

What constitutes Authorship in Art Music?

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The field of Art Music is based on sufficiently different values than those of popular music. According to the author, a (classical) contemporary music composer, the idea of intellectual ownership in Art Music is inextricably connected with the concepts of originality and structure as opposed to surface elements such as strings of notes or specifically recognizable timbres which frequently form the basis of claims to musical ownership in copyright cases of popular music. The essay will discuss (1) how concepts of Copyright and Intellectual Ownership have frequently impeded upon the author's and others' creativity; (2) what is the author's moral stance in connection with others' intellectual property; (3) how the postmodern appetite for "found" material to conduct its discourse requires the introduction of a provision for musical quotation in copyright law; (4) how authorship is contingent on musical structure more than foreground material and (5) what is the meaning of intellectual property and authorship within the milieu of spirituality, a value matrix that determines the author's creative understanding of the world, and that of an increasing number of creative individuals nowadays.

John Oswald, a colleague and friend of many years, has been quoted by Keyboard Magazine saying that "if creativity is a field, copyright is the fence". When he made this statement back in the 1980s, it was a controversial one. In hindsight, it sounds prophetic. Oswald was referring chiefly to his own practice of "plunderphonic", and the legal hurdles that he had to overcome, having been sued by Michael Jackson and his record label, but in today's sampling culture this practice is so widespread that it constitutes the cultural norm rather than the exception. Of course along with today's legitimization of "sampling culture" came the complex and lucrative practice of licensing tunes, sound bytes, grooves, reverbs, quantization templates, etc. to end users and other music practitioners. Failure by practitioners to legally use such material may result in expensive lawsuits and/or costly out-of-court settlements. While all this has been developed in a way that it can serve the commercial music industry as efficiently as possible, and many of these resources might have not been created and made available without the incentive of profit, the system is a less than ideal for art music practitioners for two principal reasons.

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Reason I:

The reality of art music making and the process of building larger musical structures

The first reason, and a practical one at that, is that art music for the most part is not a very lucrative business. Most artists who do not exist under the patronage of a post-secondary educational institution, a major performing arts organization or a foundation, can barely survive from the revenues of their work, let alone support the music licensing industry, if extensive musical borrowing is required for these artists to be able to conduct their music making practice. If they survive as artists at all in the margins of mainstream culture, it is because the music industry either finds the damage not worth the cost of pursuing litigation, or alternatively finds itself squeezed between the copyright “pirate” and public opinion and has to navigate this narrow path very carefully if it has learned a lesson from John Oswald. Oswald’s career ultimately benefited from all the attention, however negative, that the music industry paid to his work; in fact in the end the very same industry hired Oswald to plunder their own copyrighted work, as was the case with Elektra Records and the Grateful Dead, which of course put into question its own claims to moral rights against plundering in the first place. While yesterday’s music industry was picking its battles carefully and focused them in places where it could discourage unlicensed borrowing without necessarily turning public opinion against itself, the recent trend has been to litigate against several thousands of end users, some of them unsuspecting violators who did not seriously entertained the thought that music file sharing was illegal, in a desperate effort to change the tide of recent consumer trends. How desperate and how counterproductive this thirst for litigation is will become obvious I hope during the course of this essay.

Cost is not the only prohibitive factor in licensing of copyrighted material as far as art music creators are concerned. During the creative act, an eclectic creator processes and cross-references a lot of extraneous material, perhaps quite a bit of it copyrighted, with the same speed that a more conventional composer processes multiple note conglomerates, melodic, harmonic or rhythmic cells, etc. in the search for the right next step in the compositional process. Dozens or even hundreds of possible candidates are quickly discarded for every one kept and incorporated into the actual composition. Since

this kind of fast compositional “processing” through all kinds of material, copyrighted or not, is necessary for the postmodern composer to make the right choice quickly, and hopefully not lose the original creative thread that (s)he is barely able to hold on to while shuffling through various possibilities, you can imagine what it would be like if this composer had to stop at each instance to examine if (a) the material could be used at all, (b) what would the licensing cost be and (c) after the rights have been secured, would the specific borrowing survive several subsequent critical revisions by the composer necessary to give the work its ultimate structure and coherence? Add to this the fact that music composing is primarily a “right brain” activity that does not bond well with the kind of “left brain” functions that copyright engenders, and you can see how impossible this proposition is, if it is to be applied conscientiously during the artistic decision making process in the midst of the creative act.

