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The Rights of the Living Dead

Taylor Swift's Zombie Army

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1. Introduction

In the music video for her song "Look What You Made Me Do," Taylor Swift rises as a zombie from a grave marked "Taylor Swift's Reputation" while singing about how little she likes to be messed with. She goes on to sing about how she has grown smarter and more resilient, before warning that all she thinks about is karma. Swift's transformation into a zombie rising from her reputation's grave serves as a useful illustration for her transition into a public figure. To become a public figure or celebrity, I claim, is to exist alongside a zombie version of yourself. This zombie shares the same name and physical likeness but operates independently of its flesh-and-blood counterpart. In fact, public figures do not have any special authority over the zombie version of themselves, and in some contexts, they enjoy less authority over their zombie counterparts than others do.[1] In the US, for example, public figures are not legally entitled to protections against

criticism via parody, which can include unauthorized use of their likeness for offensive images, insulting jokes, and other forms of public mockery.

Further, a public figure or author's name serves multiple different functions, in addition to referring to the concrete individual. For example, someone can be the author of a song while not enjoying the legal and economic entitlements of ownership. As Michel Foucault observed, a work is entitled to become the "murderer" of its author, which suggests that the author's name exists among the living dead.[2] An artist's works can bear their name yet operate independently of their attitudes or mental states. In the US, music copyrights are divided between production rights, which cover the actual composition of a song, and master rights, which govern the recording of a composition and how it is used or sampled by third parties. In June of 2019, the master rights to Taylor Swift's first six albums were sold without her knowledge or consent, effectively "murdering" her rights as their author. Swift's 2019 decision to re-record her first six studio albums can thus be understood as an act of institutional revenge, a way to get back at the people who have wielded power over her and the institutions that enable exploitation—a battle with her zombified works: the "stolen" original albums. In this chapter I sketch an institutional theory of celebrity names to explain the institutional, personal, and political significance of self-appropriation, using Taylor Swift's act of re-recording her own music as a paradigm case.

2. What's in a Name? Barthes and Foucault on the Author Function

Philosophers have traditionally assumed that an account of proper names is an account of their semantic meaning and the nature of reference in a manner that also captures how sentences involving a proper name can be true.[3] On this account, proper names do little more than refer (or

point) to a particular persons, places, or things. For example, the name 'Taylor Swift' refers to the famous singer who was born in West Reading, Pennsylvania in 1989. Or, 'the Grand Canyon' refers to a large chasm in southern Arizona. The philosophical work involves specifying how the relevant linguistic items successfully refer to non-linguistic entities out in the world. Reference is a word-world relation that contributes to a proposition's truth value. If a term fails to refer, then the proposition is either false or meaningless. Two names are identical when they refer to the same object, or when they can be substituted in the same sentence without modifying its truth value. On the earliest view, reference is fixed by a definite description because the description can be substituted for a name without modifying the truth value of the sentence.[4] Take the sentence, "Taylor Swift attended the MTV Video Music Awards." Since I can substitute the proper name 'Taylor Swift' with the definite description 'the famous singer born in West Reading, Pennsylvania in 1989' without modifying the truth value of the sentence, both expressions share the same referent.

While this account conceives of reference as the only or essential function of proper names, it isn't the only account available to us. In the context of public artistic production or authorship, proper names serve multiple functions in addition to referring to concrete individuals. The account I support considers a consequence of the postmodern insight that authors do not have a special relationship to their name *or* to their work. In what follows, I use "author" as a placeholder for particular authors, artists, or public figures in general. Rather than offering a theory of the semantic meaning or nature of proper names, I am interested in exploring how proper names function in institutional contexts. In the next section I will suggest that authorial names function to license a set of entitlements, permissions, prohibitions, and obligations.

During the mid-twentieth century literary criticism underwent a major shift in how it understood the relationship between an author's mental states and the aesthetic properties or meaning of their works. According to the so-called "intentional fallacy," it is a logical mistake to

assume that an artist's psychological states determine the meanings of their works.[5] In his seminal 1967 essay "The Death of the Author," Roland Barthes argues that an author does not play a special role in determining the meaning or aesthetic properties of their work.[6] Critics, journalists, fans, and legal agents can all play a role in determining the aesthetic properties of the work independently or in tension with the author's own beliefs about them. Barthes referred to the primacy of the audience in determining the features of a work as the "death of the author."[7] Previously, an author's intentions, experiences, or biographical facts played an important role in fixing a work's aesthetic properties, of which there was only one "correct" interpretation. For Barthes, the "death" of the author is really the "birth" of the reader, which is to say aesthetic meaning was no longer "out there" in the world and determined by an author's intention, but the responsibility of the reader. As I'll argue in the following section, Swift's loss of ownership over the masters of her first six albums suggests as well that the death of the author enables the birth of the *music-industrial complex*, where people (or institutions) that play no role in creating a work can still reap the economic benefits one would typically associate with authorship.

