Introduction: Literary Materiality and the Question of Authorship

RE-MATERIALISING AUTHORSHIP

This book attends to the materiality of literature as a vital dimension of literary production from which conceptions of authorship, including the proprietary author of modern copyright law, have emerged. The material form of books and other textual publications not only index the densely historical conditions in which they have been received and recently brought under the copyright categories of 'work' and 'author' but also prompt their rethinking beyond the proprietary paradigm. Recognising the current legal orthodoxy of 'literary property' to be a contingent effect of medial-material configurations, largely even if not solely surrounding the eighteenth-century printed book, may yet accede to more ethically robust understandings of books, authors and their importance in public cultures.

To advance this claim, I perform an extended analysis of Immanuel Kant's *Von der Unrechtmäßigkeit des Büchernachdrucks* ('On the Wrongfulness of Reprinting'), an essay originally published in the May 1785 issue of the *Berlinische Monatsschrift*.[1] Though now a celebrated classic in copyright history, Kant's text has mostly been read on the level of its semantic content – that is, for its proposal of a non-proprietary regime of author's rights as a solution to the problem of reprinting in eighteenth-century Germany.[2] The periodical essay's printed form and medium, which exceeds

[1] For a digitised version of the fifth volume of the *Berlinische Monatsschrift* with Kant's essay stored in the Bavarian State Library, see www.digitale-sammlungen.de/en/view/bsb10926844?q=%28berlinische+monatsschrift+1785%29&page=,1 (accessed 9 September 2024). This book also refers to the following English translation: Immanuel Kant, 'On the Wrongfulness of Unauthorized Publication of Books (1785)', in *Practical Philosophy*, ed. Paul Guyer and Allen W. Wood, trans. Mary J. Gregor, The Cambridge Edition of the Works of Immanuel Kant (Cambridge: Cambridge University Press, 1996), 27–35. See also 'Kant: On the Unlawfulness of Reprinting, Berlin (1785)', Primary Sources on Copyright (1450-1900), eds L. Bently & M. Kretschmer, www.copyrighthistory.org/cam/tools/request/showRepresentation.php?id=representation_d_1785 (accessed 9 September 2024).

[2] On Kantian copyright scholarship, see Chapter 1.

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its putative message, is otherwise ignored. Drawing upon the insights of book history, media theory and literary studies, I apprehend some of the essay's paratexts, including its catchwords, signature marks, front matter, typesetting and printed authorial name, as indices of literary production in the German Enlightenment. For its presentation before the eighteenth-century German reading public, Kant's text depended on such peripheral matters, which extended from a print machinery that he sought to steer even as it preceded, and threatened to engulf, his authorial interventions.[3] Both the historical period in which Kant was writing and the gesture in his writing are especially pertinent to our critique of copyright qua proprietary authorship. As copyright historians are familiar, the eighteenth century with its burgeoning book trades across Western Europe is often affirmed to be the vital period that precipitated modern understandings of the author as Romantic genius and proprietary author.[4] Whether or not the proprietary author predated the eighteenth century,[5] and regardless of discernible tensions between genius and copyright,[6] this historical period offers us a privileged look at the role of print in propagating, and potentially contesting, the proprietary understanding of authorship. Further and relatedly, as critical intellectual property scholars have begun to observe, Kant's publications registered their author's acute awareness of the medial-material conditions in which he was writing, so much so that he may be viewed as a media theorist *avant la lettre*.[7] For Kant, print was the very medium that put into relation authors and public readers, the mediated interaction between whom he situated at the heart of enlightenment practice. As we shall learn in regard to the form and placement of Kant's authorial name, Kant exhibited a critical, and markedly ethical, understanding of authorship that well surpasses the utilitarian-proprietary account in copyright law.[8] It is this ethical instance of the author-function, I argue, that our return to Kant and eighteenth-century Germany offers as a richer substitute for the proprietary conception that legal scholars have tended to

[3] On the print machinery of late eighteenth-century Germany, see Chapters 2–4.

[4] See, for instance, Martha Woodmansee, 'The Genius and the Copyright: Economic and Legal Conditions of the Emergence of the "Author"', *Eighteenth-Century Studies* 17, no. 4 (1984): 425–48; Martha Woodmansee, *The Author, Art, and the Market: Rereading the History of Aesthetics* (New York: Columbia University Press, 1994); Mark Rose, 'The Author as Proprietor: Donaldson v Becket and the Genealogy of Modern Authorship', *Representations* 23 (1988): 51–85; Mark Rose, *Authors and Owners: The Invention of Copyright* (Cambridge, MA: Harvard University Press, 1993).

[5] For a persuasive argument that it did, see Roger Chartier, 'Foucault's Chiasmus: Authorship between Science and Literature in the Seventeenth and Eighteenth Centuries', in *Scientific Authorship: Credit and Intellectual Property in Science*, ed. Mario Biagioli and Peter Galison (London: Routledge, 2003), 13–31.

[6] For an illuminating account of the Romantic genius as copyright's *pharmakon*, see Mario Biagioli, 'Genius against Copyright: Revisiting Fichte's Proof of the Illegality of Reprinting', *Notre Dame Law Review* 86, no. 5 (2011): 1847–68.

[7] See Alain Pottage and Mario Biagioli, 'What Is a Book? Kant and the Law of the Letter', *Critical Inquiry* 49, no. 4 (2023): 605–25.

[8] See Chapter 4.

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stress in Michel Foucault's landmark theoretical intervention,[9] and which presently prevails across copyright regimes. Far from being an idealist proponent of intellectual property,[10] Kant is better understood to be a media theorist and practitioner, whose critical negotiation with the evolving print machinery in his time helps to illuminate our present struggle with digital technology and the mounting pressures borne by copyright as a proprietary institution.

The material form of Kant's eighteenth-century essay and its present implications on copyright qua proprietary authorship may seem to be of limited interest to doctrinal lawyers and others who accede to the hegemonic law of intellectual property. Copyright law is a predominantly proprietary institution that grants authors (and other statutorily prescribed owners) economic rights, including the right to exclude others from reproducing their works, so as to reward and incentivise their production of literature and other cultural goods while facilitating the public's access to these goods.[11] On the utilitarian-proprietary perspective, a printed book largely matters only as the material embodiment of literary property, whose ownership by its author serves the societal goal of promoting the production and consumption of the literary good.[12] However, it is my argument that Kant's essay, when read across the levels of medium and content, discloses that the ascendancy of the proprietary paradigm was neither inevitable nor necessarily desirable. It remains imaginable for literary and other forms of cultural reproduction to be articulated and regulated through non-proprietary idioms that illuminate instead the social and ethical significance of books, culture, and authors. Kant also recognised that inherited practices that have become institutional dogma are to be radically questioned rather than exempt from critique. Kant's rousing preface to the original edition of the *Kritik der reinen Vernunft* ('Critique of Pure Reason') remains instructive:

[9] Michel Foucault, 'What Is an Author?', in *Language, Counter-Memory, Practice: Selected Essays and Interviews: Selected Essays and Interviews by Michel Foucault*, ed. Donald F. Bouchard (Ithaca, NY: Cornell University Press, 1977), 113–38. I argue alongside Chartier that Foucault more importantly offers a material understanding of the author-function, which commentators have tended to elide.