Of course you could worry about securing rights *after* the entire work is completed, but a complex musical structure consisting of interdependent elements cannot survive if one of its contributing elements has to be discarded after completion for reasons that have nothing to do with artistic considerations, such as permission not granted or granted but beyond the artist’s meager means. A completed sonata form cannot survive the after-the-fact discovery by the artist that the second theme in the exposition section can not be used without risking litigation. If it needs to be discarded, the work or movement thereof needs to be discarded in its entirety: the development section will make no sense at all and the recapitulation will be as maimed as the exposition. Even though what constitutes authorship in this work, as we will see further down, is not this particular theme in itself, but the context it gives rise to, and in turn acquires its unique and deeper meaning from, the interdependence between the particular and the whole makes the particular inseparable from the whole and vice versa. It is not as simple as changing a questionable groove or bass line of a pop song, thus getting rid of the questionable material, and still having a song at the end of this editorial interference. In art music, compositional decisions need to be made quickly and, once made, they become ingrained into the larger structure and cannot be pulled out of the structure afterwards without the whole structure collapsing as a result. So, getting back to Oswald’s comment, in the field of complex larger forms that depend on cultural borrowing, copyright is indeed the fence. I can add to this by saying that, if the current provisions of copyright law were in effect for the past

five hundred years, a great deal of music we relish and consider as evidence of humanity's greatness would simply not have been possible at all or, perhaps, some of the greatest composers of our history would have been outlaws.

I can already hear representatives from the commercial music industry retorting: you can't build a convincing moral argument on the claim that one needs to steal or borrow without permission in order to survive or to create something of substance. Granted—although I think that the ethical argument for survival and the search for substance can be extended endlessly if this discussion enters the realm of philosophy or fundamental political discourse. Since in this segment of the present essay we are not engaging in either, I move to the second reason I mentioned earlier which has to do with an attempt to define artistic *substance* in art music and by extension *authorship*, and by extension right of copy or *copyright*.

ReasonII:

Copyright depends on Authorship. Authorship depends on What?

In the world of tangible commodities, ownership is more clearly defined than in that of intellectual products. In the world of commodities, if I have it and have not stolen it, but instead I have made it, bought it or inherited it, I can lay a claim to it and expect society to recognize this claim as a moral and legal right. In intellectual products there are no clear lines that can be drawn, certainly not as clear as those concerning ownership of commodities. In art music it is even more difficult than with other intellectual products. Let's take for example the plot of a novel and the plot of a musical composition of similar weight—I mean *physical* weight here. If there is a claim of intellectual theft in the case of a novel, any judge and jury can rely on the testimony of expert witnesses but they can also read the two novels in question and form their own opinion about plagiarism or other copyright violation based on what they have read and this may modify somewhat their appraisal of the often conflicting expert testimonies. Anyone who would preside over such a case or would be asked to sit on a jury would be presumably able to read and write. Because of widespread lack of musical education and musical literacy among the general public, it is unrealistic to expect a judge or a jury to have any opinion on the exact “plot” or structure of a 45-minute long musical composition. Most of the time musicologists

cannot agree amongst themselves as to what that structure consists of, let alone the general public, so it is fair to say that this structure can not be scrutinized by the citizenry in a manner analogous to a similar structure in literature, at least as far as most cases of fiction are concerned.