Michel Foucault in his 1969 lecture "What Is an Author?" extends Barthes's thesis to argue that the concept of the author should be understood as a discursive function. For Foucault, writing bears a special relationship to death because the text has a right to "kill" or "murder" its author.[8] According to Foucault, an author's name no longer functions in the same way as other proper names, which can be determined through reference or description. Instead, the author, "is a certain *functional principle* by which, in our culture, one limits, excludes, and chooses."[9] Foucault characterizes this function in terms of permissions, obligations, presuppositions, and inferential implications.[10] For example, to say that "Homer does not exist" functions to express the claim that the name 'Homer' does not refer to anyone. However, this does not imply that claims involving the name 'Homer' are

meaningless, as it does on the traditional view. Instead, the name serves to unify a set of texts, including the *Iliad* and the *Odyssey*, a unification that is always, in principle, open to debate.

While Barthes and Foucault are concerned with literary criticism, I think their account of proper names (e.g., the author) offers an illustrative contrast to the traditional view and its metaphysical account of a proper name as identical to a definite description. If the author does not bear any special relationship to their work, then an author's name is something like a tool we use to unify a set of works but not to tether them to any non-discursive entity. For example, to claim that various works were written by 'Plato' is to license inferences about the relationship between them, as permitting critical discourse to make claims about the relational properties between the works. In other words, in the context of critical discourse an author's name no longer performs a referential function.

Notably, Foucault restricts his analysis to literary authorship and claims that the author as a function of discourse "does not have a legal status" and "a contract may well have a guarantor—it does not have an author."[11] At the same time, Foucault admits that there "exist properties or relationships peculiar to discourse" that go beyond considerations of grammar or extension, into various "modes of existence."[12] He suggests that there are modes of existence appropriate to different cultural and historical periods. Thus, I think a possible extension of his idea is an analysis of the "contractual" mode of existence, as one of the institutional functions of an author's name (and the function of authorship more broadly). Swift's case reveals that authorship can be (legally) contested, where people who do not share any traditional creative relationship to a work or set of works can reap the benefits that were once reserved for the author. Moreover, Foucault sees the referential function of the author as a reflection of "our era of industrial and bourgeois society, of individualism and private property."[13] Similarly, I will argue that in the context of the music-industrial complex, the author of a composition is someone who instigates a process of

commercialization. In other words, the author function legitimizes certain texts as a component of their body of work, which plays an important economic function: profit-making. However, Foucault fails to recognize how authorship was largely reserved for (white) men, and for economically marginalized authors economic entitlement becomes a substantial political issue as well. Swift's situation highlights Foucault's closing consideration that questions of authorship will evolve from reference to appropriation, and due to institutional rules or practices, we can legitimately evaluate "who" can "assume the various subject functions" and who cannot either do so or do so as easily.[14]

My point here is to suggest that in the context of commercialization, the referential function of proper names is replaced by an institutional or contractual function.[15] In other words, we can model proper names as not merely designators for concrete individuals, but also as tools for establishing entitlements, permissions, and prohibitions.

3. Authorship, Zombification, and the Music-Industrial Complex

So far, I have argued that proper names perform multiple communicative functions, in addition to referring to or describing non-linguistic entities "out there" in the world. I will now extend my argument to show how becoming a public figure is one of the social-historical conditions that cause an artist's name to perform a different, institutional, function.