[10] For various (mis)readings of Kant as an intellectual property proponent, see Robert P. Merges, *Justifying Intellectual Property* (Cambridge, MA: Harvard University Press, 2011); Leslie Kim Treiger-Bar-Am, 'Kant on Copyright: Rights of Transformative Authorship', *Cardozo Arts & Entertainment Law Journal* 25, no. 3 (2008): 1059–103; William Fisher, 'Theories of Intellectual Property', in *New Essays in the Legal and Political Theory of Property*, ed. Stephen R. Munzer (Cambridge: Cambridge University Press, 2001). For critiques of these accounts, see Anne Barron, 'Kant, Copyright and Communicative Freedom', *Law and Philosophy* 31, no. 1 (2012): 1–48; Maria Chiara Pievatolo, 'Freedom, Ownership and Copyright: Why Does Kant Reject the Concept of Intellectual Property?', *Società Italiana Di Filosofia Politica*, 2010, 1–10.

[11] We should note that there are also moral rights that protect the reputation of authors (which, as we will see in Chapter 4, might interest Kant), though these are fairly limited and rarely the objects of dispute. On moral rights in the United Kingdom, see Lionel Bently et al., 'Moral Rights', in *Intellectual Property Law* (Oxford: Oxford University Press, 2022), 303.

[12] On utilitarian copyright, see Chapter 1.

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> Our age is the genuine age of criticism, to which everything must submit. Religion through its holiness and legislation through its majesty commonly seek to exempt themselves from it. But in this way they excite a just suspicion against themselves, and cannot lay claim to that unfeigned respect that reason grants only to that which has been able to withstand its free and public examination.[13]

Having acquired the authority of law, proprietary authorship now needs to be publicly reviewed rather than unquestioningly affirmed as the cornerstone of modern and contemporary copyright law. My suggestion is that the medium of print, in particular Kant's 1785 essay, affords a critical rereading of authorship and copyright that suspends, even refutes, the proprietary paradigm.

FOUR FACES OF KANT IN AUTHORSHIP AND COPYRIGHT

This book returns to Kant and his essay on author's rights about four decades after Martha Woodmansee's landmark genealogy of the modern author as an effect of the eighteenth-century print markets in which European writers like Kant were working.[14] Between then and now, the proper name 'Kant' has come to stand for varying positions within authorship and copyright studies, four of which may be adumbrated here. My present intention is as much to clarify the distinctiveness of this book's contribution as to acknowledge its indebtedness to a tradition of critical and cross-disciplinary legal scholarship.

First, in Woodmansee's germinal contributions to the history of authorship, Kant appears as the principal theorist of aesthetics whose concepts shaped the interventions of late eighteenth- and early nineteenth-century writers, including Johann Adam Bergk's *Die Kunst, Bücher zu lesen* (1799) ('The Art of Reading Books') and Samuel Taylor Coleridge's 'On the Principles of Genial Criticism concerning the Fine Arts' (1814).[15] This account of Kant as an aesthetician with insights into the social significance of authorship may be less familiar to copyright scholars, who have mostly focused on Woodmansee's 1984 study of the economic and legal conditions of the emergence of modern authorship.[16] In Woodmansee's classic response to

[13] See Immanuel Kant, *Critique of Pure Reason*, ed. and trans. Paul Guyer and Allen W. Wood (Cambridge: Cambridge University Press, 1998), 101–2.

[14] Woodmansee, 'The Genius and the Copyright'; Woodmansee, *The Author, Art, and the Market*.

[15] See, especially, chapters 4 and 6 of Woodmansee, *The Author, Art, and the Market*. For a digitised version of Bergk's work, see www.digitale-sammlungen.de/de/view/bsb10400331?page = ,1.

[16] As Kathy Bowrey has sharply observed, this tendency amongst legal scholars to focus on the authorship essay without regard for the surrounding book chapters on the fine arts, poetry, reading habits and gender has inadvertently suppressed Woodmansee's insights into the importance of considering copyright law alongside and within debates surrounding the social and cultural significance of literature and art: see Kathy Bowrey, 'Law, Aesthetics and Copyright Historiography: A Critical Reading of the Genealogies of Martha Woodmansee

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Foucault's prior appeal to historicise the modern individualisation of authors and works,[17] Kant's name was only ambiguously cited alongside his student Johann Gottlieb Fichte's as one of the German discussants to have elaborated on Edward Young's proto-Romantic theory of original authorship while contributing to the late eighteenth-century debate over the nature of books and problem of reprinting.[18] Whereas Fichte's distinction between the privately owned 'form' of ideas and the commonly owned 'ideas' was carefully reprised and further claimed to be the conceptual basis of subsequently enacted copyright laws, no mention was made of Kant's 1785 essay on the wrongfulness of reprinting. Only in the revised chapter of Woodmansee's 1994 monograph do we find an accompanying endnote referencing Kant's essay in the *Berlinische Monatsschrift* alongside more than ten other titles contributing to the late eighteenth-century German debate on books.[19]

Notwithstanding the strange elision, and perhaps inadvertent suppression, of Kant's legal-theoretical contribution, Woodmansee crucially positions Kantian aesthetics as an influential tradition of intellectual thought that has evolved alongside the burgeoning book trades of late eighteenth-century Europe and further sought to shape the reading habits of German and English reading publics. Consider the context of late eighteenth-century Germany: alarmed by the indiscriminate, diversionary reading practices that accompanied the proliferation of books,[20] Bergk joined other European contemporaries (a forerunner being the English writer Joseph Addison)[21] in advancing corrective modes of reading that stressed instead the cultivation of aesthetic judgement or taste: that is, the 'ability to judge nature and art so as to become acquainted with these in terms of the feelings they inspire in us'[22] through serious literary forms such as poems, plays and novels. Bergk's account of taste was conceptually indebted to Kant's analytics of the beautiful and the sublime in *Kritik der Urteilskraft* (1790) ('Critique of Judgment').[23] What Kant had understood to be the universal feelings of beauty and sublimity invoked in persons by cultural artefacts and natural phenomena were similarly stressed in Bergk's

and Mark Rose', in *Research Handbook on the History of Copyright Law*, ed. Isabella Alexander and H. Tomás Gómez-Arostegui (Cheltenham: Edward Elgar Publishing, 2016), 29.

[17] See Foucault, 'What Is an Author?'. For more on Foucault's work, see Chapter 4.

[18] Woodmansee, 'The Genius and the Copyright', 440. See 'Fichte: Proof of the Unlawfulness of Reprinting, Berlin (1793)', Primary Sources on Copyright (1450-1900), eds L. Bently & M. Kretschmer, accessed 9 September 2024, www.copyrighthistory.org/cam/tools/request/showRecord.php?id=record_d_1793.