But beyond musical literacy, in most art literature and art music, plagiarism would be a phenomenon that is most particular to plots and forms and less to strings of notes or words. Yet, almost invariably, most music copyright cases tested in a court of law have been concerned with the latter. In ordinary written language, borrowed ideas, and even exact language can be put in quotation marks and be freely quoted. The law usually stipulates that the quoted material cannot be a substantial part of the original work, but the word “substantial” applies to length and not intellectual substance. If you feel compelled to quote anything in a scholarly piece of writing, it will be the sections of most substance in the scholarly work which you quote. In any case, no one will come after you with a subpoena for having said or written that he or she said “this or that” unless of course you inaccurately quote your sources and defame or damage them in the process. So the more accurate the quotation and its meaning thereof, the more legally protected you can feel in quoting. Yet, if I did something similar in my composition, I risk the possibility of copyright infringement. Why is it that in written language, authorship is generally understood as existing outside the quotation marks but in music, reference to anything outside the author immediately puts authorship into question, even when the quoting work is widely recognized within art music circles as an important and original work of art? Conversely, should one be asking why an unoriginal creation, like the kind of pop tune that tries to become a hit by following to the letter the “hit formula” for pop tunes, can make any claims to authorship and by extension to copyright? Isn't the “hit formula” the real author and isn't every hit patterned after it an imitation, a copy? Upon what moral or even legal grounds can such a work have a right of copy or Copyright, when in fact it can exist in its entirety within quotation marks? How can the law protect such a work and impede upon a work that has central authorship and builds its artistic argumentation by referring to pre-existing or other current work, like in the case of any piece of written scholarship? Why can I not quote John Oswald's music in my music the way I quoted his statement in the beginning of my essay? Why should I need to seek permission for the former and not for the latter?

Quotation Marks in Art Music

In art music, quotation marks have been introduced into the compositional process from early on, from the Cantus Firmus Mass and the Quodlibet practices of the Middle Ages and the Renaissance all the way to our present era². With the advent of postmodernity, this practice has become even more widespread. In art music this practice has generally expressed itself through the quotation of earlier sources that are already in the public domain, but I wonder if this preference towards historical sources is a matter of choice by the quoting artists or a matter of necessity imposed on artists by the stipulations of current copyright law. Being an active composer myself, I can state categorically that for most artists the latter is the case. So here you have an instance where a law designed to protect artists becomes a cultural arbitrator that determines the direction upon which musical practice will evolve, retarding it significantly in the process, for it forces it to constantly examine sources that are at least 50 years old. In fact the recent extension of the copyright law in most countries by 20 more years after the composer/author's death may place temporarily several contemporary and critically acclaimed works of art on the wrong side of the law.

The problem is not always with the law. It also has to do with the fact (as I mentioned earlier) that most art music practitioners are barely able to secure a living for themselves and their families as it is and they do not have any desire or ability to solicit legal advice, let alone test the law in the courts so that important legal decisions and amendments to the Copyright Act may be made in their favor. Traditionally, art music has not had much input into copyright lawmaking which has concerned itself chiefly, if not exclusively, with the interests of the music industry which in turn is more concerned with the protection of intellectual *products* than with the artists themselves. The law itself has been tested and refined by means of lucrative and expensive copyright cases that invariably highlight the world and concerns of popular music—a world so radically different in intention and methodology than the world of art music. As a result of this two-sided neglect, art music practitioners, such as me, have been finding ourselves

² In contemporary music Igor Stravinsky in the early part of the 20th Century would be an easily recognizable example of this practice of cultural borrowing, although he has been quoted as having said “lesser artists borrow, great artists steal”

constantly at odds with copyright law as it now stands. In theory, the latter is meant to protect us from theft, but in reality it impedes upon our fundamental function, for no other reason than the fact that its stipulations are primarily meant to address the concerns of pop music, art music's rich cousin, which sees the world very differently than we do³.

There is generally an absence of understanding within the world of law as to what art music (and art in general) requires in order to function properly, or how the primary discourse of art music is conducted. As a result, a great deal of our creative research takes place in the gray area of the law. In some countries, like the United States, where their "fair use" exceptions in the copyright law allow for parody, it is possible for example to define musical quotation marks as "parody" and make perhaps a legal case for quotation in that context. But this is not true everywhere and, besides, serious practitioners in a field that is informed by high ethical standards should not have to exist in the fringes of the law. They should be accorded centre stage by the powers that be on moral grounds alone. Lawmakers should be able to deconstruct the music industry's claim that copyright protects the income of "starving artists" while it is busy lobbying against the concept of fair use, which ultimately is what "starving artists" are starving for the most. Whatever the music industry would have everyone believe, originality should be a key criterion for ownership of information, if the concept of ownership of information proves to be acceptable at all within a wide social consensus in percentages that will continue to allow it to be championed by a law that can actually be effectively enforced.

