominant, regressive conventions of racial and gendered stereotypes and instigated by the simple purchase of a counterfeit DVD or the downloading of a file. These trailers, seen by millions of people repeatedly in theaters and on DVD’s, attempt to equate IP and physical property (and therefore infringement and theft) through racial difference, repetition, and unflinching exclamation.

The logic of the ad is clear, and problematic; copyright infringement is exactly the same as stealing real property, yet scarier, committed by ever-present criminals in an urban environment. Media producers in the U.S. often code urban spaces as racially black or brown (Everett 145-147), and the word “urban” now connotes racial difference in the U.S., at least as used in television newscasts and Conservative political rhetoric. The Rastafarian selling counterfeits discs and the non-white girl downloading in the ad’s frames mark piracy as a racial, and therefore supposedly dangerous, crime. The introduction to crime by non-white characters functions similar to the use of stereotyping in early film comedy (1894-1907), which used the instability of stereotypes to both posit certain ethnic identities and to correct “certain kinds of behavior” associated with those ethnicities (i.e. the stereotypes) (Musser 49). The all male, faceless criminals likewise recall the villains of action and horror films, whose identity is withheld for suspense and terror. Mixing conventions from several different generic regimes, the ads hope to turn the mundane activity of purchasing a DVD and downloading a file into a crime spree of Hollywood proportions.⁵⁷

⁵⁷ The attempt to demonstrate threat in this campaign is similar to the rhetoric of film and recording industry representatives who have linked piracy to terrorism. See Sam Anders “Piracy Campaign Focuses on Link to Organized Crime” and Archie Thomas “Pirate Fight Cites Terror Tie.” It is tempting to locate this strategy in the global anxiety following the attack on the World

However, the relationship between the viewer, the anti-piracy message, and its cinematically coded presentation are complex. The denotative theme of the campaign, the illegality of piracy and its equation with physical property theft, is not in itself a deterrent, in that “learning that a practice is illegal does not mean refraining from an activity” (Gates 70). Research also suggests that linking copyright infringement to other unethical behaviors will not deter it. In the most detailed study of DVD pirating to date, Antje Cockrill and Mark M. H. Goode surveyed British adults of varying ages (482 total subjects; 44% students; 65% aged 18-25) as to their type and frequency of piracy (downloading, copying, buying, and passively receiving copies from friends), intention to pirate in the future, perception of the ethics and harm of piracy, and perception of the fairness of the price of the legitimate good (3-5). To understand the way the different variables affected behavior, Cockrill and Goode split the respondents into four groups based on their reported level and type of piracy, each forming about a quarter of the sample. Angels, who comprised 22% (the smallest group) of the sample, did not pirate at all, and were significantly older than the other groups and were the fewest students. Receivers, who did not actively pirate but accepted pirated copies from friends, were predominantly non-students, and were slightly younger. Chancers, who are occasional active and passive pirates, pirate every few months when the opportunity presents itself and where 52% students and 73% between 18-25. Devils, who actively seek out content, were 50% students, 75% in the 18 to 25 range, and were 29% of the sample (4).

Out of the four groups, only the Angels claimed to be affected by the ethical appeals of anti-piracy messages. The other groups, the actual pirates, did not respond, indicating that “appeals to the ethics and morals of the majority of the population are unlikely to have any great

Trade Center, but the British Federation Against Copyright Theft has attempted to link video piracy and terrorism since the early 1990’s (“Pirate Videos”).

impact as most people do not see pirating as unethical or even as a crime” (7). All groups, except the Angels, perceived piracy as innocuous, providing the most significant predictor of behavior and the greatest possibility for change of perceptions and behavior (as discussed above). There was, however, a contradiction between perceived harm and perceived value: those who most valued the original package (DVD with extra material and genuine packaging) were the Devils, the greatest pirates, who also perceived the least harm. The threat of legal action was insignificant, especially for the receivers, who do not purchase the infringing copies they enjoy. The study also questioned the wisdom of large, multi-target anti-piracy campaigns, as a quarter of the population (the Angles) already agreed with the sentiment and the campaigns could “even have a detrimental effect as they can annoy or irritate a consumer segment that is already convinced that piracy is unethical and causes harm” (7). In order to minimize the impact of piracy, groups should target “*relevant* messages more directly at consumer groups” (8; ital. orig.). In almost all respects, their findings correlate with the findings on public health campaigns.

As the Cockrill and Goode note, the applicability of this study outside the developing world is questionable (8), but overall their findings are corroborated by other studies on the general lack of perception of harm and connection between high valuing of content and high levels of piracy (Rutters and Bryce 1156-1157). Several studies verify the finding that those who pirate will not be susceptible to ethical persuasion (Al-Rafee and Cronan 248; d’Astous, Colbert and Montpetit 307; Gopal et al. 19; Jambon and Smetana 37; Wang and McClung “Toward” 673), though others challenge it (Coyle et al. 1036; C. Hill 23; Proserpio, Salvemini and

Ghiringhelli 45).⁵⁸ The MPA, however, believed in the message, as it ran in theaters for at least three years and appeared on untold DVD's (Drinnan).

The differences between the “Who Makes Movies?” ads and these trailers are striking. Rather than the sincere, educative style of the earlier ads, these trailers mimic the high-speed action sequences of blockbuster films. The pulsing techno and camera cuts aligned with it conjure the chases and adrenaline of such films as *Gone in 60 Seconds* (Dominic Sena, 2001) and *Rush Hour* (Brett Ratner, 1998). The jump cuts every few frames (in effect knocking out one of every four or five frames uses a technique from *Saving Private Ryan* (Steven Spielberg, 1998) that originally showed the subjective, traumatic experience of war to instead convey an implacably approaching danger. These cinematic techniques, however, increase the semiotic content of the message, increasing the chances for polysemic readings. As well, the fixing of these ads before films, which guaranteed them a larger audience than any other channel (especially when placed on DVDs), transforms them into film trailers and creates relationships between them and the films that follow, changing the reception.

Paratext and Intertext

Paul Benzon claims that the anti-piracy messages of this campaign and others that follow function as paratexts, affecting and defining the texts they precede (92). Gérard Genette coined the term “paratext” to describe the intertextual relation between a literary text proper and the other textual accouterment, the boundary devices that accompany it, such as titles, prefaces,

⁵⁸The disagreeing studies do not develop typologies of infringers to understand the effects of different appeals on different groups, making them less precise than Cockrill and Goode's study. For a similar divisional approach, but different typology, see Ignacio Redondo and Jean-Philippe Charron “The Payment Dilemma in Movie and Music Downloads: An Explanation Through Cognitive Dissonance Theory.”

dedications, epigraphs, notes, jacket blurbs, etc. Importantly for Genette, the “paratext is what enables a text to become a book and to be offered as such to its readers and, more generally, to the public” (1). Benzon, writing about the materiality of the DVD, notes that the DVD offers itself to the consumer through the “aesthetics of more”: more content, more options, more control (93). Yet the paratexts of the DVD unwittingly expose the coming obsolescence of the technology: the paratexts, which are programmed to not allow the viewer to skip them, simultaneously deny and testify to the precarious place of the DVD in the future of digital technology (94). As the MPA used the software of the regional playback control and content scramble system to disable skipping of the piracy messages, they conflict with the DVD’s promises of more control, in fact demonstrating the control of the film industry. Importantly for this study, Benzon observes that anti-piracy paratexts like “Piracy is a Crime” “speak in the language of the cinematic trailer” (93), consciously designed “to become a seamless part of the DVD experience” (94). The DVD anti-piracy messages exist not only in relation to the content they reference but also in the medium of that content, often featuring actual film footage and shot according to the conventions of cinematic genres.

According to Genette, the paratext functions to influence the public reception of the text, unequivocally acting to create a better reception (2). While this clearly holds for certain aspects of the DVD (commentary, extra scenes, etc.), in that they work to convince the consumer that the DVD was worth the cost, other aspects such as film trailers, production company logos, and technology logos serve clear advertising aspects related to other products. They function not to influence the experience of the present DVD, but rather the purchase of future DVDs. This aspect is still related to the perception of the purchased DVD, as the feeling about the current DVD will no doubt influence future purchases. The anti-piracy messages similarly attempt to

influence future behavior, but they do so in a way that may or may not align with the viewing experience.

The alignment is important because, as Jonathan Gray insists, “Each paratext acts like an airlock to acclimatize us to a certain text, and it demands or suggests certain reading strategies” (25). In his book on the paratext, *Show Sold Separately: Promos, Spoilers, and Other Media Paratexts*, Gray writes, “Precisely because trailers, previews, and ads introduce us to a text and its many proposed and supposed meanings, the promotional material that we consume sets up, begins, and *frames* many of the interactions that we have with texts” (48). As paratexts affect the meaning of texts, negative reactions run the risk of prejudicing consumers against the films and the film industry, thereby furthering rationalizations for unauthorized downloading and affecting future purchases of DVDs and movie tickets.

More critically, the connection between the anti-piracy paratexts and the film affects the reception of the anti-piracy message. Preceding a blockbuster with a hundred million dollar budget and high profile stars (whose salaries often make media headlines), the economic woes of carpenters and stuntmen and the high energy threats of urban life can seem not only disingenuous but manipulative.⁵⁹ As well, the clash between the anti-piracy trailers and the spectacles of criminality in film creates a contradictory picture. As one Hong Kong reporter admitted after seeing the “Piracy is a crime” trailer, we salute “the noble, difficult effort of the MPA, the Customs board and others involved in battling piracy. But we identify a bit more with Halle Berry's Catwoman as she wrestles her instinct to do good with the desire to be naughty - and hold on to that diamond necklace she accidentally cat-burgled from Tiffany's” (G. Wu 2). The paratextual relationship between the film and the anti-piracy message can authorize a

⁵⁹Alain d’Astous, Francois Colbert, and Daniel Montpetit suggest that the perception of attempts at persuasion may prompt a rejection of the anti-piracy message in music consumers (308).

cinematic reading of the text, in which vicarious pleasure comes as much from the committing of crimes as from bringing criminals to justice.

Of course, the same relations may affect the paratextual relationship in favor of the anti-piracy ads, with viewers coming to enjoy the trailers because they precede the films viewers cherish. Yet part of the pleasure of the film trailer is its newness, its promise of the yet to come. The repetition of the anti-piracy trailers, in theaters and on DVDs, highlights the “functional disadvantage with the educational approach [to piracy, in] that it depends on an active, receptive audience and may take years to take root with the public” (S. Miller 223). Unlike film trailers, the “Piracy is a Crime” ads were not “promising that yet another voyage to the world of dreams awaits, and that though you are watching such-and-such a movie now, next time you can watch any one of these movies on offer” (Gray 50). And unlike the movie theater trailers which ask viewers to silence their cell phones, these anti-piracy trailers transcend the situation, abstractly linking to a beyond outside the moment of the movie, outside of the moment of escape that David Goldstein stressed in his “Who Makes Movies?” ad.

While this discussion of paratextuality is rather speculative, it has a basis in consumer research about advertising and intertextuality. Stephanie O’Donohoe, in “Raiding the Postmodern Pantry: Advertising Intertextuality and the Young Adult Audience,” relates how the young Scottish adults she studied often described “their experience of a particular ad was coloured by their knowledge of other texts.” Highly literate media and advertising consumers, she found her research subjects

to be ambivalent rather than completely disaffected consumers of advertising. Certainly, they expressed a great deal of boredom in relation to well-worn and predictable ads, styles and approaches. However, there was also great deal of lively discussion about people's favourite ads, and many informants commented

that "the ads are better than the programmes." In particular, they appreciated advertising which entertained, challenged or intrigued them, and intertextuality seemed to have a role to play here.

Considering the high level of repetition of the "Piracy is a crime" trailers, as well as their lack of complexity compared to many of the films they preceded, it is doubtful that the young adults (or older adults) viewing the ads felt "entertained, challenged or intrigued" by them.

The largest problem with these trailers however, is that they criminalize and threaten the consumer. Pared with litigation against consumers (as they were in the U.S.), the threat of piracy is not the threat of the urban environment but the threat of the MPAA and the RIAA suing someone into bankruptcy. When combined with knowledge of the exploitative labor practices of the industries, as well as the profits and salaries of its most visible companies and members, the trailers create a public relations nightmare. Jon Regardie, writing for *Variety* on the "Respect Copyrights" curriculum, titled his piece, "Putting the Fear of Valenti into Your Kids" (68), and that curriculum did not even conjure fear compared to the "Piracy is a Crime" ads. While some research has shown that fear of litigation is a good deterrent to piracy (Gopal et al. 19), such fear does not help brand image of the industry or appeals based on the harm done to "real people."

These ads have spawned many parodies, both on the Internet and in television shows. As will be discussed in more detail in the next chapter, parody need not be negative and even negative parody can facilitate discussion of an issue and behavioral change. However, they can also educate oppositional reading. All of the "Piracy is a Crime" parodies have continued the simple substitutive incongruences of the earlier parodies, and many have stressed the threatening of consumers implied in the campaigns combination of ads and litigation. The U.S. television show *Futurama* parodied the ad, inverting its premise by listing the horrible things the hypothetical "you" would not do: "Steal a Precious Sapphire," "Rob a Grave," "Steal a Human

Head,” or “Steal a Beating Human Heart.” For each of the “You Wouldn’t’s, the parody replayed Bender, the show’s lovable roguish robot, already having done them earlier in the show. The *Futurama* slogan for the parodied campaign, “Downloading Often Is Terrible,” formed the anagram D.O.I.T.⁶⁰ A simpler amateur parody of the anti-piracy ad recut the trailer with new intertitles: “I Never Buy Pirate DVDs. So I’m Forced To Watch This Trailer. I Can’t Fast Forward It. I Can’t Skip Past It. My...Remote...Is Frozen....Next Time...I’ll Buy...A Pirate DVD...At Least This Bloody Trailer Won’t Be On It” (ronstirling).⁶¹ Others focused on the film industry’s increasing paranoia about and hostility towards its costumers. The *IT Crowd*, a British sitcom, exaggerated the ad to increasing levels of absurdity, culminating with “You wouldn't shoot a policeman. And then steal his helmet. You wouldn't go to the toilet in his helmet. And then send it to the policeman's grieving widow. And then steal it again!” The parody ends with an FBI agent shooting a little girl in the back of the head and her blood pooling on the keyboard (“Moss”).⁶² An user generated parody, *Parody, It’s a Crime*, showed various young men stealing cars, hamburgers, and downloading films, each of whom was then shot by law enforcement officers, with even the officers being shot by other officers, the crimes and executions forming a kind of infinite loop of aggressivity, surveillance, and violence (St-Cyr).⁶³

The Adaptations of “Respect Copyrights”

These “Who Makes Movies?” and “Piracy is a Crime” ads demonstrate the isolation of the dual rhetorical appeals of “Home Taping.” The twin appeals of piracy as harm and piracy as

⁶⁰ Available at <http://youtu.be/OWPfcEOr2Yg>.

⁶¹ Available at

<https://www.youtube.com/watch?v=MRVHUbrbEUA&list=RDOWPfcEOr2Yg&index=12>

⁶² Available at <http://youtu.be/qPEeaxI0OPU>.

⁶³ Available at <http://youtu.be/17yoMN8Uz-I>.

criminality have structured the majority of the anti-piracy media campaigns that have followed. The harm campaigns, however, have gone through considerable development, focusing more and more on smaller national and local contexts. The criminality campaigns have continued to target large national and international audiences, intensifying their message of threat. Intertextual cinematic references, reflexive cinematic techniques, and actual film texts in campaigns have likewise become more prominent.

Following “Piracy is a Crime,” the New Zealand Federation Against Copyright Theft launched “Buy Original, See Original” in 2007, a campaign featuring local actor Temuera Morrison, who had recently played Jango Fett in two of the *Star Wars* prequel films. The campaign featured a film trailer and poster with the actor, school visits from him, a website, a hotline for reporting counterfeit dealers, and refrigerator magnets. In the trailer and on the poster, Morrison says, ““Movie piracy is now a global epidemic and we all have to work towards stamping it out. That means you, your family, your friends, their family, their friends. We can all help by refusing to be a part of this illicit and illegal trade” (NZFACT). The same year, the New Zealand and Australian Federations Against Copyright Theft launched “What Are You Really Burning?”, which featured trailers of posters of locally made films burning up and a voiceover stating, “New Zealand makes great films, and its not just New Zealanders saying that. But film piracy puts all this at risk. Burning, buying, or downloading pirated films may seem harmless, but what you are really burning is the future of our film industry. Make sure the movies you watch are classified and original.”⁶⁴ Stressing particular films or locations, they, like the earlier “Who Makes Movies?” ads, exploit the economic insecurity of workers and national economies, mobilizing pride and solidarity to influence behavior.

⁶⁴Available at <https://www.youtube.com/watch?v=yShFqrYUagk>

Some campaigns have isolated the films as the source of affective connection, constructing their messages through the remixing of film icons. In 2007 Warner Brothers created anti-piracy ads composed of recut classic films as trailers on their DVD's. These ads, the most tongue in cheek of all the anti-piracy ads, actively dialogue with the films they appropriate, creating comic intertextual connections. In a recut version of *Casablanca*, intertitles interact with scenes from the film, informing the viewer, "Rick Is Really Upset...The Woman He Loves Is Pirating Dvds...No Matter How You Say...Pirating Is Stealing...Deep Down Ilsa Feels It Too...Making Time With Victor's Girl: Good...Pirating DVDs: Bad."⁶⁵ As Benzou observes, the

clip's appropriation and recontextualization of a seminal cinematic text about forged documents in order to make such a totalizing claim about the ethics of intellectual property poses a multilayered irony, yet it also articulates a deeply conflicted response to the economic and historical pressures posed by piracy. Only by opening the experience of the DVD with such a strong distortion of a touchstone of film history—only, the clip seems to insist, by effectively pirating such a touchstone—is it possible to counter such pressures. (94)

Whether or not audiences picked up on the irony of legitimated piracy no doubt structured their response to the ad and a similar one in which the gang from *The Wizard of Oz* trembles before the wizard, who is angry over their DVD piracy.⁶⁶ In a similar, though less reflexive campaign, the MPAA and the City of New York launched a poster and film campaign highlighting the inferior quality of pirated films. Posters on subways and in bus shelters featured revised versions of the MPAA ratings system: "RO" for Ripped-Off, "PS" for Poor Sound, "SP" for Stupid Purchase, "OV" for Obstructed View and "F" for Fake. The campaign insisted, "Get the Real Picture: Don't Buy Illegal DVDs Off The Street." The campaign also paid for Broadcast ads with

⁶⁵Available at <https://www.youtube.com/watch?v=DvjFsZJqAPs>.

⁶⁶Available at <https://www.youtube.com/watch?v=3A6gFVygN7Y>.

shaky, noisy, and distorted camcorder copies of *Happy Feet*, *Titanic*, and *The Sixth Sense* the revised ratings (The City of New York “Anti Piracy” and “Mayor Bloomberg”). This serious parody of the MPAA and its own ratings system likewise depends on how deeply the viewer or poster reader understands and follows the intertextual chain, with a simple reading probably finding humor in it and informed reading finding the MPAA’s ratings system continuing to exclude those outside of its industry.

Several harm campaigns have appeared at the municipal level focusing on damage to the local economy. In 2010, the New York Mayor’s Office of Film, Theatre and Broadcasting, in association with Creative America, a “grassroots organization” resulting from “from the efforts of an unprecedented coalition of major entertainment unions, guilds, studios and networks” (Creative America), launched the “Piracy Doesn’t Work in NYC” campaign. The campaign featured a poster campaign claiming that product counterfeiting and film, book, and music downloads kill “jobs in NYC,” as well as a film spot shown online and on local television (“New York City Launches”). The spot, “The Choice,” repeated the message of below-the-line workers thrown out of work by piracy, though curiously silencing and marginalizing the workers.⁶⁷ In the ad, a man (played by comedian Tom Papa) stands at a folding table on a Manhattan street offering free DVDs to passersby. When people come to take the DVDs, the man tells them, “There’s a catch. When you take these movies,” the camera then peels back to reveal a boom operator standing beside him, “this nice woman loses her job...these are illegal DVD’s...It’s real.” He then berates a man who takes the discs, telling him, “You have no soul. You are what’s wrong with everything,” and applauds an attractive young woman who decides not to take them:

⁶⁷Available at <https://www.youtube.com/watch?v=fKN46on-l44>

“You’re a nice person. She’s a nice person. She didn’t know.” The ad ends with Papa’s statement, “There’s no such thing as a free movie.”

This silencing of below-the-line workers contrasts starkly with the speeches in the “Who Makes Movies?” ads. In “The Choice,” the worker is surprisingly tangential to the commercial, dwarfed by the comedian who stigmatizes others. He dominates the frame, and though the “New Yorkers” look at the worker, they do not address her directly. Focus group testing of college students from the area found, contradictorily, that they considered the ad “believable” and that they “rejected messengers perceived as authority figures” (The City of New York “New York”). Based on student feedback, which indicated that students were “receptive to hearing from recent graduates and peers from their community who are struggling to find a job because of the effects of piracy and other issues” (The City of New York “New York”), the Mayor’s Office then launched a “Create the Next Spot” contest in which New York City high school and college students competed to create video concepts “to deliver the message that digital piracy costs real New Yorkers real jobs” (“New York City Launches”). The resulting spot, “inspired” by a student concept, featured recently fired young adults dancing and rapping their way out of their former place of employment, busking for money on the street, and decrying the downloading of books, movies, songs, TV shows, torrents and “ocean of wrongs” that cost them their jobs: “If you want these jobs, don’t be a jerk. New York! Piracy don’t work.”⁶⁸ While not as cheesy, pandering, and oblivious as the Software & Information Industry Association’s infamous “Don’t Copy that Floppy” video,⁶⁹ it is unclear how the dancing, rapping actors who lump together all digital media demonstrate the “real” issues of post-graduate employment. This campaign, like “Respect

⁶⁸Available at <https://www.youtube.com/watch?v=NEChURGd6Ng>.

⁶⁹See “Don’t Copy that Floppy” at <https://www.youtube.com/watch?v=up863eQKGUI&feature=kp>.

Copyrights,” is caught in the paradox of demonstrating economic harm: the appeal is correct but the producers fear consumer knowledge and the voices of actual sufferers.

Continuing the piracy as crime appeal, several ad campaigns have painted extreme portraits of the connection between piracy, organized crime, and terrorism. In 2006 FACT crafted “Copyright is a Matter of Fact,” a trailer for DVD’s that featured a devilish blacksmith with flames reflected in his opaque eyes. The blacksmith brands piles of tapes and discs with an X shaped brand, causing them to explode. A voice informs the viewer, “The pirates are out to get you. Don’t let them brand you with their mark. Piracy funds organized crime and will destroy our film and video industry. Piracy costs jobs and will destroy our music and publishing industry. Piracy funds terrorism and will destroy our development and your future enjoyment. Don’t touch the hot stuff. Cool is copyright. Copyright is a matter of fact. Don’t let the pirates burn a hole in your pocket.”⁷⁰ The ad ended with the FACT logo and the numbers to report counterfeit videos and software in the U.K., the Republic of Ireland, Australia, and New Zealand. During the same year, another British group, the Industry Trust for IP Awareness, released “The Market,” in which a man, after buying a counterfeit DVD, is then offered heroin, guns, and a cringing young woman. When the man reacts negatively, asking, “What the hell do you take me for?” the seller replies, “A customer, sir.”⁷¹ A voice over ends the ad: “Buy a pirate DVD and you are inviting crime into your neighborhood.” A similar ad by the Industry Trust, “The Pub,” had the seller asking buyers which type of crime they wanted their money to go to: “Drugs. Neighborhood crime. People smuggling. Violence. And child pornography.”⁷²

⁷⁰ Available at <https://www.youtube.com/watch?v=wssf122Hhp4>

⁷¹ Available at <https://www.youtube.com/watch?v=yXiHIY61Hqk>

⁷² Available at <https://www.youtube.com/watch?v=yTH62P7fFJo>

The most hyperbolic ad, however, was produced by the U.S. National Crime Prevention Council (NCPC) as part of their “Intellectual Property Theft: Get Real” campaign in 2011. In association with the Bureau of Justice Assistance, Office of Justice Programs, the U.S. Department of Justice, and MTV networks, the NCPC remade the “Piracy is a crime” ad, naming their new version “Premonition” (Voskamp).⁷³ The newer ad keeps the general frame while changing the interior scenes, but in this version the crimes are not related to piracy but implicitly caused by them, and the potential buyer sees each crime, criminal, or affected victim through a magical premonition that collapses time and space. According to the ad, piracy causes “Drugs and Crime,” “Lost Jobs,” “Child Labor,” and “Gang Violence.” Revealed by Attorney General Eric Holder in a press conference with U.S. Intellectual Property Enforcement Coordinator Victoria Espinel, U.S. Immigration and Customs Enforcement Director John Morton, and National Crime Prevention Council President/CEO Ann M. Harkins, “Premonition” carries the full imprimatur and authority of the U.S. Government. Holder chose to announce the campaign, which also featured radio, web, social media, and print ads, on Nov. 29th, following the Justice department’s “celebration” of Cyber Monday, in which it seized 150 domain names for websites that allegedly sold counterfeit goods (Voskamp). Tying intellectual property to the health of the nation, Holder stated, “Now, as our country continues to recover from once-in-a-generation economic challenges, the need to safeguard intellectual property rights and to protect Americans from IP crimes has never been more urgent” (Voskamp). The MPAA, the RIAA, and the Copyright Alliance (a broad coalition of copyright advocates) applauded the campaign (“ArtsWatch”).

⁷³Available at <https://www.ncpc.org/media/banners/IP%20Theft/My%20Video%20Player.html>

As Suzannah Mirghani argues, this particular confluence of piracy as dangerous crime mobilizes “an extraordinary set of discourses relating to terror and organized crime [...to] terrorize the public into needing ‘protection’ from dangerous pirates, who are, ironically, this very public” (120). While viewers may accept the message, any perception of the hyperbole, the gross oversimplification of global problems, and the irony of the U.S. Justice Department pirating an earlier ad will disrupt its message. Speaking in the consistently monological voice of authority, this appeal fits well with the statements of governmental agencies that provide the circumstantial evidence for it.

A New Approach

Overall, anti-piracy campaigns demonstrate a stunning lack of originality, repeating and borrowing tropes and even entire ads from previous campaigns. The film industry has, until very recently, followed the template of the “Home Taping” campaign, variously stressing the harm caused by consumer infringement and the illegality and criminality of such infringement. Both these approaches have largely failed due to contradictions within the industries’ economic practices and the complexities of media reception. Research on the perceptions, intentions, and behaviors of pirates clearly recommend the demonstration of harm to individuals for the greatest negative influence on future pirating behavior. However, the exploitation of labor within the industry makes any appeal by or on the behalf of workers perilous. The exposure of such exploitation and the economic success of the “harmed” industry provides consumers with information to negotiate and oppose the messages. The other appeal of demonstrating the criminality of piracy does have the some amount of research to recommend it, but only when paired with the perceived threat of punishment (Adermon and Liang 1-20; Fetscherin 69), which

other scholars have found to be significant by itself (Bhattacharjee 111). However, these advertisements, at least as embodied by “Piracy is a Crime” and similar ads, utilize the same conventions as Blockbuster films and therefore activate a range of intertextual references that can affect their meaning and reception. Their intertextual references, repetition, context of reception, and the amount of control over the reception of the message affect the viewers’ level of enjoyment and engagement with the message. With each successive campaign, consumers acquire more resources for non-compliant readings from news about the campaigns and the industries, as well as learning oppositional strategies from the parodies of the campaigns.

Several campaigns since 2010, however, point to a new appeal in anti-piracy messaging. In 2009, the Industry Trust created a campaign, “Knock Off Nigel,” based solely on stigmatizing infringing behavior. In the ads for the campaign, one taking place in a pub and another in an office, a singing figure humiliated a “Knock Off Nigel” for buying pirated DVD’s and other cheap behavior.⁷⁴ Following the logic of a movie musical, all the surrounding people in the ads join in the singing, ridiculing the person for being a “grubby little man” and a “real creep.” A corresponding website featured several interactive components: visitors could upload a picture of someone to publically shame them and send a “Song Ambush” or a personalized message from “El Burrrito,” a lucha libre wrestler, via the Nigel’s mobile phone or email. Whether or not the consumers realized it, the site also functioned in a surveillance capacity as users contributed information to the group and the UK government about their friends and family (Parkes 32). The MPA predictably declared the campaign a success, claiming a 20% increase in British teenagers that viewed infringing downloading and file sharing as a crime (Rand 140). However, Liz Bales, Director General of the Industry Trust, later admitted, “We couldn't use the 'cheapskate' message

⁷⁴Available at <https://www.youtube.com/watch?v=4TbqBPmInjQ> and <https://www.youtube.com/watch?v=GlhdK5Y18u0>

as everyone quite rightly had to save their money - it just didn't work. We moved the piracy debate on and that is when our real behaviour change kicked in. What we wanted in the trust was to portray the positivity of film and the film industry and get people to support it... We know that the people that infringe content are the most valuable audience group” (Chacksfield). This new positivity has resulted in several campaigns that do not even mention piracy, focusing instead on the value of the content to the consumer.

In a revision of the “Who Makes Movies?” ads, the Industry Trust launched the “You Make Movies” campaign in 2010, which featured a series of cinema, television, and DVD and Blu-Ray trailers in which people in a variety of everyday situations recite lines and act out scenes to their favorite movies like *Lord of the Rings*, *Jerry Maguire*, *Reservoir Dogs*, and *Life of Brian*. All the ads end with the refrain, “You make the movies. Every time you buy a cinema ticket, Blu-Ray disc, DVD or download your support helps us make the films you love. Thank you.”⁷⁵ One newspaper headline summed up the campaign: “Campaign against film piracy tells moviegoers how precious they are” (Sweeney). In these ads, the film industry once again creates a paradox of voice, presenting consumers speaking about films without voicing their own opinions.

In a current campaign by the Industry Trust, “Moments Worth Paying For,” the group has recut film trailers with audience reactions and new voiceovers, or had characters of upcoming films create special segments, all aiming to persuade viewers “that film, TV and video have an entertainment value worth paying for” (Industry Trust).⁷⁶ New release film posters topped by the campaign slogan also appear in the U.K. Unlike “You Make Movies,” this campaign avoids the paradox of voice, relying solely on the films to proclaim their value.