[19] Woodmansee, *The Author, Art, and the Market*, 161.

[20] On the problem of print surfeit in eighteenth-century Germany, see Chapter 2.

[21] See Joseph Addison, 'The Pleasures of the Imagination', in *The Spectator*, ed. Donald F. Bond, vol. 3 (Oxford: Clarendon Press, 1965).

[22] Woodmansee, *The Author, Art, and the Market*, 95, citing Bergk, 176.

[23] Immanuel Kant, *Critique of the Power of Judgment*, ed. Paul Guyer, trans. Paul Guyer and Eric Matthews (Cambridge: Cambridge University Press, 2000). See also Kant's preceding 1764 essay: Immanuel Kant, *Observations on the Feeling of the Beautiful and Sublime and Other Writings*, ed. Patrick Frierson and Paul Guyer (Cambridge: Cambridge University Press, 2011).

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exposition on taste as the faculty of discriminating between pleasing and displeasing objects that elicited those very affective responses in viewers.[24] Further drawing upon Kant's account of taste as consisting of wholly 'disinterested and free'[25] judgements – that is, the contemplation of works without concern for their utility or advantage to the perceiver – Bergk differentiated the popular literary forms in his time (including sensationalist, sentimental and moralist fictions) from the more esteemed masterpieces (for instance, 'Johann Wolfgang Goethe's *Die Leiden des jungen Werthers* (1744) ('The Sorrows of Young Werther') and Christoph Martin Wieland's *Geschichte des Agathon* (1766) ('The History of Agathon')) that evidenced and fostered the free play of the imagination and understanding.[26] Against the passive and extensive consumption of popular printed matter, Bergk relied upon Kant's theory of aesthetics to articulate, demonstrate, and promulgate a more active and intensive mode of reading that, ultimately, empowered readers to derive pleasure from the formally accomplished classics. In other words, Kant was the leading intellectual authority to whom Bergk (and, later, Coleridge in respect of early nineteenth-century England)[27] sought recourse to instruct the reading public on both the value and means of (re-)immersing in the literary classics that offered the highest forms of aesthetic experience.

Woodmansee's appreciation of Kant's influence over the early modern European literary imagination is vital to this book because it anticipates the present resituation of proprietary authorship alongside other conceptions of authorship that had coexisted in the late eighteenth-century. Though the putative continuity between the Romantic genius and copyright's proprietary author was one of the central claims in 'Genius and the Copyright', Woodmansee's more insightful, and arguably more robust, contribution was to disclose the multiple, and often competing, senses of authorship that circulated during that historical period. Bergk and other Kantian aestheticians saw the book neither as consisting in something ideal that was perpetually owned by its author (Fichte's position) nor as an intangible work whose reproduction and use was to be so regulated as to simultaneously reward and incentivise its creation while ensuring public access to it (the logic of utilitarian copyright). Rather, late eighteen-century writers recognised that books and other printed matter had larger pedagogical, social and potentially ethical roles to play in respect of personal and collective human development. Kantian aesthetics went

[24] Bergk, 176, cited in Woodmansee, *The Author, Art, and the Market*, 95.

[25] Kant, *Critique of the Power of Judgment*, 95.

[26] Woodmansee, *The Author, Art, and the Market*, 98. See also Kant, *Critique of the Power of Judgment*, 103.

[27] Samuel Taylor Coleridge, 'On the Principles of Genial Criticism Concerning the Fine Arts, More Especially Those of Statuary and Painting, Deduced from the Laws and Impulses Which Guide the True Artist in the Production of HIs Works', in *Biographia Literaria*, ed. John Shawcross, vol. 2 (Oxford: Oxford University Press, 1907). See also Woodmansee's discussion of Coleridge's transposition of Kant to England in Woodmansee, *The Author, Art, and the Market*, 111–47.

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beyond the liberalist, proprietary and self-interested authorial subject. Bergk himself stressed that the literary cultivation of taste was part of one's psychical maturation so as to 'fulfil [one's] responsibilities as a human being and a citizen'.[28] As sharply observed by Kathy Bowrey, reading Woodmansee's 'Genius and the Copyright' alongside her other book chapters allows us to see 'a much larger social and cultural project in train'[29] during the late eighteenth century than the self-centred and industry-oriented paradigm of literary property. In step with Woodmansee, I argue that proprietary authorship was neither the only understanding of authorship nor the most desirable one in Kant's time. Indeed, Kant's 1785 essay directs us to the very technological and medial-material conditions from which conceptions of authorship emerged, and which Woodmansee, insofar as the printed book opened and undergirded her analysis,[30] recognised as accompanying, even preceding, the legal and economic conditions that generated the modern author.

The second way in which Kant has been interpreted in authorship and copyright history is as an intellectual property forerunner or proponent. For Robert P. Merges and other advocates of intellectual property, it is Kant's property theory rather than his philosophical aesthetics that affords a Kantian rethinking of authorship (and, relatedly, inventorship).[31] Dissatisfied with the utilitarian grounds on which the proprietary edifices of copyright, patent and trademark have tended to be justified, Merges has sought to extend Kant's concept of property (advanced in *Rechtslehre* ('Doctrine of Right') (1797)), from the domain of physical objects to that of so-called intangibles such as literary or artistic works.[32] On Merges's reading, Kant was at heart a liberal philosopher who prioritised property rights and obligations as the means with which to secure the individual's exercise of will. 'As a legal right, the essence of property for Kant is this: other people have a duty to respect claims over objects that

[28] Bergk, 107; cited in Woodmansee, *The Author, Art, and the Market*, 93.

[29] Bowrey, 'Law, Aesthetics and Copyright Historiography', 34. Bowrey also observed that Woodmansee was more interested in writing a genealogy of aesthetics than in a genealogy of authorship or law. Whilst this might be true, it remains open to us to unpack the implications of her rich study of Kantian aesthetics on authorship and the limits of proprietary authorship through this return to Kant's elided 1785 essay.

[30] See Woodmansee's reference to an encyclopedia entry on the eighteenth-century printed book as 'the motto' (p. 48) of her chapter: Woodmansee, *The Author, Art, and the Market*, 35.

[31] Merges, *Justifying Intellectual Property*, 68–101. Other than Merges's work, see Riccardo Pozzo, 'Immanuel Kant on Intellectual Property', *Trans/Form/Ação, São Paulo* 29, no. 2 (2006): 11–18; Fisher, 'Theories of Intellectual Property'. For two critiques of these accounts, see Barron, 'Kant, Copyright and Communicative Freedom'; Pievatolo, 'Freedom, Ownership and Copyright'.

[32] Merges, *Justifying Intellectual Property*, 72. Merges refers to the translation in Immanuel Kant, 'The Metaphysics of Morals (1797)', in *Practical Philosophy*, ed. Paul Guyer and Allen W. Wood, trans. Mary J. Gregor (Cambridge: Cambridge University Press, 1996), 353–603. Other than to Kant's philosophical works, Merges refers to those of John Locke, John Rawls, Robert Nozick and Jeremy Waldron in the initial half of the book dedicated to 'a search for foundations' of intellectual property law: Merges, *Justifying Intellectual Property*, 2.