As a reminder, becoming a public author is a form of "death" because one's name no longer serves a merely referential function.[16] Further, the author no longer enjoys the privilege of controlling how their works, name, and likeness are replicated or used in critical discourse. I call this process "zombification." I do so because this process takes place after the "death" of the author. Consider "zombification" as the process of becoming a public figure such that one is no longer

entitled to prohibit others from using their image, name, or works, such as for the purpose of commentary, parody, and the like—the same processes involved in the death of the author. The zombie is an entity that resembles some concrete, living person but does not have any of its own mental states, desires, or plans. Instead, it is merely a discursive representation of a living person. Public figures undergo a process of zombification where their image and name are used in ways that they need not endorse, accept, or even know about. For example, I have zombified Foucault in this very chapter by using his claims, ideas, and their consequences to express my *own* interpretation of his view. Even if he were alive, Foucault could not prohibit me from using his words to express my ideas. However, Foucault would be able to produce critical works that use *my* words, name, and ideas to express his idea that I am wrong.

Typically, under US Copyright law an author retains exclusive rights to the use of their work and/or likeness.[17] However, someone else can use copyrighted works without an author's permission if they do so for purposes including criticism, such as quoting text from others' articles as I have done throughout this chapter. In other words, Taylor Swift wouldn't have control over how her name 'Taylor Swift' as well as the works that are authored by 'Taylor Swift' were used or publicly displayed. In the US the First Amendment to the Constitution guarantees the right to free speech, which includes using others' names or copyrighted material for purposes including criticism and commentary. The First Amendment is the basis for US parody law, which recognizes parody as a legitimate form of political and social criticism.[18] The US Supreme Court recognized parody as a form of criticism for, in both cases, the resulting work expresses a distinct (that is, different) idea. According to parody law, it is permissible to use the work, image, or name of a public figure in the context of mockery, such as political cartoons or satirical advertisements (including religious or sacred figures).[19] Thus, I can use the name 'Taylor Swift' or her image in the context of a satirical cartoon, comedy sketch, or critical article regardless of what Taylor Swift feels or thinks about it. I

could even publish parody advertisements that use Taylor Swift's name and image in order to mock or insult her.[20] Parody has been recognized as a legitimate form of criticism because public figures have a greater degree of influence over others' beliefs and values. Basically, it is permissible to mock public figures because they have more power than the rest of us. The important point for present purposes is that parody law supports Barthes's and Foucault's shared view that authors do not have special authority over their works, names, *or* their likeness.

Copyright protects the economic interests of authors, ensuring that they receive profit from their work and prohibiting others from using their works in ways that diminish their economic success. On first pass, you might think that authorship just *is* ownership—if I am the author of a particular work, then I have a special relation to it, it is "mine" and so I am entitled to prohibit or allow others to treat it in certain ways.[21] In our current cultural and historical period, however, authorship is not merely exhausted by reference or description. While copyright protects an author's rights in virtue of creating a song as a vehicle to express an original idea (for example, its lyrics), there are two different sets of legal protections: one for the song itself (specifically, for its lyrics and composition) and another for the recording of that song. The former is included in publishing rights and the latter is called the master rights. The entity or individual that pays for the recording typically retains the master rights.

As Darren Hudson Hick argues in chapter 1 of this volume, Swift has effectively no control over her first six albums, with Sony enjoying ninety percent of the copyright entitlements to her songs, which renders her remaining control effectively "meaningless," and Big Machine Records (or its current owner) owning the master rights. Paradoxically, in the context of the music-industrial complex, one must sell their copyrights to enjoy the economic benefits of being a copyright holder. Artists typically fix the state of their publishing and master rights when they sign a recording contract with a record company, which stipulates how the works will be manufactured and

distributed. As Theo Papadopoulos notes, "the role of the record company is to transform a musical work into a marketable commodity," a process which "can be an expensive and high-risk endeavor."[22] As such, record companies are more likely to shoulder the cost of recording and distributing an artist's music and thereby are granted the master rights to the recordings of the songs. While this might seem innocent, as a systematic historical phenomenon it entails that most artists do not enjoy the economic entitlements of the songs they otherwise composed and performed.

4. The Personal Is Political Is Economic: Taylor Swift's Self-Appropriation

What does all this have to do with Taylor Swift? Well, Swift is a victim of institutional exploitation that treads on the distinction between master rights and publishing rights: while she maintains publishing rights over the songs she wrote or co-wrote for her first six studio albums (at least, all or part of the ten percent that Sony doesn't own), she has zero controlling stake in the rights to the recordings. Through the "death of the author" a public figure becomes zombified, where their name operates in institutional and social contexts over which they have no special authority or control. However, Barthes's proclamation failed to anticipate how profit-driven institutions and industries would capitalize on the author's displacement. The institutional practices surrounding music copyright entail that being the author of a composition is not identical to being its owner or the owner of its recording, and each relationship is constituted by a set of legal, economic, and institutional permissions and entitlements. If one does not own the master rights, then their recordings are effectively zombified: the artist has no control over how a recording of their composition is used.