⁷⁵Available at <http://www.industrytrust.co.uk/campaigns/you-make-the-movies/>

⁷⁶Available at <http://www.industrytrust.co.uk/campaigns/moments/>

A similar campaign, “Music Matters,” began in the U.K. in 2010 and spread to Australia and New Zealand, and was then brought to the U.S. by the RIAA and the Music Biz Association (formerly the National Association of Recording Merchandisers). The campaign created a distinct logo for authorized online digital music distributors, a website primarily devoted to helping consumers find such online distributors, and videos about artists such as The Beatles, Sigur Ros, Jay-Z, and The Jam.⁷⁷ According to the website, “When fans choose from the many authorized online music services listed on this website, from iTunes to Spotify to VEVO, and all the great online services in between, they can be sure that artists, labels, and the many others who make up the music community get paid for their creativity and hard work. And that helps keep the music playing” (Music Matters). The videos tell stories about the artists’ careers and life experiences, ending with the phrase, “...that’s why music matters.”

This positive, no piracy anti-piracy message has also entered local campaigns. Originally launched in 2008 by the City of New York Office of Film, Theater, and Broadcasting, the “Reel Jobs. Reel Proud. Reel New Yorkers” campaign featured “real” New Yorkers working in the film and television industry. The campaign, which aimed “to educate New Yorkers about the importance of the industry and the residents who make their living working behind the scenes in film and television,” featured a series of related film spots and posters for local theaters, television stations, cable systems, taxi cabs, bus shelters, and online (The City of New York “Reel Jobs”). Each spot focused on a below-the-line worker, identifying them by their first name, their job, and their borough. The workers described their affinity for the industry, their neighborhoods, and their jobs, each ending with the tag line, “I love working in this industry, and

⁷⁷Available at <http://whymusicmatters.com/videos>

I love living in New York City.”⁷⁸ Overshadowed and replaced by the “Piracy Doesn’t Work in NYC” campaign, “Reel Jobs. Reel Proud. Reel New Yorkers” received very little media coverage and quickly disappeared. However, the Office of the Mayor revived the campaign in 2012 to capitalize on a study that found film and television production added \$7.1 billion and 130,000 jobs to the local economy (Boston Consulting). The revived campaign featured all new spots, with the same tag lines, distributed in a similar manner.⁷⁹ These ads, contained in a specific location, possess less potential liability through the transfer of symbolic capital: as the laborers do not testify to harm, but rather appreciative success, they only convey the vibrancy of the local economy and the benevolence of the industries.⁸⁰ As well, the relations between the city and the local unions are also much less acrimonious and volatile than the relationship between industry trade groups and the trade unions.

The revival of the NYC campaign and the film and music industries’ use of the same appeal points to an inter-industry shift. Whether or not this approach, which James Parkes calls “audience as stakeholder” (37), will influence consumers infringing behavior remains to be seen. The audience as stakeholder was always an implied aspect of the piracy as harm approach; insisting that consumer copying will kill music and film inherently threatens the consumer’s future enjoyment of the content. It seems, however, that after thirty years of discursive exclusion, the film and music industries have (at least partially) accepted that the biggest consumers are the biggest pirates. By accepting that “consumption of counterfeits reproduces and reflects demands

⁷⁸All of the ads are available at http://www.nyc.gov/html/film/html/news_2009/010109_reeljobs_reelproud_realnewyorkers.shtml

⁷⁹An example of the updated spots is available at <https://www.youtube.com/watch?v=YX6l2v37eEI>

⁸⁰Though the film and television industries, as well as the city, profited from the labor of the workers, none of them received compensation for their participation in the ads (Ochiva).

within legal markets for leisure goods”(Rutter and Bryce 1158), the industries may have more success. The outcome of these campaigns will no doubt depend on how much consumers connect them to earlier campaigns; if, how much, and to what effect they parody them; how much the audiences constructed in the campaigns recognize themselves in their surrogates; and how much audiences value the content. Regardless, the recent campaigns that eschew the stigmatization, criminalization, and implication of consumers in the loss of jobs and revenue show that attempts to link copyright infringement with the negative aspects of piracy have failed.

Chapter 5

Dialogic Piracy:

Parody, Irony, and Comedy in Pirate Self-Presentation

“We have this history that every time somebody calls us something negative, we just take the name and make it ours.”

Peter Sunde, former spokesperson for The Pirate Bay

Building on the analysis of parody began in the last chapter, this chapter details how Swedish pirate groups represent themselves, how they appropriate the rhetoric of anti-piracy campaigns. These digital pirates construct their identity and justify their activity through the dialogical appropriation of copyright lobby rhetoric, forcing their discourse into the normally constricted and monological debate on intellectual property. As discussed in the last chapter, monological discourse attempts to silence the polyphonic possibilities of language (Bakhtin, *The Dialogic* 325). Dialogical discourse, however, allows for “*another's speech in another's language*...Such speech constitutes a special type of double-voiced discourse. It serves two speakers at the same time and expresses simultaneously two different intentions” (*The Dialogic* 324). Swedish pirates utilize dialogical discourse in their pro-piracy interventions, not only

inveighing against their legal and political adversaries but also quoting them constantly. Through parody, irony, and satire, pirates construct pro-piracy arguments to mock the copyright system in the voice of its proponents. This chapter describes how pirates both embrace and negotiate the title of pirate in response to the rhetoric and actions of the copyright industry.

While a study of the individual practices and identity constructions of the millions of downloaders and infringers throughout the world is impossible, an examination of the most prominent pirate organizations, who create positions and arguments for others to activate and adopt, will shed light on pirate self-presentation. As case studies, I will analyze the writings and art pieces of Piratbyrå (Pirate Bureau), a collective that set for itself the task of opposing the Swedish copyright lobby, and its progeny, *The Pirate Bay* torrent website and the pirate religion, the Missionerande Kopimistsamfundet (Missionary Church of Kopimism). I will also analyze the platform and ideology of the Piratpartiet (Pirate Party), the Swedish political party inspired by the Pirate Bureau. These case studies illustrate the ways digital pirates represent themselves, the ways that they attempt to avoid the reductive morality of the anti-piracy campaigns. Such a self-presentation allows for a different piracy narrative to emerge, one not circumscribed by incumbent industries with an interest in the maintenance of the current copyright regime.

Sweden functions here as a case study for the larger possibilities of copyright reform and resistance. Swedish scholars Simon Lindgren and Jessica Linde argue that online piracy in Sweden has become a social movement, a group of people “acting together to change society” (161). This new kind of social movement, which Lindgren and Linde describe as the third wave of social movements, is a large “part of lived everyday practice” (161) and differs significantly from earlier social movements based on worker and identity politics (Lindgren and Linde 147). They stress that “pro-piracy actors” have shifted the focus away from file sharing toward piracy

and pirates (144); a shift that I believe has significant implications for political practice and cultural meaning outside of Sweden.

There has as yet been little academic work done in the U.S. on this social movement, and specifically no work yet done on how pirate self-presentation facilitates political opposition. While academic analysis of pirate social movements has developed in Sweden over the last five years, much of the work is sociological and most of it remains untranslated. The scholars like Lindgren, Linde, and Jonas Andersson that have made their work available for an Anglophone audience limit their analyses to the Swedish context, rarely focusing on the global reach of the movement and the dialogue between pirates and anti-piracy groups.⁸¹ Yet this movement responds not to a national issue, but rather to an international legal framework and the international treaties adopted by (or imposed on) nations for inclusion in the global capitalist system. While Sweden's pirate movement is certainly particular to its historical and national context, the Internet imbricates it in global exchange that extends far beyond its original locality. Swedish Pirates have actively labored to translate their websites and texts into English, the lingua franca of the Internet, to form a coherent body of propaganda and a global group identity. Though Swedish, the groups in this movement are not national in their ambition: their agenda is international and they intend their interventions to signify and resonate throughout the world.

The analyses that follow pull heavily from the insights and practices of Russian Formalism, New Criticism, Structuralism, Deconstruction, Freudian Psychoanalysis, and Genre Theory. Some of these theoretical movements seem, admittedly, disconnected from the postmodern, posthuman Internet subject. This is particularly the case with the theories of

⁸¹Andersson's "For The Good Of The Net: The Pirate Bay As A Strategic Sovereign" is a notable exception to this statement.

comedy, which have undergone very little development since the 1970's. Yet the structures of comedy, for all that the world has changed, have stayed remarkably stable. Even the scraps that remain of Aristotle's observations about comedy (inferior people, painless ugliness, happy endings) still hold true today for most narrative comedies (22-24, 39 n.93). The old in the new is a defining, though often overlooked, part of the Internet, as it, more than any previous medium, absorbs previous media and texts into itself. For as rapidly as it transforms the present, the Internet integrates the past into the future each step of the way. As the focus of the chapter is on textual practice, i.e. the production and reproduction of signs, these theories address the practices of pirates as they simplify their messages for a global, anglophone audience, many of whom will not share more complex cultural and historical references. This study is partial, as it does not take into account the reception of the messages, and is a complement to the more sociological studies of the Swedish scholars.

In addition, I attempt a genealogy of the Swedish pirate movement for an English speaking audience, few of whom are aware of its complexity and motivations. Within the dissertation, this chapter functions as a compliment to the previous chapter on anti-piracy media campaigns and as the natural extension of the chapter on film piracy, which demonstrated a tripartite representational logic in Hollywood films: a demonic pirate, a heroic pirate, and a comedic, destabilizing pirate. The comedy of the Swedish pirate movement testifies to the destabilizing potential of the pirate in monological piracy discourses. This textual and transmedial analysis traces the representations that drift beyond the Swedish and even European Union context, with implications for activism in other countries.

Piratbyrån's Parodies

Began in 2003 and disbanded in 2010, the Piratbyrån (The Bureau of Piracy) was a loose collective of artists, academics, journalists, and friends that wanted to respond to the Swedish anti-piracy group, Svenska Antipiratbyrån (Swedish Anti-Piracy Bureau).⁸² The group was nebulous and resisted clear cut member distinctions, but its most active members were Rasmus Fleischer, Magnus Eriksson, Markus Kaarto, Palle Torson, Sara Anderson, Ibrahim Botani, Peter Sunde, Frederik Edin, Martin Fredriksson, Johan Allgoth, and Marcin de Kaminski. Developing out of the Swedish Internet Relay Chat (IRC) hacker community and Internet radio broadcast communities, the group started a website (piratbyran.org) and Internet forum that functioned as a kind of knowledge pool and discussion post for copyright and piracy related issues. The forum covered a wide range of topics and provided tutorials and discussion space for the novice file-sharer, the burgeoning net-activist, the pleasure seeking hacker, and the hardcore anti-copyright advocate. At its height, the forum had 60,000 registered members (Fleischer "Piratbyran's"). Though run and maintained by a core group of members, the website functioned as an "adhocracy," a term Henry Jenkins takes from Sci-Fi writer Cory Doctorow. Adhocracies are contingent organizations of interested though not obligated members who pool their resources for different projects (Jenkins 262-266). Due to the knowledge, skills, and resources aggregated through the forum, Piratbyrån was able to disrupt and preempt the campaigns of the industries funding Svenska Antipiratbyrån.

⁸²Though the Swedish Film Industry is one of Antipiratbyrån's members, it is not really a Swedish organization, as all other listed members are foreign subsidiaries of multinational companies: Noble Distribution, NonStop Entertainment, Paramount, Sony, Twentieth Century Fox, Universal, Walt Disney, and Warner Bros. Antipiratbyrån's partners are similar local affiliates: the International Video Federation, Nordisk Film, and the Motion Picture Association (Svenska).

Piratbyrån intervened in a variety of different media and events to “develop and deepen the questions about intellectual property and file sharing” (Fleischer “Piratbyran’s”). In the year 2007 alone, Piratbyrån members disseminated press releases on the legal action against *The Pirate Bay*; lectured at conferences, festivals, and colleges throughout Europe; spoke in debates on Swedish television and radio; created an art project and event, “Who Makes and Owns Your Work”; contributed to the documentary *Steal This Film II*; countered the Norwegian record industry’s “Piracy Kills Music” campaign with “Piracy Frees Music”; published op-eds in Swedish newspapers and sat for interviews with the magazine *Vanity Fair* and several different news agencies; met with the Swedish Film Institute to discuss digital copying of films; and video documented a Walpurgis Night ritual in which members burnt their 2005 book *Copy Me*, declaring the “file sharing debate” as “dead and buried” (Piratbyrån “The Bureau”).

Through provocative interventions, Piratbyrån successfully transformed a media narrative about Swedish file sharing into an actual debate. Rasmus Fleisher, accepting on behalf of Piratbyrån an award of distinction for “digital communities” at the 2009 Ars Electronica Festival, stated it thus: “The establishment of Piratbyrån as a public actor kick-started a new public discussion in Sweden, which has going [sic] on ever since. By participating in that we learned a lot. Our curiosity was what made us maintain the project, instead of just letting it dissolve after a few months, as usually happens with web projects. Most of all, we learned from each other’s very different skills: hacking and slacking, art and theory.” The confluence of “hacking and slacking, art and theory” best describes Piratbyrån’s approach to messaging. By combining poststructuralist analysis of copyright, a performance art valuation of process and community, techno-libertarian individualism and utopianism, and, most importantly for this study, humor, sarcasm, irony, and parody, tactics which evoke the slacker’s “withdrawal in disgust” (Kopkind

187), the collective problematized the messages of Antipiratbyrå and its partners. Richard Linklater, the director of *Slacker* (1991), claims, “Slackers might look like the left-behinds of society, but they are actually one step ahead, rejecting most of the society and the social hierarchy before it rejects them” (qtd. Kopkind 179). Piratbyrå turned disgust and rejection into a critique, using it to undermine the authority of the spokespeople at the top of an industry hierarchy.

It is the use of comedy to delegitimize that distinguishes Piratbyrå’s approach to copyright reform. The name of the group, formed by dropping the “anti” in Antipiratbyrå, is a “semantic joke” (Fleisher “Ars”). The name both conjures and problematizes its other: it is, on one level, a direct confrontation to the pro-copyright Antipiratbyrå, but on another level it gives a retroactive authorization to Antipiratbyrå’s existence, a posteriority that destabilizes Antipiratbyrå’s authority. Before Piratbyrå, the “Anti-Piracy Bureau” was alone, a group without an enemy, defining itself against an activity without discernible and organized actors. By extracting Piratbyrå from Antipiratbyrå, the collective simultaneously justifies Antipiratbyrå’s purpose by giving it an organized, recognizable enemy, and undermines it, by demonstrating just who are such dangerous pirates: hackers, slackers, theorists, and artists. According to Magnus Eriksson, “There was no Bureau of Piracy for them to be against. They were against an invisible mass. So we thought that ‘ok, you can be against us’. This is what we like and we think this is a good thing. Now they had to be against someone that gave them counter arguments” (qtd. Lindgren and Linde 149).

The creation of Piratbyrå as a counter to Antipiratbyrå deftly appropriates their symbolic power. By closely mirroring the copyright group’s name, Piratbyrå positioned themselves as the natural and necessary counter balance for all of the trade group’s anti-piracy

interventions, campaigns, and public statements. Without any authority from already institutionalized groups, Piratbyrå was able to insert itself into the media discourses of piracy. By accepting and embracing the place of the other, they were able to redefine it.

The attempt to not only counter but to reimagine the nature of advocacy is evident in the group's structure. Instead of defining itself as the opposite of Antipiratbyrå, as a lobbying or consumer interest group, Piratbyrå stressed its lack of rigor and organization, never coalescing around a self-appointed leadership. Eriksson described the group as “a cluster with fuzzy borders, a network consisting of a number of connected humans and machines” (“BRNO”) and Fleischer repeatedly stated that it was “an ongoing conversation, which sometimes unexpectedly spills over into specific interventions.” The essence of the group was not the “website, but rather the IRC chatrooms, filled by a spirit of friendship and experimentation” (Fleischer “Ars”). Instead of representing a “segment of the population” or even “file sharers,” the group saw itself “as an environment [sic] around which a lot of interesting [sic] things happen,” as the “second wave of copyright criticism,” moving beyond an analysis of legal or consumer issues (Eriksson). The goal was not to “solve the copyright issue,” but “to keep the debate boiling and focusing of the grey zones of everyday cultural life, ... trying to influence the perspective of the debate.” The group did not try to answer the copyright debate, to suggest reforms or royalty schemes, because it felt the terms of the debate, dictated by the copyright industry and legally tied to an early era of media, masked “the permanent crisis of copyright” (Eriksson). It did not define itself as a lobby because lobbies are inherently tied to the constituencies or companies for whom they advocate. It did not claim cohesion because cohesion necessitates trajectory, and the trajectory of copyright has only been more copyright.

The answer to piracy, the name Piratbyrå suggests, is not Antipiratbyrå.⁸³ The answer to piracy is “according to whom?” By its very nature, the group begs the question, does a website, a forum, some art performances, lectures blog posts and conversations necessitate a bureaucratically organized effort on the behalf of the content industries? And if so, what does that say about copyright?

Piratbyrå’s conception of itself (which is not necessarily the same as its actual functioning) is parodic. According to Linda Hutcheon, parody “is a form of imitation, but imitation characterized by ironic inversion,” it is “repetition with critical distance” (*Theory* 6). The critical distance of parody comes from the knowledge of the parodists place in history: “the double-voice” of parody plays “on the tensions created by this historical awareness” (4). Whereas the copyright lobby, in order to further its members’ interests, is militantly ahistorical in its pronouncements, ignoring the appropriative histories of emerging media disseminators and the copying within and between anti-piracy campaigns, Piratbyrå and its progeny engage in historical analyses of copyright law and the copyright lobby (Fleisher “The Grey Zone”). Hutcheon calls such parody “trans-contextualization” (15), which “partakes of both the code of a particular text parodied, and also of the parodic generic code in general” (42). The trans-contextualization of Antipiratbyrå transforms the meaning of the original trade group. It compares Antipiratbyrå not just with Piratbyrå, but also with the history of anti-piracy rhetoric. Piratbyrå activates and questions the network of binary morality the copyright industry has the economic and political power to invoke.

⁸³This is an inversion of Eriksson’s statement, “The alternative to p2p piracy is not No Piracy, but person2person piracy. Something similar to trading cassette tapes. Private networks, burned dvds, flash drives, mail and chat clients.” Eriksson, however, in order to make this claim, must ignore the difference in scale and quantity of p2p versus person2person.

For their logo, Piratbyrå appropriated the cassette and cross bones of the British Phonographic Industry's (BPI) "Home taping is killing music" campaign. When parodied by Piratbyrå, the symbol (*sans* slogan) becomes a double coded reference: referring to the previous BPI campaign and to maritime piracy. The "Home taping is killing music" campaign used the common fear of new technologies for political ends, and the comparative ease of digital copying (as well as the music's continued life) now demonstrates the falsity of such claims. By parodying the earlier campaign, Piratbyrå stresses the falsity of the copyright industry's claims that copying kills an art form (it may kill an industry, or an industry's business model, but it will not kill an art form). It foregrounds that the copyright industry has made the same claims for over thirty years yet politicians still listen to them because of the connections between politics and national economies.

As with any parody, if the decoder does not recognize the encoded reference, the parody does not function (Hutcheon 93). Yet both the name *Piratbyrå* and the symbol, if read without the encoded parody, signify a chosen stance against copyright and a playful reappropriation of a stigmatized label. According to Adam Galinsky et al., to reappropriate a name is "*to take possession for oneself that which was once possessed by another*" (222; ital. orig.). By reappropriating the label "pirate," Piratbyrå revalued the term, utilizing the cultural and semiotic space between pirate and piracy. The pirate's historically positive connotations (romance, heroism, counter-hegemony, etc.), counter the negative uses of piracy. Due in part to the various representations of pirates discussed in the second chapter on the pirate film, the group was able to recontextualize the term and cancel its stigma. Such reappropriations "can both be a cause and a marker of elevated group status" (Galinsky et al. 223), and the group identity engendered by Piratbyrå's forum, merchandise (T-shirts and stickers), and critique elevated

infringement into a counter-cultural act and a desirable and socially valued identity position.⁸⁴

File sharers, if they choose to embrace the term pirate, are able to both identify themselves as an oppositional group and to raise their symbolic capital.

A playful yet critical attitude animated many of the group's projects. In 2005, member Ibrahim Botani created an "uncopyright" symbol called Kopimi (Romig), which consists of slanted, pixelated letter "K" at the top of a pyramid. Botani devised the symbol after his two-year-old child, dancing in front of its parents, insisted, "Copy me!" The Kopimi symbol (pronounced "copy me"), when affixed demands that something be copied; it is an "imperative" (Enigmax "Pirate 'Kopimi'"). Whereas copyright announces a legal limit on usage and derivation, Kopimi encourages duplication and transformation. This uncopyright is different from the Creative Commons license, which works "alongside copyright" and waives copyright owner's (licensee's) rights and restricts user's (licensor's) practices (Creative Commons). The philosophy of Kopimi, however, "is about spreading ideas and practices as an epidemic" (Mancuso). In the 2009 manifesto, *POwr, Broccoli and KOPIMI*, the group lays out the Kopimi philosophy as the "100 roads to #god."⁸⁵ The manifesto is a self-contradictory, ironic, and reflexive list of imperatives that relate to Piratbyrån and *The Pirate Bay's* history, as well as hacker and drug culture. The first road is naturally, "Obtain the Internet." For the hundredth road, there are ten entries, one of which, "Be careful of burning kittens," sums up the tongue in cheek attitude, and another, "The Internet is right," sums up their philosophy.

⁸⁴Lindgren and Linde make a similar observation, though they see the reappropriation of copyright symbols as contributing "to the construction of collective identity by referring to a common history and symbolism" (158). Considering the relative youth of most file sharers, this is not so much a common history as a history lesson around which online pirates may group.

⁸⁵I attribute the manifesto to Piratbyrån, but its authorship is unclear, as the Piratbyrån affiliated Kopimi project produced it and published it on *The Pirate Bay*. The Kopimi project is even more amorphous and contingent than Piratbyrån.

Piratbyrå was most disruptive when it engaged in a dialectical critique of copyright history. In a presentation by Fleisher and Palle Torsson entitled *The Grey Commons*, which they gave at several conferences in 2005, they theorize copyright outside of the usual dichotomies. As a metaphor for the entire presentation, they use DJ Danger Mouse's *The Grey Album*, an unauthorized mash-up of Jay-Z's a cappella vocals from *The Black Album* and the instrumentals from the Beatles' *The White Album*. Danger Mouse's leaked mash up, which would never retail commercially because of EMI Music's copyright claims, was nonetheless the hit album of 2004 and garnered praise from both Paul McCartney and Jay-Z. As a space outside the black/white-evil/good rhetoric of copyright disputes, Fleisher and Torsson champion the *grey*: "By developing the tools and discourses of file sharing, we try to expand the grey zones and make room for the unforeseeable. Instead of talking about things in the copyright industry's universal terms, and instead shift the focus to the diverse reality of cultural circulation: what we call The Grey Commons" (sic). They declare that the traditional terms of the copyright debate (and therefore copyright law) do not reflect digital practice. The distinction between downloading and uploading, a distinction critical to the copyright industry's litigation of infringement, is meaningless when the majority of individuals use BitTorrent protocols and simultaneously download and upload as a swarm. To speak of downloading and uploading "obscures the fact that horizontal P2P-communication is essentially different from vertical mass-distribution" (sic). It ensures that the copyright industry will have control over the amount of content available and the control to dictate what is and is not legal Internet activity. Relatedly, any discussion of copying is problematic as computers are copying machines, which can only present content by duplicating it in RAM memory. Trying to limit (through streaming or digital rights management software) the copying of content into ROM memory denies the way computers operate. As such,

a distinction between producers and consumers is also flawed, as it forces a retroactive understanding of media production on digital realities. Even the distinction between form and content breaks down in the digital, as computers translate both into binary code and “simulate” them.⁸⁶

Finally, they argue that the copyright war “is about an unfair and absurd attempt to turn networked computers into individual subjects.” Because copyright law reiterates the paradigms of analog technology, it must undermine the networks built on digital technology to reify those paradigms. Only by simplifying and restricting the Internet can copyright function as it has in the past. Fleischer and Torsson conclude, “The drive of discovering, thinking and inventing alternative processes of production is the affirmative power of life as a vital experiment of complexity. Internet piracy is all about desiring-production, and its long-term effects are beyond our human capacity to compute.”

The arguments presented in “The Grey Commons” function differently than those of the copyright reform movement, as they do not try to accommodate copyright law to changing realities or try to trace historical phenomenon to change the terms of the debate.⁸⁷ More radically, Piratbyrå’s analyses declare copyright law irrelevant to the present, making no distinction between information and commercial content. According to the group, the copyright industry and the copyright reform movement’s attempts to force dated concepts onto digital

⁸⁶ Very presciently, they argue that the “war against file-sharing is essentially a war against the distribution of uncopyrighted metadata, not against the distribution of copyrighted material.” In the past eight years, as digital streaming services have proliferated for film and music, this has become exceedingly clear, and information on the content user’s (but not content owner’s) behavior has become a commodity in its own right. The value of “data” may one day rival the value of content.

⁸⁷ See Siva Vaidhyanathan’s *Copyrights and Copywrongs: The Rise of Intellectual Property and How It Threatens Creativity*, Larry Lessig’s *Free Culture*, and William Patry’s *Moral Panics and the Copyright Wars*.

distribution are anachronistic, retrograde, and doomed.⁸⁸ As the allusion to Deleuze and Guattari's "desiring-production" shows (Deleuze and Guattari 1-8), the critique is highly influenced by poststructuralist thinkers. The overall practice of Piratbyrå, as demonstrated in their name, symbol, and lectures, is deconstructive. Although Jacques Derrida resisted articulating a system of deconstruction, he did posit that deconstruction "is generally practiced in two ways or two styles": "One takes on the demonstrative and apparently ahistorical allure of logico-formal paradoxes. The other, more historical or more anamnestic, seems to proceed through the readings of texts, meticulous interpretations and genealogies" (250). Piratbyrå practiced both styles, seizing the aporias of copyright law and the imagery and arguments of the copyright lobby.

The collective's purported goal throughout was not to argue that piracy was moral or benign. Nor did it argue (primarily), that the copyright industry was a cannibalistic behemoth exploiting artists for its own benefit. It did, however, create its own sets of binaries. While the groups use of parody and negation of established dichotomies was destabilizing, its technological determinism replaced the binary of good/evil with past/future-present: "We are happy to live in such exiting times, to be the swarm of insects feasting on the remains of the copyright industry, while creating the future approach to technology and culture" (qtd. Lindgren and Linde 155).

The collective's cyberlibertarianism, their faith in the technology of the Internet to break boundaries and barriers, echoes much of the early utopian pronouncements made about the Internet in the 1990's. In *A Declaration of Independence of Cyberspace*, John Perry Barlow, a founding member of the Electronic Frontier Foundation, declared, "Governments of the

⁸⁸In the presentation they specifically discuss the arbitrary decisions inherent in Lessig's proposal of a peer-to-peer tax, specifically the pitfalls of deciding which artists will receive remuneration.

Industrial World, you weary giants of flesh and steel, I come from Cyberspace, the new home of Mind. On behalf of the future, I ask you of the past to leave us alone. You are not welcome among us. You have no sovereignty where we gather.” While cyberlibertarianism is not a codified philosophy, it has consistent characteristics across different articulations: resistance to criticism of technology, pursuing solutions to problems through technical means, privileging quantitative over qualitative assessments, the use of different standards for evaluating technological and non-technological practices, and “an overarching focus on the power of the individual and individual freedom, even when that individual is understood to be embedded in a variety of networks” (Golumbia 1). This privileging of individual volition and the belief in the autonomy of cyberspace recall the libertarian interpretation of piracy discussed in the second chapter.

In 1991, Peter Lamborn Wilson, the most vocal interpreter of pirates as anarcho-libertarians, published *T.A.Z.: The Temporary Autonomous Zone*, in which he put forward his interpretation of pirates and argued that their settlements created temporary autonomous zones (TAZ) of revolt and total liberty (Bey 13). Although he refrains from defining the TAZ, he makes clear its properties: temporary uprisings of freedom that appropriate or create spaces outside of state control (Bey 13-18). While he saw historical pirates as creating such spaces, he cautioned that the TAZ would have to “parasitize” the burgeoning Internet to avoid the commodification, exploitation, and ersatz radical politics sure to come with it (20). His articulation of the relationship between the Internet and the TAZ prophesies, as will become clear, many of the interventions of the groups in the Swedish Pirate Movement:

Whether through simple data-piracy, or else by a more complex development of actual rapport with chaos, the Web- hacker, the cybernetician of the TAZ, will find ways to take advantage of perturbations, crashes, and breakdowns in the Net (ways to make information out of "entropy"). As a bricoleur, a scavenger of information shards, smuggler, blackmailer, perhaps even cyberterrorist, the TAZ-hacker will work for the evolution of clandestine fractal connections... Thus the Web, in order to produce situations conducive to the TAZ, will parasitize the Net- -but we can also conceive of this strategy as an attempt to build toward the construction of an alternative and autonomous Net, "free" and no longer parasitic, which will serve as the basis for a new society emerging from the shell of the old. (20)

Piratbyrå, "a temporary group for a temporary reason" coalescing around an Internet forum (Ernesto "Pirate Bay's"), most clearly embodied the goals of the TAZ. Yet their cyberlibertarianism ignores Wilson's critique of "the Cyberpunk utopianists, futuro-libertarians, Reality Hackers and their allies who see the Net as a step forward in evolution, and who assume that any possible ill effects of mediation can be overcome" (17). The Internet and the computer are means but not *the* means to manifesting temporary autonomous zones.

Believing that technology would determine practice, Piratbyrå assumed that copyright was moribund and disregarded the copyright lobby's ability to adapt. It assumed that darknets (personal forms of communication like email, chat clients, USB sticks, copied cd's, etc.) are just as much of a threat to the copyright industry as broadband networks (Fleischer "The Future"), a sentiment that greatly exaggerates the rate of person-to-person sharing. Piratbyrå discounted the power of the copyright industry to influence government practice, denying the ability of regulations to limit connectivity and the ability of governments to inflict punitive measures (both economic and disciplinary) to influence behavior. As governments can exert control over domain name systems (DNS), they control how Internet users find webpages and each other. DNS "poisoning," whereby users are redirected to other sites than the ones they intended, effectively

deters the casual user, and if practiced thoroughly by governments (like China) can severely limit Internet traffic to targeted sites. Domain name seizure for copyright, practiced by the U.S. Immigration and Customs Enforcement agency, occurs mainly without judicial oversight or redress at the behest of lobbies and companies (Granick 26).

