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COPYRIGHT, AUTHORSHIP, AND THE PROFESSIONAL WRITER  
The Case of William Wordsworth

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As Martha Woodmansee and others have noted, changes in literary definitions of author have not appreciably influenced economic and legal definitions. In ‘The Law of Texts: Copyright in the Academy’, Woodmansee and Peter Jaszi write that it is

possible to overlook the substantial contribution of Romantic aesthetics to our law of texts, with the result that while legal theory participated in the construction of the modern ‘author’, it has yet to be affected by the structuralist and poststructuralist critique of authorship.<sup>1</sup>

Romantic aesthetics as expressed in texts such as William Wordsworth’s 1798 ‘Preface to *Lyrical Ballads*’ remain influential in our legal definitions and ‘commonsense’ ideas of authorship, particularly those that emphasise ‘vivid sensation’ and the ‘spontaneous overflow of powerful feelings’ as elements of creativity and thus authorship.<sup>2</sup> Today, the clearest and most convincing evidence of the discursive intersections of aesthetics and law appears in discussions of Internet technology and its accompanying new ‘authors’ and ‘texts’, making those intersections appear to be a particularly late-twentieth-century phenomenon. Wordsworth’s ‘Preface’ and other statements of his aesthetic theories suggest otherwise.

Clearly, a complete explication of the intersections of legal history and aesthetic judgment in the late eighteenth and early nineteenth centuries is beyond the scope of this paper; however, a contextualisation of Wordsworth and several of his various writings on copyright and authorship can sketch those intersections. In this paper, I will argue that the intersections of aesthetics and law evident in Wordsworth’s writing are a continuation of certain economic and legal developments which took place in Britain during the late eighteenth and early nineteenth centuries. Specifically, I will argue that the economic and legal conditions of Wordsworth’s time tied production and payback together, and that that tie becomes particularly apparent upon the eve of the 1815 publication of the two-volume *Poems by William Wordsworth*. Wordsworth’s concern with issues of copyright and authorship at the time of *Poems*’ publication indicates a clear preoccupation with the problematic intersections of aesthetic and legal discourse.

### *Romantic Copyright and Common Sense*

In *The Romantic Ideology: A Critical Investigation*, Jerome J. McGann argues that ‘the scholarship and criticism of Romanticism and its works are dominated by Romantic Ideology, by an uncritical absorption in Romanticism’s own self-representations.’<sup>3</sup> It is this uncritical absorption that makes Romantic aesthetic theory appear ‘natural’ or as a matter of ‘common sense’. As Andrea Lunsford and Lisa Ede write in *Singular Texts/Plural Authors*, our ‘commonsensical’ view of authorship derives from ‘the Western philosophical tradition defining the autonomous individual as the source or foundation of all knowledge’.<sup>4</sup> This ‘commonsensical Romanticism’ makes it difficult to appreciate the critical *abnormality* of Wordsworth’s ‘Preface’ in its time. Given the neoclassical context from which Wordsworth emerged, the aesthetic theory embodied in the ‘Preface’ seemed suspect—perhaps even revolutionary—to many of his older contemporaries. However, Romantic aesthetics were more likely the culmination of a century-long development of the radical textual individual: the professional writer.

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1. Martha Woodmansee and Peter Jaszi, ‘The Law of Texts: Copyright in the Academy’, *College English* 57 (1995), 771.
  2. William Wordsworth, ‘Preface to the Second Edition of Several of the Foregoing Poems Published, with an Additional Colume, under the Title of “Lyrical Ballads”’, in *Wordsworth: Poetical Works*, ed. Thomas Hutchinson (Oxford: Oxford University Press, 1936), pp. 734–35.
  3. Jerome J. McGann, *The Romantic Ideology: A Critical Investigation* (Chicago: University of Chicago Press, 1983), p. 1.
  4. Andrea Lunsford and Lisa Ede, *Singular Texts/Plural Authors: Perspectives on Collaborative Writing* (Carbondale: Southern Illinois University Press, 1990), p. 73.