To own one's masters, then, allows one to license their recording to third parties or for commercial use, such as television, film, or streaming services. This means that if an artist does not own the master rights to a recording of a famous and profitable song, they will share little in the profits. So, while the song "Shake it Off" is attributed to the musician 'Taylor Swift,' Taylor Swift does not own the master rights and so is not entitled to dictate or control how the recording (or its album) is used. In general, Taylor Swift earns little from the first six albums composed and recorded by 'Taylor Swift' in comparison to what the owners of their master rights earn. As Prince once warned, "If you don't own your masters, the master owns you."[23]

While it is possible for a songwriter to transfer their rights, they must do so in writing: by signing their name. This is perhaps most obvious in the case of "selling" one's catalog, which consists of transferring the publishing rights or the rights to one's lyrics and compositions. For example, Bob Dylan sold his musical catalog of over 600 songs to Universal Music, thereby forfeiting his right to determine how or when his songs are recorded by others and the economic benefits that follow.[24] If a film wanted to use a particular recording of a Dylan song, they would need permission from whomever owns the master rights. If someone wanted to record a cover of a given song for a film, they would need permission from the person or entity that owns the publishing rights. The fact that an artist can sell their catalog to a corporation or non-human entity is a reflection of our current social-historical situation, not a consequence of the nature of authorship itself. Even worse, the fact that there can be holding companies whose sole purpose is to purchase the rights to others' works is a symptom of the music industrial complex, which both depends on and reinforces the unequal power relations between record labels (which are legally persons) and actual, concrete artists. When we combine zombification with the music-industrial complex, it becomes possible for an author's name to be associated with works over which they have no economic or institutional authority. This is where Swift's battle begins.

Further, record companies can use an artist's name and likeness for advertisement and promotion. However, "a lot of artists, especially in the early days of their career, don't realize that signing away your masters means selling the rights to their own work—sometimes for their entire career."[25] Swift, like so many other artists, was at an economic and thus institutional disadvantage when she signed her first record contract with Big Machine Records. As such, Swift signed away her master rights, giving the record company the authority over how her recordings would be used and the subsequent profit from their use. According to an interview with attorney Susan Hilderley, Swift's contract is what "you would expect for somebody who was an unknown artist when she signed," where artists typically do not own the masters for her own songs. Likewise, when record labels "make investments in unproven talent," the "trade is that, traditionally, the masters stay with the record company."[26]

I am placing Swift's predicament in tension with Barthes's and Foucault's insight, which reveals some nefarious consequences of the death of the author: the economic and thus political disempowerment of the author, such as the way that profit-driven institutions exploit legal and economic distinctions between publishing rights and master rights. The question then becomes, what recourse do artists such as Swift have to combat this form of institutional exploitation?

I believe Taylor Swift's act of re-recording is a way of engaging in an "institutional" battle with her zombie counterparts—her records and recordings for which she does not maintain the master rights. These are works that bear the name 'Taylor Swift' but over which Taylor Swift has no control. While Swift has no special authority over her zombie counterparts, she is entitled to certain moves within the public institutions (because she co-owns the rights to the songs) that enable her to challenge, modify, or intervene in the relevant practices that determine facts about her zombie counterparts. Since Swift co-owns the rights to the compositions for her songs, she is entitled to record new versions of those songs in much the same way she could license another artist to record

and publish a cover of them. For example, the re-appropriated "(Taylor's Version)" appended to the title of each re-recorded song and album actively impacts the economic success of the original 'Taylor Swift' recordings. Per *The Week*, "re-recording the songs will make the original masters less valuable."[27] As such, I think Swift is engaging in an act of self-appropriation. As Sherri Irvin discusses in chapter 3 of this volume, appropriation involves the use of pre-existing works with little to no modification.[28]

Since Swift wrote her own songs she retains the production rights to her works, and so she can re-record the songs with minor modification—she can appropriate her own compositions to express a different idea.[29] However, she cannot use the original recordings. Crucially, appropriation art should not be mistaken for the original work, which in many cases requires that the audience have sufficient background knowledge and information. Swift clearly does not want audiences to mistake her re-recordings for the originals, which is why she adds "(Taylor's Version)" to every re-recorded song and album. Further, Swift can (and will) prohibit the licensing of the original recordings, only permitting the Taylor's Version of a song to be used in advertisements or other media.[30] Self-appropriation allows Swift to produce her *own* army of "zombified" versions of her *own* albums that compete with her original works, negatively impacting their economic success.