Most importantly, governments regulate and support Internet Service Providers (ISP) and therefore ISP's cater firstly to their demands, not those of subscribers. While ISP's need to be sensitive to the perceptions and requests of their subscribers, the oligopoly over connectivity somewhat shields them from consumer boycott. When cooperation and oligopoly combine with media conglomerates owning the ISP's, the resultant situation overdetermines the outcome. The terms of service clauses of ISP's allow them to revoke service for any reason, effectively individualizing and disconnecting the Internet user. Without governments dedicated to net neutrality and Internet privacy, the entire network is vulnerable and contingent. Piratbyrån correctly held that "copying is a fact of life" (Eriksson), but the Internet is not a human right and connection is not guaranteed.

The Internet is not the final frontier of enforcement either. The attempts to legislate hard drive searches for copyright infringement in the Anti-Counterfeit Trade Agreement (ACTA) show that the copyright lobby desires to restrict person-to-person piracy, formerly considered to difficult or costly to police (Geist). If, as Fleischer claims, "the alternative to peer-to-peer piracy is not no piracy, but rather person-to-person piracy" ("Navigating"), it is likely such piracy will also come under surveillance and punishment. The common cyber-libertarian battle cry of "information wants to be free" forgets the other half of that very statement: "information also wants to be expensive" (Brand 202). Information, in the end, wants nothing, and the desires of those who exert power will determine technological development and social practice.

Jonas Anderson, in his analysis of the Swedish file-sharing movement, argues that the technological determinism of Piratbyrå and The Pirate Bay “adheres to a normative ontology of the internet that accentuates the *inevitability of unrestricted file exchange*” (9; ital. orig.). The copyright lobby on the other hand argues “for a normative ontology of the internet where *exchange is regulated, safe, and sanctioned by institutionalized, accountable providers*” (ibid.). While both of the positions have a coherent internal logic, they break down when confronting each other and therefore there is little chance of consensus between them. The tension between them however, may be highly productive, as each forces the other to rethink and redeploy their various interventions. Without some tension on an international scale, the hegemony of the copyright lobby will march on unabated.

After the death of Ibrahim Botani in 2010, Piratbyrå disbanded and closed (but did not delete) their website. The homepage now reads “Stängt för eftertanke”: closed for reflection. Discussing the group’s end, Peter Sunde stated, “The discussions about file-sharing that Piratbyrå wanted to have, [sic] are already won. The projects that needed to start have already been finalized. Piratbyrå was a temporary group for a temporary reason” (Ernesto “Pirate”). Member Marcin de Kaminski summed up the group’s approach to the copyright debate, “By proudly standing up for the ideas of a whole generation of internauts and taking the fights no one else did, Piratbyrå worked as catalyzers when it came to understanding the current evolution of culture, clusters and chaos. While other actors have been trying to deliver answers, Piratbyrå has been very focused on targeting problems of the present by searching for the right questions” (Ernesto “Pirate”). While it is arguable whether Piratbyrå stood “up for the ideas of a whole generation,” it did act as a resource for file-sharers and anyone who wanted to form an opinion about infringement that was not discursively limited.

As hinted earlier, Piratbyrån not only undermined the Swedish Anti-Piracy Bureau's messaging, it also authorized the copyright lobby by giving it an enemy. This is what Hutcheon calls the "paradox of parody": "the textual and pragmatic [i.e. intentional] natures of parody imply, at one and the same time, authority and transgression" (69). The group of slackers, hackers, theorists, and artists would never have risen to such prominence, would never have countered the copyright industry, if not for an "experiment" with BitTorrent protocol a few months after the group's creation (Fleisher "Ars"). That experiment resulted in *The Pirate Bay*, the largest BitTorrent tracker in the world and the perfect instance of militant, recalcitrant infringement to justify the copyright industry's agenda.

The Militant Irony of *The Pirate Bay*

Began in November 2003 for Piratbyrån by Gottfrid Svartholm on a single computer in Mexico, *The Pirate Bay* (TPB) website grew exponentially. Due to the technical nature of the site, as well as its growth, the site separated from the Piratbyrån in 2004 though the two continued to act together at times (Ingram; Fleischer "Re: Piratbyran"). In 2004, Fredrik Neij joined Svartholm as technical support, and in 2005 Peter Sunde became the media spokesperson for the site. Originally Swedish language only, the site relaunched as multi-lingual in 2005 to accommodate its many non-Swedish users. It began as a BitTorrent (BT) tracker and index: a site that hosts no actual content but rather tracks torrent files (files through which users locate and communicate with each other) and indexes those files for search. In 2011, the site switched to magnet links, hyperlinks that are significantly smaller than torrent files and do not need tracking

through the site, thereby removing (somewhat) the liability of the website.⁸⁹ While not the first torrent tracker, the site quickly became the largest in the world, and as of this writing has 6 million registered users and 65 million peers accessing 6 million torrents (The Pirate Bay “Search Cloud”) and a global site rank of 73, a U.S. site rank of 63, and a Swedish site rank of 13 (Alexa).⁹⁰

The site’s main page is simplistic, with category links over a search box with “Pirate Search” and “I’m Feeling Lucky” buttons. These main options sit atop smaller site links (language selection, about, legal, etc.). An obvious parody of Google’s web page, the page has a large, occasionally changing logo above the search bar on a white background. The standard logo for the website is a *pochior* galleon cresting a wave with the Piratbyrån logo on the central, wind-filled sail. The BPI cassette and cross bones accrues further meaning in this iteration, as sites like *The Pirate Bay* have the potential to actually kill the recording industry. The availability of gigabytes of music (and of film, television, e-books, pornography, and printable 3d objects), from the latest releases on the radio to the discographies of long dead artists, displaces the recording industry’s position between consumer and product. This is the “paradox of parody” writ large and the site represents, even more than Napster, the end of a previous distribution model. The irony of this trans-contextualization is that the media industries’ adoption of digital content, first as CD’s and Laser Discs, then as DVD’s, mp3’s, mp4’s, mpeg’s, etc., attempted to supersede analog media and open a new revenue source following the

⁸⁹The distinction is that magnetic links do not hold any information on the torrent file, except its hash number, which locates it. Still, courts have argued that *The Pirate Bay* facilitates infringement because it does not remove links to copyrighted files when notified.

⁹⁰As stated before, the BitTorrent protocol operates through continuous uploading and downloading amongst a swarm, so peers signifies anyone sharing, though 49 million seeders (those who have downloaded the entire file and share it after) and 16 million leechers (those who are sharing only while receiving) make up this swarm. Site rank represents most visited websites for the current month.

recessions of the 1980's (Anderson "For" 69). The recording industry in particular used the introduction of the CD as chance to "rejigger artist's contracts," reducing artist's royalties by twenty percent and doubling the price from that of LP's (Knopper 32). Yet the digitization of content enabled the digitization of distribution and the current situation.

Whereas previous file sharing technology such as Napster, FastTrack (Kazaa) or even Gnutella (Morpeus, Limewire, etc.) functioned through one user connecting to another user, BT creates a swarm, an interconnected multitude equalized through simultaneously uploading and downloading of the same file.⁹¹ The speed of downloads increases the bigger the swarm and the longer a user is connected, in a sense incentivizing interconnection. BT client programs declare this social framework by listing the number of peers to which a user connects with the upload and download speed. While file sharing is inherently social in its search, communication, and connection aspects, BT is social in the transfer, and the size of the swarm affects user experience.

Torrents, other peer-to-peer protocols, and networked computer technology create what Howard Rheingold has termed "smart mobs": "people who are able to act in concert even if they don't know each other. The people who make up smart mobs cooperate in ways never before possible because they carry devices that possess both communication and computing capabilities" (xii). Smart mobs allow for social cooperation on a global scale, encouraging the coordination of disparate actors. Because of this capability, many advocates of peer-to-peer technology demonstrate a particular passion for and belief in the democratic potential enabled by it (Rheingold 65). However, the general experience of a smart mob, even with the BT protocol, is one of isolation, of the computer as the focal point of experience, not the smart mob constituting

⁹¹The protocol breaks up the files into small parts during transfer, allowing for quicker transfer over the Internet. This aspect makes even the sharing of large movie files much faster than other file sharing protocols.

the swarm. To adapt Don Ihde's terminology from the first chapter, the experience of most peer-to-peer technology is hermeneutic relations, not social relations.

Though torrent websites function as portals for social sharing and connection, none of the other major sites of the last few years (such as Mininova, BTjunkie, Demoniod, LimeTorrentz, etc.) designated themselves as a space for social interaction.⁹² The Pirate Bay, through its name and its galleon logo, assert the Internet as a place, as spatial in nature: it signals a "virtual geography," a socialized virtual technology (Crang, Crang, and May 2). Unlike the other torrent sites, the Bay actively cultivated the latent social potential in the smart mob. Annette N. Markham argues that the three most common metaphor types used to describe the Internet reveal conceptions and possibilities of networked action: the tool metaphor (as in the Internet Superhighway) signifies an understanding of the Internet as enabling work (3-6); the place/space metaphor (as in cyberspace) signifies an understanding of the Internet as a place "where meaningful human activities can occur" (7); and the way of being metaphor (as in netizen, digital native, etc.) signifies "the expression and negotiation of self and other with or through Internet technologies" (10). These three discursive frames and usages are not completely separate, as the tool leads to place (much as the service focus of Web 1.0 led to the social focus of Web 2.0, though both concurrently exist), and way of being subsumes both. The Pirate Bay enshrines the metaphor of Internet as place in its name, and fosters relationships with others through its social add-ons: its forum for discussion (the Suprbay), its front-page promotion of pro-file sharing

⁹²The only exception was TorrentPortal, but its Spartan title and single function index did little to inspire sociality. The site has ceased functioning, but remains viewable: <http://www.torrentportal.com/>

artists, its image hosting, video hosting, file hosting, and text hosting (pastebin) services, which all encourage users to interact with each other (and each other's data).⁹³

This increasingly common strategy of filtering previously offline activities through a particular site, known as channeling (Marshall 86), is not in itself social. Google's creation of web calendar applications, document hosting, and maps intends to keep the user within the companies ecosystem and lead them back to advertisements, the main generator of revenue for the company. Yet the channels of the Bay do not so much redirect or integrate offline or online activities into the main website (to the ads) as direct file sharing away from the swarm and away from the revenue stream. Whereas the torrent swarm is largely impersonal (though still social), the hosting services, forum, and promotions are interpersonal, connecting users on a more intimate level. In order to share an image with someone through BayIMG, the user must send the image link through personal communication. In order to promote the works of new artists the site alters its front page to feature not only the link to the torrent but also the artists statement about the site, copyright, and their motives, with links to their YouTube videos and thus their personal website and other info. The site, more than any other file sharing portal, foregrounds its social nature, listing on the bottom of every page the constantly updating number of registered users, peers, and torrents. In this way, the site aligns with what Margaret Wertheim calls "one of the great appeals of cyberspace": "it offers a collective immaterial arena not after death, but here and now on earth" (234). The Bay promises this collective immaterial arena as a utopic plenitude of content, a data heaven enabled by social sharing and an index of the newest (and oldest) films,

⁹³ It is helpful to compare the site's social features to the social aspects of iTunes (its short lived Ping) and Spotify, or even Twitter's client programs, which all try to bring the contacted user into the service by "spreading" the application and network through proprietary links (Marshall 87).

music, games, and software. Through the creation of these other services, the site is creeping towards a way of being, the way of sharing media in the digital world.

As many commentators have noted, Apple did not sell millions of iPods because of legally purchased music. An impetus for increased hard drive space in personal computing and the quick adoption of mobile computing has undoubtedly been the availability of free content. The ability of cyberspace to affect the physical world, dubbed cyberplace (Batty 355), manifests most evidently in file sharing, which has revolutionized personal computing and public behavior.⁹⁴ Of course, the changes in the physical world and non-virtual relations due to file sharing do not signal back to the sharing. Much as commodities do not actively declare the labor involved in their manufacture, a labor without which they and capitalist relations would cease to exist (Marx 83), the consumption of shared digital culture and the use of mobile devices do not declare their social foundation. The Bay trumpets the original act of sharing, instead of the secondary act of consuming content (a focus no doubt based in Piratbyrå's adhocracy ethos, combatting second level commodity fetishism). That the site actively works to demystify the social nature of information, but not the labor inherent in the information's creation, is a glaring contradiction, but considering the inherent alienation between artist and consumer in modern media, not a surprising one.⁹⁵

⁹⁴A quick ride on a metropolitan subway will testify to just one change in the habitus and interactions of people brought about by file sharing, as headphones and tablets now signal privacy in a cramped public space (similar to books, though mobile devices far outnumber the earlier medium). And while streaming services over high speed mobile networks increasingly deliver content to mobile devices, early adopters of smartphones will recall filling their hard drive before leaving the house. The adoption of mobile computing would have inarguably occurred more slowly without file sharing.

⁹⁵In 2007, the Bay announced the future launch of Playable.com, a music site allowing users to share freely for a monthly fee, out of which the site would pay artists per download (Libbenga). Nothing ever came of the site.

The site became a symbol and a celebrated instance of copyright rebellion not because it highlighted the social aspects of sharing, though. As Anderson notes, “As a result of this relative impotence [of p2p networks and personal Web 2.0 communication], what is required for political efficacy, we might argue, is the presence of more lasting, (semi)institutional actors” (“For” 84). The affective power of the site, its emotional appeal for so many users, is its defiant stance against copyright industry threats and its refusal to shut down, which it documents at length. In addition to a page that details the legal conditions and liabilities of usage, The Pirate Bay also has a “Legal Threats” page. The page features threats from companies like Microsoft, Apple, DreamWorks, SEGA, EA, Warner Bros (Music), etc., with responses from Svartholm. The responses repeat the original text of the correspondence with inline responses, fragmenting and critiquing the legal discourse of the threats. In flippant vulgarity, the responses mock the authority, seriousness, and power of the lawyers and companies who send them:

Hello and thank you for contacting us. We have shut down the website in question.

Oh wait, just kidding. We haven't, since the site in question is fully legal. Unlike certain other countries, such as the one you're in, we have sane copyright laws here. But we also have polar bears roaming the streets and attacking people :-). (“EA Response”)

The blatant irony of the first line, the disregard and denigration of U.S. laws, and the playful, juvenile fiction and sad face of the final sentence mock not only Electronic Arts (EA), but also lawyers’ “nice titles and shiny offices” and the entire legal system that grants corporations power to dictate individual behavior (TPB “Apple Response”). The fictional polar bears further critiques an American lack of knowledge of Sweden and other countries, which is demonstrated by EA’s ignorance of (or simple disregard for) Sweden’s copyright laws, which at the time allowed for non-commercial downloading (Falkvinge “Origins”). Svartholm stresses this aspect

throughout the responses, telling the lawyer for GrayZone, Inc., “We are well aware of the fact that The Pirate Bay falls outside the scope of the DMCA - after all, the DMCA is a US-specific legislation, and TPB is hosted in the land of vikings, reindeers, Aurora Borealis and cute blonde girls” (“GrayZone Response”).

The paradigmatic response, for both the site’s attitude toward American companies and the site’s ironic textuality, is the response to the lawyer for DreamWorks SKG. The lawyer, Dennis L. Wilson, informed The Pirate Bay that DreamWorks owned *Shrek 2* and that the site would be liable for its users’ infringement under the Digital Millennium Copyright act if it did not remove the film. Svartholm responded,

As you may or may not be aware, Sweden is not a state in the United States of America. Sweden is a country in northern Europe. Unless you figured it out by now, US law does not apply here. For your information, no Swedish law is being violated.

Please be assured that any further contact with us, regardless of medium, will result in a) a suit being filed for harassment [and] b) a formal complaint lodged with the bar of your legal counsel, for sending frivolous legal threats.

It is the opinion of us and our lawyers that you are morons, and that you should please go sodomize yourself with retractable batons.

Please also note that your e-mail and letter will be published in full on <http://www.thepiratebay.org>.

Go fuck yourself.

Polite as usual, anakata [Svartholm’s pseudonym]. (“DreamWorks Response”)

The response begins with a simple statement of fact and moves toward a juvenile and perverse climax, culminating in an ironic (“Polite as usual”) denouement. It appears to be the irreverent taunt from a child who has reached higher ground. Yet irony extends throughout the entire

response and throughout all the responses. As became clear following the site's trial (when a Swedish civil and criminal court convicted the operators of facilitating copyright infringement), the operators of the website do not care about Swedish law. Rather, they have a rabid contempt for any law that inhibits technological experimentation, for any authority that wants to limit Internet activity. Irony's edge, to use Hutcheon's term for the semantic and evaluative complexity of asserting irony (*Irony's Edge* 11-13), allows for dual readings of the threat responses: as emphatic statement of national sovereignty and as empty bravado parading as legalist threat.⁹⁶

Though Svartholm claims in the response that the site will sue for legal harassment and file a bar association complaint, they will not.⁹⁷ They are well aware of the contradiction such a claim would emphasize (and the slim chance of winning such a suit). Their intention is not to follow the law, but rather to mock it by invoking it, to show its ridiculousness. A recent example, in which the site claimed it actually filed police charges, demonstrates their *modus operandi*. On February 18, 2013, a blog post alleged the filing of criminal charges against the Finnish Copyright Information and Anti-Piracy Centre (CIAPC) for copying "files from which The Pirate Bay is built, to produce a fraudulent parody site" without permission.⁹⁸ CIAPC registered the domain *piraattilahti.fi* ("pirate bay" in finish) and created a webpage featuring a sinking galleon and torrent search engine. The search engine, and all the links, led to a message about legal downloads. Yet CIAPC, attempting to parody The Pirate Bay, created what Bakhtin calls "a

⁹⁶The prosecutor in the site's trial did not acknowledge either reading, instead seeing the legal correspondence as proof "that significant amounts of information had been provided regarding the fact that uploading and downloading of torrent files which referred to copyright-protected rights or works were taking place on The Pirate Bay without the consent of the rights-owners" (International 27).

⁹⁷It appears their "legal counsel" was a law student Sunde contacted through IRC (*TPB AFK*).

⁹⁸It is highly unlikely that any charges were filed, considering the legal status of the website and the intentional ambiguity as to who now runs it, unless they were able to file anonymously.

tempest in a teapot”: the failure of monological utterances to suppress the dialogical structure of language (*The Dialogic* 325). By parodying the site, CIAPC transcontextualized the Bay’s meaning, but by copying the code of the site CIAPC resignified itself as a piratical organization.

The Pirate Bay then seized on the parody as an opportunity to burlesque and delegitimize the anti-piracy group. According to the press release, though the Bay “may have a positive view on copying, it will not stand by and watch copyright enforcing organizations disrespect copyright” (“Today”). The site then used the incident to internationally publicize CIAPC’s instantiation of a police raid against a 9-year-old girl for attempting, and failing, to download an album.⁹⁹ The Bay pledged any money collected from the infringers would go to the “victimized” girl: “CIAPC is like an ugly high school bully without friends. It’s time to take a stand. Cyber bullying is a serious matter to us all” (“Today”). Instead of directing traffic away from a file sharing site, the parody directed traffic to the trade group’s history, and a national incident of trade group influence on Finnish police became international news.

The Bay’s charges (*if* filed and brought), like the responses to the legal threats, do not testify to a belief in the sanctity of law, but rather highlight the hypocrisy of the copyright lobby, their desire for control beyond any law or service to the consumer. The incident has exposed, to use the formulation of Slavoj Žižek, the “obscene nightly law” of CIAPC and the media companies who contacted the site (“Why” 63). For Žižek, there exists a public law and an unwritten law, and it is the unwritten law that truly links the community, not the outwardly

⁹⁹In the raid the police confiscated the young girl’s Winnie the Pooh laptop and the action caused an uproar in Finland (Epstein). The father of the girl eventually paid the trade group 300 euros and the group dropped the charges (the police will, presumably, return the laptop). Even though the action brought objections from the “harmed” artist and Finland’s minister of culture, CIAPC chief Antti Kotilainen obliviously said, “We are very happy... In a way, we just continued the original negotiations from where we left off” (Enigmax “Father”).

professed public law (“Why” 63-64). In this incident, The Pirate bay appropriates the position of superego, of castigating Big Other, reversing on the copyright lobby the trumpeted respect for the law that neither they, nor pirates, hold. Copyright is a tool for businesses, not a sacrosanct institution, and the Bay’s press release both demonstrates this schism between rhetoric and practice and announces themselves as co-equals with their antagonists, as part of the supposedly righteous community, and therefore invalidating it: “by bringing to light the obscene superego underside of the system, over-identification suspends its efficiency” (Zizek “Why” 65). The pirates say, in effect, we are all liars, but at least we are honest about it (which is not without its own irony). CIAPC’s infringement further, and unknowingly, demonstrates Piratbyrå’s maxim that copying is a fact of life. The paradox of this parody not only undermines CIAPC’s moral authority, it shows just how simple it is to copy digital information and create a piratical website. In a very clear sense, CIAPC has undermined its project of halting infringement by testifying to the ease (and possibly necessity) of infringement.

The difference in the parodies of the two groups illuminates the general way they construct the messages. Piratbyrå’s, and then the Bay’s, appropriation of BPI’s “Home Taping is Killing Music” logo does not alter the sign, just repositions it so that its new context reactivates its original intended meaning and conflicts with it. The meaning of the sign exists in the interrelation of the historical contexts of the signifier, not in the manipulation of the signifier. The CIAPC parody on the other hand, alters the galleon and makes it into a sinking ship, manipulating the original signifier and the signified. Whereas the Pirates’ and BPI’s logo signify along the paradigmatic axis, the appropriation of the name “pirate bay” (with negative connotations overdetermined by the altered image and links to an “information” page) pushes piracy down the syntagmatic chain. In other words, The Pirate Bay’s meaning of the cassette and

cross bones and BPI's meaning for it exist simultaneously as possible readings intended to comment on each other, yet the CIAPC parody tries to fix the meaning of The Pirate Bay's logo.¹⁰⁰ CIAPC does not link back to piracy, but instead appropriates it to erase it (though, ironically, not its code). CIAPC's parody is metonymic, moving down the syntagmatic chain and beyond the previous syntagmata. Metaphor, on the other hand, functions on the paradigmatic axis, and signifies through relation and combination (Jakobson and Halle 80-81).

The difference between the two parodies is the difference Paul de Man locates in the Romantic Poet's distinction between symbol and allegory. Both symbol and allegory are figurative ("rhetorical" in de Man's language) with symbol corresponding to metonymy and allegory corresponding to metaphor. Symbolic metonymy is supposedly "founded on an intimate unity" and while metaphoric allegory refers "to a meaning that it does not itself constitute" (189). Whereas CIAPC's appropriation of the world's largest torrenting site claims it is sinking, it instead testifies to the two groups' intimate unity and simultaneity. The Bay's allegory seems disconnected from the BPI's campaign, more petulant name calling than righteous indignation, yet as allegory, it can "consist only in the *repetition*...of a sign with which it can never coincide, since it is of the essence of this previous sign to be pure anteriority" (Man 207). This parody of "Home Taping is Killing Music" campaign testifies to the *history* of such false claims, a persuasiveness that can no longer function, while CIAPC's parody denies the Bay's continued resilience. CIAPC's parody is a refusal of the present, whereas The Pirate Bay's parody is an affirmation of the past. Pirate parody is thus ironic, as it quotes the previous campaigns to hold

¹⁰⁰ Read as a syntagmatic sentence, however, the combination of signs suggests that illegal downloading leads to legal downloads, which advocates of file sharing and studies of home taping and file sharing have claimed this for years. See Sutherland, cited above, for home taping and, for file sharing, see Oberholzer-Gee [cited last chapter] and the recent study by Joe Karaganis and Lennart Renkema, "Copy Culture in the US & Germany."

them up to the present. Allegory and irony, for de Man, are linked “in their common demystification of an organic world postulated in a symbolic mode of analogical correspondences” (222). Which is to say, both allegory and irony belie the substitution of the world with signs by foregrounding the constructed nature of the world *as* signs.

The developments following the CIAPC parody and the Bay press release are even more telling than the semiotics of the reciprocal parodies. CIAPC Director Antti Kotilainen, completely missing the irony, encouraged The Pirate Bay to sue his group, hoping to force the current operators out of anonymity (Kärkkäinen). After little more than a month, the copyright group ended their parody, claiming it “successful” with 200,000 visitors (though they did not explain why such success merited such a short campaign) (Copyright Information). Their current campaign (at the same parodied web address), presents a “movie poster” of a youth in a rowboat next to a flaming, sinking pirate ship. The youth rips at his hair and clutches his face in front of a laptop screen that reads, “Error.” Sharks swim in the water and an octopus’s tentacle reaches into the rowboat. Directly invoking *Pirates of the Caribbean*, a title over parchment at the top of the poster insists, “A Pirate’s Life,” and a title at the bottom promises, “Coming Soon.” The new campaign supposedly “sums up international piracy-related news from the past couple of months into a single picture: operating an illegal pirate site is getting more and more difficult in this day and age” (Copyright Information). Once again, CIAPC has made a parody, attempted to fix the meaning of the signs, and missed the irony: in *Pirates of the Caribbean* the pirates are the heroes.

The Bay's parody and irony declare that the satire of the copyright lobby is the satire of likeness, the correction of behavior of a similar entity: a content publisher.¹⁰¹ As Jonas Anderson insists, "The Pirate Bay is not an 'anti-commercial' or 'even anti-corporate' operation: it is rather an alternative means of utilizing the new potentialities in the infrastructures our computers are enmeshed in" ("For" 80). While most likely not very profitable considering the site's size and maintenance costs, it is commercial and runs advertisements,¹⁰² as well as promoting artists who upload their work and it inadvertently promotes artists shared to the site (Andersson "For" 66). The pirates are not so much against the companies who attack them, as against the existing hierarchy and the distribution of power. The Pirate Bay attacks this position with "militant irony," to use Northrop Frye's term for satire (223).

The site is seemingly tenacious in its refusal to remove material from its index. According to Svartholm, "Our job is to help people exchange information with each other, not act as the copyright and/or moral police" (Ingraham).¹⁰³ However, satire, with clear moral norms to measure the grotesque, "demands at least a token fantasy" (Frye 223-224). The fantasy here is two fold: first, the operators are not as committed to freedom as they claim, as they remove child

¹⁰¹Neij, speaking about the responses to the legal threats, hints at this similarity: "They are rude in a polite way. We are rude in a rude way back at them" (Norton "Secrets").

¹⁰²There was some dispute about the economic nature of the site during the trial of the operators. The plaintiffs held that company received over \$180,000 dollars a year in advertising revenue. The defendants held that the site was non-profit and only featured advertisements to cover operating expenses (International 28).

¹⁰³The refusal to remove content has caused controversy for the site. In 2008 it indexed a torrent file featuring publically available autopsy photos of two murdered infants. One of the operators responded to a takedown request from the father of the children, "That is one helluva gripe. No, No and again no." While apologizing for the callous reply, Sunde maintained, "People can express themselves and spread material they think is important, that's one of the things we're fighting for and if it's then used for things which can be uncomfortable for some, so be it, but it's more important that such a possibility exists than that it doesn't exist" (Landes). The reply to the father displays how poorly pirates respond to individuals with an interest in not sharing. The critique of the system fails to address the critique of the individuals whose creations (or personal information) enters the swarm.

pornography and mislabeled files (International 32). Nor could they argue for total liberty and keep their moral high ground and user base: the fantasy of total liberty loses to the pragmatism of denying services to pedophiles. Second, they posit that The Pirate Bay could function without content from the companies they lambaste, that the revenue media companies use to produce content is not dependent on the protection of that revenue (Andersson “For” 79). The site thus promotes a non-profit ethos to justify its own actions and distinguish it from copyright respecting distributors.

The non-profit ethos of the site definitely contributed to the copyright lobby’s view of it and to its direction, as well as its appeal for users (Anderson “For” 86). Unlike most businesses, it encourages rival torrent sites and allowed others to use its tracker (Anderson “For” 95 n. 6). In a selfless *and* strategic move, the site encouraged the distribution of versions of itself. A user released an archive of the entire site (with approval) as a torrent in 2012 (another user released an update in 2013). The file of all the site’s magnetic links (without comments and descriptions) amounted to only 90 megabytes archived, 164 megabytes unzipped, and makes the site itself irrelevant (at least for currently available files). Fitting on a thumb drive, the torrent of the site allows for millions of pirate bays, a testament to the difficulty of sinking the pirate ship (Ernesto “Download a Copy” and “Download a Fresh”).

The proliferation of archives mirrors The Pirate Bay’s earlier performance piece at the 53rd Venice Biennial in 2009. For their contribution to the Biennial’s Internet pavilion, the Bay aimed to make “informal network connections stronger”: “By a set of simple copyable, reproducible and remixable acts of sharing we want to start to open the gates to these stories and experiences and build connections between them.” Releasing a downloadable origami Kopimi pyramid for participants to print out and photograph, the group created and displayed a collage of

“the largest, most widely and wildly spread embassy in the world”; pictures of three hundred different global ambassadors with their tiny pyramids, which they titled, the Embassy of Piracy (Embassy “The Pirate”). Though not connected to the Internet and not sharing any files, the Guardia di Finanzia, an Italian law enforcement agency that deals with financial crime, raided the exhibit and questioned its “ambassadors.” The Embassy of Piracy released a characteristic statement: “Embassy of Piracy regards this action of the Berlusconi state as a severe trespassing of the diplomatic integrity of the internets, and calls for other diplomatic, artistic and political entities to express their positions” (Embassy “Guardia”).