Woodmansee argues that the modern sense of the term ‘author’ is ‘the product of the rise in the eighteenth century of a new group of individuals: writers who sought to earn their livelihood from the sale of their writings to the new and rapidly expanding reading public’.<sup>5</sup> The increased industrialisation of products in the eighteenth century led to an increased commodification of culture, including textual culture. At the height of neoclassicism during the British Enlightenment, writers were *producers of text*—that is, they were skilled craftsmen capable of organising received ideas in original ways. In the beginning of ‘The Genius and the Copyright’, Woodmansee provides a 1753 definition of ‘book’ that notes that ‘many mouths are fed’ by the manufacture of books, including the ‘scholar and the writer, the papermaker, the type founder, the typesetter and the printer, the proofreader, the publisher, the book binder, [and] sometimes even the gilder and the brass-worker’.<sup>6</sup> According to Woodmansee, this definition indicates a ‘compound model of writing’ in which no one ‘maker’ of the book—writer included—is privileged above the others.<sup>7</sup> The compound model of writing, however, did privilege one maker *economically*—the publisher. At the beginning of the eighteenth century, the only copyright law on the books existed to protect publishers’ rights rather than authors’ rights.

With the lapse of the Licensing Act in 1695 came a new interest in textual control in the form of libel laws, religious literacy campaigns, and, most notably here, copyright legislation. In 1710, the Statute of Anne became what is often held as the first modern recognition of copyright as we think of it today. However, as Mark Rose points out, the statute served less as an authors’ bill than as a booksellers’ bill, a ‘legislative continuation of the ancient trade regulation practices of the Stationers’ Company, the London guild of printers and booksellers which had long controlled the book trade in Britain’.<sup>8</sup> Indeed, Jaszi claims that in the early eighteenth century, even ‘authorship’ was an idea more likely to benefit publishers than writers. He writes:

After its introduction into the law of copyright, even as it received new content from developments outside legal culture, ‘authorship’ remained a malleable concept, generally deployed on behalf of publishers rather than writers. Indeed, the interests most directly at stake in disputes over the content of copyright law usually are those of firms and individuals with capital investments in the means by which the productions of creative workers are distributed to consumers.<sup>9</sup>

The shift from publishers’ copyright to authors’ copyright happened gradually over the century, as more people learned to read and write, and as ‘professional writer’ became a more respectable profession. Woodmansee argues that the modern sense of the ‘author’ is a product of ‘the rise in the eighteenth century of a new group of individuals: writers who sought to earn their livelihood from the sale of their writings to the new and rapidly expanding reading public’.<sup>10</sup> Likewise, Lunsford and Ede write that the ‘history of the concept of authorship cannot be separated from the evolution of authorship as a profession’.<sup>11</sup>

Terry Belanger claims, in ‘Publishers and Writers in Eighteenth-Century England’, that an increasingly literate population led to a market economy, which in turn led to a shift in attitudes toward professional writers; in short, writers began to be paid for their work. Belanger notes that in the first half of the century,

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5. Martha Woodmansee, ‘The Genius and the Copyright: Economic and Legal Conditions of the Emergence of the “Author”’, *Eighteenth-Century Studies* 17 (1984), 426.
  6. *Ibid.*, p. 425.
  7. *Ibid.*, p. 427.
  8. Mark Rose, ‘The Author in Court: Pope v. Curll (1741)’, in *The Construction of Authorship: Textual Appropriation in Law and Literature*, ed. Martha Woodmansee and Peter Jaszi (Durham, NC: Duke University Press, 1994), p. 213.
  9. Peter Jaszi, ‘On the Author Effect: Contemporary Copyright and Collective Creativity’, in *The Construction of Authorship*, p. 33.
  10. Woodmansee, p. 426.
  11. Lunsford and Ede, p. 80.

the most common form of payment [...] was no payment at all. [...] The lack of interest which Thomas Gray displayed in receiving payment from his bookseller for his work ['Elegy Written in a Country Churchyard'] probably struck even his contemporaries as somewhat quaint by the 1750s, but it was certainly shared by a great many other writers who came from gentlemanly backgrounds.<sup>12</sup>

Previously, if the author had gotten paid at all, that payment had been a one-time consideration in exchange for a copyright. And, as Jaszi notes, that particular manifestation of copyright, intent on making money for publishers, 'actually encouraged the creation of popular adaptation of pre-existing works'.<sup>13</sup> However, as writing became increasingly professionalised in the eighteenth century, more authors received royalty payments; the impetus behind this shift was the changing attitude about professional writers. It was not shameful anymore to be paid for one's work.