Swift is not the first artist to battle the music industry over zombification. Perhaps most famously, Prince changed his name to an undefined symbol as an act of resistance against and emancipation from his record label Warner Bros. In a press release, Prince noted that Warner Bros. "owns the name Prince and all related music marketed under Prince … . [T]he only acceptable replacement for my name, and my identity, was a symbol with no pronunciation … . It is my name."[31] According to the *Los Angeles Times*, "what Prince was fighting for, most crucially, was the right to own the mechanisms for how his music entered the world."[32] Prince did not object to being commodified per se, but to his lack of control over his own commodification. For Prince, the music

industry exploited people of color because white music executives controlled and benefitted from the work of black artists.

Crucially, while performing under the symbol, (the Artist Formally Known as) Prince was negatively impacting the economic success of zombie 'Prince's' works: the symbol was not pronounceable, and it required special software to duplicate in text. In other words, (the Artist Formally Known as) Prince created obstacles for media outlets to refer to 'Prince' and his works, as well as causing issues for Warner Bros. in the attempt to promote and advertise 'Prince's' music.[33] Consequently, Prince used his popularity and (limited) power to battle his zombie counterpart. Although (the Artist Formally Known as) Prince could not control how Warner Bros. used the name 'Prince' and the recordings they owned, (the Artist Formally Known as) Prince could make certain moves, such as issuing a press release announcing a name change, that limited what Warner Bros. could do with 'Prince's' music and name. Prince abandoned the symbol once he was free from the Warner Bros. recording contract.

Swift's act of self-appropriation is intended to expose the exploitative practices in the music industry more broadly. Swift has stated that she hopes to "change the awareness level for other artists and potentially help them avoid a similar fate" while also objecting to the misogynistic underpinnings of her work being owned by men and male-run companies: "the message being sent to me is very clear. Basically, be a good little girl and shut up. Or you'll be punished."[34] According to music scholar James Perone, "Swift has also exhibited a new type of feminism that is recognized as a message of empowerment by some women of her generation but is considerably more controversial among some feminists of the past."[35] Swift's ability to create her own zombie army reflects her extraordinary degree of institutional power, which is not typically enjoyed by other artists, especially artists of color. Further, as Irvin notes in this volume, Swift positioned herself as a victim (of Braun, of the music industry, and of Kanye West), a narrative that plays into long-standing racialized

dynamics that position white women as victims.[36] In that sense, Swift is championing a form of "girlboss" feminism, which understands empowerment as women occupying positions of power that are typically reserved for (white) men. Further, Swift has wielded institutional power over other, younger and less-established artists, such as Olivia Rodrigo.[37] Swift's public proclamations as well as her sizeable fanbase have helped expose not only the difference between master rights and publishing rights, but the exploitative nature of the music-industrial complex more broadly—even if she sometimes benefits from it as well.[38]

Moreover, Swift's public battle with Big Machine Records is in line with her previous acts of advocacy—drawing attention to ways in which the music-industrial complex takes advantage of artists. Swift has offered a "very public defense of artists' rights, particularly as they intersect with new technologies," such as her objections to the royalty practices on streaming outlets such as Spotify and iTunes Radio.[39] In 2014 she removed her songs from Spotify in protest of its royalties policies, and in 2015 Swift published a letter criticizing Apple for failing to pay artists during a free trial of its service. According to *Billboard*, "when [Swift] signed a new global deal with Universal Music Group in 2018 … one of the conditions of her contract was that UMG share proceeds from any sale of its Spotify equity with its roster of artists—and make them nonrecoupable against those artists' earnings."[40] Swift's expressions of empowerment have not been limited to her songs. Swift has used the various platforms with which she has been afforded through her success as a singer-songwriter to champion women's rights and artists' rights, such as in her 2016 Grammy speech when she "warned female artists to make sure that they allow no one to undercut them or to take credit for their work."[41]

Though Swift is not the first artist to re-record her compositions, her simultaneous advocacy for other artists makes her act markedly different than previous cases, such as Def Leppard and the Everly Brothers. While most instances of re-recording are done so for purely economic reasons,

