

# “Where’s The Party?”

## Multi-Subject Experiences and Intellectual Property

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### ABSTRACT

The term “multi-subject experience” (MSE) can be used to describe games or art that are both *collective*, if it is not possible for a single individual (subject) to have the same experience alone, and *collaborative*, if subjects play and/or create them together. This paper looks at a range of MSEs that are language-intensive, and the ways in which copyright and/or intellectual property issues are addressed (if at all) in relation to artefacts produced. In relation to those issues, two commonly recurring phases can be called the “party” phase and the “organisation” phase. Collective collaborators face a variety of challenges if they decide (or are forced) to transform a party into a more organised entity.

### Categories and Subject Descriptors

K.4.1 [Public Policy Issues]: Intellectual property rights, Use/abuse of power

### Keywords

games, art, collaboration, intellectual property, money, copyright, copyleft

## 1. GOALS

Discussions at previous DAC conferences have compared and contrasted the mechanisms of stories and games [1][2], and considered the way role-playing and simulation and storytelling can work together [3]. Scholars in many different disciplines have described possible types of stories and games [4] and demonstrated and/or analysed how they “work” [5], providing profound benefits to artists and game-creators.

Alongside these tools and approaches, this paper proposes that it is also interesting to (temporarily) group together disparate story and game experiences. It is proposed to use the term “multi-subject experience” to throw a common umbrella over story and game and art, digital and otherwise, requiring only that an experience be collective and collaborative.

Having defined the term and examined several edge conditions to try to define what does and does not fit under the umbrella, we will take the term for a test drive; that is, we will see whether it is possible to discern a useful pattern in the experiences thus gathered together. Because the author’s area of expertise is collaborative writing, it has been easiest to try to discern patterns in that area. Therefore, the contents of this paper include:

- The proposed definition of MSE
- Definitions of terms relating to intellectual property
- Descriptions of (mostly textual) collaboration
- A chart with examples of MSEs and some analysis
- Assessment of usefulness of the exercise

## 2. DEFINITION: MULTI-SUBJECT EXPERIENCES

Games and art may be described as “multi-subject experiences” (MSEs) to the extent that they are *collective*, if it is not possible for a single individual (subject) to have the same experience alone, and *collaborative*, if subjects play and/or create them together.

MSEs can occur in face to face environments (“real life” or RL) or in digital spaces (“online”). Face to face examples of MSEs include role playing/strategy games (live action and tabletop), historical re-enactments, ‘no spectators’ art/music festivals, fan conventions, group performance art projects including flash mobbing, and Theatre of the Oppressed. Wholly online MSEs include multiplayer games, collaborative writing projects, early ‘alternate reality gaming’, and gallery archive blog wiki listserv discussion chat spaces.

Hybrid MSEs, in which real life and online experiences work together (or against each other), have grown exponentially since DAC 1998. Online collaborative fictions have been performed live with audience interaction, allowed their audiences to contribute content, and included real-life artefacts that can be touched or visited. Virtual spaces can be explored by people who are also physically present to each other, and online assets are bought and sold with RL money. MSE sports include war driving, geocaching, celebrity hunting, and attempting to affect television shows. LiveJournal, MySpace and similar sites not only support communities of interest, but also encourage RL friends to connect online, while online collaborators have found themselves drawn into RL as uploads have led to meetups.

MSEs offer the opportunity for the emergence of ‘collective intelligence’, the documented phenomenon in which a group can perform a task, or solve a problem, better than a single individual (e.g. *The Beast*). On the other hand, they also amplify collective stupidities (e.g. “All Your Base...”, *Snakes on a Plane*).

It is proposed that the only requirements for an experience to be an MSE is for it to be multi-subject (impossible to experience alone), and for there to be some element of collaboration, formal or informal. This definition of an MSE is intended to be inclusive enough to support searches for patterns across a variety of seemingly disparate activities involving games, art, work, play, and so on.

