

Abstract

AUTHORSHIP BETWEEN ETHICS, LAW AND TECHNOLOGY

In the present thesis, I focus on the relation between the concept of authorship and the development of new technologies, linked to the transformation of the ethical paradigm.

I focus on the author as a person, on the ethical aspect of authorship and its protection within society, on traditional rules of polite and honest behaviour which are intertwined with the codification of legal protection of the rights of the author.

The discussion takes place on two levels which have co-existed since authorship came into existence: one of them is the protection of the rights of authors, including the introduction of copyright, the other is the attempt to infringe on these rights in order to allow for the free sharing of cultural property as well as of the results of scientific work.

In the Introduction, I provide an overview of the transformation of the relation between the author and society, between authorship and its legal basis. I focus mainly on its philosophical aspects, reflecting the state of technological development and the situation in society. I follow the differentiation between divine inspiration (claim for the truth) and the concept of authorship (claim for a salary), which first came into prominence toward the end of the archaic period. I introduce the anonymous medieval author and then I discuss the origins of the novel and other literary genres within which the author played a dominant role. The invention and the expansion of the letterpress is the turning point determining the period during which basic social and legal norms for the understanding of authorship, as well as of the author and his work, were established. This period comes to its end with the so-called “death of the author”, in the words of Roland Barthes who used them to describe the transformation of the basic paradigm. The sudden arrival of the era of new media is only slowly followed by reforms in laws and norms. At present, legislation is not able to cope with the many possibilities brought on by new technologies and it in fact hinders the distribution of works instead of protecting them in cases when a certain work is intended for distribution (by its author).

Therefore, in Chapter 2, I focus on the definition of intellectual property and its various components, ex. industrial property rights and copyright. I also discuss the origins of legal and ethical norms in the field of patents and copyright.

Chapter 3 is dedicated to copyright, namely its interpretation in the Czech Republic. I investigate, in detail, Czech laws on copyright and their definition of the term “work”. Czech legislation does not differentiate sufficiently between the various types of works (mainly scientific and expert works), that is why I suggest a more detailed classification .

A part of Chapter 3 focuses on the possibility of remunerating authors when they make their work accessible and, more generally, on the distribution of scientific papers. Modern technologies are linked to this topic as is the ability to publish works online under the Creative Commons License.

Based on specific cases, Chapter 4 starts by studying the relation between the author and his work, which, following the author's death (this time his actual death), becomes part of his inheritance, i.e. becomes property, and is then handled according to or counter to the author's will.

A part of Chapter 4 discusses the multifaceted relation between the author and the use of his works. Works used by other authors in film documentaries, works quoted in scientific papers... I pay special attention to plagiarism, offensive and low quality use of works, forgery and theft etc. Finally, I focus on publication ethics and the ethical paradigm linked to new technologies, mainly the internet, leading to the re-distribution of “content” as well as to the transformation of the availability of an author's work, because it has become virtually impossible to protect the work according to old norms.

Chapter 5 is dedicated to e-books, their origin, distribution, sale as well as to libraries, digital libraries and ambitious projects to digitize books, mainly within the framework of Google Books.

The possibility of a vast distribution of works via new boundless technologies is linked to online freedom and the means to protect property without using censoring. The virtually limitless distribution of works online and online freedom are both linked to piracy. Piracy has been part of our civilization since the time it became possible to create (and distribute) copies of a certain work cheaper than the original. The history of piracy is very interesting because it shows that events repeat themselves throughout time, each time using a different means. During the Enlightenment as well as at present, defenders of piracy advocate it as a means of spreading education and freedom of information. Free culture (a term used by L. Lessig) allows the public to freely handle creative content. The opposite of free culture is the so-called “permission culture”.

In the Conclusion, I stress the need to retain trust and transparency, understood as the “view from within” (as opposed to openness which I regard as the “view from without”). In transparency lies the power of modern technologies, mainly the internet.

We are faced with a choice: shall we continue to draw ever more complicated conclusions from premises of defended norms in order to protect “copyright” or shall we dare set out on a quest for a language that would clarify the situation as well as help regulate it. The consequences of this choice would influence not only the laws on copyright (which as far as a “monopoly on copy-making” would probably be significantly restricted), but also the entire concept of economy, politics and morality. However, I do not pretend to solve all these questions in the present thesis.