Swift is the first to also do so as a form of political advocacy.[42] In 2019 Swift observed that artists are "working off of an antiquated contractual system. We're galloping toward a new industry but not thinking about recalibrating financial structures and compensation rates, taking care of producers and writers."[43] Further, Swift understands that her status affords her protection that lesser-known artists lack: "new artists and producers and writers need work, and they need to be likable and get booked in sessions, and they can't make noise—but if I can, then I'm going to."[44] This is where being impossibly famous can be a very good thing: "I know that it seems like I'm very loud about this," she says, "but it's because someone has to be."[45] Swift's contributions to music and the seriousness with which she takes music and the recognition of songwriters were recognized by the performing rights licensing agency BMI, which established the Taylor Swift Award of which she was the first recipient in 2016.[46]

The fact that Swift hopes to create more and better opportunities for other, less famous artists is what distinguishes Swift's re-recordings from other cases. Swift explicitly notes that her plight will raise awareness and help other artists "learn about how to better protect themselves in a negotiation" because, "You deserve to own the art you make."[47] Swift is thus not *merely* doing it for monetary reasons, she is also opening up new possibilities for other artists, and raising awareness for how women are treated in the industry.

5. Conclusion: Zombification as Transformative Experience

I have argued that authors, as public figures, do not retain any special authority over their own works and likenesses. I call this process "zombification." Further, the music industry takes advantage of zombification by creating two distinct sets of rights: publishing rights, which govern the composition of a musical work, and master rights, which govern the recording of a composition.

As a result, an artist's name can be associated with a recording or album but the artist themself has no authority over how the recording is used or entitlement to the economic benefits of its commercial use.

Although artists "choose" to participate in the institutional practices that give rise to zombification, the process itself is what L. A. Paul calls a "transformative experience," such that artists cannot know, beforehand, "what it's like" to become zombified—that is, to be a public figure and thereby to have their works governed and controlled by others. According to Paul, a transformative experience is one where an agent cannot predict beforehand what their expected utility will be once they have gone through the experience because the experience will radically and fundamentally change their preferences and values.[48] While Paul takes starting a family and becoming a vampire as instances of transformative experience, my analysis suggests that "zombification," or becoming a public figure, is likewise a transformative experience. Paul suggests that the concept of transformative experience has important implications for public policies and practices such as long-term prison sentences because such policies assume or take for granted that someone will be the same person throughout the experience. If becoming a successful public figure is a transformative experience, how, or when, should we reconsider the nature of ownership in the context of copyright? Hick, in chapter 1 of this volume, for instance, suggests establishing a three year "relicensing" period. Such a practice recognizes both the rights of the record companies, given their economic risks and investment, and the rights of the creator, given their zombified institutional status. This would also signal genuine change in the unjust institutional practices that affect Swift and countless other, less powerful, artists.

One of the ongoing themes in Swift's music is the notion of revenge: this is the guiding idea for her song "Look What You Made Me Do." While the lyrics she sings as a zombie happened before her masters were sold to a man who bullied and manipulated her, they now serve as a perfect

illustration of her act of self-appropriation. Now, we can imagine that she is directing these lines not at a former friend, as on the original recording, but her former record company as well as the music industry itself. Look what you made her do, indeed.

Notes

[1] In this way, a "zombie," as I'm using the term, is distinct from the notion of a "persona" that Ley David Elliette Cray analyzes in chapter 8 of this volume. Whereas a zombie version of an artist (or other public figure) is created and controlled by individuals and entities other than the artist themself, they are largely responsible for their persona, that is, how they present themselves on stage, on their albums, at award ceremonies, etc.

[2] Michel Foucault, "What is an Author?," in *Aesthetics, Method, and Epistemology*, ed. James D. Faubion, trans. Robert Hurley and others (New York: New Press, 1998), 205–22; 206.

[3] See, for example, Gottlob Frege, "On Sense and Reference," in *Translations from the Philosophical Writings of Gottlob Frege*, ed. and trans. Peter Geach and Max Black, 2nd edn (Oxford: Blackwell, 1960), 56–78; John Searle, "Proper Names," *Mind* 67, no. 266 (1958): 166–73; and Saul Kripke, *Naming and Necessity* (Cambridge, MA: Harvard University Press, 1980).

[4] Frege, "On Sense and Reference."