While Sweden may not be a state in the United States, it is a member of the European Union (EU). In 2005, Sweden implemented the 2001 EU Copyright Directive to update its 1960 copyright act. The directive mandated member states harmonize copyright law with provisions similar to the US Digital Millennium Copyright Act (*Act*). Following implementation, continued pressure from the copyright lobby and the U.S. State Department led to a police raid on the site’s service provider, PRQ, which Svartholm and Neij owned at the time (Roper). Police seized the servers for The Pirate Bay and other websites (Piratbyrån’s server as well). Dan Glickman, then CEO of the MPAA, claimed of the servers “The actions today taken in Sweden serve as a reminder to pirates all over the world that there are no safe harbors for Internet copyright thieves” (MPAA “Swedish”), yet Svartholm and Neij were able to restore the site in three days and within two years the site’s registered users double, its sharing swarm increased six fold, and it jumped from the 500th ranked website to the 90th in the world (Hussain). The raid caused outrage in Sweden and the ruling government was reported to Sweden’s Constitutional Committee for investigation

of outside influence, as Swedish law prohibits politicians from dictating cases to police (Roper; Norton “Secrets”).¹⁰⁴

Subsequent to the raid, two Nordic film companies, six American film companies, and six Swedish record companies filed civil and criminal charges against the site and its operators, including Carl Lundström, who provided telecommunications services to PRQ (Gallagher). During the trial, Svartholm, Neij, and Sunde were visibly disinterested, more concerned with their laptops than the proceedings. Sunde summed up their attitude toward the trial the day before: “The trial tomorrow is not about law, it is about politics” (*TPB AFK*).¹⁰⁵ Piratbyrå set up a series of protests, speeches, and general merriment outside the courthouse, which they titled *Spec Trial*, highlighting the theatrical and spectacular nature of the trial.¹⁰⁶

The court found all defendants guilty of complicity in breach of copyright and sentenced them to one year in prison and \$3.5 million in damages (Kiss). In 2010, an appeals court dismissed the operator’s request for a retrial, though reducing the jail sentences and raising the damages by two million dollars (Ernesto “The Pirate”). The Swedish Supreme Court refused to hear the case in 2012, effectively ending the issue (Enigmax “Supreme”). The operators, following Swedish law, continued to run the site after the verdict and the first appeal, though

¹⁰⁴Later, Warner Bros. admitted that it employed the police officer, Jim Keyzer, who led the investigation (Kuprijanko).

¹⁰⁵Neij, Sunde, and Svartholm did not even bother to retain their own lawyers (International).

¹⁰⁶Somewhat validating TPB’s attitude toward the trial, a week after the verdict Swedish media reported that the judge presiding over the trial and the sentence, Tomas Norström, withheld that he was a member of the Swedish Association of Copyright with Henrik Pontén of Antipiratbyrå, Peter Danowsky, a lawyer representing the International Federation of the Phonographic Industry in the case, and Monique Wadsted, the lawyer for the MPAA in the case. Norström and Wadsted are also members of the Swedish Association for the Protection of Industrial Property and The Internet Infrastructure Foundation. Sunde responded to the revelation by framing the entire affair in TV terms: ““Spectral Cliffhanger in S01 with the verdict – S02 started with the judge being biased. Reality beats fiction yet again!” (Ernesto “The Pirate”).

changing the domain from *.com* to *.se.*, the Swedish domain, to avoid U.S. domain seizure (Thier). At the time of this writing, the site still operates, though it is unclear who runs it now. Several countries have forced their ISP's to block it and Google has begun filtering the site out of search results (Ernesto "Google"). It continues to thrive however, still taunting the copyright lobby. It frequently updates its hardware and software to remain resilient to attempts to close it down. It has attempted to buy the sovereign island nation Seagate, looked into low orbit satellites, and twice claimed (falsely and provocatively) that North Korea was providing service to the site after "free" countries blocked it and tried to destroy it.¹⁰⁷ Carl Lundström, the site's original service provider, has served a reduced sentence and Gottfrid Svartholm and Peter Sunde are currently in prison. Fredrik Neij is living in Laos as a fugitive, most likely contributing to the site from abroad. All press releases on the site are now signed by Winston Bay. The site exists despite, or possibly because of, so many attempts to stop it.

Travestying The Missionary Church (of Kopimism)

¹⁰⁷The most recent hoax preceded the site's changing their frontend ISP. The site, in order to hide its servers' location from police, engages the Internet through a front ISP and proxies in various countries. From 2011 to 2013, the Swedish Pirate Party hosted the site, claiming political immunity from Swedish law. Following legal pressure on the party from the Swedish Rights Alliance (formerly Svenska Antipiratbyrå), TPB switched its provider to the Pirate Parties of Calatan and Norway (Falkvinge "The Hydra"). According to a TPB press release posted by Kim Jung-Bay: "This is truly an ironic situation. We have been fighting for a free world, and our opponents are mostly huge corporations from the United States of America, a place where freedom and freedom of speech is said to be held high. At the same time, companies from that country is [sic] chasing a competitor from other countries, bribing police and lawmakers, threatening political parties and physically hunting people from our crew. And to our help comes a government famous in our part of the world for locking people up for their thoughts and forbidding access to information" ("Press Release").

According to Sunde, at some point in 2007 or 2008 Monique Wasted, the Swedish lawyer for the Motion Picture Association, was asked her view on file sharing advocates. Wasted allegedly responded, “It’s just a *few* people, very loud. *They’re a cult*. They call themselves Kopimists.” Sunde then began to wonder what a pirate religion would be like: “We were called pirates, so we said, 'Let's make pirates cool.' O.K., so now, we're a cult. Let's make that fun as well” (Faris). Sunde never followed through with the idea, though he devised a working name: Church of Copying Kopimists, C.O.C.K. for short (Sunde). He mentioned the idea to some friends, who in 2012 received official recognition in Sweden for the first religion of piracy, the *Missionerande Kopimistsamfundet* (Missionary Church of Kopimism) (MCK). Founded in 2010 by Isak Gerson and Gustav Nipe as “a joke” (Faris), the enticing idea behind the church was the possibility of legal protection for copying through the confessional (Sunde). According to Nipe, “If you see the file sharing as an act of religious confession to a priest and the computer is your priest you should not be able to have evidence” (Cote). Swedish law does not actually grant churches such rights, but it does allow them to perform marriage ceremonies, protects them from hate speech, and makes them eligible to receive government funding for religious groups, in essence opening the possibility that Sweden will publically fund religious piracy (Faris).

Proclaiming, “Information is holy” (Faris), the Kopimists have over 5000 members in the Swedish church as of February 2012, and churches in 18 countries. According to its constitution, Kopimism values “all information irrespective of its content,” holds the copying and disseminating of information “as ethically right,” and believes remixing “a sacred kind of copying, moreso [sic] than the perfect, digital copying, because it expands and enhances the existing wealth of information.” Most radically, they believe “the Internet is holy” and “code is law.” Anyone who holds the tenets of the church and practices the copying of information is

considered a Kopimist by the church, which is first and foremost a community: “No Kopimist is wholly self sufficient, each being just one component of an interconnected and interdependent world.” Adopting the Kopimist pyramid and the key combinations Ctrl-V and Ctrl-C as its religious symbols, the church’s central commandment is “Copy and seed.” As a missionary church, its members and especially its priests (known as operators, or Ops) must “influence others to adopt a more Kopimistic outlook on life.” They must “participate in societal conversations to increase the level of resistance to anti-Kopimistic laws,” including “inherently discriminatory” intellectual property laws and any anti-encryption or anti-sharing laws or technology, like digital rights management (First United). Their religious services involve “kopyacting,” in which believers copy information together in a physical location, on a webpage, or a server (George). In 2012 the church performed its first wedding,¹⁰⁸ encouraging the newlyweds to share their “love, knowledge, and feelings as long as the information exists” (McCarthy). The church is working on a computer program that will allow people to marry each other through the Internet (Cote).

Holding that “most parts of the world, from DNA to manufacturing, are built by copying” (Romig), the church does not believe in originality. Therefore, it sees its precursor in Christianity, “a perfect example” of religion as “remix culture” (AdVATAR). Its literature borrows liberally from the terminology, tone, and ceremonies of other religions. In addition, the church also copied the legal language from Sweden’s laws into its application for official recognition after the government rejected the first two applications (Cote). Copying is not only the tenet of this religion, but its very core, and this, according to Sunde, enables a creativity beyond individuality: “This is one of the essential things with how the internet and kopimism

¹⁰⁸A short clip from the wedding is available here:
<http://www.youtube.com/watch?v=nRMPcFexWlk>

works – if you don't do it, someone else will. I didn't have to do the work, since the idea that spread was good enough" (Sunde).

Since gaining official recognition, the founders have moved away from the religion's flippant origin. Gerson, the spiritual leader of the church and the main spokesperson, claims of the religion, "I don't think it's a joke at all. I think that many religions have been ridiculed over the years. I don't think we're the first to experience it" (Romig).¹⁰⁹ The ambivalence and irony of the church highlights the crisis of religion in Sweden today, and the world. In Sweden, where registering a religion is "exactly the same process as registering a business company" (Romig), Kopimism functions as a travesty of religion. With no deity and no afterlife, the religion is, according to Gerson, "not so focussed [sic] on humans" (George), yet still paradoxically a religion.

Religious practices and the Internet have become increasingly intertwined over the last two decades, as religions use the Internet for informing, reaching, and recruiting members. Yet the Internet also creates problems for religious organizations, as the physical disconnect between members affects the sense of community and the reinforcement of belief. Christopher Helland, writing about the problems of judging online religious belief, asks, "What action or online activity can be considered a genuine religious action? How is it possible to determine if the people practicing forms of online religion are in fact conducting actual religious activities and having genuine religious experiences?" ("Online" 6). It is the increased lack of verifiability that the Kopimists exploit so beautifully, both in their physical and virtual practices. There is no way to demonstrate that the pressing of Ctrl-V is not religious for their members, especially if their

¹⁰⁹The founder of the First United Church of Kopimism in the U.S., Christopher Carmean, insists that the U.S. church and its 666 members are "not a joke" (Fitzpatrick).

coreligionists only interact through the web. As well, intention largely demarcates religious practice from other actions, and intention is entirely subjective. Online religious practice, dislocated from the physical space of religious community, lacks references for intention, further problematizing an already tentative distinction between the sacred and the profane.

Crises of authenticity and crises of authority arise when religions operate in virtual space. Crises of authenticity arise, as described above, because the traditional ways of judging religious faith and practice (observation, discussion, etc.) are lacking, but also because so many religions exist together. Without local social validation (and the threat of social isolation), the appeal of other faiths tends to increase (Dawson and Cowan 3), and as all are available and accepted on the web, all religions appear equivalent. Crises of authority arise because the Internet allows for a proliferation of opinions, information, and dogma, all existing without discernible hierarchy or reliable mechanisms for policing other views. The Internet allows people “to be religious and spiritual on their own terms” (Helland “Popular” 34). The Kopimists, rather than try to battle these two tendencies, facilitate them: actively championing their lack of authority (since it is a copy of other religions, Kopimism cannot claim divine authority) and using their questionable authenticity to question the authenticity of other religions.

Religions, at least as usually practiced, are inherently essentialist, positing an essence that transcends individual human life (soul, spirit, god, etc.). The holy is that which transcends the physical. Yet by making the first tenant of the religion “Information is holy,” Kopimism undermines any notion of transcendence, as its holiest of holies does not manifest in the physical world. According to Law Professor Paul Cliteur,

The example of the Kopimists may serve as an intimidating example of what can happen with religious freedom. This, after all, blows religion up from the inside.

It makes perfectly clear that a widespread attitude among legal scholars to refer to the experiences of believers themselves as having the last word on the religious character is self-refuting – at least it will deprive “religion” of its holy status. It makes “religious” whatever you want to see as “religious.”

As a travesty of religion, it testifies to a paradox of secular democracy: relativism for essentialism. While secular states treat religions relatively (i.e. granting them equal respect and protection without judging their validity), the transcendental and essential claims of each religion undermine each other. As most religions claim to be the *true* religion, they make exclusive truth claims. Kopimists, however, because they have none of the traditional features of a religion (except recognition), seem not to threaten other religions.

The lack of spiritual goals, deities, or afterlife makes the church a particularly odd missionary religion. The missionary aspect of the church is undoubtedly its greatest joke, in that the religion does not need missionaries: every computer user already practices when they press Ctrl-C and Ctrl-V. Its mission is not to bring God to the unbelievers, so much as to reveal to people that they already believe. Their priests are “operators,” facilitators of technology, not holy soldiers. Kopimism is a religion because religions, despite no demonstrable truth-value, garner respect, not because Kopimism developed into a belief system. The belief system developed because there was an aporia in the system, a legal hole that protects Kopimism from critical interrogation. Gerson’s rebuttal to disbelievers rests on this paradox: “One important distinction between religious values and other values is that you cannot explain them rationally” (Faris). This focus on the irrational, rather than the disprovable, does however threaten other religions: by making religion secular, the Kopimists undermine all religion. The claim that everything is copying reflects back on other religions as derivative and therefore false. Religion for Kopimists is transformative, not transcendent.

The church also exposes secular governments' politically necessary, though fundamentally contradictory, respect for the metaphysical; a respect that Kopimists believe extends to property protection for intangibles. Like religion, copyright posits value in the immaterial and holds that its value serves the benefit of mankind. By making information holy, the Kopimists elevate copyright beyond personal property to communal existence. With every act of copying (from the reproduction of DNA to the downloading of a song) made equivalent, the religion denies any special value in content or context. In essence, they exploit the logic inherent in the modern legal practice of instantaneous copyright: all expression, no matter how mundane and nonsensical, has value and deserves legal protection; except the church holds that all expression has potential value and should therefore be shared and spread: "Copy and seed." In this formulation, that which is most valuable is that which is most shared, reversing the normal value in scarcity (Baraniuk). Yet this notion of value makes sense in a mediascape in which clicks, impressions, and expressions determine contents' cultural import and economic value.

The problem with sharing, from a media industry standpoint, is not that content is shared, but rather that it is shared without remuneration through industry controlled revenue streams. Yet wide scale consumption without compensation, regardless of the pedestrian arguments that people just want free stuff, derives from media industry practices. Information has always been a public good (i.e. a product that is not used up in its consumption), yet until the 20th century it needed medium of distribution that was a private good (an excludable container: a book, pamphlet, canvas, etc.) for distribution. Since the advent of electronic media, content has increasingly disseminated over electromagnetic waves or on networks that do not diminish. Electronic media therefore often function in a dual product marketplace where producers sell both content and audience (Napoli 163-164). Digital media and analog media converted to

digital, because of their easy reproduction, further decrease the “privateness” of media products, making the content market smaller. The open nature of the Internet makes the measuring of audiences (as well as advertising products with and in content) much more difficult though, reducing the benefit of consumer sharing on advertising revenue. As control over media reproduction and distribution weakens in digital networks, the ability to sell either content or audiences decreases and media companies have not yet recouped the revenue they previously received in the solely electronic or print media economy relative to audience size.¹¹⁰

Whereas in the print marketplace of the 16th through 19th centuries, in which content only had value when consumed as a private good, in the dual marketplace of electronic media advertiser funded content had value when consumed by the most people. As digital media supersedes electronic media, it becomes increasingly difficult to reverse this consumption pattern. Consumers are realizing that they do not need to own media in a situation of media abundance, hence the rise in legal subscription services and illegal streaming. With the amount of information being consumed everyday by Americans averaging more than 34 gigabytes (Bohn and Short 7) and the Internet producing more than five exabytes of data every two days, which is more than humans created “from the dawn of civilization up until 2003” (qtd. Siegler), all information is less valuable because it is less scarce.

In a supersaturated information economy, that which people share has value because shared media is not only consumed media, but activated and expressed media. Media companies increasing interest in fan culture and “prosumers” results from this changing value of information, as advertising impressions fall in value and engagement and expressions become

¹¹⁰ As well, as media options have increased and fragmented audiences, the traditional revenue from advertising has decreased, necessitating new product placement and co-promotion strategies (Lotz 152-191).

marketing goals. While copyright lobbies attempt to end piracy, media company marketing departments attempt to leverage it and unauthorized (but promotionally beneficial) derivative works (Jenkins 110-115; Andersson “For” 71).¹¹¹ The Kopimists, therefore, keep the logic of the electronic and digital media marketplace while denying the market. Instead of appreciating exchange value, they appreciate exchange. They apotheosize the social, though their social is not an aggregate of individuals but a network of nodes.

Like Piratbyran, though in their own particular way, they deny the duality of copyright rhetoric by displacing the moral issues through the apotheosis of copying and, implicitly, the desire to consume. If, as Shannon Lee Dawdy claims, “Consumer piracy ... represents one of the sharpest ironies of neoliberal capitalism” because it creates “new consumer frontiers for multinational corporations” *and* the “conditions that make it possible for local producers of imitations to satisfy the new demands of globalized desire” (Dawdy “Why” 380), then Kopimists crown that irony by making that subversive desire a religious commandment. That desire is what unites Kopimists, what constitutes their community. More than belief, Kopimism is a community of righteous consumption.

As a travesty *and* as a genuine system of belief, the religion selectively appropriates aspects of religion and economics that undermine other economic and religious systems: exchange without exchange value; belief without believing in something. This is Kopimism: Go forth and multiply, go forth and exchange, copy and seed, for its own sake. Fittingly, Kopimists have taken one particular biblical passage as their own: “Copy me, my brothers, just as I copy

¹¹¹Mark Deuze sees the “complete lack of legal frameworks to protect the co-creating consumer” as indicative of a power dynamic privileging media companies, not as a movement toward a reciprocal relationship between media companies and consumers (153). Jenkins celebration of convergence culture fails to consider the consumer’s precarious position created by the divergent and contradictory needs of media industries.

Christ himself' (1 Cor. 11:1). In this passage, pronouns appear, shift, and disappear, mutating in a syntagmatic chain that erases as it proceeds. Human actors pop up in the sentence only to vanish. One thing, however, remains constant; one thing repeats: copy.

Everyone Laughs At The Pirate Party

Unlike the other groups in the Swedish Pirate movement, the Piratpartiet (Pirate Party) was not spawned from *Piratbyrån*. Founded by Rick Falkvinge in 2005, the Pirate Party (PP) began as a response to the unsuccessful fight against software patents in the E.U. Parliament, to the criminalization of file sharing in Sweden with the adoption of the E.U. Copyright directive, and to the E.U.'s adoption of a mandatory data retention directive for all telephony and Internet transmission (Falkvinge "'Origins"). Falkvinge, witnessing an absence of incumbent politicians in the vigorous debate occurring in Swedish media, online forums, and pubs, started the party to "bypass the politicians entirely and aim for their power base" (Anderson). Falkvinge claims, "If you tell simply policy-makers that they're not doing a good job, they don't care! And they don't share our perspective on the freedom of information. We needed the threat of replacing them to make difference [sic]" (Braw). The speed at which the party garnered attention was remarkable: one day after Falkvinge set up the web page for the new party and posted the link in a chat channel, Swedish national media reported on the site and two days later international media did the same (Norton "A Nation").

The party's single most important goal is "preserving civil liberties" (*All*). In order to do so, it advocates the abolishment of the patent system, which is "damaging to innovation, to competition, and to economic growth"; the legalization of non-commercial file-sharing; the

prohibition of digital rights management software; a five year limit on instant copyright with a maximum protection of 15 more years with registration; and “sensible” regulation for quotations from audio, video, and other media, similar to textual quotations covered by fair use (Engström). The call for reform of copyright and patent laws respond to widespread surveillance made possible by digital technology: “If the constitutional freedom of information is to be more than empty words on a paper, we much [sic] defend the right for protected private communication” (Jones). In order to ensure individual privacy, the party advocates for government transparency and openness, declaring, “Terrorists can attack our open society, but only governments can disband it” (Jones).

While the party did not originate from Piratbyrå, the collective’s ideas and tactics heavily influenced it. Falkvinge claims that starting the party was not a radical innovation, as “pirate policies were already established by the Piratbyrå. When the time came to politicize the issues, it was not a matter of founding a new party and start [sic] contemplating its name” (Falkvinge “Why”). As discussed in the previous chapter, parodies can function as pedagogical tools for negotiating and opposing media messages. In this instance, Piratbyrå’s parodies were so successful they facilitated the creation of a political party.

Undoubtedly, much of the debate about the party’s intentions stems precisely from the decision to call itself a pirate party. When questioned if the party name was itself a provocation, Falkvinge replied, “It’s not so much a provocation as it is a very strong and powerful branding. The Spanish Pirate Party said it best: if we don’t call ourselves Pirate Party and define what it stands for, we’ll be called a pirate party anyway and not get to define what it stands for. If these people are calling us pirates for defending civil rights and freedom of speech, then we’re proud of being pirates” (Braw). Of course, the name *is* a provocation, but one that allows for dialogical

play and subversion.¹¹² By presenting themselves as pirates, instead of being represented as pirates, the party is able to redefine the term and challenge normative notions of criminality in relation to intellectual property. This has at times resulted in some absurd consequences. The Justice Ministry of Russia, for instance, denied the Russian pirate party registration because of the name, arguing that piracy is a criminal offense (and if the party advocates reform and not actual piracy, then the party does not meet the goals of its name) (“Russia’s”).

The party loudly trumpets its copying of previous political movements. Falkvinge often claims of the party, “We’re the new Green movement, the socialist movement...we’re getting there, and we’re following in the footsteps of the previous political movements” (Braw). The party’s original platform, limited to core issues and taking no positions on economics and other social issues, imitates earlier protest movements’ approach to political practice. The pirates, of course, mingle this earlier political practice with cyber-utopian ideals and Internet activism, which they tout as their distinguishing factor. The party holds meetings and conferences through web chats and forums, allows anyone to edit their party Wikis, and the German party even experimented with *Liquid Feedback*, an open source program that allows for interactive democracy through web conversations, initiatives, polling, and voting (Kehl 40). In an age in which politicians still fumble to understand social media, the pirates embrace the democratic potential of the web (and mock other politicians’ fumbblings). Like Piratbyrå, the party claims a future in the present that validates its policies, describing itself as the radically new battling the conservatively old. The party is purportedly “the next generation civil liberties movement” (*All*).

¹¹²Falkvinge directly links the name to the appropriative practices of oppressed groups: “the gay movement reclaimed the word gay in the same way. By standing proud about being a pirate, and doing so in public, you take that weapon away from the copyright industry’s lobby. These days, they are even complaining that branding people as pirates doesn’t work anymore” (Falkvinge “Why”).

In addition to remixing the name from Piratbyrån, the party has directly benefitted from their appropriation of symbolic power from the copyright lobby, and the lobby's attacks on *The Pirate Bay*. After the initial raid on the site's servers, membership jumped from 2000 to 6000 (Poulsen), and media outlets that were previously uninterested in the party put Falkvinge's face, according to him, "on every news broadcast on every hour on every channel" (Anderson). Following the guilty verdict in the trial, the party's membership more than doubled, increasing from 15,000 to 37,000 within a week (Poulsen). In a show of solidarity, and possibly gratitude, the party provided *The Pirate Bay* with Internet service *pro bono* from 2010 until 2013, when the site switched to the services of Pirate Parties in other countries to spare the Swedish party a protracted and expensive lawsuit. Falkvinge, describing the copyright lobby's game of whack a mole, stated, "For each Pirate Party that is threatened by the dying dinosaurs, two more Pirate Parties can take their place as bandwidth providers to The Pirate Bay. There are 63 (sixty-three) Pirate Parties. And counting" (Falkvinge "The Hydra").

Like other actors in the movement, the party has frequently used jokes to communicate its positions and mock its opponents. The first pirate platform held that if elected, the party would ensure that Swedish Justice Minister Thomas Bodström, whom they believed "dangerous to civil liberties," would "get no other public job except selling hotdogs outside of parliament" as "he at least can't do any damage from there" (Falkvinge "Origins"). For April Fools day 2012, the party demanded that the Swedish Parliament remunerate them and their members for their labor. Calculating the amount of the Swedish population that voted for the party and multiplying it by their time spent over the life of the party, "This sums up to about 61 billion euros – money that the party will demand from those who have stolen so much time from the party's activists, stolen it through their lack of interest for culture and privacy" (Falkvinge "Pirate Party").

Similarly in 2011, the party discovered that “the copyright industry’s claimed losses, far exceeding the gross domestic product of the entire planet, might actually be accurate.” The party “realized” that by simply letting two computers copy music and movies back and forth, “several million euros will appear in the bank account every hour.” With all the money the party was supposedly taking from the copyright industry, they planned to hire six million people in Sweden (the entire workforce) (Troberg).¹¹³

This is prototypical pirate comedy: the snide alliteration of Falkvinge’s description of the copyright lobby as “dying dinosaurs” and the press release announcing the absurdity of copyright math mixes the movement’s militant idealism, critique of power, and religious certainty in the future. Pirate comedy, as seen throughout the movement, works because of this mixture of incongruity and cyber-superiority. The incongruity of the powerful, yet somehow victimized MPAA, RIAA and other copyright trade groups, as well as the incongruity of a powerful member of parliament symbolically castrated and limited to selling wieners outside parliament just tickles the pirate funny bone. As well, there is the incongruity of serious entities (which demand to be taken seriously) mocked and shown to be hypocrites. As a righteous testimony of their illegitimacy and the pirates’ superiority, the *depreciation* (the demonstration of their perceived inferiority) of such powerful entities delights (Olsen 12). Sigmund Freud calls this

¹¹³April Fools pranks do not, in themselves, signify anything disruptive. April fools functions similarly, though less extremely, as a kind of ritualized freedom that supports the system of seriousness, similar to Bakhtin’s carnival (*Rabelais* 145-195). The pirate’s pranks, however, project themselves into the position of the copyright lobby and the ruling politicians. Through dialectical displacement, the party mocks itself to mock its opponents.

enjoyment in another's inferiority "the victorious assertion of the ego's invulnerability" (4542).¹¹⁴

In addition to depreciation, pirate comedy also provides displaced possession. Freud believed that tendentious jokes function to release the Id's repressed desires. In modern society, jokes "make possible the satisfaction of an instinct (whether lustful or hostile) in the face of an obstacle that stands in its way. They circumvent this obstacle and in that way draw pleasure from a source which the obstacle had made inaccessible" (1697). Media companies, while providing for the pleasure of consumers, also limit that pleasure by withholding it (through levying, windowing, and removing media texts from circulation, but also, in the digital age, licensing pleasure for discrete periods). The modern, wide spread treatment of verbal, visual, and audio expression as property classes it with other types of forbidden or limited objects. To the Id, any restrictions on the pleasure principle are threatening, especially one as fundamental to the superego of Western society as 'Thou shalt not steal.' Pirate jokes therefore rehearse the appropriation of the forbidden object (in this case a plenitude of content, on demand forever). The jokes actualize the practice of piracy and the free state (both moral and political) that pirates hope one day to create.

As previously stated, the intention of these jokes is not only to project a behavior into existence but also to delegitimize the pirates' opponent. By reflecting back the discourse of morality and criminality to media companies, pirates undermine the political binary constructed by anti-piracy campaigns. By invalidating the truth claims of the representations, they challenge the lobbies' legal authority and the media companies' position as dominant gatekeepers of mass

¹¹⁴Freud holds that humor is "*the contribution made to the comic through the agency of the super-ego*" (4545), therefore it is not surprising that pirate humor so often takes the moral high ground.

culture. It is through the delegitimization of media companies and copyright laws that pirates attempt to change social norms and empower themselves. Against the many scholars that believe joking conservatively promotes the status quo (Kuipers 368), Joan P. Emerson argues that joking instead “provides a useful channel for covert communication on taboo topics” and facilitates bargaining arrangements (169). Jokes simultaneously indicate the joker’s playful seriousness, the legitimacy behind the joke, as well as the receiver’s sensitivity to the topic (170-171). Jokes can create a dialogue where before there was only repression.

Seen in this light, pirates’ jokes attempt to ascertain the wider acceptability of negotiating taboos that restrict discussion of government corruption, corporate malfeasance, media manipulation, economic influence, and democratic failure. Though these subjects undoubtedly break into the news at times and people often feel their elected officials do not serve their interests, there are strong social taboos, bureaucratic structures, and vested interests that restrain open discussions and actual reform. Yet it is “in situations where pressures for discussion and prohibitions exist simultaneously that negotiations to ignore the prohibitions are most likely to arise” (Emerson 180). In democracies, where government transparency and accountability are paramount to ensuring civil liberties, the mocking of politicians sustains the democratic system. The Pirate Party, and before that Piratbyrå, use jokes as a way to feel out and shape public opinion. The April Fools press releases that mock the complaints of the copyright industry and the lack of action of the Swedish Parliament, offering total employment and payment to citizens for their political action, further socialize a critique of unchecked economic and political power. When these jokes succeed in causing laughter, the groups establish “a presumption of trust” with the public, which can then become complicity “for rule violations which potentially can be

extended” (Emerson 180). First in online groups, then (they hope) in ever-larger constituencies, pirates attempt to reconstruct the social taboos around property, politics, and power.

Pirate comedy also creates a sense of cohesion and inclusion for the likeminded. Creating a Schmittian political dichotomy between “friend and enemy” (Schmitt *The Concept* 26), between pirates and dinosaurs, the movement’s jokes position pirates as the future in the present battling the past. According to Carl Schmitt, the essence of politics is the distinction and opposition between two groups. Pirate jokes and satires criminalize politicians and businessmen just as anti-piracy trade groups criminalize infringers, though the mode of representation (i.e. comedy) differs.¹¹⁵ With a topic like copyright, which is invariably a state regulation, the struggle over reform will naturally lead to politics and the friend/enemy distinction.

In addition to othering each other, pirates and the copyright lobby share a more hidden, ideological similarity. Eliding that both free and commercial culture need each other, pirates deny that their demand for legalized digital sharing will cripple the creation of high production value content. While music will still be made without recording companies, it is hard to imagine the same output in films, books, videogames, or software without the initial capital media companies provide. Considering that a determining factor in global success of one-way media flows is not critical appeal or quality (however defined) but production value (Wildman 117), it is difficult to deny the fundamental changes such a legalization would cause in media

¹¹⁵A 2006 parody website announced the merger of the RIAA and the MPAA into the “Music and Film Association of America,” or M.A.F.I.A.A. The press release from the fake group states, “We no longer have to have both the movie and music industries buying up senators and congressmen to get restrictive copyright laws passed.” Pro-piracy advocates have widely adopted the anagram. Available at: <http://www.mafaaa.org/>. Similarly, Advatar of the United Church of Kopimism, US, wrote to church members that the attempts to block The Pirate Bay “have been taken due to the susceptibility of fascist regimes to the abhorrent demands of despicable anti-Kopimist interest groups, resulting in the worldwide persecution of Kopimists.”

production.¹¹⁶ Nor is the ability to make money from increased touring an option (or desire) for most musicians.