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are bound up with the exercise of an individual's will.'[33] Property rights in objects are necessary to affirm the autonomy of individuals, who rely on their use of such objects to carry out their projects in the world. Whilst recognising Kant's focus on physical property in the doctrine of right, Merges opts to extend Kant's insights to such 'intellectual creations' and 'intangible media' as literature and other cultural works: 'We are … free to apply Kant's idea to the building blocks of intellectual creations, just as we do for other assets such as blocks of marble or land. Many people in the modern world may choose to express themselves in intangible media.'[34] For Merges, Kant's idea of property and its relationship with autonomy could be readily reconciled with, and more robustly justify, the prevailing regimes of intellectual property.

For now, suspending judgement on the (im)propriety of Merges's citation of Kant,[35] let us note that Merges neglects the 1785 essay in which Kant had proposed a distinctly *non-proprietary* solution to the problem of reprinting in late eighteenth-century Germany. In 'On the Wrongfulness of Reprinting', Kant had eschewed the language of literary property, opting instead to see the printed book as a communicative medium to be regulated according to a system of publishers' and authors' rights that was grounded in the author's 'innate right in his own person'.[36] For Kant, a print publication did not consist in an intangible object of property owned by its author, but rather served to relay to the public a speech made 'simply and solely in the author's name'.[37] The legitimate publisher was an agent empowered by the author to communicate with the public. It was from the perspective of public communication, not literary property, that Kant argued against the unauthorised publication of books and other texts in his time. Contrary to Fichte's claim, Kant and he were not fellow travellers 'on the same road'[38] leading up to a commonly endorsed legal system of proprietary authorship. Rather, Kant's argument against unauthorised reprinting was based on an account of the book as a speech act, extending from the author's personhood, whose addressee was the reading public.

Kant's conception of the book as public address has facilitated critical reimaginings of the copyright sphere, from an instituted space governed by the logic of incentives and rewards to one where social ends, including those of egalitarian authorship, truth seeking and collective emancipation, could be realised.[39] This third face of Kant is as a non-proprietary proponent of author's rights who recognised the potential emancipatory significance of publications as speech acts. For instance, Anne Barron reads the essay's system of publishers' and authors' rights as the

[33] Merges, *Justifying Intellectual Property*, 72.
[34] Ibid., 73–74.
[35] On Barron's critique of Merges, see Chapter 4.
[36] Kant, 'On the Wrongfulness of Unauthorized Publication of Books (1785)', 35.
[37] Ibid., 30.
[38] 'Fichte: Proof of the Unlawfulness of Reprinting, Berlin (1793)'.
[39] On Kantian copyright scholarship, see Chapter 1.

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juridical arrangement for securing the public use of reason which Kant had theorised as the practice of enlightenment in another essay published in the *Berlinische Monatsschrift* just a year prior.[40] A non-proprietary system of rights in literary (re) production was one of the legal-empirical conditions of possibility for ensuring the 'communicative freedom'[41] of authors and a culture of 'free public criticism'.[42] For Barron, though Kant's idea of author's rights was proposed as a solution to a specific problem in eighteenth-century Germany, it nonetheless paves the way for our re-evaluation of contemporary copyright regimes, which remain bound to utilitarian and proprietary modes of organisation.

Helpful as Barron and other Kantian copyright scholars have been in constructing more socially involved imaginings of copyright based on Kant's non-proprietary understanding of the book, they have tended to focus on the rhetorical content of the 1785 essay (and other related works), and even then only on those parts concerning the book's operation as public speech act (*opera*). If we revisit the essay for what it 'says', we shall find that it oscillates between two senses of the printed book, the other of which has tended to be suppressed in contemporary interpretations of the text.[43] Not only was the book understood to be a communicative act (*opera*) in which the personhood of the authorial speaker was involved; it was also recognised to be a manufactured object (*opus*) whose printed letters afforded its reading. In a key footnote, Kant described the book as a 'mute instrument',[44] distinguishing it from acoustic media such as the 'megaphone'[45] or 'mouth'[46] that 'delivers speech by sound'[47] and underscoring its status as an optical medium that operated 'by letters'.[48] Since it is by means of the visible letters of Kant's essay that it is read for what it 'says', this material dimension of the text could be understood as that which affords the production of its meaning. Even at the level of its 'content', Kant's essay registered the visual-corporeal basis on which printed texts like itself operated during the late eighteenth century (and beyond). And yet, the medial-materiality of the 1785 essay was not discussed by its contemporary legal readers, as if it had nothing to do with our understanding of the text and its place in the history of authorship and copyright. Ceding priority to (parts of) its ostensible 'message', the medium of the text, along with its conscious turn to its own mediality, remains

[40] Immanuel Kant, 'An Answer to the Question: What Is Enlightenment? (1784)', in *Practical Philosophy*, ed. and trans. Mary J. Gregor (Cambridge: Cambridge University Press, 1996), 15–22.
[41] Barron, 'Kant, Copyright and Communicative Freedom', 39.
[42] Ibid., 38.
[43] On these two senses of the printed book, see Chapter 2.
[44] Kant, 'On the Wrongfulness of Unauthorized Publication of Books (1785)', 30.
[45] Ibid.
[46] Ibid.
[47] Ibid.
[48] Ibid.

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below what Cornelia Vismann had separately referred to as 'the perception threshold of the law'.[49]

What if Kant was a media theorist and, indeed, a media practitioner? In their recent return to Kant's 1785 essay and related works, Alain Pottage and Mario Biagioli come closest to presenting the fourth face of Kant as a thinker of media.[50] Inverting the traditional prioritisation of persons over things in the discourses of intellectual property and law more generally, Pottage and Biagioli underscore Kant's attendance to the print medium as the material basis on which various eighteenth-century literary roles, be they authors or public readers, were generated. It is the print typeface and typeset pages, rather than the personal visage, that their rethinking of Kant foregrounds. Whereas Barron and other Kantian copyright scholars have stressed the non-proprietary legal arrangement of author's rights proposed by Kant as a socially richer yet no less viable alternative to contemporary regimes of intellectual property, Pottage and Biagioli more crucially recognise such legal solutions to be possibilities technically prescribed by the printed book qua optical medium. If Kant had advanced a law of agency with which to apprehend the legitimate publisher's role in remediating and transmitting the author's speech as print, then this law was also one premised upon 'the medial agency of print itself',[51] that is, on the capacity of print both to bring into existence and register on its pages (for instance the title page)[52] print actors such as authors, publishers, and public readers. The authors put it well: 'As Kant appreciated ... [the] medium of print is alive; through its own agency, it configures the roles of author and reader and represents each to the other.'[53]

This book renews Pottage and Biagioli's medial rethinking of Kant by taking seriously the print medium in which Kant's intervention was advanced. My argument is that the most productive and satisfactory way in which to assess the place of Kant in authorship and copyright history is through the printed pages that bear his authorial name, 'I. Kant'.[54] Kant's essay on author's rights, his earlier and more famous contribution on enlightenment practice, and other eighteenth-century publications have yet to be studied collectively for what they disclose about the medial-material conditions in which conceptions of authorship arose. However insightful, the commentaries surrounding Kant's philosophical aesthetics, property

[49] Cornelia Vismann, *Files: Law and Media Technology*, trans. Geoffrey Winthrop-Young (Stanford, CA: Stanford University Press, 2008), 11.