Authorship without originality is not possible or real in an ethical and ultimately a legal sense. In the information "soup" of today, only something that has shown a high degree

³ I should mention here parenthetically that this divide between pop music and art music does not correspond exactly to a clearly defined divide in attitudes towards copyright law between practitioners of these two fields. In the pop music world for instance, rock musicians—particularly those of a certain vintage—have a stronger sense of authorship than, say, hip hop artists who see themselves as existing in a community of music sharing and cross-referencing that is asphyxiating creatively from the strict enforcement of copyright law. Conversely, orthodox art music composers (aesthetically opposed to the postmodern practice of quotation) uphold the current stipulations of the copyright law, if for no other reason than to thus block artistic practices they themselves do not ascribe to. Whatever the differences of approach to copyright may be between different artistic sub-genres, however, the recently increasing militancy of the music industry is forcing a visible divide between the industry as a whole and artists as a whole. Many artists who may suffer financially from widespread file sharing of their music are beginning to realize that the "pirates" are also their best fans and they would rather meet with them in the concert hall than in the court of law.

of assimilation, amalgamation and *purpose*, can make claims to authorship. Individual works of art and whole civilizations that in the past have displayed these qualities to an appreciable degree are known to us today by name as unique intellectual products. Their authors are *Authors*. Everything else is an indistinguishable part of the soup I mentioned above and just as liquid. You can't turn all of this constantly moving fluid into distinct *products* with individual labels and boundaries without drying it up—without drying up creativity as a whole. Even when a lot of money is at stake and the law needs to protect its flow, where there is no originality and therefore moral claim to authorship, there is no moral high ground for protection, not to mention that Law must concern itself with protecting its own moral high ground which will ultimately erode if the Law consistently defends the wrong side on the question of moral right to authorship. To maintain Law's high ground, law practitioners need to address the questions of authorship in a manner that is first and foremost ethical and is not dictated to them entirely by the interests of the commercial music industry, particularly when the latter seems to be increasingly at odds on this matter with the citizenry at large and, recently, with the artists it seeks to protect. Although Authorship is an elusive concept at best and quite resistant to legal definitions, and, although in everyday practice law practitioners cannot establish themselves as arbitrators of originality, for that would create more problems than it would solve, I propose that a legal definition and protection thereof of "Musical Quotation" in a language similar to that used to allow for quotation in written language would be an important first step in making copyright law less disruptive to musical creativity as a whole, while giving creators some much needed breathing space to develop their artistic discourse.

Structure as Authorship

Even though the music industry has money and power and can influence the system to a degree that artists either individually or collectively may have a great deal of difficulty matching in the halls of government and justice, the power struggle that the music industry is currently engaged in is a losing one for reasons that I have to do with the age-old question of whether substance (and, therefore, authorship) resides with material or with structure. To comprehend this as an idea and ponder on its implications, some explaining and speculation will be necessary, so let me start with the explaining first. The question of what constitutes composition—the linear and sequential assembling of

material or the downwards hierarchical implementation of a structure?—is as old as composition itself. It is a philosophical and aesthetic debate that has rearticulated itself in a slightly different guise with every new generation of composers since the beginning of aesthetic debate.

In art music composition, there is no clear and generally accepted distinction between material and structure, probably because the two form a continuum, the concept of material occupying one end of the spectrum and the concept of structure the other. So motives and themes might be thought of as aspects of material while form and sections thereof (I mentioned earlier the three main sections of the sonata form) would be aspects of structure⁴. Most theorists of classical music would agree that, while strong material in a classical work is by all means desirable and contributes greatly to people's appreciation of the work in question, it is the presence of strong and rigorous structure that earns the work undisputed membership in the exclusive club of musical masterpieces. Perhaps because of this cherished belief, most of twentieth century contemporary music turned its attention almost obsessively on structure and away from material. Material became relatively unimportant, something that existed and was organized solely for the purpose of delineating the structure of a work of art. The overreaching desire for structure expressed itself in Serialism and subsequently in Total Serialism as a pervasive organizing principle that allows for no spontaneity and independent definition at the level of material. Pierre Boulez and Karlheinz Stockhausen championed this approach for a while, while John Cage and the "New York School of the Fifties"⁵ preferred to leave material completely undefined in some of their works and compose only structural containers in which material would manifest itself naturally, that is within the constraints of the defined structure.