For this reason, pirates resist imagining the future, a resistance enabled by cyberlibertarian faith in the Internet. While praying to the god of digital change, they offer few suggestions for how commercial content will remain viable or how the quantity of output will continue when file sharing provides a free and legal celestial jukebox. If pirates acknowledge their lack of foresight, they quickly gloss over it. Marcus Kaarto of Piratbyrån laments the lost livelihood of artists in Sweden, but insists, “You have to change the map, not the world” (Norton “A Nation”). In their book *The Case for Copyright Reform*, Pirate Party stalwarts Christian Engström MEP and Falkvinge write,

“But how will the artists get paid, if file sharing is set free?” is the question that always comes up in the discussion.

Well, ”how” is not really for us to say as politicians. To find a business model that works is up to the individual entrepreneur, in the cultural sector just as in any other industry. But we are certain that the cultural sector as a whole will continue to do well, as demonstrated by economic statistics from more than a decade of rampant file sharing. (6)

Engström and Falkvinge forget that rampant is not the same as governmentally sanctioned, and the libertarian belief that governments should have no “say” in pay rates is impractical. Similarly, the Bay’s Peter Sunde believes it is not the pirates’ job to “figure out how to compensate artists or encourage invention away from the current intellectual property system... Their job is just to tear down the flawed system that exists, to force the hand of society to make something better (Norton “A Nation”). It is a supreme irony that activists so

¹¹⁶Whether or not one-way media flows are desirable is another discussion.

contemptuous of corporate culture and so willing to mock established religions believe unquestioningly in the invisible hand of the market.¹¹⁷

The question of how artists will be paid is an important one though, as both media companies and pirates often ground their arguments in a discourse of artist protection, remuneration, and liberation. That Swedish pirates fail to address this concern in their interventions makes their comedy *comic* in the sense developed by Luigi Pirandello. For Pirandello, comedy, irony, and satire are less valuable than humor. Humor is more valuable because it does not rest in “a particular contrast between ideal and reality,” but rather a “special kind of reflection, which creates the feeling of incongruity, of not knowing any more which side to take amid the perplexities and irresolutions of ... conscience” (47). Humor is different therefore from irony, satire, and comedy, because it is not “bitter,” because it considers multiple perspectives relatively (47). Considering the persistence of the friend/enemy distinction in politics, the case of the Swedish Pirate party appears to show that comedy (in Pirandello’s sense) has a place in politics, but humor does not. If true, it bodes poorly for pluralistic democracy based on compromise between competing interests and co-cultures.

While pirates are correct that media companies fear the future and the creative destruction it brings, the antagonistic relationship between the pirates and the copyright lobby forecloses the possibility of the pirates synthesizing a program based on their opponents’ insights. This is why both groups offer little direction, with pirates trusting in change as much as their antagonists trust in stasis. Though pirates celebrate technology, neither they nor the media

¹¹⁷As Adrian Johns notes, “while piracy and policing may foment a crisis, they cannot shape a resolution” (*Piracy* 509). Johns recommends that history can help lead to a solution, which is to say he believes that those who analyze history (i.e. academics) should have a central role in proposing copyright legislation, something which history predicts will not happen.

companies *offer* any solutions to the debate over the price of culture. They are both pushing for extremes. As such, pirate comedy betrays an affinitive animosity. This accords with Elder Olson's observation that the basis of ridiculous and ludicrous "is the *unlike*...but he must also be *like* in some respects, or we should never find him ridiculous. As we approach the wholly unlike, we approach the monstrous, and the monstrous is never ridiculous" (18).¹¹⁸ This animosity is related to, though different in effect, from the *unheimlich* discussed in the first chapter. Perhaps the opposed pairs of pirates and trade groups reflect a similar anxiety of influence and kinship in a rapidly changing digital world. The most troubling question for the future of the movement, given this affinity, is what will become of the pirate comedians, and their jokes, if they come into power?

While mocking business and political opponents, wearing an eye patch when meeting with constituents, and bragging about copying other political parties seems anathema to pragmatic political practice, the policies, the comedy, and the pirate name have been somewhat successful. There are now parties in sixty-three countries, with seats in local, city, state, national, and E.U. parliament seats. The greatest indication of the party's future is Sweden's Ung Pirat (Young Pirate) movement. Ung Pirat, lead by Gustav Nipe, the chairman and co-founder of the church of Kopimism, is the fastest growing and largest youth political party in Sweden with over five and half thousand members (PP International). To encourage political participation amongst the young, the Swedish government funds youth parties and each young pirate's political training is state subsidized. With state funding and Nipe's political and spiritual tutelage, Ung Pirat will

¹¹⁸ Similarly, Davies posits that not being the subject of jokes "is a sign you are perceived as very alien and inexplicable indeed" ("Jokes" 24). An understanding of the essential similarity between jokers and target also helps to explain why copyright industry parodies so often fail to be humorous: when trade groups appropriate pirate signs they deny the *like*, and when they appropriate governmental discourse, they deny the *unlike*. Their discourse, even when parodic, attempts to be monological.

determine the future of Swedish copyright law. Legal scholar Sarah D. Marshman notes that due to the similarity of copyright laws throughout the world (and their interconnection through international treaties), “in taking on Sweden, the Pirates have unwittingly taken on the world” (705). I agree, though I would modify the “unwittingly.” Pirates have *purposefully* and *undoubtedly* taken on the world, and they aim for the future, though they do not know what it is.

Conclusion

The groups in the Swedish Pirate Movement have already impacted European and Swedish culture and politics. Media discussions of piracy within the country now feature both pro and anti file-sharing advocates, a dialogue that contrasts sharply with the relative mass media silence on U.S. copyright issues.¹¹⁹ In 2011, Svenska Antipiratbyrån rebranded as Rättighetsalliansen (Rights Alliance) and the European Union Parliament’s Green party group adopted the Pirate Party’s positions on legalized file-sharing, prohibition of DRM, shortening of copyright, and commitment to net neutrality (Falkvinge “Huge”). In 2012, the Pirate Party took the first step in changing national policy when Libor Michálek became a Czech Republic Pirate Senator (Falkvinge “Pirate Parties”). At the beginning of 2013, the Språkrådet (Swedish Language Council) recognized *kopimi* and *kopimism* in its annual list of neologisms that

¹¹⁹The recently defeated Stop Online Piracy Act (SOPA), for instance, received little television coverage, as all the major parent companies supported the legislation. From October 26, 2011 through January 12, 2012, evening news and opinion broadcasts featured only two news stories on SOPA while covering the British Royal family and Tim Tebow *ad nauseam* (Dimiero). Only once the legislation was effectively dead in the water did television news carry it. More broadly, *The New York Times*, the paper of record for the U.S., only created its media desk five years ago in 2008. The relative youth of U.S. media’s coverage of itself is indicative of a particularly troubling hegemony. Blogs and citizen journalism, as well as papers like *The New York Times*, have done much to reverse this in recent years, but most U.S. citizens remain ill informed on media industry news and legislation.

demonstrate cultural importance and linguistic creativity (Språkrådet). A large part of this impact has no doubt been their messaging, particularly their comedy.

Pirates use dialogic comedy because it aligns structurally with pirate values: they are, in a sense, a product of file sharing, or what de Certeau terms “poaching,” the process whereby “everyday life invents itself ... in countless ways on the property of others” (xii). Burlesque, parody, and travesty appropriate other texts, forms, and genres to reconfigure their meaning. Through the targeting of “another form of coded discourse” (Hutcheon *A Theory* 16), pirates turn consumption into production. By repurposing older texts, pirates create relationships that they find highly incongruous and therefore humorous. Irony and its militant cousin, satire, allow for multiple and contradictory meanings in one statement, enacting a social process of inclusion and exclusion (Hutcheon *Irony's* 2). The “transideological” nature of irony means that it is politically neutral (White 38), though it becomes radical and exclusionary when pirates use it to lampoon cease-and-desist letters, religious sanctity, and binary morality.¹²⁰

However, the long-term goal of any social movement, especially one with global ambition, is to affect change. As Lindgren and Linde stress, piracy for Swedish youth is a form of subactivism (143-162), a concept the writers take from Maria Bakardjieva. Subactivism “is not about political power in the strict sense, but about personal empowerment seen as the power of the subject to be the person that they want to be in accordance with his or her reflexively chosen moral and political standards” (Bakardjieva 96). Located in the personal or small social sphere, subactivism can be mobilized by counter and institutional politics if triggered by events

¹²⁰The inherent neutrality of parody and irony allow for recontextualizations like the CIAPC parody, though CIAPC, fearing further recontextualizations, attempts to limit the paradigmatic ambiguity of the intertextual chain. That is to say, they limit the ambiguity of irony, like someone who abuts their ironic response with the ejaculation, “Not!”

important to the subject. Piracy as subactivism is therefore part of “lived everyday practice” in that digital copyright infringement is an everyday practice for Swedish youth, one that can become political at times but is mainly about habit and ease (Lindgren and Linde 156). Although not part of their analysis, Lindgren and Linde’s reference to everyday practice conjures the work of Michel de Certeau, whose *The Practice of Everyday Life* has deeply influenced cultural studies. Certeau’s work similarly analyzes the activities in which everyday “life invents itself by poaching in countless ways on the property of others” (xi), of which piracy is surely a way.

Bakardjieva’s subactivism and de Certeau’s practices of everyday life overlap in that both are pre-political. Subactivism does not posit a particular relation between the subject and the dominant order: “The decisions and actions that constitute it have no permanent place in a person’s agenda. They arise spontaneously, often as new dimensions of work, homemaking, parenting, entertainment” (69). Similarly for de Certeau, analysis of the practices of everyday life does not reveal political positions, but may allow for such later revelations (xi; Highmore 171). Both apply to the appropriations of digital piracy, in that it is not primarily an oppositional practice, but rather a continuation of the function of computer technology.

As John Tehranian demonstrates, the U.S. has become, “technically speaking, a nation of constant infringers” (543). In a revealing thought experiment, Tehranian shows how many times a hypothetical professor in the U.S., and presumably in other nations with similar copyright laws, infringes during the course of a day: “By the end of the day...he has committed at least eighty-three acts of infringement and faces liability in the amount of \$12.45 million (to say nothing of potential criminal charges)” (547). While not all of the professor’s infringement involves digital files, those that do are the most likely for an average person to commit and take the least time, effort, and thought (543-547). While there was already a gap between copyright laws and norms

due to restrictions against non-commercial reproduction, public performances, and derivative production, the instant copying facilitated by computer technology has turned the gap into a canyon. Infringement has become so commonplace that most do not even realize they are infringing as they use networked computers.

For many who have grown up with it, the infringement enabled by peer-to-peer technology is part of daily practice. As Lindgren and Linde claim, for many Swedish youth “online piracy activities are associated with neither political dimensions, nor legal ones. Online piracy as everyday culture seems to build upon a behavior taken for granted and made possible by technology that is an integral part of their everyday lives” (152). While other youths may view their practices through political positions and/or as a part of the practice of technological innovation (Lindgren and Linde (153-154), piracy as an everyday activity is the most common perspective. This is significant as political practice necessitates the mobilization of and position within institutionalized categories. In order for the Pirate Party to win elections and influence other political parties, they must convince young Swedish pirates that their everyday activities have moral and political dimensions. The Pirate Party must get youths to reflect on their piratical practices as forms of political action, hence the Young Pirate group. The other groups in the movement may enable such a transformation by providing information and discussion forums for youth, which can lead them to political participation (Lindgren and Linde 156). The comedic rhetorical practices function as resources for pirates that want to justify their practices and as a novel approach to media messaging, one that feeds back into the groups’ political mobilization. Whether or not pirates move from subactivism to activism, however, will depend on a multitude of factors that cannot be determined beforehand.

If young Internet users outside of Sweden similarly understand piracy as a pre-political everyday practice, the politicization of piracy beyond the Swedish context will likewise need political structures or groups in place to facilitate the transition from subactivism to activism. Subactivism is an energy reserve for activism, but without bridges between it and activism, such energy will remain untapped (Bakardjieva 103). With the international spread of Kopimism and the Pirate Party, such bridges are now in place outside of Sweden, but they are much less visible than in their home countries. This is significant, as the largest obstacle to political import in developed societies is media visibility: “Mediated visibility is not just a vehicle through which aspects of social and political life are brought to the attention of others: it has become a principal means by which social and political struggles are articulated and carried out” (Thompson 49). Only time will tell if various national or international events will trigger the subactivism of non-Swedish infringers, and if they will formally engage through Pirate groups.

Chapter 6

Conclusion:

Pirates and Piracy

In this dissertation, I have analyzed piracy in several different ways: as a designation with a long and stable history in Western culture; as a subject for filmmakers to adapt to the industrial, narrative, and generic imperatives of Hollywood; as a rhetorical trope in the media campaigns of the music and film industries of the 21st century; and as a practice and designation embraced by Swedish political and cultural groups. One of the repeated insights of this study of piracy has been the lack of equivalence between piracy and pirates. Following normal English morphology, the nouns “piracy” and “pirate” should reference each other, one describing an act and the other describing those who commit that act. Yet this act and those who supposedly commit it are often separate.

As stated in the first chapter, in order to find coherence in the usage of the term piracy, attention to those designated as pirates must be abandoned. The inherent neutrality of the ground action, appropriation, makes designations of piracy really about the power and interests of the designator, not the designee. As discussed in the chapter on pirate films, the vagaries of the historical record have lead to three dominant interpretations of pirate actions and intentions, which filmmakers have used to fill the roles of hero, villain, and comic everyman. The more a

film champions a pirate, the less piracy he or she actually commits. The films, by making pirates into protagonists, work actively to minimize the negative judgment of piracy and the criminal interpretation of pirate intentions, severing pirates from the appropriative acts that determine their name. The third chapter, through an analysis of the reception of anti-piracy campaigns, detailed the rhetorical construction of harm and criminality in the act of piracy. Yet within the campaigns the word pirate is absent. Piracy may be a crime, but the campaigns refrain from designating infringers as pirates. While it is unclear why anti-piracy campaigns avoid explicitly referring to consumers as pirates, it is highly likely that the groups producing them do not want to invoke the heroic and romantic associations popularized by the films. In the final chapter, I described how the groups leading the Swedish Pirate Movement, through their various interventions, dialogically undermine the rhetoric of the copyright industry. Part of the way they do this is by focusing attention away from the industry's fascination with piracy and onto the supposed pirates. By refocusing the discussion of copyright on pirates, they implicitly and explicitly counter the attempts of the anti-piracy campaigns to normatively criminalize piracy. Through various forms of comedy, they oppose the discursive exclusion inherent in piracy by arguing that piracy is simply copying, and "copying is a fact of life" (Eriksson).

As the legitimacy of appropriation is inherently contingent on power (physical, economic, symbolic, etc.), designations of piracy and the acceptance of designations by unauthorized appropriators will rarely align. However, because film, television, popular literature, and recent histories champion pirates, the discursive exclusion of piracy has conflicted with positive representations, problematizing the tautological definition *pirates commit piracy*. A semiotic gap has opened between pirates and piracy, as these homologous words conjure

heterogeneous images. With the demonization of piracy, the pirate has become a position ripe for appropriation, whether by iconoclastic actors in blockbuster films or by file sharing activists.

This insight, and those of the dissertation in general, are not definitive, instead offering only a starting point for further analysis. While designations of piracy transcend national boundaries and historical periods, the necessary conditions I have enumerated are specific to Western culture. Whether designations of piracy would function similarly before the present period in Asia, Africa, or the Middle East is unlikely. Different linguistic, historical, and cultural developments have no doubt produced markedly different ways for discursively policing tangible and intangible property. Likewise, an analysis of different national cinemas would find different representations of pirates, based on different histories and interpretations of those histories, although the influence of Hollywood pirates would no doubt be present. The efficacy of anti-piracy campaigns outside of the Anglophone countries analyzed here would naturally result from different historical circumstances, though many of the campaigns and mechanisms of audience reception would be similar.

As long as groups provide individuals with monopolies over the production of objects and ideas, piracy will mark the conflicts that occur when other groups, from other spaces, appropriate on a large scale. The collapsing of the world caused by globalization and advances in telecommunications technology, as well as the easy reproducibility enabled by digital technology and media convergence, has significantly increased the amount of designations of piracy and the distribution of representations of piracy. Analysis of such designations and representations, as well as their reception and appropriation, furthers an understanding of the present moment and the future. Just as this study builds on the work of those who have come before, it offers a point of support and comparison for those that will come after.

References

- Aarseth, Espen. "The Culture and Business of Crossmedia Productions." *MFA Productions*. N.p. n.d. Web. 1 January 2014.
- Abdullahi, Najad. "'Toxic Waste' Behind Somali Piracy." *Aljazeera English*. Aljazeera. 11 Oct. 2008. Web. 7 Aug. 2013.
- Act (2005:359) of May 26, 2005, Amending the Act (1960:729) on Copyright in Literary and Artistic Works*. Regeringskansliet (Ministry of Justice, Sweden). June 2005. Web. 15 Mar. 2013. <<http://www.government.se/content/1/c6/01/51/95/6a31279c.pdf>>
- Adams, John. "Property." *The Work's of John Adams*. ed. Charles Francis Adams. Vol. 1. Boston: Little, Brown & Co., 1850. 8-9. *The Founder's Constitution*. 2000. Web. 4 Feb. 2013.
- Adams, Peter. *Annotations: The Production of Space*. The University of Chicago: Chicago School of Media Theory. 2004. Web. 2 Aug. 2013.
- Adermon, Adrian, and Che-Yuan Liang. "Piracy, Music, and Movies: a Natural Experiment." Working Paper 18 (2010): 1-24. Department of Economics, Uppsala University. Web. 22 May 2014.
- Adorno, Theodor, and Max Horkheimer. *Dialectic of Enlightenment: Philosophical Fragments*. Ed. Gunzelin Schmid Noerr. Trans. Edmund Jephcott. Stanford: Stanford University Press, 2002. Print.
- AdVATAR. "Another Pirate Bay Proxy." *First United Church of Kopimism, US*. 10 May 2012. Web. 24 Mar. 2013.
- AdVATAR. "New Statement from Sweden (Translated to English)." *First United Church of Kopimism, US*. 15 Jan. 2012. Web. 24 Mar. 2013.
- Against All Flags*. Dir. George Sherman. Universal International Pictures, 1952. Film.
- Agnew, John. "Sovereignty Regimes: Territoriality and State Authority in Contemporary World Politics." *Annals of the Association of American Geographers* 95.2 (2005): 437-461. *Taylor and Francis*. Web. 3 Aug. 2013.

- Al-Rafee, Sulaiman, and Kamel Rouibah. "The Fight Against Digital Piracy: An Experiment." *Telematics and Informatics* 27.3 (2010): 283-292. Web. 20 May 2014.
- Al-Rafee, Sulaiman, and Timothy Paul Cronan. "Digital piracy: Factors that influence attitude toward behavior." *Journal of Business Ethics* 63.3 (2006): 237-259. *Springer Link*. Web. 20 May 2014.
- All Things Considered*. "Sweden's Pirate Party Fights Copyright Laws." Narr. Guy Raz. Natl. Public Radio. 14 Jun. 2009. *Newspaper Source Plus*. Web. 27 Mar. 2013.
- Althusser, Louis. *Lenin and Philosophy, and Other Essays*. Trans. Ben Brewster. London: New Left Books, 1971. Print.
- The Boston Consulting Group. *Evaluating NYC Media Sector Development and Setting the Stage for Future Growth. Final Report*. *Nyc.org*. 2012. Web. 22 May 2014.
- Anderson, Nate. "Political pirates: A History of Sweden's Piratpartiet." *Arstechnica*. Conde Nast. 26 Feb. 2009. Web. 28 Mar. 2013.
- Anderson, Nate. "US Attorney General: Piracy Funds Terror." *Arstechnica*. Conde Nast. 31 Mar. 2008. Web. 30 Oct. 2012.
- Andersson, Jonas. "For the Good of the Net: The Pirate Bay as a Strategic Sovereign." *Culture Machine* 10 (2009). Web. 6 June 2013.
- Andersson, Jonas. "The Origins and Impacts of the Swedish File-Sharing Movement: A Case Study." *Journal of Peer Production* 0 (2011). N. pag. Web. 28 Feb 2013.
- Andrews, Sam. "Piracy Campaign Focuses on Link to Organized Crime." *Hollywood Reporter -- International Edition*. Hollywood Reporter. 13 July 2004. *EbscoHost*. Web. 12 May 2014.
- Anne of the Indies*. Dir. Jacques Tourneur. Twentieth Century Fox Film Corporation, 1951. Film.
- Arendt, Hannah. *The Human Condition*. 2nd ed. Chicago: University of Chicago Press, 1998. Print.
- Aristotle, *Poetics*. Trans. Gerald Else. Ann Arbor: Ann Arbor Paperbacks, 1970. Print.
- Aristotle. *Physics*. Trans. R.P. Hardie and R.K. Gaye. 1930. *The Internet Classics Archive*. Web. 24 May 2013.
- Aristotle. *Politics*. *Aristotle in 23 Volumes*. Vol. 21. Trans. H. Rackham. Cambridge, MA, Harvard University Press; London, William Heinemann Ltd. 1944. *Perseus Digital Library*. Web. 16 Apr. 2013.
- Armstrong, Stephen. *War Plc: The Rise Of The New Corporate Mercenary*. London: Faber & Faber, 2009. *Google Books*. Web. 20 May 2013.

- “Artists Speak Out on Music Piracy.” *UpVenue*. nd. Web. 20 May 2014.
- “ArtsWatch: Antipiracy Ads ‘Get Real.’” *Grammy.org*. The Recording Academy. 5 Dec. 2011. Web 13 Jan. 2013.
- D’Astous, Alain, Francois Colbert, and Daniel Montpetit. "Music Piracy on the Web—How Effective are Anti-Piracy Arguments? Evidence from the Theory of Planned Behaviour." *Journal of Consumer Policy* 28.3 (2005): 289-310. Web. May 27 2014.
- Atkin, Charles K., and Ronald E. Rice. “Advances in Public Communication Campaigns.” *The International Encyclopedia of Media Studies. Vol. 5: Media Effects/Media Psychology*. Ed. Erica Sharrer. London: Wiley-Blackwell, 2013. 526-551. *Wiley Online*. Web. 28 May 2014.
- Atkyns, Richard. *The Original and Growth of Printing*. London: 1660. *Electronic English Books Online*. Web. 2 March 2014.
- Augustine of Hippo. *The City of God*. Ed. Philip Schaff. A Select Library of the Nicene and Post-Nicene Fathers of the Christian Church 2. Edinburgh: T&T Clarke, 1888. *Christian Classics Ethereal Library*. Web. 3 Nov. 2011.
- Austin, John Langshaw. *How to Do Things With Words*. Vol. 88. Harvard University Press, 1975. Web. 11 May 2013.
- “Awards *Pirates of the Caribbean: Curse of the Black Pearl*.” *IMDB*. IMDB. n.d. Web. 2 Nov. 2011.
- Baer, George W. *One Hundred Years of Sea Power: The US Navy, 1890-1990*. Stanford: Stanford University Press, 1996. Print.
- Bahadur, Jay. *The Pirates of Somalia: Inside their Hidden World*. New York: Pantheon Books, 2011. *Epub file*.
- Bakardjieva, Maria. "Subactivism: Lifeworld and Politics in the Age of the Internet." *The Information Society* 25.2 (2009): 91-104. *Taylor & Francis*. Web. 12 June 2014.
- Bakhtin, Mihail Mihajlovič. *Rabelais and His World*. Vol. 341. Bloomington: Indiana University Press, 1984. Print.
- Bakhtin, Mikhail Mikhaïlovic. *The Dialogic Imagination: Four Essays*. Ed. Michael Holquist. Trans. Caryl Emerson and Michael Holquist. Austin: University of Texas Press, 1981. Web. 2 Apr. 2013.
- Bakhtin, Mikhail. *Problems of Dostoevsky’s Poetics*. Ed. and Trans. Caryl Emerson. Minneapolis: University of Minnesota Press, 1984. Print. Theory and History of Literature 8.

- Baran, Stanley, and Dennis Davis. *Mass Communication Theory: Foundations, Ferment, and Future*. 6th ed. Boston: Cengage Learning, 2011. Print.
- Baraniuk, Chris. "The Pirate and the Priest: How Digital Turned into Divine." *The Machine Starts*. N.p. 17 Jan. 2012. Web. 24 Mar. 2013.
- Barker, Dennis. "Levy 'Could Fight Video Pirates.'" *The Guardian* (London). 16 Apr. 1985. *LexisNexis*. Web. 22 May 2014.
- Barlow, John Perry. *A Declaration of Independence of Cyberspace*. 1996. Web. 2 June 2014.
- Baron, Andrew. "A Decade oin History of Online Video." Dembot. N.p. 1 Jan. 2012. Web. 22 May 2014.
<<https://web.archive.org/web/20130101181751/http://dembot.com/post/310798115/a-decade-in-history-of-online-video>>
- Batty, Michal. "Virtual Geography." *Futures* 25.4/5 (1997): 337-352. Web. 2 July 2014.
- Beadon, Leigh. "ICE & FBI Hatch Ingenious Plan To Make DVD Piracy Warnings Longer." *Techdirt.com*. N.p. 10 May 2012. Web. 30 Oct. 2012.
- Benjamin, Walter. "Critique of Violence." *Selected Writings: 1913-1926*. Vol. 1. Ed. Marcus Bullock and Michael W. Jennings. Cambridge: The Belknap Press of Harvard University Press, 2003. 236-252. Print.
- Benkler, Yochai. "An Unhurried View of Private Ordering in Information Transactions." *Vanderbilt Law Review* 53.6 (2000): 2063-2080. Print.
- Benson-Allott, Caetlin. *Killer Tapes and Shattered Screens: Video Spectatorship From VHS to File Sharing*. Berkeley: University of California Press, 2013. *Google Books*. Web. 12 Jan. 2013.
- Benzon, Paul. "Bootleg Paratextuality and Digital Temporality: Towards an Alternate Present of the DVD." *Narrative* 21.1 (2013): 88-104. *ProjectMuse*. Web. 4 Jan. 2013.
- Bey, Hakim. *T. A. Z. The Temporary Autonomous Zone, Ontological Anarchy, Poetic Terrorism*. Brooklyn: Autonomedia, 1991. Web. 12 Dec. 2013.
- Bhattacharjee, Sudip, Ram D. Gopal, Kaveepan Lertwachara, and James R. Marsden. "Impact of Legal Threats on Online Music Sharing Activity: An Analysis of Music Industry Legal Actions." *Journal of Law and Economics* 49.1 (2006): 91-114. *JSTOR*. Web. 22 May 2014.
- The Black Pirate*. Dir. Albert Parker. United Artists, 1929. Film.
- The Black Swan*. Dir. Henry King. Twentieth Century Fox Film Corp., 1942. Film.

- Blunt, Emily. "Bluntly Speaking – Johnny Depp." *Blunt Review*. Blunt Review, Inc. n.d. Web. 2 Jan. 2014.
- Bodin, Jean. *Six Books of the Commonwealth*. Trans. M.J. Tooley. Oxford: Alden Press, 1955. Web. 24 May 2013.
- Bohn, Roger E. and James E. Short. "How Much Information? 2009 Report on American Consumers." UCSD: Global Information Industry Center. Dec. 2009. Web. 25 Mar 2013.
- Bohnet, John. "Combatting Piracy." *Cinema Technology* (1989): 70–71. *LexisNexis*. Web. 25 May 2014.
- Boland, Michaela. "Film Industry in Stand Against Pirates." *Australian Financial Review*. pg. 47. 10 June 2004. *LexisNexis*. Web. 4 Jan. 2013.
- Bond, Richard E. "Piratical Americans: Representations of Piracy and Authority in Mid-Twentieth-Century Swashbucklers." *The Journal of American Culture* 33:4 (2010): 309-321. Print.
- Bordwell, David, Janet Staiger, and Kristin Thompson. *The Classical Hollywood Cinema: Film Style & Mode of Production to 1960*. New York: Columbia University Press, 1985. Web. *Google Books*. 12 Dec. 2013.
- Bourdieu, Pierre. *Language and Symbolic Power*. Ed. John B. Thompson. Trans. Gino Raymond and Matthew Adamson. Cambridge, MA: Harvard University Press, 1991. Print.
- Bourdieu, Pierre. *On Television*. Trans. Priscilla Parkhurst Ferguson. New York: The New Press, 1996. Print.
- Bourget, Jean-Loup. "Sirk and the Critics." *Bright Lights* 2 (1977): 6-11. Web. 29 Mar. 2013.
- Bourget, Jean-Loup. "Social Implications in the Hollywood Genres." *Film Genre Reader III*. Ed. Barry Keith Grant. Austin: University of Texas Press, 2003. 51-59.
- Bradford, Alfred S. *Flying the Blackflag: A Brief History of Piracy*. Westport, CT: Praeger, 2007. Print.
- Brand, Stewart. "The Media Lab: Inventing the Future at MIT." New York: Penguin Books, 1988. Print.
- Braund, David. "Piracy Under The Principate And The Ideology Of Imperial Eradication." *War and Society in the Roman World* (1993): 195. Web. 29 May 2013.
- Braw, Elisabeth. "'We're the New Green Movement,' Says Pirate Party Founder." *Huffington Post*. America Online. 22 Feb. 2012. Web. 27 Mar. 2013.
- Breuer, Joseph and Sigmund Freud. *Studies on Hysteria*. Trans. James Strachey. New York: Basic Books, 1957. Print.