[50] Pottage and Biagioli, 'What Is a Book?'. See also Alain Pottage, 'Literary Materiality', in *Routledge Handbook of Law and Theory*, ed. Andreas Philippopoulos-Mihalopoulos (London: Routledge, 2019), 409–29; Alain Pottage, 'The Materiality of What?', *Journal of Law and Society* 39, no. 1 (2012): 167–83; Alain Pottage and Brad Sherman, *Figures of Invention: A History of Modern Patent Law* (Oxford: Oxford University Press, 2010).

[51] Pottage and Biagioli, 'What Is a Book?', 606.

[52] On the 'jurisprudence of the title page', see Pottage and Biagioli, 'What Is a Book?', 614–17.

[53] Pottage and Biagioli, 'What Is a Book?', 610–11.

[54] On Kant's authorial name, see Chapter 4.

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theory and author's rights theory are unfinished inasmuch as they have yet to reckon fully with the author's conscious dealings with the print machinery in his time. As a result of this medial disinterest, authorship and copyright history studies have not been able to unpack the potential implications of Kant's 1785 intervention on the digital public sphere. It is my present task to re-materialise Kant's text(s) and the multiple conceptions of authorship at play in late eighteenth-century Germany to pave the way for further investigations into the digital afterlife of Kant's works.

EXCURSIONS INTO BOOK HISTORY, MEDIA THEORY AND LITERARY STUDIES

My rereading of authorship and copyright alongside Kant draws upon the intersecting traditions of book history, media theory and literary studies. Consolidating some of the key works and authors here, otherwise cited across the book, may clarify the theoretico-historical bases of this interest in the materiality of literature.[55]

When read alongside Roger Chartier's book history, Foucault's founding study of the author-function suggests itself to be as much interested in the materialities of authorship as it was in the author's function of limiting the proliferation of meaning in discourse.[56] As a critical archaeologist keen on excavating the rules according to which knowledge was produced, disseminated and received,[57] Foucault took an interest in the role of the author in the existence, circulation and operation of discourses. Roland Barthes's projected supersession of the 'Author-God'[58] with the anonymous reader, one 'without history, biography, psychology … simply that *someone* who holds together in single field all the traces by which the written text is constituted',[59] was less interesting than his opening observation about the production of the author as a 'modern figure',[60] one emergent from history, asserting its tyrannical monopoly over textual interpretation despite the challenges issued by French literary modernism during the late nineteenth and early twentieth centuries. Rather than calling for a desertion of the author-figure (as if that were possible),

[55] For two examples of other media-oriented studies in the law of copyright and patents, see Monika Dommann, *Authors and Apparatus: A Media History of Copyright*, trans. Sarah Pybus (Ithaca, NY: Cornell University Press, 2019); Alain Pottage and Brad Sherman, *Figures of Invention: A History of Modern Patent Law* (Oxford: Oxford University Press, 2010).

[56] Roger Chartier, 'Figures of the Author', in *The Order of Books: Readers, Authors, and Libraries in Europe between the Fourteenth and Eighteenth Centuries*, trans. Lydia G. Cochrane (Stanford, CA: Stanford University Press, 1994), 25–59; Chartier, 'Foucault's Chiasmus'; Roger Chartier, *The Author's Hand and the Printer's Mind*, trans. Lydia G. Cochrane (Cambridge: Polity Press, 2014); Michel Foucault, 'What Is an Author?'.

[57] See Michel Foucault, *The Archaeology of Knowledge* (London: Routledge, 2002).

[58] Roland Barthes, 'The Death of the Author', in *Image Music Text*, trans. Stephen Heath (London: Fontana, 1977), 146.

[59] Ibid., 148.

[60] Ibid., 142.

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Foucault recognised the importance of attending to its mutable historical conditions of possibility and variable discursive functions.

> Perhaps the time has come to study not only the expressive value and formal transformations of discourse, but its mode of existence: the modifications and variations, within any culture, of modes of circulation, valorization, attribution, and appropriation. Partially at the expense of themes and concepts that an author places in his work, the 'author-function' could also reveal the manner in which discourse is articulated on the basis of social relationships.[61]

It was to enable 'an historical analysis of discourse',[62] one attentive to such controlling practices as the bibliographic and hermeneutic classification of works under the names of individual authors, that Foucault made a preliminary sketch of four key features of the author-function.[63]

Though studies in authorship and copyright have tended to centre upon Foucault's first comments on the *proprietary* and *penal* understanding of authorship,[64] Foucault's theorisation of the author-function was by no means limited to its operation in legal discourse. Read alongside the remaining pages, Foucault's discussion of the mutual imbrication of cultural understandings of authorship with those enforced in private and public law simply anticipated, by way of illustration, his subsequent remarks on what appear to be more fundamental facets of the author-function. Provisionally localised within legal discourse and presented as bifurcated into its penal and proprietary instantiations in two successive periods of history, authorship was shown to be a discursively specific and historically contingent formation.[65] Further, depicted as bound up in the machinery of law, itself enmeshed with religion, politics and the economy, the author-function revealed its indebtedness to a material complex of procedures, practices and protocols, without which there is no authorship.[66] Lastly, by excavating multiple social understandings of the author, prior or current, legal or non-legal, Foucault staged the dispersal and multiplication of the author-function, suggesting its meaning to be gleaned from the continuities and tensions between varying discursive sites.[67] The law of authorship, however exemplary and indubitably pertinent to the history of authors and works, is but one of the many sites where the author-function derives, and discloses, its significance.

New materialist readings of Foucault often surround the late concept of *dispositif*: an historical assemblage composed of both discursive and non-discursive elements, 'a thoroughly heterogenous ensemble consisting of … the said as much as the

[61] Foucault, 'What Is an Author?', 137.
[62] Ibid.
[63] On these four features of the author-function, see Ibid., 124–31.
[64] See, for instance, Woodmansee, 'The Genius and the Copyright'; Rose, *Authors and Owners*.
[65] Foucault, 'What Is an Author?', 125–27.
[66] Ibid., 127–29.
[67] Ibid., 129–30.

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unsaid',[68] the critical mapping of which is the key to understanding power as it has been exercised in any given locality. But already in Foucault's discussion of the author-function and its dependence on such material features as the names of authors we glean his acute awareness of the interplay between verbal and non-verbal elements of the scene of reading. Far from being a merely passive object of action, the book was recognised to be vitally constitutive of the presently dominant legal-cultural understanding of authors as personal creators and owners of intangible works. '[T]hese aspects of an individual, which we designate as an author (or which comprise an individual as an author), are *projections, in terms of always more or less psychological, of our way of handling texts*.'[69] It is in the encounter with books that readers have come to see themselves and others as authors, actual or potential, standing over against them. Authorial names affixed to books, as if they were authoritative identifiers of their makers, belong to 'a series of precise and complex procedures'[70] by which texts were attributed to individual creators.