[5] William K. Wimsatt and Monroe C. Beardsley, "The Intentional Fallacy," *Sewanee Review* 54, no. 3 (1946): 468–88.

[6] Roland Barthes, "The Death of the Author," in *Image—Music—Text*, trans. Stephen Heath (London: Fontana, 1977), 142–48.

[7] Of course, Barthes is articulating a phenomenon that was already taking place, rather than introducing a wholly novel form of aesthetic interpretation.

[8] Foucault suggests that "the work, which once had the duty of providing immortality, now possesses the right to kill, to be its author's murderer." ("What Is an Author?," 206)

[9] Ibid., 221; my emphasis.

[10] Further, a work is not merely a collection of items or pieces of paper, according to Foucault; it, too, becomes a function for discourse, for action: "even when an individual has been accepted as an author, we must still ask whether everything that he wrote, said, or left behind is part of his work" (ibid., 207).

[11] Ibid., 211.

[12] Ibid., 220.

[13] Ibid., 222.

[14] Ibid.

[15] For example, when two individuals sign a marriage certificate their names function to establish a set of economic and legal entitlements and prohibitions. If 'Charlie Smith' is married to 'Avery Smith,' then neither Charlie nor Avery is allowed to sign a marriage certificate with another individual. If Charlie is in the hospital, then Avery is entitled to visit as a next of kin. Consider this an "institutional" theory of marriage: marriage is a set of entitlements and prohibitions. In fact, arguments for the legalization of gay marriage turned on a model of marriage as not merely a special relationship between two people, but a set of economic and legal entitlements.

[16] Even Kripke, in *Naming and Necessity*, acknowledges this point.

[17] A copyright holder is the author of an idea, while the work is the vehicle through which the idea is expressed. Authorship entails copyright protections over the expression of an idea, which prohibit the unauthorized use of one's works or image unless doing so expresses a *different* idea. So, parody

and criticism do not merely replicate copyrighted material, but use it as a vehicle to express an idea that is distinct from the original. For more, see Darren Hudson Hick, *Artistic License: The Philosophical Problems of Copyright and Appropriation* (Chicago: University of Chicago Press, 2017). Ironically, perhaps, the landmark decision in favor of parody involved musical parody.

[18] A parody involves mimicking or mocking an existing work or figure. Crucially, parody requires mimicking or otherwise reproducing characteristic features of a work or individual to be recognized as such.

[19] Copyright law and the First Amendment are components of communication and media law, in that they function to regulate communication and media technologies.

[20] According to the fair use doctrine of US copyright law, I cannot use Swift's likeness or name to advertise my candle store. However, I could create parody ads for a made-up candle shop that mock or insult Swift.

[21] This is similar to John Locke's theory of labor and ownership, in imbuing an item with my labor I retain a special (normative) relation to it—I have special rights (themselves understood as entitlements, permissions, and prohibitions). See chapter 1 in this volume for a further discussion of Locke's view.

[22] Theo Papadopoulos, "Are Music Recording Contracts Equitable? An Economic Analysis of the Practice of Recoupment," *MEIEA Journal* 4, no. 1 (2004): 83–104; 84.

[23] Anthony DeCurtis, "O(+> Free at Last," *Rolling Stone*, November 28, 1996, 61–3.

[24] In fact, Swift is an outlier in wanting to maintain her master rights. Many of her peers, including Katy Perry and Justin Bieber, have sold their master's rights for hundreds of millions of dollars. I have two points to make about this. First, many legacy artists such as Bob Dylan and Bruce Springsteen are selling their masters as a matter of estate planning—better to get their economic ducks in a row now than leave it to their heirs to fight over. Second, Swift's popularity is still rising,

while others are waning. It makes more sense for an artist like Katy Perry to sell her masters now and coup nine figures than continue to earn dwindling royalties for "I Kissed a Girl" over the next twenty years.

[25] Hannah Dudley, Head of Marketing & Promotion, Label at Amuse Records, quoted in "What Does It Mean to Own Your Masters?," Amuse, October 23, 2023, https://www.amuse.io/en/categories/industry/owning-your-masters/ (accessed January 18, 2024).

[26] Brendan Morrow, "Why Taylor Swift Keeps Releasing All Those Re-recorded Albums," *The Week*, May 10, 2023, https://theweek.com/taylor-swift/1013413/why-taylor-swift-keeps-releasing-all-those-re-recorded-albums (accessed July 26, 2023).