- Bridger, James. M. "The Rise and Fall of Somalia's Pirate King." *Foreign Policy*. Foreign Policy. 4 Nov. 2013. Web. 22 May 2014.
- Brooks, Peter. *The Melodramatic Imagination: Balzac, Henry James, Melodrama, and the Mode of Excess*. New York: Columbia University Press, 1985. Print.
- Budd, Mike, Robert M. Entman, and Clay Steinman. "The Affirmative Character of US Cultural Studies." *Critical Studies in Media Communication* 7.2 (1990): 169-184. *Taylor & Francis*. Web. 22 May 2014.
- Bueger, Christian. "Practice, Pirates and Coast Guards: Deconstructing the Grand Narrative of Somali Piracy." *Academia.edu*. Web. 6 June 2013.
- Burg, B. R. *Sodomy and the Pirate Tradition: English Sea Rovers in the Seventeenth Century Caribbean*. New York: NYU Press, 1995. Print.
- Burgess Jr., Douglas R. "The Dread Pirate Bin Laden." *Legal Affairs* (2005). Web. 27 May 2013.
- Byars, Jackie. *All That Hollywood Allows: Re-reading Gender in 1950's Melodrama*. Chapel Hill: U of North Carolina P, 1991. Print.
- Callahan, Matt. "Virtual Piracy vs. Licensed Fraud." *The Piracy Effect: Standards, Practices, and Case Studies*. Eds. Roberto Braga and Giovanni Caruso. Cinergie, 2013. Web. 30 Dec. 2013.
- Captain Blood*. Dir. Michael Curtiz. Warner Bros. Pictures, 1935.
- Captain Kidd's Kids*. Dir. Hal Roach. Rolin Films, 1919. Film.
- "*Captain Phillips*." *Box Office Mojo*. Internet Movie Database. N.d. Web. 4 June 2014.
- Casola, Luca, Simon Kemp, and Alexander Mackenzie. "Consumer decisions in the Black Market for Stolen or Counterfeit Goods." *Journal of Economic Psychology* 30.2 (2009): 162-171. *ScienceDirect*. Web. 28 May 2014.
- Cawelti, John G. "*Chinatown* and Generic Transformation in Recent American Films." *Film Genre Reader III*. Ed. Barry Keith Grant. Austin: University of Texas Press, 2003. 243-261.
- De Certeau, Michel. *The Practice of Everyday Life*. Trans. Steven Randall. Berkeley: University of California Press, 1984. Print.
- Chacksfield, Marc. "Steal or No Steal: Tackling the Changing Face of Movie Piracy." *TechRadar*. Web. 4 Mar. 2014. Web. 22 May 2014.
- Chafe, William H. *The Paradox of Change: American Women in the 20th Century*. Oxford: Oxford University Press, 1991. *Google Books*. Web. 2 Jan. 2014.

- Chen, Jennifer, and Florence Ang. "Be HIP at the Movies." Press Release. *Intellectual Property Office of Singapore*. 27 July 2004. Web. 22 May 2014.
<http://web.archive.org/web/20040804074635/http://www.ipos.gov.sg/main/newsroom/media_rel/mediarelease1_270704.html>
- Chen, Jennifer. "Stick to 'SAY NO! TO PIRACY.'" Press Release. *Intellectual Property Office of Singapore*. 24 June 2004. Web. 22 May 2014.
<http://web.archive.org/web/20040804075818/http://www.ipos.gov.sg/main/newsroom/media_rel/mediarelease_250604.html>
- Chmielewski, Dawn C. "Bootleg Music Downloading a Thing of the Past? Not So, Study Says." *Los Angeles Times*. The Los Angeles Times Media Group. 2 Oct. 12. Web. 29 Oct. 2012.
- Chwastiak, Michele. "War, Incorporated: Private, Unaccountable and Profitable." *Electronic Journal of Radical Organisation Theory* 10.1 (2007): 19-50. Web. 20 May 2013.
- Cicero, Marcus Tullius. *De Officiis*. Trans. Walter Miller. Cambridge, Mass.: Harvard University Press, 1913. Loeb Classical Library. Web. 29 May 2013.
- Ciepiela, Catherine. "Taking Monologism Seriously: Bakhtin and Tsvetaeva's 'The Pied Piper.'" *Slavic Review* 53.4 (1994): 1010-1024. *JSTOR*. Web. 23 Apr. 2014.
- The City of New York. "Anti-Piracy." *NYC.org*. 2011. Web. 22 May 2014.
- The City of New York. "Mayor Bloomberg and MPAA Unveil Anti-Video Piracy Campaign." *NYC.org*. 2 May 2007. Web. 22 May 2014.
- The City of New York. "New York City Launches a New Campaign to Fight Digital Piracy and Content Theft." *NYC.org*. 2011. Web. 22 May 2014.
- The City of New York. "Reel Jobs. Reel Proud. Real New Yorkers." *NYC.org*. 2009. Web. 22 May 2014.
- Cliteur, Paul. "The Missionary Church of Kopimism." *Leiden Law Blog*. Universiteit Leiden. 9 Nov. 2012. Web. 26 Mar. 2013.
- Closing Logos Group. "CLG Wiki Warning Screens Section." *CLG Wiki*. N.p. n.d. Web. 30 Nov. 2012. <<http://www.closinglogos.com/page/CLG+Wiki+Warning+Screens+Section>>
- Cockrill, Antje, and Mark MH Goode. "DVD Pirating Intentions: Angels, Devils, Chancers and Receivers." *Journal of Consumer Behaviour* 11.1 (2012): 1-10. *Wiley Online*. Web 28 May 2014.
- Cohen, Felix. "Transcendental Nonsense and the Functional Approach." *Colum. L. Rev.* 35.6 (1935): 809-849. Print.
- Cohen, G. A. "Freedom, Justice and Capitalism." *New Left Review* I/126 (1981): 3-16. Print.

- Cohen, Morris R. "Property and Sovereignty." *Cornell Law Quarterly* 13 (1927): 8. Web. 3 July 2014.
- Cohen, Stanley. *Folk Devils and Moral Panics*. Hoboken: Routledge, 2011. Print.
- Conant, James. "Wittgenstein on Meaning and Use." *Philosophical Investigations* 21.3 (1998): 222-250. Web. 24 Feb. 2014.
- Condit, Celeste Michelle. "The Rhetorical Limits of Polysemy." *Critical Studies in Media Communication* 6.2 (1989): 103-122. *Taylor & Francis*. Web. 22 May 2014.
- "Copyright Act of 1790." 4 Jan. 1790. Web. 30 Oct. 2012.
- Copyright Information and Anti-Piracy Centre. "Press Release." Helsinki: CIAPC, 27 March 2013. Web. 28 Mar. 2013.
- Cordingly, David. *Under The Black Flag: The Romance And The Reality Of Life Among The Pirates*. New York: Random House, 2006. Print.
- Cornell, Daniell. "Stealing the Spectacle: Gay Audiences and the Queering of Douglas Fairbanks Body." *The Velvet Light Trap* 42 (1998): 76-90. Print.
- Cowan, Ruth Schwartz. *More Work for Mother: The Ironies of Household Technology from the Open*. New York: Basic Books, 1983. *Google Books*. Web. 2 Jan. 2014.
- Coyle, James R., Stephen J. Gould, Pola Gupta, and Reetika Gupta. "'To Buy or to Pirate': The Matrix of Music Consumers' Acquisition-Mode Decision-Making." *Journal of Business Research* 62.10 (2009): 1031-1037. *ScienceDirect*. 20 May 2014.
- Crang, Mike, Phil Crang and Jon May. "Introduction." *Virtual Geographies: Bodies, Spaces, and Relations*. London: Routledge, 1999. 1-20. Print.
- Creative America. "Entertainment Community Announces Grassroots Organization to Fight Content Theft." Press Release. *Sagaftra.org*. 6 July 2011. Web. 22 May 2014.
<http://www.sagaftra.org/files/sag/documents/Creative%20America_PressRelease%207_6_11.pdf>
- Creative Commons. "About the Licenses." *Creative Commons*. N.p. n.d. Web. 3 Mar. 2013.
- The Crimson Pirate*. Dir. Robert Siodmak. Warner Bros. Pictures, 1952. Film.
- Cutthroat Island*. Dir. Renny Harlin. Carolco Pictures, 1995. Film.
- Dahlberg, Leif. "Pirates, Partisans, and Politico-Judicial Space." *Law and Literature* 23.2 (2011): 262-281. *ProQuest*. Web. 23 May 2013.
- Dana, Rebecca. "'Pirates of the Internet' Is New Class Lesson; Film, Music Industries Take Warning on Illegal Downloads to Younger Audience." *The Washington Post*. The Washington Post. Metro B-2. 13 Dec. 2004. *LexisNexis*. Web. 22 May 2014.

- Dancing Pirate*. Dir. Lloyd Corrigan. Pioneer Pictures Corp., 1936. Film.
- David, Matthew and Jamieson Kirkhope. "The Impossibility of Technical Security: Intellectual Property and the Paradox of Informational Capitalism." *Global Politics in the Information Age*. Ed. Mark Lacy and Peter Wilkin. Manchester: Manchester University Press, 2005. 80-95. Print.
- Davies, Christie. "Jokes and Groups." London: The Institute for Cultural Research, 2005. Web. 29 Mar. 2013.
- Dawdy, Shannon Lee, and Joe Bonni. "Towards a General Theory of Piracy." *Anthropological Quarterly* 85.3 (2012): 673-699. *ProjectMuse*. 3 July 2014.
- Dawdy, Shannon Lee. "Why Pirates Are Back." *Annual Review of Law and Social Science* 7 (2011): 361-385. *Annual Reviews*. Web. 22 May 2013.
- Dawson, Lorne L., and Douglas E. Cowan. "Introduction." *Religion Online: Finding Faith on the Internet*. New York: Routledge, 2004. 1- 16. *Ebook Library*. Web. 6 Jun 2013.
- Decherney, Peter. "Copyright dupes: piracy and new media in Edison v. Lubin (1903)." *Film History: An International Journal* 19.2 (2007): 109-124. Print.
- Deleuze, Gilles, and Pierre Félix Guattari. *Thousand Plateaus: Capitalism and Schizophrenia*. Vol. 2. U of Minnesota Press, 1987. Print.
- Demers, Joanna Teresa. *Steal this Music: How Intellectual Property Law Affects Musical Creativity*. Athens: University of Georgia Press, 2006. *Google Books*. Web. 23 May 2014.
- Demosthenes. *Demosthenis Orationes*. Eds. S. H. Butcher and W. Rennie. Medford, ME: Oxonii. E Typographeo Clarendoniano, 1921. *Perseus Digital Library*. Web. 13 May 2013.
- Dent, Alexander Sebastian. "Introduction: Understanding the War on Piracy, Or Why We Need More Anthropology of Pirates." *Anthropological Quarterly* 85.3 (2012): 659-672. *Project Muse*. Web. 3 May 2013.
- Derrida, Jacques. "Force of Law." *Acts of Religion*. New York: Routledge, 2002. 228-298. Print.
- Deuze, Mark. "Convergence Culture and Media Work." Holt and Perren 144-156.
- Dhar, Deepak. "States of Matter." *Resonance-Journal of Science Education* 16.12 (2010): 514-525. Web. 2 June 2013.
- Dillon, Dana R. "Maritime piracy: Defining the problem." *SAIS Review* 25.1 (2005): 155-165. *Project Muse*. Web. 15 Apr. 2013.

- Dilmeri, Athina, Tamira King, and Charles Dennis. "Pirates of the Web: The Curse of Illegal Downloading." *Journal of Retailing and Consumer Services* 18.2 (2011): 132-140. *ScienceDirect*. Web. 22 May 2014.
- Dimiero, Ben. "How Much Did Media Companies Spend Lobbying On SOPA and PIPA?" *Media Matters for America*. N.p. 3 Feb. 2012. Web. 2 Nov. 2012.
- Dimiero, Ben. "STUDY: SOPA Coverage No Match For Kim Kardashian And Tim Tebow." *Media Matters for America*. Media Matters For America. 13 Jan 2012. Web. 31 Mar. 2013.
- Dio, Cassius. *Roman History*. Book XXXVI. Trans. Earnest Cary. Loeb Classical Library Series. Cambridge, MA: Harvard University Press, 1914. *University of Chicago*. Web. 7 May 2013.
- Drinnan, John. "Please, Pirates, Be Nice." *The New Zealand Herald*. APN News & Media. 12 June 2007.
- Dugan, Andrew. "Economy Still Top Problem in U.S. but Less So Than in Past." *Gallup Politics*. 20 Dec. 2012. Web. 22 May 2014.
- Durand, Rodolphe, and Jean-Philippe Vergne. "No Territory, no Profit: The Pirate Organization and Capitalism in the Making." *M@n@gement* 15.3 (2012): 265-272. Web. 6 June 2013.
- Durand, Rodolphe, and Jean-Philippe Vergne. *The Pirate Organization: Lessons from the Fringes of Capitalism*. Boston: Harvard Business School Press, 2012. Print.
- Dusek, Val. *Philosophy of Technology: An Introduction*. Oxford: Blackwell, 2006. *Ebook Library*. Web. 12 July 2013.
- Earle, Peter. *The Pirate Wars*. New York: St. Martin's Griffin, 2005. Print.
- Edelstein, Dan. *The Terror Of Natural Right: Republicanism, The Cult Of Nature, And The French Revolution*. Chicago: University of Chicago Press, 2009. Print.
- Embassy of Piracy. "Guardia Di Finanza Raided Embassy Of Piracy At Venice Biennale." *Embassy of Piracy*. N.p. 8 Jun. 2009. Web. 13 Mar. 2013.
- Embassy of Piracy. "The Pirate Bay At Venice Biennial 2009." *Embassy of Piracy*. N.p. 2 Jun. 2009. Web. 13 Mar. 2013.
- Emerson, Joan P. "Negotiating the serious import of humor." *Sociometry* 32.2 (1969): 169-181. *JSTOR*. Web. 28 Mar. 2013.
- Engelman, Anna E. and Dale A. Scott. "Arrgh! Hollywood Targets Internet Piracy." *Richmond Journal of Law & Technology* 11.1 (2004): 91-122. *HeinOnline*. Web 2 Apr. 2013.

- Engström, Christian. "What The Swedish Pirate Party Wants With Patents, Trademarks, And Copyright." *Falkvinge & Co. on Infopolicy*. N.p. 13 Oct. 2012. Web. 28 Mar. 2013.
- Enigmax. "Father Of Raided 9-Year-Old Pirate Bay Girl Settles Case For 300 Euros." *TorrentFreak*. N.p. 29 Nov. 2012. Web. 13 Mar. 2013.
- Enigmax. "Pirate "Kopimism" Recognized as an Official Word By Sweden." *TorrentFreak*. N.p. 2 Jan. 2013. Web. 13 Mar. 2013.
- Enigmax. "Pirate Bay Judge Accused of Bias, Calls for a Retrial." *TorrentFreak*. N.p. 23 Apr. 2009. Web. 13 Mar. 2013.
- Enigmax. "Supreme Court Rejects Hearing For Pirate Bay's Peter Sunde." *TorrentFreak*. N.p. 8 Nov. 2012. Web. 13 Mar. 2013.
- Ennett, Susan T., Nancy S. Tobler, Christopher L. Ringwalt, and Robert L. Flewelling. "How Effective is Drug Abuse Resistance Education? A Meta-Analysis of Project DARE Outcome Evaluations." *American Journal of Public Health* 84.9 (1994): 1394-1401. Web. 25 May 2014.
- Epstein, Richard A. "Takings, Exclusivity, and Speech: The Legacy of *Prune Yard v Robins*." *The University of Chicago Law Review* 64.1 (1997): 21-56. Print.
- Epstein, Zack. "Police Raid Home Of 9-Year-Old Pirate Bay User, Confiscate Her 'Winnie The Pooh' Laptop." *BGR*. BGR Media. 22 Nov. 2012. Web. 13 Mar. 2013.
- Eriksson, Magnus. "BRNO: Speech for Piratbyrå @ Bzoom Festival in Brno, Czech Rep." *Fade to Grey*. N.p. 14 Oct. 2006. Web. 21 Feb. 2013.
- Ernesto. "Download a Copy of The Pirate Bay, It's Only 90 MB." *TorrentFreak*. N.p. 9 Feb. 2012. Web. 15 Feb. 2013.
- Ernesto. "Download a Fresh Copy of The Pirate Bay, With Permission." *TorrentFreak*. N.p. 20 Feb. 2013. Web. 5 Mar. 2013.
- Ernesto. "Google's Piracy Filter Cuts "Pirate Bay" Searches in Half, But..." *TorrentFreak*. N.p. 27 Sept. 2010. Web. 15 Feb. 2013.
- Ernesto. "Pirate Bay's Founding Group 'Piratbyrå' Disbands." *TorrentFreak*. N.p. 23 June 2010. Web. 15 Feb. 2013.
- Ernesto. "The Pirate Bay Appeal Starts Tomorrow." *TorrentFreak*. N.p. 20 Apr. 2012. Web. 15 Feb. 2013.
- Eskin, Michael. "Bakhtin on Poetry." *Poetics Today* 21.2 (2000): 381-390. Web. 12 May 2014.
- Everett, Anna, and Craig Watkins. "The Power of Play: The Portrayal and Performance of Race in Video Games." *The Ecology of Games: Connecting Youth, Games, and Learning*. ed.

- Katie Salen. Cambridge, MA: The MIT Press, 2008. 141–166. Print. The John D. and Catherine T. MacArthur Foundation Series on Digital Media and Learning.
- Falkvinge, Rick. “Huge Victory As EU Party Group Adopts Pirate Perspective On Copyright Monopoly.” *Falkvinge & Co. on Infopolicy*. N.p. 7 Oct. 2011. Web. 28 Mar. 2013.
- Falkvinge, Rick. “Pirate Parties Win First Senator’s Seat, Czech Win International Race.” *Falkvinge & Co. on Infopolicy*. N.p. 21 Oct. 2012. Web. 28 Mar. 2013.
- Falkvinge, Rick. “Pirate Party Demands To Be Paid For Its Hard Work.” *Falkvinge & Co. on Infopolicy*. N.p. 21 Oct. 2012. Web. 28 Mar. 2013.
- Falkvinge, Rick. “The Hydra Bay: The Pirate Bay Moves To Norwegian, Catalan Pirate Parties.” *Falkvinge & Co. on Infopolicy*. N.p. 26 Feb. 2013. Web. 28 Mar. 2013.
- Falkvinge, Rick. “Why The Name ‘Pirate Party?’” *Falkvinge & Co. on Infopolicy*. N.p. 20 Feb. 2011. Web. 28 Mar. 2013.
- Faris, Stephan. “The Church of Internet Piracy.” *Businessweek*. Bloomberg. 9 Feb 2012. Web. 23 Mar. 2013.
- Faulkner, Philip, Clive Lawson, and Jochen Runde. "Theorising Technology." *Cambridge Journal of Economics* 34.1 (2010): 1-16. *Oxford Journals*. Web.
- Ferguson, John. “Burn and Get Burnt: RIANZ’s Anti-Piracy Campaign Gets Global Attention.” *Billboard*. Billboard. 38, 45. 30 Nov. 2002. *Google Books*. Web. May 26 2014.
- Ferré, Frederick. *Philosophy of Technology*. Athens: University of Georgia Press, 1995. Print.
- Fetscherin, Marc. "Movie Piracy on Peer-to-Peer Networks—the Case of KaZaA." *Telematics and Informatics* 22.1 (2005): 57-70. *ScienceDirect*. Web. 3 July 2014.
- “Film Franchises.” *The Numbers*. Nash Information Services, LLC. n.d. Web. 11 Nov. 2013.
- “The First Copyright Law.” *Archiving Early America*. 17 July 1790. Web. 30 Nov. 2012. <<http://www.earlyamerica.com/earlyamerica/firsts/copyright/centinel.html>>
- First United Church of Kopimism, US. “Kopimist Constitution (English).” *First United Church of Kopimism, US*. 2012. Web. 24 Mar. 2013.
- Fisher, William W. “The Growth of Intellectual Property: A History of the Ownership of Ideas in the United States.” 1999. Trans. of "Geistiges Eigentum - ein ausufernder Rechtsbereich: Die Geschichte des Ideenschutzes in den Vereinigten Staaten." *Eigentum im internationalen Vergleich*. Vandenhoeck & Ruprecht, 1999. 265-91. Web. 1 Nov. 2012.
- Fiske, John. *Television Culture*. London: Methuen, 1987. Print.
- Fitzpatrick, Alex. “Kopimism: File-Sharing Religion Takes Root in the U.S.” *Mashable*. Mashable, Inc. 9 May 2012. Web. 26 Mar. 2013.

- Flanagan, Martin. *Bakhtin and the Movies: New Ways of Understanding Hollywood Film*. Basingstoke: Palgrave Macmillan, 2009. *Ebook Library*. Web. 23 Mar. 2014.
- Fleisher, Rasmus and Palle Torsson. "Piratbyran's Speech at Reboot." *Copyriot*. N.p. 3 June 2006. Web. 15 Feb. 2013.
- Fleisher, Rasmus. "Ars Electronica, X: 'Thank You for the 5000 Euro, We Will Have to Waste Them Fast' (Piratbyran's talk in Linz)." *Copyriot*. N.p. 8 Sept. 2009. Web. 15 Feb. 2013.
- Fleisher, Rasmus. "Navigating Through the Crisis of Copyright." *Copyriot*. N.p. 12 Dec. 2006. Web. 15 Feb. 2013.
- Fleisher, Rasmus. "Re: Piratbyran Question." Message to Michael D. High. 3 Apr. 2013. E-mail.
- Fleisher, Rasmus. "The Future of Copyright." *Cato Unbound*. The Cato Institute. 9 June 2008. Web. 15 Feb. 2013.
- Fradley, Martin. "Why Doesn't Your Compass Work? *Pirates of the Caribbean*, Fantasy Blockbusters, and Contemporary Queer Theory" *The Handbook of Gender, Sex, and Media*. Ed. Karen Ross. Malden : *Wiley-Blackwell*, 2012. 294-312. *Wiley Online*. Web 2 Nov. 2013.
- Frank, Kevin. "'Whether Beast or Human': The Cultural Legacies of Dread, Locks, and Dystopia." *Small Axe* 11.2 (2007): 46-62. Print.
- Freedman, James. "Protecting State Secrets as Intellectual Property: A Strategy for Prosecuting WikiLeaks." *Stanford Journal of International Law* 48.185 (2012). *Social Science Research Network*. Web. 6 June 2013.
- Freidman, Milton. *Capitalism and Freedom: Fortieth Anniversary Edition*. Chicago: University of Chicago Press, 2002. Print.
- The Frenchman's Creek*. Dir. Mitchell Leisen. Paramount Pictures, 1944. Film.
- Freud, Sigmund. "Humor." *Complete Works*. 1927. Trans. Ivan Smith. 2001. 4539-4545. Web. 29 Mar. 2013.
- Freud, Sigmund. *The Uncanny*. Trans. David McLintock. London: Penguin Books, 2003. Print.
- Furnham, Adrian, and Halldór Valgeirsson. "The Effect of Life Values and Materialism on Buying Counterfeit Products." *The Journal of Socio-Economics* 36.5 (2007): 677-685. *ScienceDirect*. Web. 28 May 2014.
- Gadamer, Hans-George. *Truth and Method*. 2nd rev. ed. Trans. Joel Weinsheimer and Donald G. Marshall. New York: Continuum, 1994. Print.
- Galinsky, Adam D., Kurt Hugenberg, Carla Groom and Galen Bodenhausen. "The Reappropriation Of Stigmatizing Labels: Implications For Social Identity." *Identity*

- Issues in Groups*. Ed. Jeffrey T. Polzer. Bingley, U.K.: Emerald Group Publishing Limited, 2003. 221–256. Print. Vol. 5 of *Research on Managing Groups and Teams* Margaret A. Neil and Elizabeth A. Mannix, eds.
- Gallagher, David F. "Bits; Wikileaks Has Friend in Sweden." *The New York Times*. The New York Times. 25 Feb. 2008. Web. 15 Mar. 2013.
- Galvin, Peter. R. *Patterns of Pillage: A Geography of Caribbean-Based Piracy in Spanish America, 1536-1718*. New York: Peter Lang, 1999. Print.
- Gardiner, Michael. *Critiques of Everyday Life: An Introduction*. London: Routledge, 2002. *Ebook Library*. Web. 23 Mar. 2013.
- Garnsey, Peter. *Thinking About Property: From Antiquity to the Age of Revolution*. Cambridge: Cambridge University Press, 2007. Print.
- Gates, Bill. "An Open Letter to Hobbyists." *Homebrew Computer Club Newsletter* 2.1 (1976): 2. Web. 3 May 2013.
- Gates, Kelly. "Will Work for Copyrights: The Cultural Policy of Anti-piracy Campaigns." *Social Semiotics* 16.1 (2006): 57-73. Print.
- Gaynor, Jennifer L. "Piracy in the Offing: The Law of Lands and The Limits of Sovereignty at Sea." *Anthropological Quarterly* 85.3 (2012): 817-857. *Project Muse*. Web. 15 May 2013.
- Geist, Michael. "ACTA's De Minimis Provision: Countering the iPod Searching Border Guard Fears." *Michael Geist*. N.p. 23 Mar. 2010. Web. 15 Feb. 2013.
- Genette, Gérard. *Paratexts: Thresholds of interpretation*. Trans. Jane E. Lewin. Cambridge: Cambridge University Press, 1997. Print. *Literature, Culture, Theory* 20.
- Gentili, Alberico. *De Iure Belli Libri Tres*. Trans. John C. Rolfe. New York: Oceana, 1964. Print.
- George, Allison. "Kopimism: The World's Newest Religion Explained." *New Scientist*. New Scientist magazine. 6 Jan. 2012. Web. 24 Mar. 2013.
- Gerassi-Navarro, Nina. "Playful Subversions: Hollywood Pirates Plunder Spanish America." *Film-Historia* 9.2 (1999): 133-146. Print.
- Gettleman, Jefferey. "Q. & A. With a Pirate: 'We Just Want the Money.'" *The New York Times*. The New York Times. 30 Sept. 2008. Web. 7 Aug. 2013.
- Gieryn, Thomas F. "A Space for Place in Sociology." *Annual Review of Sociology* 26.1 (2000): 463-496. *AnnualReviews.org*. Web. 2 Dec. 2013.

- Gillespie, Tarleton. "Characterizing Copyright in the Classroom: The Cultural Work of Antipiracy Campaigns." *Communication, Culture & Critique* 2.3 (2009): 274-318. *Wiley Online*. Web. 21 Nov. 2013.
- Goldstein, Patrick. "Film Industry Dreads Piracy." *Los Angeles Times*. Tribune Newspapers. 17 Sept. 2003. Web. 25 May 2014.
- Goldstein, Paul. *Intellectual Property: The Tough New Realities That Could Make Or Break Your Business*. Portfolio: New York, 2007.
- Golumbia, David. "Cyberlibertarianism: The Extremist Foundations of Digital Freedom." *Uncomputing*. 5 Sept. 2013. Web. 2 June 2014.
- Gopal, Ram D., G. Lawrence Sanders, Sudip Bhattacharjee, Manish Agrawal, and Suzanne C. Wagner. "A Behavioral Model of Digital Music Piracy." *Journal of Organizational Computing and Electronic Commerce* 14.2 (2004): 89-105. Web. 3 July 2014.
- Gorman, David. "The Use And Abuse Of Speech-Act Theory In Criticism." *Poetics Today* (1999): 93-119. *JSTOR*. Web. 11 May 2013.
- Granick, Jennifer. "Damage Control." *Index on Censorship* 41.4 (2012): 25-32. *SageJournals*. Web. 3 July 2014.
- Gray, Jonathan. *Show Sold Separately: Promos, Spoilers, and Other Media Paratexts*. NYU Press, 2010. Print.
- Greene, Jody. "Hostis Humani Generis." *Critical Inquiry* 34.4 (2008): 683-705. *JSTOR*. Web. 24 May 2013.
- Greenpeace. "LIVE - Latest Updates from the Arctic Sunrise Activists." *Greenpeace*. Greenpeace. 29 Dec. 2013. Web. 24 Feb. 2014.
- Griffin, Sean. *Tinker Belles and Evil Queens: The Walt Disney Company from the Inside Out*. New York: NYU Press, 2000. Print.
- Grotius, Hugo. *On the Law of War and Peace*. Trans. A.C. Campbell. 1814. Kitchener: Batoche Books, 2001. Web. 6 June 2013.
- Groves, Don. "MPA in Action in Oz." *Daily Variety*. 2 Dec. 2003. *EbscoHost*. Web 12 Mar. 2014.
- Guled, Abdi. "Somali Pirates Now Protecting Illegal Fishing Ships, Says UN Report." *The Washington Post*. The Washington Post. 25 July 2013. Web 7 Aug 2013.
- Gutterman, Steve. "Russia Charges 30 with Piracy Over Greenpeace Arctic Protest." *Reuters*. Thomson Reuters. 3 Oct. 2013. Web. 24 Feb. 2014.

- Haines, S. (2011) "Economic Warfare at Sea: Blockade and Guerre de Course in Maritime Doctrine and Contemporary International Law." *Naval Review* 99.4. (2011): 315–22. Print.
- Hall, Stuart. "Encoding/Decoding." *Media and Cultural Studies: Keywords*. Malden, MA: Wiley-Blackwell Publishers, 2001. 166-176. Print.
- Hall, Stuart. "Foucault: Power, Knowledge, and Discourse." *Discourse Theory and Practice: A Reader*. Eds. Margaret Wetherell, Stephanie Taylor, and Simeon J. Yates. Thousand Oaks, C.A.: SAGE publications, 2001. 72-81. Print.
- Hamilton, Alexander. "Federalist No. 1.: General Introduction." *The Federalist Papers*. 1787. N. pag. THOMAS. The Library of Congress. n.d. Web. 4 Feb. 2013.
- Hardy, I. Trotter. "Criminal Copyright Infringement." *William & Mary Bill of Rights Journal* 11.1 (2002): 305-341. Web. 3 May 2013.
- Hark, Ina Rae. "The Visual Politics of *The Adventures of Robin Hood*." *Journal of Popular Film* 5.1 (1976): 3-17. *FIAP International Index of Film Periodicals Plus*. Web. 2 Jan. 2014.
- Harmon, Amy. "Black Hawk Download: Moving Beyond Music, Pirates Use New Tools to Turn the Net into an Illicit Video Club." *The New York Times*. The New York Times. 17 Jan. 2002. Web. 10 Nov. 2012.
- "Hearings Before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the Committee on the Judiciary House of Representatives: 97th Congress, 2nd Session." 23 Sept. 1982. Web. 10 Nov. 2012. <<http://cryptome.org/hrcw-hear.htm>>.
- Hegel, G.W.F. *Philosophy of Right*. Trans. S.W. Dyde. Kitchener: Batoche Books, 2001. Web. 1 July 2013.
- Helland, Christopher. "Online Religion As Lived Religion: Methodological Issues In The Study Of Religious Participation On The Internet." *Online-Heidelberg Journal of Religions on the Internet* 1.1 (2009): 1-16. Web. 6 June 2013.
- Helland, Christopher. "Introduction." *Religion Online: Finding Faith on the Internet*. Eds. Lorne L. Dawson and Douglas E. Cowan. New York: Routledge, 2004. 23- 35. *Ebook Library*. Web. 6 Jun 2013.
- Heller-Roazen, Daniel. *The Enemy Of All: Piracy And The Law Of Nations*. New York: Zone Books, 2009. Print.
- Henry, Ian G. "The MPAA: A Script For An Antitrust Production." *West Virginia Law Review* 116 (2013): 385-463. *LexisNexis*. Web. 22 May 2014.
- Hernandez, Greg. "Motion Picture Association of America Files First Wave of Piracy Suits." *The Daily News of Los Angeles*. 17 Nov. 2004. *LexisNexis*. Web. 22 May 2014.