To test one edge of this definition, let us consider the extent to which a traditional stage play is an MSE. A traditional stage play is an MSE *for the authors, directors, and actors* as they collaborate to bring the play to life. The question is whether the audience is included in the MSE. If one believes that the audience is an integral part of the experience, and/or argues that the play requires for its existence an audience’s reception of it, the audience members would then also be part of the collective collaboration. In contrast, a Forum

Theatre run according to the principles of Theatre of the Oppressed (“practiced by ‘spect-actors’ who have the opportunity to both act and observe, and who engage in self-empowering processes of dialogue that help foster critical thinking” [6]) is obviously an MSE for all participants.

### 3. DEFINITIONS: INTELLECTUAL PROPERTY

As a very broad generalisation about the Age of Digital Computing, human activity moved online and intellectual property law followed, sometimes immediately (for example, in the case of IBM mainframe software), sometimes with a noticeable lag in time (for example, in the case of USENET newsgroups). Common types of intellectual property ownership protection include:

- *Copyrights* protect “original literary, artistic and musical works, with the focus of protection being the expression of an idea, rather than the idea itself” [7]. In addition to traditional forms of works, copyright also protects sound recordings, films, and television and sound broadcasts. It is often held to “encompass the exclusive rights to reproduce, distribute, display, perform, or prepare derivative versions of the work in question.”
- *Trade marks* are words or symbols that identify the source of goods or services. They are intended to function as the signifier of a brand, as a commercial “guarantee” of the quality or nature of goods or services, in the sense that those attributes have their source in a particular trader, whether manufacturer, distributor, or retailer.
- A *patent* is “a limited-term monopoly granted by government” to an innovating person or firm, “in exchange for public disclosure of the pertinent innovation”.
- A *registered design* protects the visual features of products, including the shape, pattern, and ornamentation of a product.
- Protection for electronic integrated circuits under circuit layout legislation.
- Plant variety rights under breeders legislation.

Some form of registration is a mandatory requirement in order for the more directly commercial forms of protection, including trade marks, patents, and designs, to exist. In contrast, copyrights do not have to be registered to be valid, although registration is often a good idea.

Concepts of ownership are most often brought into play when money is involved. For example, in order to mount a successful suit for infringement of copyright or trade mark in English-speaking countries, it is necessary to prove that financial damage has resulted from the alleged infringement (or may potentially result; suits are also brought for injunctions to restrain actual or anticipated infringement of such rights).

A related concept, that of *Moral Rights* of creators of some types of copyrighted works, is also enshrined in law in some jurisdictions. Where Moral Rights exist they are typically not assumed to be automatic, but must be asserted. (Australians may see such assertions in most books published here and in the UK.) Moral Rights have three aspects:

- The right to be acknowledged as the creator of a work.
- The right to object to one’s name being attributed to something one did NOT create.

- The right not to have the work subjected to “derogatory” treatment, that is, to amendment of the work that negatively affects the creator’s integrity or reputation. [8]

The term Moral Rights may be unfamiliar to most internet users, but the concept seems extremely relevant to both real and virtual worlds in which pride, reputation, bragging rights, and other similar intangibles have led to wars of all kinds.

Questions of jurisdiction of offline courts over online activities are extremely complicated and have changed over time. Bewilderingly, the United States Patent Office initially refused to grant patents for software products (for example, Bob Frankston and Dan Bricklin were unable to patent their first electronic spreadsheet), but then subsequently turned around and granted patents not only for algorithms but also for business models (for example, Amazon’s one click online ordering system). Each geopolitical jurisdiction handles online disputes somewhat differently, and yet data (often) swims freely between and among them.

Since 2002 some creators have used *creative commons* licences, inspired by the *GNU GPL* licences for software, in preference to appealing to the traditional types of intellectual property protection [9]. The goal of such licences is to deliberately place material in the public domain (so no one entity can assert private ownership of it) and support its ongoing creative re-use on the same terms, or “retain their copyright while licensing them as free for certain uses, on certain conditions.” With apologies, because there are significant differences between their philosophies and approaches, *free software*, *GNU GPL*, *open source*, *copyleft*, and *creative commons* licences are all different enough from traditional copyright protection that they will be referred to together in this paper under the shorthand term “creative commons”.