Despite having conceptualised authorship as a discursive function, then, Foucault already understood authorship to be 'also a function of the materiality of the text'.[71] Through a series of book-historical investigations into the history of authorship,[72] Chartier succeeded in demonstrating not only the material indebtedness of the author-function but also its uneasy coexistence with other historical forces indexed in the printed pages of books. Whilst rightly wary of the book's potential complicity in the silencing of marginal voices ('the silences of those who never wrote; the silences of those whose words, thoughts, and acts the masters of writing thought unimportant'[73]), Chartier understood its material form to be a privileged index of the historical processes from which it emerged, including those pertaining to the socio-technological system of print, the regimes of print regulation and financing, and their interactions with subsisting ideas of authorship.

For instance, by returning to various front matter and paratexts of Miguel de Cervantes's *Don Quixote*, Chartier showed how the typographical form and placement of the proper names of author, patron, printer and publisher on the original 1605 title page of Part I of the book pointed to the techno-institutional network in

[68] Michel Foucault, 'The Confession of the Flesh', in *Power/Knowledge: Selected Interviews & Other Writings 1972-1977*, ed. Colin Gordon (New York: Pantheon Books, 1980), 194. For instance, see Gilles Deleuze, 'What Is a Dispositif?', in *Michel Foucault, Philosopher: Essays Translated from the French and German*, trans. Timothy J. Armstrong (New York: Routledge, 1992); Giorgio Agamben, *What Is an Apparatus? And Other Essays*, trans. David Kishik and Stefan Pedatella (Stanford, CA: Stanford University Press, 2009).

[69] Foucault, 'What Is an Author?', 127; emphasis added.

[70] Ibid., 130.

[71] Chartier, 'Foucault's Chiasmus', 28.

[72] Chartier, 'Figures of the Author'; Chartier, 'Foucault's Chiasmus'; Chartier, *The Author's Hand and the Printer's Mind*.

[73] Chartier, *The Author's Hand and the Printer's Mind*, xi.

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which multiple print actors of early seventeenth-century Spain had contributed to its production.

> [The] visual space of the title page shows the three things that commanded all literary practice in the Golden Age: a claim to a paternity of the text that the prologue, and then the fiction of Cide Hamete Benengeli, ironically deny; the patronage relationship linking the writer to the duke of Béjar, whose various titles occupy four lines of type; the economic realities of the edition that implied the royal authorization [*Con privilegio*], the work of the printshop (represented on the title page by Juan de la Cuesta's imposing device) and the enterprise of the bookseller/publisher who had financed the edition and sold the copies ('*Vendese en casa de Francisco de Robles, librero del Rey nuestro Señor*').[74]

Well before the first copyright laws of Europe, texts such as *Don Quixote* attributed texts to authors as their creators whilst also evidencing the assemblage of actors and technologies involved in their making. Far from being irrelevant or secondary in importance to the history of authorship and copyright, the material form of books matters as indices of the concrete practices that shaped and reproduced such bibliographic, cultural, economic and legal phenomena.

The second field driving this book's turn to the materiality of literature is that of German media theory, particularly the works of Vismann and Friedrich Kittler. In contrast to mainstream legal scholarship, German media theory takes the medial-technical conditions of meaning and culture seriously, stressing the importance of studying the interplay between the medium and the message. Marshall McLuhan's famous injunction, 'the medium is the message',[75] obtains its afterlife in myriad investigations into the medial or technical a priori of culture and society, past and present, European and non-European.[76] In Vismann's provocative reformulation of the theory of media and cultural techniques in grammatical terms, we find a methodological reversal in the positions occupied by the human and non-human: 'If media theory were, or had, a grammar, that agency [of media and things] would find its expression in objects claiming the grammatical subject position and cultural techniques standing in for verbs. Grammatical persons (and human beings alike) would then assume the place assigned for objects in a given sentence.'[77] In media theory, the non-human thing frees itself from the merely passive role assigned to it in

[74] Chartier, *The Author's Hand and the Printer's Mind*, 139.

[75] Marshall McLuhan, *Understanding Media: The Extensions of Man* (Cambridge, MA: The MIT Press, 1994), 7.

[76] Other than Vismann's and Kittler's works discussed below, see also Bernhard Siegert, *Cultural Techniques: Grids, Filters, Doors, and Other Articulations of the Real*, trans. Geoffrey Winthrop-Young (New York: Fordham University Press, 2015); Wolfgang Ernst, *Digital Memory and the Archive*, ed. Jussi Parikka (Minneapolis: University of Minnesota Press, 2013); Jussi Parikka, *What Is Media Archaeology?* (Hoboken, NJ: John Wiley & Sons, 2012).

[77] Cornelia Vismann, 'Cultural Techniques and Sovereignty', *Theory, Culture & Society* 30, no. 6 (2013): 83.

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and by the juridical fiction of the sovereign human actor, and instead assumes its fundamental position as that which actively defines the permissible course of action in a given situation. The term 'cultural techniques' describes those procedures or operations executed by and in reference to medial objects. Examples of such mediated procedures that define modern and contemporary culture include the traditional print-based 'cultural techniques of education, alphabetization, reading, writing'[78] but also extend to 'those [digitally enabled] techniques dictated by computers and the internet'.[79]

When brought to bear on the question of authorship and copyright, the vocabulary of media and cultural techniques enables, even invites a study of the medial-historical conditions under which authors come to be recognised as creators and owners of intangible works. Woodmansee had traced the emergence of the proprietary genius to the professionalisation of German writers within an expanding book trade that lacked adequate legal protection for authorised publishers and writers. In Friedrich Kittler's diagram or 'blueprint'[80] of eighteenth-century German literary culture, on the other hand, the media theorist disclosed the centrality of the predominant communicated medium of that time, namely the printed book, to the prevalent understanding of authorship.

Whereas Fichte and other contemporary proponents of Romantic authorship had overlooked the material surface of the book in preference to the 'mind'[81] that generated it, Kittler recognised that books themselves were involved in the turning of persons into Romantic authors. For instance, Kittler noted that it was through the mass printing, distribution and use of state-sanctioned ABC books or primers around the turn of the nineteenth century that German mothers were enlisted as primary instructors in their children's education.[82] Other than ensuring a general alphabetisation of future authors and readers, these primers from which German mothers read aloud specifically contributed to the making of authors who, like Fichte, were drawn to 'a voice between the lines'.[83] Romantic authorship, a legacy that Woodmansee (and, later, Mark Rose) suggested to be the ideology underpinning today's law of copyright qua intellectual property, was shown to be a phenomenon mediated by print publications and print actors. Vismann's remark on 'the cultural techniques of education, alphabetization, reading, writing'[84] might well have been an allusion to Kittler's medial-historical study of eighteenth-century Germany.