As Woodmansee writes in 'The Genius and the Copyright', the eighteenth century was a turning point in the general idea of what it meant to write or to 'author', and that idea was tied up intimately with copyright. According to Woodmansee, at the beginning of the eighteenth century in Europe,

it was not generally thought that the author of a poem or any other piece of writing possessed rights with regard to these products of his [*sic*] intellectual labor. Writing was considered a mere vehicle of received ideas which were already in the public domain, and, as such a vehicle, it too, by extension or analogy, was considered part of the public domain.<sup>14</sup>

Early eighteenth-century neoclassicism, with its emphasis on art as imitation and arrangement, had different aesthetic values from Romanticism, and that change in values reflected a change in economics. Lunsford and Ede write:

Before copyright laws could seem not only just but inevitable, society had to accept the idea that there is a crucial distinction between the production of literary texts and, say, the raising and selling of apples and that the writer's role in creating a book is somehow privileged—different from that of the printer or bookbinder.<sup>15</sup>

The closely connected ideas of text-as-capital and author-as-owner emerged from the specific cultural conditions of the European Enlightenment, new conditions that demonised plagiarism and valorised 'individuality', especially as an economic construct.

Woodmansee argues that one of the fundamental shifts in eighteenth-century textual culture is that in reading and writing strategies, and it is a shift from neoclassical to Romantic values. She writes that the

new conception of the book as an imprint or record of the intellection of a unique individual [...] entails new reading strategies. In neoclassical doctrine the pleasure of reading had derived from the reader's recognition of himself in a poet's representations (a pleasure guaranteed by the essential similarity of all men).<sup>16</sup>

The new conceptions of writing and reading entailed seeing the writer as an originator, one who no longer *produced* texts as a cog in a publication machine, but instead *created* them as an 'author'. It is this emphasis upon creativity as the mark of authorship that informs current legal discussions of copyright. In 1991, for example, the US Supreme Court, ruling from an 1879 precedent, held that compilations of data could not be copyrighted unless they showed 'some minimal degree of creativity'; copyrightable works, according to the court, 'are original, and are founded in the

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12. Terry Belanger, 'Publishers and Writers in Eighteenth-Century England', in *Books and their Readers in Eighteenth-Century England*, ed. Isabel Rivers (New York: St Martin's Press, 1982), p. 21.

13. Jaszi, p. 40.

14. Woodmansee, p. 434.

15. Lunsford and Ede, p. 80.

16. Woodmansee, p. 447.

creative powers of the mind. The writings which are to be protected are the fruits of intellectual labour, embodied in the form of books, prints, engravings, and the like.<sup>17</sup> In 1994's *Campbell vs Acuff-Rose Music*, similarly, the US Supreme Court held that comment and criticism (in this specific case, parody) can claim fair use of copyrighted material as long as the original material is 'transformed' rather than merely superseded. The creativity of an author thus forms an affirmative defence against a publisher's charge of copyright infringement; the Court wrote that the 'more transformative the new work, the less will be the significance of other factors, *like commercialism*, that may weigh against a finding of fair use.'<sup>18</sup>

The move to make literature an object to be owned or held (and thus to make authors those who could own or hold) was a move of the marketplace, one that demanded texts as product rather than process, texts and ideas that could be bought, sold, hoarded, or exchanged. Jay David Bolter asserts that printed books have come to mean fixed, ownable texts. He writes that in

the age of the manuscript and especially in the age of print, the book was valued for its capacity to preserve and display fixed structures. It was a technological reflection of the great chain of being, in which all of nature had its place in a subtle, but unalterable hierarchy.<sup>19</sup>

Further, that hierarchy became even more unalterable with the advent of copyright law, which changed forever what it meant to produce 'literature'. That is, the very notion of an 'ownable text' contradicted the prevailing idea of literature at the time that the Statute of Anne was passed, since eighteenth-century European culture considered 'literature' to be a dynamic conveyance of linguistic action rather than a passive receptacle of an individual's private thoughts.<sup>20</sup>

#### *Wordsworth, 'Drudges', and Copyright: An Overview*

Wordsworth's interest in copyright law seems to follow him through his publishing career; in 1807, the publication of his *Poems in Two Volumes* and a pending copyright extension prompted him to complain to Richard Sharp that the proposed legislation does not go far enough in protecting the heirs of an author. In the letter, dated 27 September 1808, Wordsworth writes that he does not think that proposed copyright legislation goes far enough. He writes:

I am told that it is proposed to extend [copyright] from 14 years, as it now stands, after the decease of authors, till 28, this I think far too short a period; at least I am sure that it requires much more than that length of time to establish the reputation of and to bring them consequently into such circulation that the authors, in the Persons of their Heirs or posterity, can in any degree be benefited, I mean in a pecuniary point of view, for the trouble they must have taken to produce the works.<sup>21</sup>

Further, he argues, the present law protects the professional writer but not the true author. In the same letter, he refers to professional writers as the 'useful drudges in Literature' and 'flimsy and shallow writers, whose works are upon a level with the taste and knowledge of the age'. Writers of real power, writes Wordsworth, may die before their work is ever popular, and thus 'are deprived of all hope of their families being benefited by their exertions'.

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17. Quoted in Jaszi, pp. 36–37.

18. *Campbell vs Acuff-Rose Music* (92–1292), 510 US 569 (1994), in *Supreme Court Collection* (Legal Information Institute, Cornell Law School). Online: Internet (8 Dec 1999): < <http://supct.law.cornell.edu/supct/html/92-1292.ZS.html> > (emphasis mine).

19. Jay David Bolter, 'The Electronic Book', in *CyberReader*, ed. Victor J. Vitanza (Boston: Allyn and Bacon, 1996), p. 292.

20. Rose, p. 213.

21. All letter references, unless otherwise indicated, are taken from Alan G. Hill (ed.), *Letters of William Wordsworth: A New Selection* (Oxford: Oxford University Press, 1984).

Five years later, Wordsworth again made his feelings about both professional writers and copyright known in a letter to Sir William Lowther (Wordsworth's patron, the Earl of Lonsdale). In a letter dated 6 February 1812, Wordsworth writes that 'except writers engaged in mere drudgery, there are scarcely any authors [...] who find literature, at this day, an employment attended with pecuniary gain.' Wordsworth disdains professional writers, clearly holding them to be a breed apart from real 'authors'. He does, however, envy them their moneymaking potential even as he holds their work and popularity in contempt. As in his letter to Sharp, Wordsworth expresses concern about his heirs to Lowther, writing that he had 'erroneously calculated upon the degree in which [his] writings were likely to suit the taste of the times; and [...] much the most important part of [his] efforts cannot meet the public eye for many years through the comprehensiveness of the subject.' In 1814, the professional writer received a substantial copyright increase, when the British government did in fact extend the term to twenty-eight years. Wordsworth continued to lobby not for copyright *reform*, which he saw as a compromise, but for perpetual copyright.

Eventually, Wordsworth settled for mere reform and, in the late 1830s, threw himself into lobbying government officials for a sixty-year term of copyright.<sup>22</sup> In a 5 February 1835 letter to Sir Robert Peel, the Prime Minister of Britain, Wordsworth observes that the 'worthier and nobler class of Authors' write 'not with a view to instant profit, and immediate effect, but with a hope of being permanently beneficial to mankind.' Further, he comments, his copyright will expire before the proceeds from his work will benefit his heirs:

During more than thirty years many of my productions have been before the Public. No one will deny that they had gradually wrought their way into estimation; and now when the Sale of them might considerable benefit such part of my family as may survive, the short time of Copy-right allowed by law, would make these public property, some at my decease, and others soon after.

In fact, Wordsworth's works had indeed 'wrought their way into estimation', indicating that, as he had argued in his 1815 'Essay, Supplementary to the Preface', he had created the taste by which his work would be enjoyed.<sup>23</sup>

Wordsworth draws a distinction between professional writers and authors, just as he draws a distinction between works of 'taste' and works of 'imagination'.<sup>24</sup> Copyright law must protect authors of imagination, according to Wordsworth, because it must protect financial legacies for individuals and cultural legacies for a society. In a 12 April 1838 letter to the editor of the *Kendal Mercury*, Wordsworth emphasised these dual legacies, writing that

what we want in these times, and are likely to want still more, is not the circulation of books, but of good books, and above all, the production of works, the authors of which look beyond the passing day, and are desirous of pleasing and instructing future generations. [...] A conscientious author, who had a family to maintain, and a prospect of descendants, would regard the additional labour bestowed upon any considerable work he might have in hand, in the light of an insurance of money upon his own life for the benefit of his issue.<sup>25</sup>

British copyright did not change substantially until 1842, when the term of copyright was extended not to sixty years (as Wordsworth had hoped), but to forty-two years, or the life of the author plus seven years, whichever was longer.