For the purposes of collaborative games and art, the most important distinction between copyright law and *creative commons* types of licences is that the latter require explicit discussion and licencing up front, while the former does not.

Traditional copyright protection occurs “by default”. The International Convention for the Protection of Literary and Artistic Works 1886 (as revised over the years) (the “Berne Convention”), reinforced by GATT, recognises copyright without need for registration to occur or notice to be given.<sup>1</sup> This principle means there can never be a comprehensive copyright register; in practice it also means that creators of collaborative works can assume their work is covered by copyright somehow and postpone discussing IP issues. By contrast, *creative common* licences require explicit statements to be attached to content, with information about how the content may be used and re-used, and further, require those statements to be included with any work that subsequently incorporates it.

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<sup>1</sup> While the USA has acceded to the Berne Convention, that country maintains a registration system for works created in the USA, and registration is required in order to bring suit and recover substantial damages. While not required for rights of copyright to exist and not compulsory, therefore, registration will often be a very sound idea.

#### 4. DESCRIPTION OF COLLABORATION: PARTY SOUNDS

Accounts of collaborative writing, whether digital or otherwise, often stress the importance of participants' willingness to share their own efforts without worrying about ownership/attribution, and the necessity of reacting to and riffing on others' contributions. Some also describe a fluidity of production and distribution (all hands gathering around the printing press, or the equivalent).

To start with a pre-digital MSE from the world of English-speaking science fiction readers, here are Graham Charnock's comments on the party surrounding *New Worlds*:

*...what went on in and around the 'New Worlds' / Moorcock / Platt / Harrison / Sallis / Hall axis...my drinking and writing buddies...I was writing for them, of course, not any faceless readership... That's how movements, schools, call them what you will, grow, isn't it...? A constant and quick exchange of ideas, themes, etc--you are influenced, or just plain steal, but you feed it back into the network... Manuscripts came in, were read quickly, filtered, discarded, selected. Then passed to type-setters who would send back pages of type to be physically cut-and-pasted on the kitchen table... Fortunately most of the people involved in production lived within a half-mile radius of each other in the Notting Hill area [--he lists the residents and visitors--] they were all were co-opted in varying degrees into the editing/production process. It was a case of any hand to the pump in fact. [10]*

As Charnock's comments show, themes that one hears from MSE survivors (regardless of whether the MSE was in RL or online or both) include:

- People create with their peers, and for their peers. For the moment, ownership seems comparatively unimportant.
- Inspiration production and distribution are all collective, enthusiastically, sometimes chaotically so.
- The experience of being part of the MSE (as opposed to the artefacts) cannot be sold or transferred: either you were there for the party, or you weren't. This explains the extensive discussion of who was involved when and the lists of names.

Intellectual property "problems" have been more extensively explored in the area of music and sampling, than they have for digital MSEs creating visual or textual art. To return to Peter Low's essay:

*No art form occurs in isolation. I feel that all music comes from other peoples' ideas,- and this applies to most art, i.e. an artist draws inspiration from past masters and their contemporary peers, writers can develop other peoples' characters, and musical composers look back retrospectively and also feed off each other to move forwards. As one person creates a new style, others adopt it and add something of their own to progress. Sampling is not so different in that it also adapts what has gone before. As Jane Howard pointed out, 'There is no such thing as total originality'. [11]*

To take a digital example, the same themes can be found in articles posted at the *Second Life Herald* web site. For

example, Urizenus Sklar wrote the following about working on a business collaboration called SimCast:

*One of the really great things about the early SimCast experience was all the people pitching in to help – it was a kind of MMORPG barn raising.*

*The value of projects like this have to be measured in terms of what one learns and how much fun one has, and on this score the SimCast was well worth it for me. I learned a lot about the mechanics of SL (and its limitations), got to meet some great creative people and scripters, and made some fantastic friends. It's hard to put a price on that. [12]*

The last word (for now) comes from another writer, Jonathan Lethem. Amy Benfer describes him as arguing for "the recognition that all works of art are, in a sense, a collaboration between artists and the culture at large." Here are the key quotations from Lethem (in an interview with Benfer):

*Appropriation, mimicry, quotation, allusion and sublimated collaboration consist of a kind of sine qua non of the creative act...*

*What I'm seeking to explore is that incredibly fertile middle ground where people control some rights and gain meaningful benefits from those controls, and yet contribute to a healthy public domain and systematically relinquish, or have relinquished for them, meaningless controls on culture that impoverish the public domain... [13]*

We will return to this point after analysing specific MSEs.