This latter approach is of particular interest to our discussion. The structure contains within itself the *trust* that material will happen. In practice this trust was not abstract but

⁴ In Shenkerian analysis of 'common practice' classical music, an analytical approach that views classical composition as a fractal structure displaying self-similarity at three different levels of magnification: the foreground, middle-ground and background, the middle-ground may be considered to be material in relation to the background structure but structure in relation to the foreground material. But, for the purposes of our discussion, material and structure will be considered as two distinct and diametrically different things which is also consistent with general wisdom on this matter.

⁵ John Cage, Morton Feldman, Earl Brown and Christian Wolf.

was placed upon specific performers, such as pianist David Tudor, in the case of Cage and Feldman. In fact, even though he created entirely a great deal of the material for some of the compositions by Cage, Feldman and other composers he championed, Tudor never considered himself a co-author of these works⁶, thus upholding and confirming the notion that authorship resides with the creator of structures and not with the creator of materials. There was a debate about authorship between emancipated performers and abdicating composers in the fifties and sixties, however, even if it did not occupy the mainstream media at any length, perhaps because composers and their revolutionary ideas held almost exclusively the media's attention during that period of time.

At any rate, it would appear that this particular debate about authorship is now dead and that art music has moved on to the neo-conservative world of postmodernity⁷. This is actually far from true. It is my contention that, not only this debate is not dead, but it informs in fact an emerging, if still largely in the future, confrontation between the music industry as a whole and the equally powerful new and content-less internet structures, such as YouTube, MySpace and FaceBook and whatever else emerges in the near and far future. What Stockhausen, Cage and Tom, the creator of MySpace have in common is the belief that you can create a structure without content, the kind of structure that is able to *attract* content due to the desire for content creation by third parties. So MySpace, FaceBook and YouTube create empty apartments and invite tenants to reside in them "for free" counting on the fact that these tenants will provide the furniture, in other words, the content. I am one such tenant. MySpace does not control the content that I upload into my site, so long as it is compatible with existing law, but, as long as my content resides in MySpace's own apartments, it can be "sold" by the company's owners indirectly to advertisers. What is sold in fact is not the content but the content *providers*, the residents of these apartments, who as a whole have voluntarily become the new material, sold wholesale by the structure holder. So, to recapitulate, what Stockhausen, Cage and Tom share is *empty structure*. Importantly, what they do not share is a great deal of wealth. The former used a few paid professionals as content providers. The latter uses millions of eager volunteers.

⁶ Interview of David Tudor by Teddy Hultberg: <http://www.emf.org/tudor/Articles/hultberg.html>.

⁷ That this world has become neo-conservative we may owe to a great extent to copyright law, as previously explained.

Let's focus a bit more on the *trust* aspect of such structures, the trust that the right structure properly configured will attract the necessary material. In the case of Cage, it has to do with trusting that one's authorship of the work will not suffer irreparably if the foreground, the surface organization, is abdicated to a performer (replace "performer" with "borrowed material", in the case of postmodern composers). In this case, the foreground is quickly occupied by performers or other parties that have a need to express themselves beyond the rather limited constraints of a music "interpreter". In the case of an internet structure like the ones mentioned above, a similar but more widely defined human need must be relied upon in order to attract the millions of volunteers necessary to make the structure work. This need is the basic human need to be noticed. You can have your own cyber-apartment in the same cyber-building with Sting and Bjork. In MySpace, the more you network, the more cyber-friends you have and, in turn, the more cyber-socially visible you become. If your cyber-friends list grows, you have the option to select some of them and put them on your list of "top-friends". Now your list may contain some people you actually know in real life and some of them may find their way into your "top friends list" but so will all those artists or celebrities you adore but don't have a reciprocal relationship with. Psychologically, it feels that your own "stocks" rise when a celebrity is on your list of friends so you display that person on your top list for this reason. So, no matter how much your circle of friends grows, you inevitably contribute statistically to the disproportionate growth of other users, the ones already known and highly visible. They are highly visible because of you. The system counts on your desire to be visible by association to function as it does. You bite into it and you turn yourself into "material" to be exploited by the structure, while you feel great that your own personal need to be visible is being addressed and, what is more, at no cost to you whatsoever.