Wordsworth's emphasis on material as well as cultural legacies shows an intersection of economic and aesthetic concerns that play out today in our legal definitions of authorship. For

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22. Woodmansee and Jaszi, p. 771.

23. William Wordsworth, 'Essay, Supplementary to the Preface', in *Wordsworth: Poetical Works*, ed. Thomas Hutchinson (Oxford: Oxford University Press, 1936), p. 750.

24. Ibid.

25. Quoted in Woodmansee and Jaszi, p. 771.

Wordsworth, ‘inspired’ works of genius and their profits existed as material; and, as Woodmansee writes, the Romantic idea of ‘inspiration’ contributed directly to the idea of textual ownership. She argues that as authors came to be seen as creators rather than producers of texts,

inspiration came to be regarded as emanating not from outside or above, but from within the writer himself. ‘Inspiration’ came to be explicated in terms of original genius, with the consequence that the inspired work was made peculiarly and distinctively the product—and property—of the writer.<sup>26</sup>

With the continuing extensions of copyright in the nineteenth century, literature becomes ownable and transferable—part of an author’s estate. These extensions and the new materiality of the text completed the shift from publishers’ copyright to authors’ copyright; all that was left, according to Wordsworth, was to address the inequity of a work’s aesthetic worth and its financial potential.

*Popular vs Organic Taste: Wordsworth’s 1815 ‘Essay’*

In ‘Romantic Rhetoric and the Rhetorical Tradition’, Rex L. Veeder claims that one of the key elements of Romantic aesthetics is best expressed by William Godwin. Godwin’s 1793 *Enquiry into Political Justice*, Veeder writes, ‘upholds two basic principles: that human beings are working toward perfection [...] and that change is inevitable but that it is best that change be gradual.’<sup>27</sup> Veeder uses Godwin’s *Enquiry* to challenge the idea that Romantic philosophy was one of pure expressivism and untamed individuality. Veeder writes that if we consider Godwin’s emphasis on inevitable yet incremental change, we will

realize how unbridled enthusiasm and expression would not be suitable to a ‘gradual’ and, therefore, ‘organic’ political body. What would be rhetorically necessary for such a political body would be a rhetoric of contemplation and reflection—a rhetoric that leads to gradual change.<sup>28</sup>

Like Godwin’s political philosophy, Wordsworth’s aesthetics emphasise organic change, particularly when considering issues of public taste and critical judgment. Wordsworth’s clearest expression of his idea of the inevitable organic change in tastes is his 1815 ‘Essay, Supplementary to the Preface’.

Written prior to the publication of *Poems by William Wordsworth*, Wordsworth’s ‘Essay’ examines the history of shifting literary tastes of Europe. Wordsworth notes that popular taste has not always coincided with aesthetic merit, writing that ‘every author, as far as he is great and at the same time original, has had the task of creating the taste by which he is to be enjoyed: so has it been, so will it continue to be.’<sup>29</sup> Great authors, writes Wordsworth, may be original but that will not ensure their popularity; he distinguishes between *popular* and *good* books, deploring ‘the senseless iteration of the word, popular, applied to new works in poetry, as if there were no test of excellence in this first of the fine arts but that all men run after its production, as if urged by an appetite.’<sup>30</sup>

Wordsworth notes that every age has seen its public run after bad poetry. However, he writes, this advantage attends the good, that the individual, as well as the species, survives from age to age; whereas, of the depraved, though the species be immortal, the individual quickly perishes; the object of present admiration vanishes, being supplanted by some other as easily produced; which, though no better, brings with it [at] least the irritation of novelty.<sup>31</sup>

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26. Woodmansee, p. 427.

27. Rex L. Veeder, ‘Romantic Rhetoric and the Rhetorical Tradition’, *Rhetoric Review* 15 (1997), 303.

28. *Ibid.*, pp. 303–04.

29. Wordsworth, ‘Essay’, p. 750.

30. *Ibid.*, p. 751.