- Hernandez, Greg. "Scouts Step In The Picture To Stop Piracy; MPAA Offers Activity Badge." *The Daily News of Los Angeles*. pg. B1. 21 Oct. 2006. *LexisNexis*. Web. 22 May 2014.
- Hettinger, Edwin C. "Justifying Intellectual Property." *Philosophy & Public Affairs* 18.1 (1989): 31-52. *JSTOR*. Web. 17 July 2013.
- Higgins, Andrew, and Nicholas Kulish. "A Proposed Movie Deal for a Piracy Suspect Has a Surprise Ending: His Arrest." *The New York Times*. The New York Times. 14 Oct. 2013. Web. 3 June 2014.
- Higgins, Scott. "Suspenseful Situations: Melodramatic Narrative and the Contemporary Action Film." *Cinema Journal* 47.2 (2008): 165-170. Print.
- Highmore, Ben. *Everyday Life and Cultural Theory: An Introduction*. London: Routledge, 2013. *Ebook Library*. Web. 5 June 2013.
- Hill, Charles WL. "Digital Piracy: Causes, Consequences, and Strategic Responses." *Asia Pacific Journal of Management* 24.1 (2007): 9-25. *Springer Link*. Web. 28 May 2014.
- Hill, Christopher. *The Collected Essays of Christopher Hill: Religion and politics in 17th century England*. Vol. 3. Amherst: University of Massachusetts Press, 1986. Print.
- Hirschkop, Ken. *Mikhail Bakhtin: An Aesthetic for Democracy*. Oxford: Oxford University Press, 1999. Print.
- Hobsbawm, E.J. *Social Bandits and Primitive Rebels: Studies in Archaic Forms of Social Movements in the 19th and 20th centuries*. Glencoe: The Free Press, 1959. Print.
- Holquist, Michael. *Dialogism: Bakhtin and his World*. 2nd Ed. London: Routledge, 2002. Print.
- Holt, Jennifer, and Alisa Perren, eds. *Media Industries: History, Theory, and Method*. Chichester: Wiley-Blackwell, 2009. Print.
- Horowitz, Is. "Music Coalition In Drive For Home Taping Royalty." *Billboard* 3 Apr. 1982: 1+. *Google Books*. Web. 22 Feb. 2013.
- Howe, Jeff. "File-Sharing Is, Like, Totally Uncool." *Wired*. *Wired*. May 2004. Web. 25 May 2014.
- Hughes, Justin. "The Philosophy of Intellectual Property." *Georgetown Law Journal* 77 (1988). Web. 13 July 2013.
- Hume, David. *A Treatise of Human Nature*. 1739. Ed. L.A. Selby-Bigge. Oxford: Clarendon Press, 1896. Web. 28 June. 2013.
- Hussain, Imran. "Should The Pirate Bay Thank MPAA for its Cult Following?" *Startup Meme*. N.p. 12 July 2008. *Internet Archive*. 19 Jul. 2008. Web. 22 Feb. 2013.

<<http://web.archive.org/web/20080719063921/http://startupmeme.com/should-piratebay-thank-mpaa-for-its-cult-following/>>

- Hutcheon, Linda. *A Theory of Parody: The Teachings of Twentieth-Century Art Forms*. New York: Methuen, 1985.
- Hutcheon, Linda. *Irony's Edge: The Theory and Politics of Irony*. London: Routledge, 1994.
- Huxley, Aldous. *Brave New World*. 1932. New York: Harper Perennial Modern Classics, 2006. Print.
- Ian, Janis. "Fallout: A Follow Up to the Internet Debacle." *JanisIan.com*. 1 Aug. 2002. Web. 4 July 2013.
- ICC International Maritime Bureau. *Piracy and Armed Robbery Against Ships: Annual Report 1 January – 31 December 2006*. International Chamber of Commerce, 2007. Web. 22 Apr. 2013.
- The Industry Trust for IP Awareness. "Moments Worth Paying For." *Industrytrust.co.uk*. 2014. Web. 22 May 2014.
- Ingram, Michal. "Slyck Interviews The Pirate Bay." *Slyck*. N.p. 7 June 2005. Web. 15 Feb. 2013.
- Institute of Cetacean Research v. Sea Shepherd Conservation Society. 2:11-cv-02043-RAJ. United States Court of Appeals for the Ninth Circuit. 25 Feb. 2013. Web. 22 Feb. 2014.
- Institute of Medicine and National Research Council. *Growing Up Global: The Changing Transitions to Adulthood in Developing Countries*. Washington, DC: The National Academies Press, 2005. Web. 22 May 2014.
- International Federation of Phonographic Industries, Trans. *Pirate Bay Verdict English Translation*. 17 Apr. 2009. Web. 2 Mar 2013. <www.ifpi.org/content/.../Pirate-Bay-verdict-English-translation.pdf>
- Isocrates. *Isocrates with an English Translation in Three Volumes*. Trans. George Norlin. Cambridge, MA, Harvard University Press; London, William Heinemann Ltd. 1980. *Perseus Digital Library*. Web. 13 May 2013.
- Jakobson, Roman and Morris Halle. *Fundamentals of Language*. The Hague: Mouton, 1956. Web. 29 Mar. 2013.
- Jambon, Marc M., and Judith G. Smetana. "College Students' Moral Evaluations of Illegal Music Downloading." *Journal of Applied Developmental Psychology* 33.1 (2012): 31-39. Web. 3 July 2014.
- Janak, Pavel. "Classification of Causes and Effects of Uploading and Downloading of Pirated Film Products." *ICCSA 2011: International Conference on Computer Science and*

- Applications*. n.p. *World Academy of Science, Engineering and Technology*. Web. 28 May 2014.
- Jawaabood. "Daawo Video:-Belgium oo ka hadashay xarigga Afweyne iyo dibadbax lagu dalbanayay sii deyntiisa oo maanta ka dhacay Degmada Cadaado." *Warkii.com*. 15 Oct. 2013. *Google Translate*. Web. 5 June 2014.
- Jefferson, Thomas. "To Isaac McPhersons." *Writings of Thomas Jefferson*. ed. Albert Ellery Bergh. Vol. XIII. Washington: Thomas Jefferson Memorial Association of the United States, 1907. Web. 28 Nov. 2012.
- Jenkins, Henry. *Convergence Culture: Where Old and New Media Collide*. New York: New York University Press, 2006. Print.
- Jensen, Christopher. "The More Things Change, the More They Stay the Same: Copyright, Digital Technology, and Social Norms." *Stanford Law Review* 56.2 (2003): 531-570. *JSTOR*. Web. 22 Apr. 2014.
- Jess-Cooke, Carolyn. "Sequelizing Spectatorship and Building up the Kingdom: the Case of Pirates of the Caribbean, or, How a Theme Park Attraction Spawned a Multibillion-Dollar Film Franchise." *Second Takes: Critical Approaches to the Film Sequel*. Albany: SUNY Press, 2010. Print.
- Johns, Adrian. "Piracy as a Business Force." *Culture Machine* 10 (2009): 44-63. Web. 24 May 2013.
- Johns, Adrian. *Piracy: The Intellectual Property Wars From Gutenberg To Gates*. University of Chicago Press, 2010. Print.
- Johns, Adrian. *The Nature of the Book: Print and Knowledge in the Making*. Chicago: The University of Chicago Press, 1998. Print.
- Johnson, Charles. *A General History of the Robberies & Murders of the Most Notorious Pirates*. London: Lyons Press, 1998. Print.
- Jones, Ben. "The Swedish Pirate Party Presents Their Election Manifesto." *TorrentFreak*. N.p. 29 Aug. 2006. Web. 13 Mar. 2013.
- Kampmann, Matthias W. *Online Piracy and Consumer Affect: To Pay or Not to Pay*. MS thesis. University of Twente, 2010. Web. May 28 2014.
- Karaganis, Joe and Lennart Renkema. *Copy Culture in the Us And Germany*. New York: Columbia University: The American Assembly, 2013. Web. 27 Mar. 2013.
- Karaganis, Joe, Pedro Mizukami, Lawrence Liang, John Cross and Olga Sezneva. "Does Crime Pay? MPEE's Findings on Piracy, Organized Crime, and Terrorism." *Media Piracy In Emerging Economies*. New York: Social Science Research Council, 2011. Web. 4 Dec. 2012.

- Kärkkäinen, Henrik. "Copyright Boss: The Lawsuit is a Good Thing. Come Forth, Pirate Bay!" *IltaSonomat*. Ilta-Sonomat .14 Feb 2013. Web. 4 Apr. 2013.
- Karremann, Isabel. "'The Sea Will Make a Man of Him?' Hypervirility, Effeminacy, and the Figure of the Queer Pirate in the Popular Imagination from the Early Eighteenth-Century to Hollywood." *Gender Forum* 32 (2011): 1-6. Web. 14 Dec. 2013.
- Kaufman, Leslie. "Viacom and YouTube Settle Suit Over Copyright Violations." *New York Times*. New York Times. 18 Mar. 2014. Web. 19 Mar. 2004.
- Kay, Jeremy. "MPAA Launches Second Anti-Piracy Trailer." *Screen Daily*. 23 Oct. 2003. Web. 3 Oct. 2013.
- Kehl, Katharina. "Who are the Pirates?" *Prospect*. Prospect Publishing. 20 Jun. 2012: 40-41. Web. 27 Mar. 2013.
- Kilday, Gregg. "All-star Fox Piracy PSA Heads for Movie Screens." *Backstage*. Backstage. 7 Mar. 2003. Web. 22 May 2014.
- King, Christina. "Motion Picture Association of America Enforces its Message 'You Can Click But You Can't Hide.'" *LawditReadingRoom*. Lawdit Commercial Solicitors. 17 June 2005. Web. 22 May 2004.
<https://web.archive.org/web/20101228174057/http://www.lawdit.co.uk/reading_room/room/view_article.asp?name=../articles/MPAA%20you%20can%20click%20but%20you%20cant%20hide.htm>
- Kiss, Jemima. "The Pirate Bay Trial: Guilty Verdict." *The Guardian*. The Gaurdian. 17 Apr. 2009. Web. 28 Mar. 2013.
- Klein, Naomi. *No Logo: No Space, No Choice, No Jobs*. New York: Picador, 2002. Print.
- Knopper, Steve. *Appetite For Self-Destruction: The Spectacular Crash Of The Record Industry In The Digital Age*. New York: Free Press, 2009. Print.
- Konstam, Angus. *Piracy: The Complete History*. Oxford: Osprey Publishing, 2008. Print.
- Kontorovich, Eugene, and Steven Art. "An Empirical Examination of Universal Jurisdiction for Piracy." (2009). *Social Science Research Network*. Web. 27 May 2013.
- Kontorovich, Eugene. "The Piracy Analogy: Modern Universal Jurisdiction's Hollow Foundation" (2004)." *Harvard International Law Journal* 45: 183-237. Web. 1 June 2013.
- Kopkind, Andrew. "Slacking Toward Bethlehem." *Grand Street* 44 (1993): 176-188. *JSTOR*. Web. 4 Apr. 2013.
- Kuhn, Gabriel. *Life Under the Jolly Roger: Reflections on Golden Age Piracy*. Oakland: PM Press, 2009. Web. 12 Dec. 2013.

- Kuipers, Giseline. "The Sociology of Humor." *The Primer Of Humor Research*. Vol. 8. Ed. Victor Raskin. Berlin: De Gruyter Mouton, 2008. 361-398. Web. 3 Sept. 2013.
- Kuprijanko, Alexander. "Prosecutor: It is Not the First Time." *Sydsvenskan*. Sydsvenskan Dagbladet AB. 22 Apr. 2008. Web. 16 Mar. 2013.
- Laddie, Hugh. "Copyright: Over-strength, Over-regulated, Over-rated?" *European Intellectual Property Review* 18.5 (1996): 253-260. Print.
- Lakoff, George, and Mark Johnson. *Metaphors We Live By*. Chicago: University of Chicago Press, 1980. Print.
- Land, Chris. "Flying the Black Flag: Revolt, Revolution and the Social Organization Of Piracy in the 'Golden Age'." *Management & Organizational History* 2.2 (2007): 169-192. *Sage Publications*. Web. 17 Dec. 2013.
- Landes, David. "Arboga Autopsy Photos on The Pirate Bay." *The Local*. The Local Europe AB. 5 Sep. 2008. Web. 9 Mar. 2013.
- Landes, William M. and Richard A. Posner. "An Economic Analysis of Copyright Law." *The Journal of Legal Studies* 18.2 (1989): 325-363. Print.
- Lane-Poole, Stanley. *The Barbary Corsairs*. New York: Putnam, 1890. *Google Books*. Web. 12 July 2013.
- Larsson, Stefan, and Håkan Hydén. "Law, Deviation and Paradigmatic Change: Copyright and its Metaphors." *Technology for Facilitating Humanity and Combating Social Deviations: Interdisciplinary Perspectives*. Eds. Miguel Vargas Martin, Miguel A. Garcia-Ruiz, and Arthur Edwards. Hershey: Information Science Reference, 2011. *Social Science Research Network*. Web. 22 Jan. 2014.
- Lazarsfeld, Paul Felix, Bernard Berelson, and Hazel Gaudet. *The People's Choice: How the Voter Makes Up His Mind in a Presidential Campaign*. New York: Columbia University Press, 1948. Print
- Leeson, Peter T. *The Invisible Hook: The Hidden Economics of Pirates*. Princeton: Princeton University Press, 2009. *Ebook Library*. Web. 12 July 2013.
- Lefebvre, Henri. *The Production of Space*. Trans. Donald Nicholson-Smith. Oxford: Blackwell, 1991.
- Lemley, Mark A. and Philip J. Weiser. "Should Property or Liability Rules Govern Information?" *Texas Law Review*. 85(4), 1997. 783-841. Print.
- Lessig, Lawrence. *Free Culture: How Big Media Uses Technology and the Law to Lock Down Culture and Control Creativity*. New York: Penguin, 2004. Print.
- Lessig, Lawrence. *Freedom of Ideas*. New York: Random House, 2001. Print.

- Lewis, Charlton Thomas, William Freund, and Charles Short. *A Latin Dictionary: Founded on Andrews' Edition of Freund's Latin Dictionary*. Oxford: Clarendon Press, 1879. *Perseus Digital Library*. Web. 1 June 2013.
- Lewis, Jon. "' If You Can't Protect What You Own, You Don't Own Anything": Piracy, Privacy, and Public Relations in 21st Century Hollywood." *Cinema Journal* 46.2 (2007): 145-152. *JSTOR*. Web. 2 Sept. 2013.
- Libbenga, Jan. "The Pirate Bay Launches Music Sharing Site." *The Register*. Situation Publishing. 2 May 2007. Web. 4 Apr. 2013.
- Liddell, Henry George, and Robert Scott. *A Greek-English Lexicon: A New Edition Revised and Augmented Throughout by Sir Henry Stuart Jones, with the Assistance of Roderick McKenzie*. 2 Vols. Oxford: Clarendon Press, 1940.
- Lindgren, Simon and Jessica Linde. "The Subpolitics of Online Piracy: A Swedish Case Study." *Convergence: The International Journal of Research into New Media Technologies* 18.2 (2012): 143-164. *Sage Journals*. Web. 3 July 2014.
- Lindgren, Simon, and Ragnar Lundström. "Pirate Culture And Hacktivist Mobilization: The Cultural And Social Protocols Of #Wikileaks On Twitter." *New Media & Society* 13.6 (2011): 999-1018. *Sage Journals*. Web. 6 June 2013.
- Litman, Jessica. "Sharing and Stealing." *Hastings Communications and Entertainment Law Journal* 27 (2004). *The Social Science Research Network*. Web. 12 July 2013.
- Litman, Jessica. "The Demonization of Piracy." *Proceedings of Computers, Freedom, and Privacy 2000: Challenging the Assumptions*. The Tenth Conference on Computers, Freedom & Privacy. Vol. 6. New York: Association for Computing Machinery, 2000. *Lexis-Nexus*. 13 July 2013.
- Litman, Jessica. *Digital Copyright*. Amherst, NY: Prometheus Books, 2006. Print.
- Livingston, William. "Piracy in the Record Industry." *Stereo Review* Feb. 1970: 60-69. Print.
- Locke, John. *Two Treatises on Government: Book II*. London. 1689. *JohnLocke.net*. Web. 28 June 2013.
- Lofti, John. "Manny Will Lose his Job! Go See a Movie!" *Copyfutures*. n.p. 11 Sept. 2004. Web. 20 May 2014.
- Logie, John. "A Copyright Cold War?: The Polarized Rhetoric of the Peer-to-Peer Debates." *First Monday* 1.7 (2003): n.p. Web. 23 Oct. 2012.
- Logie, John. *Peers, Pirates, and Persuasion: Rhetoric in the Peer-To-Peer Debates*. West Lafayette, IN: Parlor Press, 2006. Web. 20 Apr. 2013.
- Long John Silver*. Dir. Byron Haskin. Treasure Island Pictures Pty. Ltd., 1954. Film.

- Loughlan, Patricia Louise. "Pirates, Parasites, Reapers, Sowers, Fruits, Foxes . . . The Metaphors of Intellectual Property." *Sydney Law Review* 28.2 (2006): 211-226. Sydney Law School Research Paper No. 06/01.
- Loughlan, Patricia Louise. "‘You Wouldn't Steal a Car’: Intellectual Property and the Language of Theft." *European Intellectual Property Review* 29.10 (April 2008): 401-405. Sydney Law School Research Paper No. 08/35. Web. 26 Nov. 2012.
- Love, James. "Who Are the Cleared Advisors That Have Access to Secret ACTA Documents?" *Knowledge Economy International*. N.p. 13 Mar. 2009. Web. 20 Nov. 12.
- Lubin, David. "The Persistence of Pirates: Pyles, Piracy, and the Silver Screen." *Howard Pyle: American Master Rediscovered*. Ed. Heather Campbell Coyle. Wilmington: Delaware Art Museum, 2011. 167-181. Print.
- Mackie, Erin Skye. "Welcome the Outlaw: Pirates, Maroons, and Caribbean Countercultures." *Cultural Critique* 59.1 (2005): 24-62. *Project Muse*. Web. 13 Dec. 2013.
- Malin, Jenessa, and Blaine J. Fowers. "Adolescent Self-Control and Music and Movie Piracy." *Computers in Human Behavior* 25.3 (2009): 718-722. *ScienceDirect*. Web. 20 May 2014.
- Mancuso, Marco. "Pirates At the Parliament: The Big Dream?!" *Digimag* 46. *Digimag Journal*. July 2009. Web. 3 March 2013.
- De Mann, Paul. *Blindness and Insight: Essays in the Rhetoric of Contemporary Criticism*. 2nd ed. Minneapolis: University of Minnesota Press, 1983. Print.
- Mark. "Update: Defamer Call To Arms Answered!" *Gawker*. Gawker Media. 26 Aug. 2004. Web. 20 May 2014.
- Markham, Annette N. "Metaphors Reflecting and Shaping the Reality of the Internet: Tool, Place, Way of Being." Association of Internet Researchers Conference, Toronto, October 2003. Web. 15 Mar. 2013.
- Marshall, P. David. "New Media as Transformed Media Industry." *Holt and Perren* 81-90.
- Marshman, Sarah D. "Note: Giving A Country Of Pirates A Chance: Using The Three-Step Test To Accommodate The Shifting Of National Attitudes On Copyright Protection." *George Washington International Law Review* 43.4 (2011): 703-740. Print.
- Marx, Karl. *Capital: Volume One: A Critique of Political Economy*. Trans. Samuel Moore and Edward Aveling. Ed. Friedrich Engels. Mineola, NY: Dover Publications, 2011. Print.
- Marx, Leo. "'Technology': The Emergence of a Hazardous Concept." *Social Research* 64.3 (1997): 965-988. *JSTOR*. Web. 12 Aug. 2013.
- Masnack, Mike. "FBI Wants To Make It Easier For You To Tell Your Customers They Might Be Felonious Pirates." *Techdirt*. N.p. 12 Jun. 2012. Web. 30 Oct. 2012.

- Mason, Matt. *The Pirate's Dilemma: How Youth Culture is Reinventing Capitalism*. Simon and Schuster, 2009. Web. 3 December 2012.
- Mazzetti, Mark. "Blackwater Aimed to Hunt Pirates." *The New York Times*. The New York Times. 30 Nov. 2010. Web. 22 June 2013.
- McCarthy, Smári. *First Ever Kopimist Wedding*. 30 Apr. 2012. *YouTube*. Web. 3 July 2014.
- McGahan, Claire. "War Hits the Video Pirates." *Belfast Telegraph*. 5 Dec. 1996. *LexisNexis*. Web. 22 May 2014.
- McGowan, David. "Copyright Nonconsequentialism." *Missouri Law Review* 69:1 (2004): 2-117. *Social Science Research Network*. Web. 13 Nov. 2012.
- McLeod, Kembrew. *Freedom of Expression: Overzealous Copyright Bozos and Other Enemies of Creativity*. New York: Double Day, 2005. Web. 12 July 2013.
- Merrifield, Andy. *Henri Lefebvre: A Critical Introduction*. New York: Routledge, 2006. Print.
- Meyers, Stephen Lee. "Greenpeace Activists May Face Russian Piracy Charges." *New York Times*. New York Times. 24 Sept. 2013. Web. 24 Feb. 2014.
- Miller, Seth A. "Peer-to-Peer File Distribution: An Analysis of Design, Liability, Litigation, and Potential Solutions." *The Review of Litigation* 25.1 (2006): 181-230. *HeinOnline*. Web. 24 Apr. 2014.
- Miller, Toby, Nitin Govil, John McMurria, and Richard Maxwell. *Global Hollywood*. London: bfi Publishing, 2001. Print.
- Miller, Toby, Nitin Govil, John McMurria, Richard Maxwell, and Ting Wang. *Global Hollywood 2*. London: British Film Institute, 2005. Print.
- Mirghani, Suzannah. "The War on Piracy: Analyzing the Discursive Battles of Corporate and Government-Sponsored Anti-Piracy Media Campaigns." *Critical Studies in Media Communication*. 28.2 (2011): 113-134. Print.
- Mitchell, William J. *City of Bits Space, Place, and the Infobahn*. Cambridge, Mass: MIT Press, 1995. *EbscoHost*. Web. 18 Mar. 2014.
- Møller, Bjørn. *Piracy, Maritime Terrorism And Naval Strategy*. 2009: 02. DIIS Reports/Danish Institute for International Studies, 2009. Web. 22 Apr. 2013.
- De Montmorency, J. E. G. "Piracy and the Barbary Corsairs." *Law Quarterly Rev.* 35 (1919): 133-142. *HeinOnline*. Web. 12 July 2013.
- Moore, Robert, and Elizabeth C. McMullan. "Neutralizations and Rationalizations of Digital Piracy: A Qualitative Analysis of University Students." *International Journal of Cyber Criminology* 3.1 (2009): 441-451. Web. 28 May 2014.

- Morris, Robert G., and George E. Higgins. "Criminological Theory in the Digital Age: The Case of Social Learning Theory and Digital Piracy." *Journal of Criminal Justice* 38.4 (2010): 470-480. *ScienceDirect*. 20 May 2014.
- Moses, Elissa. *The \$100 Billion Allowance: How to Get Your Share of the Global Teen Market*. New York: Wiley & Sons, 2000. *Google Books*. Web. 22 May 2014.
- "Moss and the German." *The IT Crowd*. Dir. Graham Linehan. 7 Sept. 2007. Television.
- Mott, Frank Luther. *A History Of American Magazines, 1741-1930*. Cambridge: Belknap Press of Harvard University Press, 1968. Print.
- "Movie Body Hits Peer-To-Peer Nets." *BBCNews*. British Broadcasting Corporation. 11 Feb. 2005. Web. 22 May 2014.
- MPAA. "Swedish Authorities Sink Pirate Bay." 31 May 2006. Web. 16 Mar. 2013. <<http://www.bgrg.co.il/mpaa1.pdf>>
- Murphy, Martin N. *Small Boats, Weak States, Dirty Money: Piracy and Maritime Terrorism in the Modern World*. New York: Columbia University Press, 2009. Print.
- Music Matters. "Why Music Matters." *Whymusicmatters.com*. Recording Industry Association of America. 2014. Web. 22 May 2014.
- Musser, Charles. "Ethnicity, Role-playing, and American Film Comedy: From Chinese Laundry Scene to Whoopee (1894-1930)." *Unspeakable Images: Ethnicity and the American Cinema*. Ed. Lester D. Friedman. Urbana: University of Illinois, 1991. 39-81.
- Napoli, Philip M. "Media Economics and the Study of Media Industries." Holt and Perren 161-170.
- Netanel, Neil W. "Why Has Copyright Expanded? Analysis and Critique." *New Directions In Copyright Law*. Vol. 6. ed. Fiona Macmillan. Edward Elgar, 2008. 3-34. UCLA School of Law Research Paper No. 07-34. *Social Science Research Network*. Web. 13 Nov. 2012.
- Newport, Frank. "Drop in Americans' Mentions of Economic Issues as Top Problem: Iraq remains top problem." *Gallup Poll Briefing*. 18 Oct. 2006. *EbscoHost*. Web. 22 May 2014.
- "New York City Launches New Anti-Piracy Campaign." *The Hollywood Reporter*. 14 Sept. 2001. Web. 22 May 2014.
- Noar, Seth M. "A 10-year Retrospective of Research in Health Mass Media Campaigns: Where Do We Go from Here?" *Journal of health communication* 11.1 (2006): 21-42. *Taylor & Francis*. Web. 22 May 2014.

- Norman, Jennifer. "Staying Alive: Can the Recording Industry Survive Peer-to-Peer." *Columbia Journal of Law & Arts* 26 (2002): 371-410. *LexisNexis*. Web. 22 May 2014.
- Norton, Quinn. "A Nation Divided Over Piracy." *Wired*. Condé Nast. 17 Aug. 2006. Web. 27 Mar. 2013.
- Norton, Quinn. "Secrets of the Pirate Bay." *Wired*. Condé Nast. 16 Aug. 2006. Web. 27 Mar. 2013.
- Nunes, Mark. *Cyberspaces of Everyday Life*. Minneapolis: University of Minnesota Press, 2006. *Ebook Library*. Web. 22 June 2013.
- NZFACT (New Zealand Federation Against Copyright Theft). "Market Stall Movie Pirate Charged With 33 Offences." Press Release. *NZFACT.co.nz*. 5 July 2007. Web. 22 May 2014.
<https://web.archive.org/web/20130208063851/http://nzfact.co.nz/press_releases/Release_5July2007.pdf>
- O'Donohoe, Stephanie. "Raiding the Postmodern Pantry: Advertising Intertextuality and the Young Adult Audience." *European Journal of Marketing* 31.3 (1997): n. pag. *ProQuest*. Web. 28 May 2014.
- Oberholzer-Gee, Felix, and Koleman Strumpf. "File Sharing and Copyright." *Innovation Policy and the Economy* 10 (2010): 19-55. Print.
- Ochiva, Dan. "City Pushes Film and TV Jobs with New PSA Campaign." *NYC Production and Post News*. 14 May 2012. Web. 22 May 2012.
- "Of Pirates Empire, and Terror: An Interview with Lauren Benton and Dan Edelstein." *Humanities: An International Journal of Human Rights, Humanitarianism, and Development* 2.1 (2011): 75-84. *Project Muse*. Web. 24 May 2013.
- O'Keeffe, Hayley. "Somali Pirate Kingpin Arrested in Belgium After Being Lured to Country By Promise Film Would Make Him Famous." *MailOnline*. The Daily Mail. 14 Oct. 2013. Web. 3 July 2014.
- Oksanen, Ville, and Mikko Välimäki. "Theory of Deterrence and Individual Behavior. Can Lawsuits Control File Sharing on the Internet?" *Review of Law and Economics* 3.3 (2007): 693-714. Web. 28 May 2014.
- Olson, Elder. *The Theory of Comedy*. Bloomington: Indiana University Press, 1968. Print.
- Ormerod, Henry A. *Piracy in the Ancient World*. Baltimore: John Hopkins University Press, 1996. Print.
- Paravisini-Gebert, Lizabeth. "Cross-Dressing on the Margins of Empire: Women Pirates and the Narrative of the Caribbean." *Women at Sea: Travel Writing and the Margins of*

- Caribbean Discourse*. eds. Lizabeth Paravisini-Gebert and Ivette Romero-Cesareo. New York: Palgrave, 2001. 59-97. Print.
- Parker, Martin. "Pirates, Merchants and Anarchists: Representations of International Business." *Management & Organizational History* 4.2 (2009): 167-185. *Taylor & Francis*. Web. 24 May 2013.
- Parkes, Michael. "Making plans for Nigel: The Industry Trust and Film Piracy Management in the United Kingdom." *Convergence: The International Journal of Research into New Media Technologies* 19.1 (2013): 25-43. *Sage Journals*. Web. 28 May 2014.
- Partridge, Des. "Red Flag on Rising Tide of DVD Piracy." *The Courier Mail*. pg. 13. 13 Aug. 2004. *EbscoHost*. Web. 3 July 2014.
- Patry, William. *Moral Panics and the Copyright Wars*. New York: Oxford University Press, 2009. Print.
- Patterson, Lyman Ray. *Copyright in Historical Perspective*. Nashville: Vanderbilt University Press, 1968. Print.
- De Paw, Linda Grant. *Seafaring Women*. Boston: Houghton Mifflin Co., 1982. Print.
- Peddie, Ian. *The Resisting Muse: Popular Music And Social Protest*. Burlington, VT: Ashgate, 2006.
- Peitz, Martin and Patrick Waelbroeck. "The Effect Of Internet Piracy On Music Sales: Cross-Section Evidence." *Review of Economic Research on Copyright Issues* 1.2 (2004): 71-79. Print.
- Pérotin-Dumon, Anne. "The Pirate and the Emperor: Power and the Law on the Seas, 1450-1850." *The Political Economy of Merchant Empires: State Power and World Trade, 1350-1750*. Ed. James D. Tracy. New York: Columbia UP, 1991. 196-227. Print.
- Perseus Digital Library*. Ed. Gregory R. Crane. Tufts University. N.d. Web. 13 Apr. 2013.
- Peterson, Anne. "'You Believe in Pirates, Of Course...' Disney's commodification and 'Closure' vs. Johnny Depp's Aesthetic Piracy of *Pirates of the Caribbean*." *Studies in Popular Culture* 29.2 (2007): 63-81. Print.
- Phillips, W. D. "'Valere Quantum Valere Potest': Adaptation in Early American Cinema." *Adaptation Studies: New Approaches*. eds. Christa Albrect-Crane and Dennis Cutchins. Madison: Farleigh Dickinson University Press, 2010. Print.
- Piquero, Nicole Leeper. "Causes and Prevention of Intellectual Property Crime." *Trends in Organized Crime* 8.4 (2005): 40-61. *Springer Link*. Web 28 May 2014.
- Pirandello, Luigi, and Teresa Novel. "On Humor." *The Tulane Drama Review* 10.3 (1966): 46-59. *JSTOR*. Web. 6 June 2013.