#### 5. ANALYSIS OF SPECIFIC MSEs

Table 1, below, begins to examines aspects of collective collaboration in several MSEs (particularly language-intensive ones, because the author is a writer), and the ways in which intellectual property issues are addressed (if at all) in relation to artefacts produced. An enjoyable problem during the writing of this paper was that relevant news would appear every day; in the interests of timeliness, updated comments will be posted online [14].

Generally, two recurring phases in MSE collaboration can be called the "party" phase and the "organisation" phase.

In the first phase, healthy MSEs are characterised by a creatively fermenting soup in which participants are inspired by each other's achievements and work/play for the joy of the experience. Resources for this phase may be subsidised by participants' activities outside the MSE and/or may be inexpensive because the MSE is new, small, and/or informal.

In the second phase, the ferment of the first phase attracts new participants and media attention, and attempts may be made generate revenue, or at least make the MSE's income pay for the resources it consumes. Attention to formal organisational structures and issues of ownership may change the context of collaboration in such a way that some participants from the first phase complain that "the fun has gone out of" the MSE and withdraw to find (or start) another MSE party elsewhere. In digital or partly-digital contexts this cycle can be repeated quickly and often.

**Table 1. Examples of multi-subject experiences and handling of IP in relation to their artefacts**

MSE	Collective	Collaboration	Handling of IP
IMDb.com	News group and internet users who were film buffs...	...helped compile a database with (a then – and still – revolutionary level of) details about every film ever made. Then they expanded to cover TV series and most recently have added support for individual episodes of TV series.	<p>Phase 1 (1998-90 to 1998): Volunteer effort on a list, then hosted at a uni, then managed by an essentially nonprofit company; reviews were signed, but many other types of material were not attributed. Little concern for copyright during this phase; work was done for love.</p> <p>Phase 2 (1998 – present): IMDb's substantial content and systems were sold to Amazon in 1998. Per the Wikipedia entry as of July 2007, "Volunteer contributors were not advised in advance of even the possibility of IMDb - and their contributions along with it - being sold to a private business, which created some initial discord and defection of regulars." [15]</p>
Burning Man [16]	Carrying on a tradition begun by Mary Grauberger, Larry Harvey and his friends...	<p>...were in the habit of partying while burning a wooden effigy each summer at Baker Beach (California, USA), and one year they looked up at the row of people who had gathered in anticipation on the cliffs above the beach and said, let's go somewhere where there are <i>NO SPECTATORS</i>, which phrase became the motto of an art and culture festival in the Black Rock Desert, Nevada, USA. "You voluntarily risk serious injury or death by attending."</p> <p>Another motto is <i>LEAVE NO TRACE</i>, but the festival does have artefacts in the form of documentation: photographs, broadcasts, stories, and of course scars (or at least cases of "playa foot").</p>	<p>Complex and unusual: many elaborate art works are burned or otherwise destroyed at the end of the week (resisting their commodification, let alone reproduction etc.), but photographs of the event are frequently attributed and/or copyrighted. Within the community of burners there is a money-free Temporary Autonomous Zone gifting and barter culture which still seems very much a Phase 1/party (at least compared to the rest of US culture), but as BRC's population grew to 35,000+ an organization became necessary and there has recently been legal action amongst burners over copyright issues relating to the name and trademarks of the festival itself.</p> <p>View from outside (but nearby): phase 1 energy seems to remain alive, at least in small localized parts of BRC, and at many smaller events spawned by the movement, but there are also serious phase 2 issues being addressed. No fixed date can be given for BM's transition from phase 1 to phase 2: each participant seems to have a different and personal opinion about when BM got too serious, stopped being magical, etc. – usually <i>x</i> number of years after the participant him/herself started attending. If the movement continues to allow each BM virgin to have a phase 1 experience and then transition to phase 2 at his or her own speed, that will be a notable achievement. (Future work: test whether this is true.)</p>
Flash mobs (artistic as opposed to political)	People...	...gather suddenly in a public place, do something unusual, and just as quickly disperse.	Here the distinctions between the phases seem to be as clear as they could possibly be. The actual event is likely to be purely in Phase 1, and any records or artefacts produced would be Phase 2.