31. *Ibid.*

Good authors and their works transcend shifting literary tastes, according to Wordsworth, because of creative ‘genius’, which is ‘the introduction of a new element into the intellectual universe: or [...] it is the application of powers to objects on which they had not before been exercised, or the employment of them in such a manner as to produce effects hitherto unknown.’<sup>32</sup> This clearly Romantic valorisation of originality, as opposed to the neoclassical ‘craftsmanship’ of his eighteenth-century predecessors, connects Wordsworth directly to the ideas of text-as-capital and author-as-owner.

While the ‘Essay, Supplementary to the Preface’ does not comment directly on British copyright, it does make the same connections between aesthetic and economic considerations in the figure of Wordsworth’s ‘genius’. A genius has no chance for financial gain without perpetual copyright. If changes in taste happen gradually, and Wordsworth believes that they do, then the author–genius must be protected from the vicissitudes of popular taste long enough for the public to come to their aesthetic senses. Wordsworth values copyright law because it addresses an aesthetic consideration (taste) through legal mechanisms (copyright legislation); this intersection of aesthetics and law safeguards one Romantic concept (the originary author) while another (organic change) takes hold. Copyright allows the concepts to co-exist in Wordsworth’s world.

Wordsworth’s continuing interest in copyright legislation suggests that the ‘Romantic author’ has been marked by the intersections of art and law from its conception. Lunsford and Ede write that the Romantics,

whose assertions of originality, all the more striking because of their contrast with the increasing alienation and loss of independence catalyzed by the Industrial Revolution, helped further establish this new view of the writer as author.<sup>33</sup>

Wordsworth’s commentary on issues of copyright and authorship is itself a continuation of eighteenth-century discussions of textual ownership. It is thus that we find evidence of Romanticism in our own laws of copyright: the very concept of the author intersects the material and legal considerations of copyright. As McGann argues, a key component of the Romantic *mythos* is the idea that art transcends material. He writes that one of the ‘basic illusions’ of Romanticism is that only authors and works of imagination ‘can transcend a corrupting appropriation by “the world” of politics and money’.

In the course of the last three centuries, the fiscal imperatives of copyright have become aesthetic and legal constructs, changing our definitions of texts, copyright, and authors. In the case of copyright, what was once a law to ensure publishers’ proprietary rights to products is now an often unspoken belief that solitary authors have original ideas, and that those authors should be able to control those ideas as an expression of their originality. In ‘Plagiarisms, Authorships, and the Academic Death Penalty’, Rebecca Howard writes:

The individual author defines the post-Gutenberg playing field, and that author is credited with the attributes of proprietorship, autonomy, originality, and morality. Although three centuries after the inception of the modern author these attributes have come to be regarded as ‘facts’ about authorship, their historical emergence demonstrates them to be cultural arbitrariness, textual corollaries to the technological and economic conditions of the society that instated them.<sup>34</sup>

The intersections of art and law—the cultural arbitrariness of which Howard writes—form the basis of Wordsworth’s critical interest in copyright legislation, just as they inform contemporary discussions of copyright, and, indeed, just as they seem to inform scholarly discourse in the humanities, right

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32. Ibid., p. 750.

33. Lunsford and Ede, p. 85.

34. Rebecca Moore Howard, ‘Plagiarisms, Authorships, and the Academic Death Penalty’, *College English* 57 (1995), 791.

down to conventions of citation and attribution. If the recent high-profile charges of plagiarism against historian Stephen Ambrose and, earlier, Martin Luther King, Jr demonstrate anything, it is an enduring preoccupation with language as a commodity.<sup>35</sup> In particular, exclusivity of word and work forms part of the peculiar disciplinary terrain of English studies, in which Wordsworth stands as the very avatar of authorship. Given that avatar's fervent belief in the connection of copyright and inheritance, it is fitting that the historical emergence and continuing influence of certain aspects of authorship, such as the emphasis on creativity and ownership, forms one of his most lasting legacies.

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35. In Jan 2002, *The New York Times* ran a front-page story detailing Ambrose's copying of passages from Thomas Childers' *The Wings of Morning* in his own *The Wild Blue*. The discussion of King is older; see, for example, Theodore Pappas's *The Martin Luther King, Jr Plagiarism Story* (1994) and his *Plagiarism and the Culture War* (1998).

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