If this sounds Orwellian, well, it is, except for the fact that it happens voluntarily. No one is forced into their role. Also, presumably, Tom's structure adheres to the economics of abundance, not the economics of scarcity—which is, interestingly, something that John Cage advocated too. In theory, no one gets poorer while Tom gets richer, unless you factor in the fact that you might be disposing your personal wealth on items that you saw advertised on MySpace and you were persuaded by the advertiser to purchase. This

however, could not possibly amount to a criticism of the structure's ethics. Advertisement exists everywhere and we all generally agree that as adults we are responsible for our own actions. So why is this new scenario of internet hyper-structures Orwellian at all? My answer to this is because it helps redistribute and stratify wealth to degrees that impede the democratic process from functioning at all. Equality under the law is not possible in societies with huge inequality in wealth possession. I can't help but come to the conclusion, therefore, that, as a MySpace user, I too am a contributor to this growing inequality. In the growing universe of MySpace, Tom is God. He can allow you to exist or delete you with no reason given either way. There are no individual rights within this universe because material possesses no authorship; only structure does.

You can see then how, while the music industry as a whole is busy developing ways of protecting copyrighted material, the material it tries to protect or exploit is fast becoming of no cultural—and ultimately financial—worth because it is rendered worthless by these internet hyper-structures. Increasingly, these structures are populating themselves, not with actual musical material, but *people* who love musical material and are willing to create a great deal of it on their own for free. It is these people who are being stripped of authorship, or unwittingly transfer their authorship to the overriding structure, at a time when they think that they have been given the opportunity to finally assert their own authorship in cyberspace.

Authorship and Spirituality

My answer in the previous section that internet hyper-structures may be Orwellian because they have the potential to irreparably destroy the democratic process reflects only part of my concern. After all, humanity has survived similar structures in the past albeit, admittedly, of a much smaller reach. Several totalitarian regimes have crumbled and fallen because of humanity's incredible resilience to oppressive structures. Compared to these regimes, the internet hyper-structures are a pale comparison, unless you are willing to see them as inescapable universes and yourself caught in them with no possibility of escape, which of course is not the case, even for the most addicted users. My main concern is that both the music industry which seeks to control and exploit content and these hyper-structures which end up annihilating it (by virtue of defining themselves as content-less and by causing the production of mostly cultural soup as opposed to clearly

authored work) affect similarly potent blows to the concept of authorship, which to me is something that lies deeper than the structure/material debate. The discussion from this point on is necessarily more personal and perhaps more questionable to some, as it necessarily must visit realms that not everyone accepts as real.

As an artist and a human being, I consider myself to be a *created* being (in considerably more complicated terms than those generally accepted by creationism)⁸ and therefore not possessing authorship either of myself or my intellectual and other products. The patterns and patents of my being and personal work reside in a deeper source, a creative force that has different names in different cultures and languages, but which (Who) is the only real Author and the ultimate Hyper-Structure⁹. I would have not mentioned it at all in an essay like this, except for the fact that, in my own search for meaning as an artist, authorship, the cornerstone upon which all this political debate rests (or *should* rest), has been the one elusive concept that no one has managed to define to my satisfaction. Without this cornerstone there can be no edifice, such as intellectual ownership and the whole ethical/legal debate thereof. Mind you, in a world in which we do not know where we come from and where we are going, we have managed rather conspicuously not to question the ethics of the concept of ownership of commodities, a concept which, from the perspective of spirituality, is only slightly less slippery than ownership of intellectual products. In the absence of the existential certainty which religion and spirituality accord to this debate, these axioms of ownership of whatever kind can only be accepted as a simple social contract, and they must draw their ethics and authenticity from such a contract alone. If this is all that there is at the heart of this ethical debate, in other words, if there is no absolute truth about the merit of ownership other than a general social agreement, then this cornerstone can shift at any time social consensus does. If such shift is possible, the music industry should have serious reasons to worry about the future, for it presently attacks the very foundation, the citizenry at large, whose social contract allows this industry and its laws to exist in the first place.

⁸ For a more thorough discussion of this read my essay “Music for God’s Sake” at www.hatzis.com (click on *Writings* on the left-hand-side menu and then on the title of the essay).

⁹ In fact, even in evolutionary terms, one is “created” by the earlier links of the evolutionary chain and is a “product” thereof of these earlier links. So ultimately, whether God or evolution, the question of ultimate authorship ethically remains with the source, not with the product.