[78] Ibid., 89.
[79] Ibid.
[80] Friedrich Kittler, 'Unpublished Preface to Discourse Networks', trans. Geoffrey Winthrop-Young, *Grey Room* 63 (2016): 93.
[81] 'Fichte: Proof of the Unlawfulness of Reprinting, Berlin (1793)'. On Fichte's proprietary account of the book, see Chapter 3.
[82] See Friedrich Kittler, *Discourse Networks 1800/1900*, trans. Michael Metteer and Chris Cullens (Stanford, CA: Stanford University Press, 1990), 27–53.
[83] Ibid., 34.
[84] Vismann, 'Cultural Techniques and Sovereignty', 89.

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Anticipating Chartier's book-historical investigations into the material evolution of the author-function, Kittler excavated the medial basis of Romantic authorship, where printed matter executed their cultivating and subjectivising operations.

Kant did not feature strongly in Kittler's study. Amongst the prominent German philosophers of the period, it was instead Fichte and Hegel whose works and biographies were cited as examples of a philosophical idealism that collaborated and cohered with the Romantic-genius approach to books and authors advanced by Johann Wolfgang von Goethe and other poets.[85] But as Chad Wellmon has shown, Kant critically contributed to the cultural milieu's negotiation of the problem of print proliferation and its impact on human society, which mirrors our present anxieties about information overload pursuant to the emergence of new digital channels of communication such as social media, blogs, and *Wikipedia*.[86] The contemporary epistemic crisis, in which the research university plays the continuing role of generating and legitimating knowledge, could be productively compared to preceding concerns with print saturation in late eighteenth-century Germany represented in and instantiated by the texts of German intellectuals such as Kant, Fichte and Friedrich Wilhelm Joseph Schelling.[87]

In the opening page of Kant's essay on enlightenment we find Kant's characterisation of the book-object, alongside other personal subjects of authority, as a threat to enlightenment culture: 'It is so comfortable to be a minor! If I have a book that understands for me, a spiritual advisor who has a conscience for me, a doctor who decides upon a regimen for me, and so forth, I need not trouble myself at all.'[88] Having thus identified the agency of print in obstructing the emancipatory process of the human being's exit from immaturity, the essay proceeds to clarify what its proposed solution of the public use of reason entailed, which paradoxically relied on the same print medium that imperilled the freedom of its user. The book was seen to be a critical technology that addressed its own contribution to the problem of readers being unable to distinguish between 'truths' and 'falsehoods', 'good' and 'bad' knowledge practices. Coinciding with Kant's appeal for persons to use their own understanding instead of reproducing dogma, the research university was reimagined by his contemporaries, including Schelling, as an institution directed at cultivating subjects of knowledge competent to navigate the surfeit of print.[89] Rather than being alien to present-day concerns with digital saturation and its

[85] Kittler, *Discourse Networks 1800/1900*, 124–73.

[86] See Chad Wellmon, *Organizing Enlightenment: Information Overload and the Invention of the Modern Research University* (Baltimore, MD: Johns Hopkins University Press, 2015), 1–19, 123–50.

[87] Ibid., 15–16.

[88] Kant, 'An Answer to the Question: What Is Enlightenment? (1784)', 17. See Wellmon, *Organizing Enlightenment*, 357; Brad Pasanek and Chad Wellmon, 'Enlightenment, Some Assembly Required', in *The Eighteenth Centuries: Global Networks of Enlightenment*, ed. David T. Gies and Cynthia Wall (Charlottesville: University of Virginia Press, 2018).

[89] See Wellmon, *Organizing Enlightenment*, 169–75.

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impact on the university, Kant's work and the wider discourse surrounding print proliferation in late eighteenth-century Germany has much to add to our understanding of the relationship between technological change, institutional structures and knowledge practices.

The third field facilitating my investigation into the material form of Kant's essay is literary studies, particularly Gérard Genette's poetics and concept of the paratext.[90] Whereas the doctrinal triad of 'work', 'originality' and 'author' focus on the *literary property* embodied in the book, and whereas Kantian copyright scholarship centres upon the *speech act* of the book, Genette's paratext directs us to the *peripheral matters* or 'thresholds'[91] of the text that present it as an interpretable unit of meaning. The internal sequence of statements forming the signifying contents of a given text on which we tend to focus our interpretive efforts is noted to be dependent upon an open set of auxiliary features – 'the paratext is what enables a text to become a book and to be offered as such to its readers, and, more generally, to the public'.[92] In other words, 'paratext' refers to certain material conditions – front cover, title page, typesetting, page numbers and so forth – on the basis of which a text is presented as a book to be read. To become the book *Paratext* (or the original *Seuils*), Genette's text has had to acquire the printed title and authorial name that afford our identification and interpretation of it. Paratext is a heuristic figure that calls attention to the peripheral matters of the book that tend to escape the conscious reflection of readers – intellectual property lawyers as well as critical copyright scholars – despite their fundamental role in facilitating and shaping its reception.

Of the five characteristics of the paratext outlined by Genette, two are of especial importance to my extended analysis of the material form of Kant's essay. The first feature is defined in reference to the spatial dimension of the publication at hand. Where a paratext is found 'within' or as being physically appended to the book, it is called a 'peritext'.[93] Besides the front cover, examples of the peritext include other front matter such as the title page and various prefaces, the material form of the book such as its typesetting and paper, and other sectional or marginal elements such as intertitles and notes. Conversely, if the paratext appears 'outside' the book, it is referred to as the 'epitext'.[94] In this subcategory of more remote elements, Genette locates 'public epitexts'[95] – that is, epitexts that are addressed by the author and/or the author's associates to the public or a segment of it, such as author interviews, book advertisements and other promotional activities undertaken by the publisher –

[90] Gérard Genette, *Paratexts: Thresholds of Interpretation*, trans. Jane E. Lewin (Cambridge: Cambridge University Press, 1997).
[91] Ibid., 2.
[92] Ibid., 3.
[93] Ibid., 5.
[94] Ibid.
[95] Ibid., 9.

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and 'private epitexts',[96] namely those with more specific, individual addressees, such as the personal letters, even diary entries, of the author. The other aspect of the paratext of interest to this book concerns its substantiality or 'mode of existence',[97] an understanding of which similarly points us to a range of paratextual elements that could be studied alongside a text such as Kant's. Most of the paratexts reviewed in Genette's encyclopaedic study are 'of a textual, or at least verbal, kind',[98] meaning they are composed of legible letters not unlike the main text. However, Genette also notes that paratexts could be 'iconic'[99] (for instance, a cover image or frontispiece), 'material'[100] (for example, the typeface or typesetting), or even 'purely factual'[101] (that is, some known fact that influences a given reader's interpretation of the text). Genette gives the example of Proust's commonly known half-Jewish and homosexual identities, the biographical facts of which necessarily inform our reading of the relevant passages in *A la recherche du Temps perdu* ('In Search of Lost Time').[102] Though these facts concern the author, they are not communicated by him or his publishers, but instead form part of the larger historical background or context in which the book is (re)produced and disseminated. They belong to the 'implicit contexts that surround a work and, to a greater or lesser degree, clarify or modify its significance'.[103] Known facts about authorial life and generic conventions alter the way books are read. The historical background, 'the context formed [citing the example of Balzac's *Le Père Goriot* (1835)] by the period known as "the nineteenth century"',[104] is no less involved in the question of the text's significance. It may well be that any posited communicative situation pertaining to the text and its constitutive paratexts only owes its significance to the historical period(s) and context(s) in which they participate, notwithstanding the structural possibility of every mark being cited out of the context (or what Derrida calls its 'iterability'[105]).