[27] Ibid. One of the parameters legal authorities consider when evaluating a copyright case (that is, one that involves unauthorized use of copyrighted material) is whether the replication negatively impacts the original work.

[28] Swift refers to the re-recorded works as "copycat versions" in a 2019 Tumblr post. (Taylor Swift, "For years I asked, pleaded for a chance to own my work," Tumblr, June 30, 2019, https://taylorswift.tumblr.com/post/185958366550/for-years-i-asked-pleaded-for-a-chance-to-own-my (accessed July 26, 2023))

[29] When an artist signs a record contract, they also stipulate an amount of time before they can re-record the songs. I think it is interesting to consider how her re-recordings express a different idea than the originals, or at least, express *more* ideas than the original. For one, there is a difference in context when an artist sings a song that was written ten years ago, where the words can take on a different meaning in this new context. See Alex King's and Ley David Elliette Cray's chapters in this volume for further examinations of this issue.

[30] As Swift claimed, "the reason I'm rerecording my music next year is because I do want my music to live on. I do want it to be in movies, I do want it to be in commercials. But I only want that if I

own it." (Jason Lipshutz, "Billboard Woman of the Decade Taylor Swift: 'I Do Want My Music to Live On'," *Billboard*, December 11, 2019, https://www.billboard.com/music/pop/taylor-swift-cover-story-interview-billboard-women-in-music-2019-8545822/ (accessed July 26, 2023))

[31] Quoted in Peter Szendy, *Hits: Philosophy in the Jukebox* (New York: Fordham University Press, 2012), 139.

[32] August Brown, "What Today's Artists Learned from Prince's Approach to the Industry," *Los Angeles Times*, April 22, 2016, https://www.latimes.com/entertainment/music/posts/la-et-ms-prince-imaginative-legacy-music-business (accessed July 26, 2023).

[33] Jem Aswad, "Why Prince Changed His Name to an Unpronounceable Symbol 30 Years Ago, and What Happened Next," *Variety*, June 7, 2023, https://variety.com/2023/music/news/prince-symbol-why-he-changed-his-name-1235635422/ (accessed July 26, 2023).

[34] Taylor Swift, "Don't know what else to do," Tumblr, November 14, 2019, https://taylorswift.tumblr.com/post/189068976205/dont-know-what-else-to-do (accessed July 26, 2023).

[35] James Perone, *The Words and Music of Taylor Swift* (Santa Barbara, CA: Praeger, 2017), 78.

[36] In her 2023 *Time* Person of the Year interview, Swift claimed that her 2016 feud with Kim Kardashian and Kanye West left her "cancelled within an inch of [her] life and sanity." However, it seems strange for a person to call a number one album that sold 1.2 million copies in its first week, as *Reputation* did a year later, a case of "cancelling." (Sam Lansky, "Person of the Year 2023: Taylor Swift," *Time*, December 6, 2023, https://time.com/6342806/person-of-the-year-2023-taylor-swift/ (accessed January 18, 2024))

[37] When Rodrigo admitted that the bridge in her song "Déjà Vu" was inspired by Swift's bridge in "Cruel Summer," Swift and her co-writers earned cowriting credit for "Déjà Vu" and now enjoy millions in royalties. For more, see Gil Kaufman, "Taylor Swift, Jack Antonoff & St. Vincent Get Co-Writer Credits on Olivia Rodrigo's 'Deja Vu'," *Billboard*, July 9, 2021, https://www.billboard.com/music/pop/taylor-swift-jack-antonoff-st-vincent-co-writer-credits-olivia-rodrigo-deja-vu-9598750/ (accessed July 26, 2023).

[38] As of this writing, if you search "master vs publishing rights" on Google, most of the results will reference Swift.

[39] Perone, *The Words and Music*, 83.

[40] Lipshutz, "Billboard Woman of the Decade."

[41] Perone, *The Words and Music*, 82.

[42] For example, Def Leppard re-recorded their music in order to retain the rights and thus royalties, they were not attempting to advocate for artists' rights more generally.

[43] Lipshutz, "Billboard Woman of the Decade."

[44] Ibid.

[45] Ibid.

[46] Perone, *The Words and Music*, 84.

[47] Taylor Swift, "For years I asked."

[48] L. A. Paul, *Transformative Experience* (Oxford: Oxford University Press, 2014).