While I have been busy ringing the alarm bells for the music industry in this essay, everything is not bad news for art, if one is willing to shift one's perspective somewhat. If the Olympic flame of "composition as structure" has been passed from Stockhausen and Cage to Tom and other authors of internet hyper-structures, video games, etc. (the new definition of what a composer is), and if everyone now has the opportunity to become creative to the best of their abilities within these hyper-structures (even if they contribute mostly to the general cultural soup for the time being), then it means that perhaps art is no longer a religion "by proxy", that is mediated by a designated priesthood—the artists in this case. It may mean that the focus has shifted to the individual end-user whose artistic experience is changing from connecting with creativity through other people's creations to personally engaging with art and directly expressing him/herself through it. Even if end-users, lacking the necessary technical experience, may at the beginning define themselves artistically through the remixing and sampling of existing work, the phenomenon that the population at large is creatively asserting itself with decreasing need for artistic "priesthood" is perhaps the ultimate kiss of death for the music industry. The music industry will not be able to control this trend any more than bishops and church councils can control a similar trend in religion.

If the above trend is going to grow further, as I suspect it will, this phenomenon may also illuminate something deeper than our present understanding of who we are. Many psychologies agree that, as species, we tend to bring to the fore (invent) structures that we refuse to acknowledge within ourselves. How we behave and organize ourselves socially tells us a lot about our deeper essence. I called Tom the "God of MySpace" earlier for a reason. The relationship of this particular structure to end users may reflect to a great degree the relationship that we as a species have with our deeper essence that is the relationship between ultimate authorship and the application of the nearly-free will of the *experience collectors*—the end users. Tom is everyone's first friend, but he can be deleted by the end-users, who can continue to function entirely in Tom's absence, or lack of visible presence, until of course someone violates one of the fundamental rules of MySpace, in which case s(he) gets deleted. The structure of MySpace is rather crude at this stage of its evolution but you can imagine how it could be refined so that end-users, instead of being deleted upon violation, acquire a bad (or, inversely, good) *karma* or credit which makes their further existence within the hyper-structure more difficult or

easier, depending on their behaviour and the lessons learned thereof or the lessons pending to be learned. One can also perhaps understand the future evolution of MySpace or a similar hyper-structure as a series of increasingly refined *covenants* between Tom and the end users that may reflect the complexification of the operating system, but also the growing collective maturity of the end users¹⁰. Anyway, to develop this theme any further would require a separate essay, so I mention it here only in passing.

To conclude, in the realm of spirituality, creativity is a gift which, like in Christ's Parable of the Talents, is meant to be invested and developed (and this is where industry may actually have a legitimate leg to stand upon) but it cannot be divorced from its higher purpose or from its identity as a *loan*: as something that cannot be mobilized to serve one's own greed without repercussions. You cannot protect creativity by impeding upon it, and ultimately, no matter how you sugarcoat your cause, this interference with unobstructed creativity will not have (*cannot have*) ethical substance. The population at large, even those who may not be particularly religious or spiritual, is informed by a widespread sense of decency. Perceived greed on behalf of the industry will be countered by end-user greed or desire for punitive reaction. The industry's cynical claim to ethics as a convenient ploy in order to have its way with the government, the judiciary and (it hopes) public opinion, can only lead it further astray from its own reason for existing in the first place. If, in the process of this recent display of raw muscle, it also manages to alienate the artists, then it will have no ethical, and presumably no legal, leg to stand upon.

Postscript

A few moths ago, a well-known American composer (and recent friend) who has been awarded some of the most prestigious international prizes for composition, heard a work of mine on CD and sent me a very enthusiastic email message, asking "how in the world did you do this and that..." etc. He inquired for a conductor's score of the work in question which my publisher sent to him *gratis*. As soon as he had the opportunity to study the score, he sent me another email message and said "now I can start stealing.

¹⁰ This comparison of course collapses theologically on the fact that a structure that would follow such path of development would be an altruistic structure that desires first and foremost the betterment of its inhabitants. A commercial, profit oriented structure cannot be driven by a similar desire or purpose.

Please don't take me wrong. This is the highest honor I am capable of bestowing on a colleague".

It was tremendous honor indeed.