The Pirate. Dir. Vincente Minnelli. Metro-Goldwyn-Mayer, 1948. Film.

The Pirate Bay. "Apple Response." 2005. Web. 11 Mar. 2013.

The Pirate Bay. "DreamWorks Response." 21 Aug. 2004. Web. 11 Mar. 2013.

The Pirate Bay. "EA Response." 13 Sep. 2004. Web. 11 Mar. 2013.

The Pirate Bay. "GrayZone Response." 9 Jun. 2005. Web. 11 Mar. 2013.

The Pirate Bay. "Press Release, New Provider For TPB." 3 Mar. 2013. Web. 11 Mar. 2013.

The Pirate Bay. "Search Cloud." 9 Mar. 2013. Web. 9 Mar. 2013.

The Pirate Bay. "Today, we filed a police report! :D." 18 Feb. 2013. Web. 11 Mar. 2013.

Piratbyrå. "The Bureau of Piracy Activities 2007." *Piratbyran*. N.p. n.d. Web. 15 Feb. 2013.

"Pirate Videos 'Pay for Terror.'" *The Herald* (Glasgow). pg. 2. 30 June 1994. *LexisNexus*. Web. 22 May 2014.

Pirates of the Caribbean: At World's End. Dir. Gore Verbinski. Walt Disney Pictures, 2007. Film.

Pirates of the Caribbean: Curse of the Black Pearl. Dir. Gore Verbinski. Walt Disney Pictures, 2003. Film.

Pirates of the Caribbean: Dead Man's Chest. Dir. Gore Verbinski. Walt Disney Pictures, 2006. Film.

"*Pirates of the Caribbean* Franchise." *Box Office Mojo*. IMDB. n.d. Web. 30 Nov. 2013.

Pirates of the Caribbean: On Strange Tides. Dir. Rob Marshall. Walt Disney Pictures, 2011. Film.

"*Pirates of the Caribbean* Special Briefing" *Box Office Mojo*. IMDB. n.d. Web. 11 Nov. 2011.

Plutarch. *Plutarch's Lives*. Trans. Bernadotte Perrin. Cambridge, MA: Harvard University Press; London: William Heinemann Ltd., 1917. *Perseus Digital Library*. Web. 29 May 2013.

Poulsen, Kevin. "Swedish Pirate Party Doubles in Size After Bay Verdict." *Wired*. Condé Nast. 22 Apr. 2009. Web. 27 Mar. 2013.

Powr, Broccoli and Kopimi. 2009. Web. 15 Feb. 2013.

PP International. "Pirate Party of Sweden." *Wiki PP International*. N.p. 20 Mar. 2013. Web. 28 Mar. 2013.

- Pred, Allan. "Place as Historically Contingent Process: Structuration and the Time-Geography of Becoming Places." *Annals of the Association of American Geographers* 74.2 (1984): 279-297. Web. 20 Mar. 2014.
- "Premonition." National Crime Prevention Council, MTV Networks, and the Causeway Agency. 2011. Web. 4 Jan. 2013.
<<https://www.ncpc.org/media/banners/IP%20Theft/My%20Video%20Player.html>>.
- The Princess and the Pirate*. Dir. David Butler. Samuel Goldwyn Company, 1944. Film.
- Proserpio, Luigi, Severino Salvemini, and Valerio Ghiringhelli. "Entertainment Pirates: Determinants of Piracy in the Software, Music and Movie Industries." *International Journal of Arts Management* 8.1 (2005): 33-47. *JSTOR*. Web. 22 May 2014.
- Proudhon P. J. *What is Property? An Inquiry into the Principle of Right and of Government*. Trans. Benj. R. Tucker. New York: Dover, 1970. *The Anarchist Library*. Web. 28 June 2013.
- Przeworski, Adam, and Michael Wallerstein. "Popular Sovereignty, State Autonomy and Private Property." *European Journal of Sociology* 27 (1986): 215-59. *Cambridge Journals*. Web. 3 July 2013.
- Pufendorf, Samuel. *Of the Law of Nature and Nations: Eight Books*. Ed. Jean Barbeyrac. Trans. Basil Kennett. London: J. Walthoe, R. Wilkin, J. and J. Bonwicke, S. Birt, T. Ward, and T. Osborne, 1729. *Archive.org*. Web. 6 June 2013.
- Pugh, Tison. "Introduction: Disney's Retrogressive Medievalisms: Where Yesterday is Tomorrow Today." *The Disney Middle Ages: A Fairy-tale and Fantasy Past*. Tison Pugh and Susan Aronstein, eds. New York: Palgrave Macmillan, 2012. 1-20. *E-Book Library*. Web. 12 Dec. 2013.
- Railsback, Thomas F. "Hon. Thomas F. Railsback." N.p. n.d. Web 28 Nov. 2012.
- Ray, Julie. "Economy Tops Nation's Problem List – Again." *The Gallup Organization*. 22 July 2003. *EbscoHost*. Web. 22 May 2014.
- Recording Industry of America. "Who Music Theft Hurts." *RIAA*. n.d. Web. 10 Jan. 2013.
- Rediker, Marcus. *Villains of All Nations: Atlantic Pirates in the Golden Age*. Boston: Beacon Press, 2004. Print.
- Redondo, Ignacio, and Jean-Philippe Charron. "The Payment Dilemma in Movie and Music Downloads: An Explanation Through Cognitive Dissonance Theory." *Computers in Human Behavior* 29.5 (2013): 2037-2046. *ScienceDirect*. Web. 20 May 2014.
- Regardie, Jon. "Putting the Fear of Valenti Into Your Kids." *Variety*. 8 Dec. 2003. *Lexis Nexis*. Web. 22 Oct. 2013.

- Reid, Rob. "The \$8 Billion iPod." *Ted Talks*. Mar. 2012. Web. 30 Nov. 2012.
- Rheingold, Howard, *Smart Mobs: The Next Social Revolution*. New York: Basic Books, 2007. *Ebook Library*. Web. 20 Nov. 2013.
- Rights Alliance. "About." *Rattighetsalliansen*. N.p. n.d. Web. 23 Mar. 2013.
- Risch, Brianna. "Behavioral Tendencies Behind Online Piracy." *International Journal of Humanities and Social Science* 3.2 (2013): 276-283. Web. 28 May 2014.
- Ritchie, Robert C. *Captain Kidd And The War Against The Pirates*. Cambridge: Harvard University Press, 1986. Print.
- Ritzer, George. *Globalization: The Essentials*. Malden, MA: Wiley-Blackwell, 2011. Print.
- Robertshaw, Nick. "Artists Pitch Anti-Home Tape Drive in U.K." *Billboard* 7 Nov. 1981: 1+. Google Books. Web. 22 Feb. 2013.
- Robertson, Roland. *Globalization: Social Theory and Global Culture*. London: Sage, 1992. Print.
- Romig, Rollo. "The First Church of the Pirate Bay." *The New Yorker*. The New Yorker. 12 Jan. 2012. Web. 3 Mar. 2013.
- ronstirling. "U.K. Anti-Piracy Advert - Parody of this annoying trailer!" Online posting. *Youtube*. 26 June 2006. Web. 23 May 2014.
<<https://www.youtube.com/watch?v=MRVHUbrbEUA&list=RDOWNPfcEOr2Yg&index=12>>
- Rooney, David. "Feisty Filmmakers." *Daily Variety*. Variety. pg. 1.
- Roper, Louis. "US Government Behind Pirate Bay Raid." *The Local*. The Local Europe AB. 2 Jun. 2006. Web. 16 Mar. 2013.
- Rose, Carol M. "Possession as the Origin of Property." *University of Chicago Law Review* 52 (1985): 73-88. *HeinOnline*. Web. 2 July 2013.
- Rousseau, Jean Jacques. *A Discourse on a Subject Proposed by the Academy of Dijon: What is the Origin of Inequality Among Men, and is It Authorised by Natural Law?* 1754. Trans. G. D. H. Cole. *Constitution Society*. Web. 28 June 2013.
- Rubin, Alfred P. *The Law of Piracy*. Newport: Naval War College Press, 1988. U.S. Naval War College International Law Studies 63. *Internet Archive*. Web. 27 May 2013.
- Rubin, Louis Decimus, Jr. *The Curious Death of the Novel: Essays in American Literature*. Baton Rouge, LSU Press, 1967.
- Russell, Jeffrey Burton. *Lucifer: The Devil in the Middle Ages*. Ithaca, N.Y.: Cornell University Press, 1984. Print.

- “Russia Drops Piracy Charges Against Greenpeace Group.” *BBC*. BBC. 23 Oct. 2013. Web. 26 Feb. 2014.
- “Russia's Pirate Party Denied Registration as Piracy is Criminal, Not Mentioned in Party Charter.” *Russia & FSU General News*. 14 Jan. 2013. *Newspaper Source Plus*. Web. 27 Mar. 2013.
- Rutter, Jason, and Jo Bryce. "The Consumption of Counterfeit Goods: Here Be Pirates?" *Sociology* 42.6 (2008): 1146-1164. *Sage Journals*. Web. 28 May 2014. Saad, Lydia. “Economy Entrenched as Nation’s Most Important Problem.” *Gallup Politics*. 10 Dec. 2008. Web. 22 May 2014.
- Sabatini, Rafael. *Captain Blood: His Odyssey*. Boston: Houghton Mifflin Co., 1922. Print.
- Sahin, Ismail, and Ersin Karapazarlioglu. “The Effectiveness of School-Based Drug Resistance Education Program in the United States.” *European Scientific Journal* 10.5 (2014): 67-78. *European Scientific Institute*. Web. 25 May 2014.
- Samuelson, Pamela and Tara Wheatland. “Statutory Damages in Copyright Law: A Remedy in Need of Reform.” *William and Mary Law Review* 51.2 (2009): 439-511. Print.
- Sanders, John T. "Justice and the Initial Acquisition of Property." *Harvard Journal of Law & Public Policy* 10 (1987): 367-399. *HeinOnline*. Web. 13 July 2013.
- Sanger, David. E. “Obama Order Sped Up Wave of Cyberattacks Against Iran.” *The New York Times*. The New York Times. 1 June 2012. Web. 7 June 2013.
- Schlatter Richard. *Private Property: The History of an Idea*. New York: Russell & Russell, 1973. Print.
- Schmitt, Carl. *Land and Sea*. Trans. Simona Draghici. Washington, D.C.: Plutarch Press, 1997. Print.
- Schmitt, Carl. *The Concept of the Political: Expanded Edition*. Chicago: University of Chicago Press, 2008. Print.
- Schmitt, Carl. *The Nomos of the Earth in the International Law of the Jus Publicum Europeum*. Trans. G.L. Ulmen. New York: Telos Press, 2006. Print.
- Schmitt, Carl. *The Theory of the Partisan: A Commentary/Remark on the Concept of the Political*. Trans. A. C. Goodson. East Lansing: Michigan State University Press, 2004. Web. 6 June 2013.
- Schroeder, Jeanne L. “Unnatural Rights: Hegel and Intellectual Property. *Cardozo Law, Legal Studies Research Paper* 80 (2004): 1-48. *Social Science Research Network*. Web. 3 August 2013.

- Scott, A.O. "FILM: These Are Your Movies On Piracy." *The New York Times*. The New York Times. 16 Nov. 2003. Web 28 Nov. 12.
- Scott, A.O. "These Are Your Movies on Piracy." *The New York Times*. The New York Times. 16 Nov. 2003. Web. 3 Jan. 2013.
- "Screener Policy Creates International Furor." *The Toronto Star*. 28 Oct. 2003. *LexisNexis*. Web. 22 May. 2014.
- The Sea Hawk*. Dir. Michael Curtiz. Warner Bros. Pictures, 1940. Film.
- Shaw, Brent D. "Bandits in the Roman Empire." *Past & Present* 105 (1984): 3-52. *JSTOR*. Web. 1 June 2013.
- Shenon, Philip. "On Opinion Page, Lobby's Hand Is Often Unseen." *The New York Times*. The New York Times. 23 Dec. 2005. Web. 16 Nov. 2012.
- Sherry, Frank. *Raiders and Rebels: The Golden Age of Piracy*. New York: Quill William Morrow, 1986. Print
- Shewman, Den. "Pirates of the New Sensibilities: Terry Rossio & Ted Elliott." *Creative Screenwriting* 50 (2003): 48-52. Print.
- Shiva, Vandana. *Biopiracy: The Plunder of Nature and Knowledge*. Boston: South End Press, 1997. Print.
- Shiva, Vandana. *Protect or Plunder?: Understanding Intellectual Property Rights*. London: Zed Books, 2001. Print.
- Shiva, Vandana. *Water Wars: Privatization, Pollution, and Profit*. Cambridge, MA: South End Press, 2002. Print.
- Shotter, John. "Bakhtin and Billig: Monological Versus Dialogical Practices." *The American Behavioral Scientist* 36.1 (1992): 8-21. *Sage Publications*. Web. 23 Apr. 2014.
- Siegler, MG. "Eric Schmidt: Every 2 Days We Create As Much Information As We Did Up To 2003." *TechCrunch*. America Online. 4 Aug. 2010. Web 25 Mar. 2013.
- Simmon, Scott. "The Pirate's Gold." *The Griffith Project: Volume 1: Films Produced in 1907-1908*. Ed. Paolo Cherchi Usai. London: British Film Institute, 1999. 146-147. Print.
- Singer, Ben. *Melodrama and Modernity: Early Sensational Cinema and Its Contexts*. New York: Columbia University Press, 2001. Print.
- Smith, Clyde. "Music Matters Launches In US, But Will It Change Anything At All?" *Hyperbot.com*. 2012.

- Smith, Patti. "Johnny Depp Talks to Patti Smith About Working with Angelina Jolie, Jack Sparrow, and His Own Musical Aspirations." *Vanity Fair Online* 30 (2010). Web. Dec. 8 2011.
- Snelders, Stephen. *The Devil's Anarchy: The Sea Robberies of the Most Famous Pirate Claes G. Compaen, and The Very Remarkable Travels of Jan Erasmus Reyning, Buccaneer*. Brooklyn: Autonomedia, 2005. Print.
- "Somali Pirate 'Big Mouth' Quits." *BBC*. British Broadcasting Corporation. 10 January 2013. Web. 2 June 2014.
- De Souza, Philip. *Piracy In The Graeco-Roman World*. Cambridge University Press, 2002. Print.
- Språkrådet. "Språkrådets nyordslista 2012." 2012. Web. 25 Mar. 2013. <
<http://www.sprakradet.se/15910>>
- St-Cyr, Nicolas. "Parody, It's A Crime (Piracy It's A Crime Spoof)." Online Posting. *Youtube*. 18 Sept. 2010. Web. 22 May 2014.
- Steger, Manfred B. *Globalization*. New York: Sterling Publishing, 2009. Print.
- Steinhoff, Heike. "'Yo-Ho, A Pirates Life For Me"—Queer Positionalities, Heteronormativity, and Piracy in Pirates of the Caribbean. A Queer Reading." *Current Objectives of Postgraduate American Studies* 8 (2012). Web. 2 Oct. 2013.
- Sterk, Stewart E. "Rhetoric and Reality in Copyright Law." *Michigan Law Review* 94.5 (1996): 1197-1249. *JSTOR*. Web. 3 July 2014.
- Sullivan, Danny. "The Big Viacom Sues GOOG & YouTube Roundup." *SerachEngineLand*. Third Door Media, Inc. 14 Mar. 2007. Web. 23 Feb. 2014.
- Sunde, Peter. "Kopimi as a Religion." *Copy Me Happy*. N.p. 6 Jan. 2012. Web. 23 Mar. 2013.
- Surrell, Jason. *Pirates of the Caribbean: Form the Magic Kingdom to the Movies*. New York: Disney Editions, 2005. Print.
- Sutherland, Sam. "Taping Losses Near \$3 Billion." *Billboard* 3 Apr. 1982: 1+. Google Books. Web. 22 Feb. 2013.
- Sutherland, Sam. "Update offers an Advance Look at '81 Sales Figures." *Billboard* 10 Apr. 1982: 9+. *Google Books*. Web. 22 Feb. 2013.
- Svenska Antipiratbyrå. "Startsida." *Svenska Antipiratbyrå*. Svenska Antipiratbyrå. 2010. Web. 13 Feb. 2013.
- Swami, Viren, Tomas Chamorro-Premuzic, and Adrian Furnham. "Faking it: Personality and individual difference predictors of willingness to buy counterfeit goods." *The Journal of Socio-Economics* 38.5 (2009): 820-825. *ScienceDirect*. Web. 28 May 2014.

- Sweney, Mark. "Campaign Against Film Piracy Tells Moviegoers How Precious They Are." *The Guardian*. The Guardian. 2 Apr. 2009. Web. 22 May 2014.
- Symmons, Clive R. "The Use of the Law of Piracy to Deal with Violent Inter-Vessel Incidents at Sea Beyond the 12-Mile Limit: The Irish Experience." *Selected Contemporary Issues in the Law of the Sea*. Leiden: Martinus Nijhoff Publishers, 2011. 169-250. *Google Books*. Web. 24 Feb. 2014.
- Taves, Brian. *The Romance of Adventure: The Genre of Historical Adventure Movies*. Jackson: University Press of Mississippi, 1993. Print.
- Taylor, Steven A., Chiharu Ishida, and David W. Wallace. "Intention to Engage in Digital Piracy: A Conceptual Model and Empirical Test." *Journal of Service Research* 11.3 (2009): 246-262. Web. 28 May 2014.
- Thier, Dave. "A Defiant Pirate Bay calls 2012 'The Year of The Storm.'" *Forbes*. Forbes Magazine. 1 Feb. 2012. Web. 24 Mar. 2013.
- Thomas, Archie. "Pirate Fight Cites Terror Ties." *Daily Variety Gotham*. Penske Media Corporation. pg. 12. 13 July 2004. *EbscoHost*. Web. 2 May 2014.
- Thompson, John B. "The New Visibility." *Theory, Culture & Society* 22.6 (2005): 31-51. *Sage Journals*. Web. 1 Apr. 2013.
- Thompson, John. B. "Editor's Introduction." Introduction. *Language and Symbolic Power*. By Pierre Bourdieu. Ed. John B. Thompson. Trans. Gino Raymond and Matthew Adamson. Cambridge, MA: Harvard University Press, 1991.
- Thomson, Janice E. *Mercenaries, Pirates, and Sovereigns: State-Building and Extraterritorial Violence In Early Modern Europe*. Princeton: Princeton University Press, 1994. Print.
- Thorup, Mikkel. "Enemy of Humanity: The Anti-Piracy Discourse in Present-Day Anti-Terrorism." *Terrorism and Political Violence* 21.3 (2009): 401-411. *Taylor and Francis*. Web. 3 July 2013.
- Thucydides. *The Peloponnesian War*. London, J. M. Dent; New York, E. P. Dutton. 1910. *Perseus Digital Library*. Web. 5 May 2013.
- "Tipping Hollywood the Black Spot." *The Economist*. The Economist. 28 Aug. 2003. Web. 24 May 2014.
- Tourtellotte, Bob. "Film Actors Join the Fray Against 'Screeners' Ban." *Boston.com*. The Boston Globe. 14 Oct. 2003. Web. 22 May 2014.
- TPB AFK: The Pirate Bay Away from Keyboard*. Dir. Simon Klose. Nonami, 2013. Film
- Treasure Island*. Dir. Victor Fleming. Metro-Goldwyn-Mayer, 1934. Film.

- Treble, Patricia. "Pirate Party's Flagging Sails." *Maclean's*. Rogers Communications. 31 Oct. 2011: 48. *Academic Search Complete*. Web. 28 Mar. 2013.
- Treverton, F. Gregory, Carl Matthies, Karla J. Cunningham, Jeremiah Goulka, Greg Ridgeway, and Anny Wong. "Film Piracy, Organized Crime, and Terrorism." N.p.: The Rand Corporation, 2009. Web. 4 January 2013.
- Troberg, Anna. "Pirate Party to Hire Across All of Sweden." *Piratpartiet*. N.p. 1 Apr. 2011. Web. 28 Mar. 2013.
- Trosow, Samuel E. "The Illusive Search for Justificatory Theories: Copyright, Commodification, and Capital." *The Canadian Journal of Law and Jurisprudence* 16.2 (2003): 217-241. Print.
- Tuan, Yi-Fu. *Space and Place: The Perspective of Experience*. Minneapolis: University of Minnesota Press, 1977. Print.
- Turley, Hans. *Rum, Sodomy, and the Lash: Piracy, Sexuality, and Masculine Identity*. New York: New York University Press, 1999. Print.
- U.K. Copyright Act, 1956. Sec 14.2. 1956. Web. 22 Feb. 2013.
- "U.K. K-tel Uses Anti-Home Tape Slogan First." *Billboard* 14 Nov. 1981: 3. Google Books. Web. 22 Feb. 2013.
- 17 U.S. Code. Sec 5. Web. 20 Nov. 2012.
- 18 U.S. Code. Sec 1651-3. Web. 20 Nov. 2012.
- U.S. Constitution. Art. I, Sec. 8.8. 1787. Web. 10 Nov. 2012.
- United Nations. *Report of the Monitoring Group on Somalia and Eritrea Pursuant to Security Council Resolution 2060 (2012): Somalia*. S/2013/413. 12 July 2012. Web. 22 May 2014.
- United Nations. United Nations Convention on the Law of the Sea of 10 December 1982. 10 Dec. 1982. *United Nations*. Web. 22 Apr. 2013.
- Vaidhyanathan, Siva. *Copyrights And Copywrongs: The Rise Of Intellectual Property And How It Threatens Creativity*. NYU Press, 2003. Print.
- De Vattel, Emerich. *The Law Of Nations Or Principles Of The Law Of Nature Applied To The Conduct And Affairs Of Nations And Sovereigns*. Trans. Joseph Chitty. Philadelphia: T. & J.W. Johnson & Co., 1883. Web. 1 June 2013.
- Veblen, Thorstein. *The Theory of Business Enterprise*. New York: Charles Scribner's Sons, 1915. Print.

- Viacom International, Inc. v. YouTube, Inc., YouTube, LLC, and Google, Inc. 07 CV 2103. United States District Court for the Southern District of New York. 2007. *Findlaw*. Thomas Ruetters. Web. 24 Feb. 2014.
- Vognar, Chris. "New Skirmish, Old Battle: MPAA Case Puts Light on Filmmaker Feud." *The Dallas Morning News*. 16 Dec. 2003. *LexisNexis*. Web. 22 May 2014.
- Von Benda-Beckmann, Franz, Keebet von Benda-Beckmann, and Julia M. Eckert. "Rules Of Law And Laws Of Ruling: Law And Governance Between Past And Future." *Rules Of Law And Laws Of Ruling: On The Governance Of Law*. Ed. Franz von Benda-Beckmann, Keebet von Benda-Beckmann, and Julia M. Eckert. Burlington, VT: Ashgate Publishing, Ltd., 2009. Web. 23 May 2013.
- Voorhees, Richard J. "The Return of Sabatini." *The South Atlantic Quarterly* 78 (1979): 195-204. Print.
- Voskamp, Peter. "Attorney General Holder Unveils New Piracy Awareness Campaign." *The Wrap*. The Wrap News Inc. 29 Nov. 2011. Web. 13 January 2013.
- Waddams, Stephen. *Dimensions of Private Law: Categories and Concepts in Anglo-American Legal Reason*. Cambridge: Cambridge University Press, 2003. Print.
- Wallack, Lawrence M. "Mass media Campaigns: The Odds Against Finding Behavior Change." *Health Education & Behavior* 8.3 (1981): 209-260. *Sage Journals*. Web. 25 May 2014.
- Wallerstein, Immanuel Maurice. *World-Systems Analysis: An Introduction*. Durham: Duke University Press, 2004. Print.
- Walterscheid, Edward C. "To Promote The Progress Of Science And Useful Arts: The Background And Origin Of The Intellectual Property Clause Of The United States Constitution." *Journal of Intellectual Property Law* 2 (1994): 1-56. *LexisNexis*. Web. 28 Dec. 2012.
- Wang, Shujen. *Framing Piracy: Globalization and Film Distribution in Greater China*. Lanham: Rowman & Littlefield Publishers, Inc., 2003. Print.
- Wang, Xiao, and Steven R. McClung. "The Immorality of Illegal Downloading: The Role of Anticipated Guilt and General Emotions." *Computers in Human Behavior* 28.1 (2012): 153-159. Web. 28 May 2014.
- Wang, Xiao, and Steven R. McClung. "Toward a Detailed Understanding of Illegal Digital Downloading Intentions: An Extended Theory of Planned Behavior Approach." *New Media & Society* 13.4 (2011): 663-677. *Sage Journals*. Web. 22 May 2014.
- "Watchdog Under Fire / Hi-fi Equipment Makers Amstrad Sue the British Phonographic Industry." *The Guardian* (London). The Guardian. 13 Nov. 1984. *LexisNexis*. Web. 22 May 2014.

- Weber, Harold M. *Paper Bullets: Print and Kingship Under Charles II*. Lexington: The University of Kentucky Press, 1996. *Google Books*. Web. 20 May 2014.
- Wertheim, Margaret. *The Pearly Gates of Cyberspace: A History of Space from Dante to the Internet*. New York: Norton, 2000. Print.
- West, Steven L., and Keri K. O'Neal. "Project DARE Outcome Effectiveness Revisited." *American Journal of Public Health* 94.6 (2004): 1027-1029.
- White-Smith Music Publishing Company v. Apollo Company. 209 U.S. 1. Supreme Court of the United States. 1908. *Digital Law Online*. Web. 16 Nov. 2012.
- White, Allon. "The Struggle over Bakhtin: Fraternal Reply to Robert." *Cultural Critique* 8 (1987): 217-241. *JSTOR*. Web. 23 Apr. 2014.
- White, Hayden. *Metahistory: The Historical Imagination in Nineteenth-Century Europe*. Baltimore: John Hopkins University Press, 1973. Print.
- Wildman, Steven S. "One-Way Flows And The Economics Of Audience Making." *Audiencemaking: How The Media Create The Audience*. Eds. James S. Ettema and D. Charles Whitney. Thousand Oaks, Calif.: Sage Publications, 1994. 115-141.
- Williams, Joshua. *Principles of the Law of Real Property: Intended for the Use of Students in Conveyancing*. 6th ed. London: H. Sweet, 1872. *Google Books*. Web. 2 July 2013.
- Williams, Linda. "Melodrama Revised." *Refiguring American film genres: History and theory*. Ed. Nick Browne Berkeley: University of California Press, 1998. 42-88. Print.
- Wilson, Eric. *The Savage Republic: De Indis of Hugo Grotius, Republicanism and Dutch Hegemony Within the Early Modern World-System (c. 1600-1619)*. Boston: Martinus Nijhoff Publishers, 2008. *Google Books*. Web. 12 July 2013.
- Wittgenstein, Ludwig. *Philosophical Investigations*. Trans. G.E.M. Anscombe. Oxford: Basil Blackwell, 1958. Print.
- Womack, Ken. "Dear Hollywood." *The Morning News*. The Morning News LLC. 18 Sept. 2003. Web. 20 May 2014.
- Wong, Kristina. "Rumsfeld Still Opposes Law of Sea Treaty." *The Washington Times*. The Washington Times. 4 June 2012. Web. 14 Apr. 2014.
- Wu, Flora. "Piracy's a Crime, But When It Comes to Diamonds." *South China Morning Post*. pg. 2. 4 Aug. 2004. *LexisNexis*. Web. 23 Apr. 2014.
- Wu, Timothy. "Copyright's Communications Policy." *Michigan Law Review* 103 (2004): 278-366. Print.

- Wu, Timothy. *The Master Switch: The Rise and Fall of Information Empires*. New York: Vintage Books, 2011. Print.
- Yar, Majid. "The Global 'Epidemic' of Movie 'Piracy': Crime-Wave or Social Construction?" *New Media and Society* 27 (2005): 677-695. Print.
- Yar, Majid. "The Rhetorics and Myths of Anti-Piracy Campaigns: Criminalization, Moral Pedagogy and Capitalist Property Relations in the Classroom." *New Media and Society* 10 (2008): 605-623. Print.
- "You Wouldn't Steal a Car: Bootlegging." Motion Picture Association of America. 2004. Web. 12 Jan. 2013. <http://www.dailymotion.com/video/x8yod_piracy-its-a-crime-mpaa_music#.UQ6Z9FplDek>
- Young, Robert. "Back to Bakhtin." *Cultural Critique* 2 (1985): 71-92. *JSTOR*. Web. 3 Mar. 2014.
- Yu, Peter K. "Digital Copyright and Confuzzling Rhetoric." *Vanderbilt Journal of Entertainment & Technology Law* 13 (2010): 881-939. *Social Science Research Network*. Web. 3 Mar. 2013.
- Zizek, Slavoj. "Why are Laibach and the *Neue Slowenische Kunst* not Fascists?" *The Universal Exception*. Trans. Rex Butler and Scott Stephens. London: Continuum, 2006. 63-66. Print.