Informed by Genette's notes on these spatial and substantial aspects of paratexts, my paratextual reading of Kant's 1785 essay covers not only a selection of peritexts in the essay and other issues of the *Berlinische Monatsschrift* but also some factual epitexts surrounding the period of late eighteenth-century Germany and the genre of the periodical. Considered collectively, these paratexts enable us to grasp some of the historical and medial-material conditions of literary production and to displace the epistemic limits of copyright discourse.

[96] Ibid.
[97] Ibid., 4.
[98] Ibid., 5.
[99] Ibid.
[100] Ibid.
[101] Ibid.
[102] Ibid., 8.
[103] Ibid., 7.
[104] Ibid.
[105] Jacques Derrida, 'Signature Event Context', in *Limited Inc* (Evanston, IL: Northwestern University Press, 1988), 12.

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OVERVIEW OF THE BOOK

Chapter 1 reconstructs the contexts of mass digitisation and the Kantian copyright debate in which Kant's 1785 essay is to be reread. First, I consider the Google Books project as an emblematic case for our urgent need to rethink authorship, copyright and their profound co-evolution with media technologies. Then, I review the recent debate surrounding the utilitarian-proprietary approach to copyright and its limits as suggested by three readers of Kant's 1785 essay. After that, I propose an alternative media-theoretical way of looking at a printed book, one that focuses on the paratexts of Kant's 1785 essay to illuminate the medial dimension of literary production and the limits of proprietary authorship. My contention is that although the three Kantian copyright scholars have demonstrated the power of Kant's essay and its concept of the book as communicative act to reshape our understanding of authorship and copyright, they have also underestimated the material dimension of the text that affords the production of its meaning. A more adequate understanding of Kant's text and how it could illuminate the present digital transformation of authorship and copyright would require that we attend closely to its medial-materialities.

Chapters 2–4 respond to this call for a renewed attention to the printed pages of Kant's essay. Chapter 2 juxtaposes the myth of proprietary authorship embodied in the legal idiom of 'work', 'author' and 'originality' with the realities of print production in late eighteenth-century Germany. I problematise the conventional view of the literary work as an intellectual creation of a personal author through a paratextual reading of Kant's 1785 essay that reconstructs its underpinning historical processes and conditions. This analysis includes not only the epitextual background of the German Enlightenment and the role therein played by periodicals such as the *Berlinische Monatsschrift* but also the peritextual features of catchwords, signature marks and front matter that appeared within and alongside Kant's text. I argue that these paratexts lead us back to the print machinery of the German Enlightenment: a socio-technological assemblage of human actors interacting with technologies, which Kant and others sought to steer to address the problem of print saturation. The existence of such a machinery, one that preceded the authorial figure, perturbs copyright law's attachment to original authorship. Insufficient to deal with the complexities of the book's emergence, the terms and doctrines of copyright law tend to suppress the deep historicity of literary production.

Chapter 3 both deepens and problematises the legal understanding of literature by attending to the making and perception of typefaces, particularly the Breitkopf Fraktur typeface in which Kant's 1785 essay was set. Close reading a 2001 House of Lords decision, *Newspaper Licensing Agency Ltd v Marks & Spencer Plc*, allows us to see that literary copyright and published edition copyright, though pertaining to the respective labours of authors and publishers, nonetheless share an originalist aesthetics of the book that affirms the myth of proprietary authorship. To dislodge copyright's originalist aesthetics, I revisit and compare Fichte's and Kant's accounts

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of the printed book in late eighteenth-century Germany, which, in their own ways, anticipate and undermine the contemporary legal perspective. Unlike Fichte, Kant recognised the visual materiality of the book, including the perceptibility of its typeface and typesetting, which pointed to an historical domain of embodied interactions. Guided by Kant, I attend to two aspects of the material history of the Breikopf Fraktur typeface: the history of its production and the history of its perception. This material history of the typeface, which reveals the deep interactions between human actors and print technologies, acts as a counter-image to copyright's originalist aesthetics.

Chapter 4 charts a biography of Kant's printed authorial name, 'I. Kant', to disclose its ethical function in late eighteenth-century Germany. Drawing on Foucault's and Chartier's studies of the materialities of authorship, I consider uses of the authorial name at the rhetorical level of Kant's 1785 essay alongside its textual and typographical displacements, both within and outside the May 1785 issue of the *Berlinische Monatsschrift*, and during and beyond the author's lifetime. Other texts to be analysed include Kant's 1784 essay on enlightenment, his 1795 and 1798 letters addressed to Friedrich Schiller and Friedrich Nicolai, a 1790 pirated edition of Kant's writings, two 1790 and 1799 public notices in the *Allgemeine Literatur-Zeitung*, and the 1996 Cambridge edition of Kant's 1785 essay. In so tracing the anthumous and posthumous movements of 'I. Kant', I clarify the authorial name's role in implementing an ethical author-function that Kant understood to be responsive to the demands of enlightenment practice. I contend that Kant not only recognised the importance of printed authorial names to the enactment of authorial responsibility but also so deployed his own authorial name as to hold himself and others accountable for the print publications that contributed to the public discourse in his time. I argue that this ethically and socially concerned author-function in the German Enlightenment discloses the limits of copyright's proprietary understanding of authorship and its material constitution.

This book concludes by analysing a contemporary digital text, Wikipedia's article on authorship, based on the prior insights into literary production gleaned from Kant's 1785 essay. I clarify the fundamental challenge issued by Wikipedia's multitudinous authorship to copyright's proprietary model by turning to some of its digital paratexts. The dispute tags, hyperlinks, footnotes and revision history of Wikipedia's article on authorship are read as indices of the digital machinery that constituted it and keeps it open to revision. I further discuss the ethical dimension of Wikipedia's production by situating the digital encyclopaedia alongside, and against, some of its print predecessors in Roman antiquity and the European Enlightenment. Pliny the Elder's *Historia Naturalis*, Denis Diderot's and Jean d'Alembert's *Encyclopédie* and other eighteenth-century encyclopaedic projects are read as presenting prior models of the encyclopaedia that could clarify Wikipedia's function as an information technology and its mass-participatory ethos. This analysis of Wikipedia closes with an invitation for the writing of a media history of the encyclopaedia, one that could account for its ethics and communicative function in the digital present.

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