MSE	Collective	Collaboration	Handling of IP
Forum Theatre	A theatrical group following the practices of Augusto Boal's Theatre of the Oppressed	<p>“Theatre is defined as the simultaneous existence--in the same space and context--of actors and spectators. Every human being is capable of seeing the situation and seeing him/herself in the situation.”</p> <p>As an example of one technique, actors present a play that illustrates a common problem. The play is open-ended and everyone present is invited to help act out various endings.</p>	Forum Theatre would seem to take place largely in phase 1: all the “spect-actors” take responsibility for what happens, and no one is trying to productise it. However, there must be an organisation in the first place, to plan the enactment. So in effect the order of phases is reversed.
Online discussion forums	As an example, consider the “Since You Asked” column written by Cary Tennis for Salon.com. Each weekday there is an anonymous letter, then Cary’s answer, then a cascade of comments. The comments are sortable only by “Editor’s Choice” or “all”, and newest or oldest first, but nevertheless commenters call out and reply to each other, and topic drift occurs as it does in many similar forums. <sup>2</sup>	<p>In May 2006 participant “haole girl” wrote about these pages in a way that argues that each day’s pages are an MSE, because they fit within a loose definition of collaboration (and would not be possible alone):</p> <p>“It’s Theatre. The LWs [Letter Writers] are pleased with themselves. Tennis is pleased with himself. The LtE’s section is full of people who know the answers. Yet, ultimately, within the fell of vitriol and exhibition, lies the steady pulse of a readership that is willing to wade in and help one of its own.</p> <p>...Sure, the rancorous bickering self-parodies get tiresome. Still, I’m consistently knocked on my virtual ass by the range of depth and candor offered to the LWs. I begin with the Tennis column to be introduced to the topic, and the spectacle has begun: the second act players enter and write their own dialogue. The wits, the therapists, the self-disclosers, the haters of [women/men/victims/lawyers...]; all the readers who take a few moments from their lives to empathize, to consider, to contribute. Whether the play ends with closure or not, the cast has been inspiring. It often gives me hope, and always fills me with gratitude.”</p>	<p>A linear response board illustrates the simplest possible case of a type of collaboration that occurs in many types of forums, from simple bulletin boards to complex spaces such as Slashdot, Kuro5hin, or Everything2 (which have many more capabilities, reputation management schemes, etc.), LiveJournal, MySpace, VOX, and too many others to mention. In all these contexts, contributions can be signed or anonymous, but are usually just the product of one person, who retains (implicit) copyright and can assert moral rights to them (except perhaps the right not to be flamed). Therefore the MSEs are the discussions that arise in these contexts, not any one posting.</p> <p>Because of their granularity of authorship, these MSEs begin with some of the organisational capabilities of phase 2. This in turn prevents postings from reaching a phase 1 state of completely merged authorship. Subgroups of participants may reach phase 1 ecstasy either by working together on ideas or creating artefacts together off the boards; if they decide to market or organise the resulting artefacts they will also enter phase 2 as a subgroup.</p>

<sup>2</sup> Note that a subset of passionate contributors argue in intense detail about whether certain LWs are “real”. The present US Zeitgeist seems to favour literary hoaxes but these folks prefer not to be fooled. Issues of identity in online communication have been well explored in DAC and elsewhere.

MSE	Collective	Collaboration	Handling of IP
Fanfiction and fanart	Fans of media gather around their preferred TV shows, books, movies, music.	Tributes are created by single authors and/or small groups; the MSE consists in the community experience and the way practitioners imitate, inspire, and dare each other. Creation, production, and distribution are frequently collective in the style of the chaotic <i>New Worlds</i> model described above.	Because settings and characters are not their own, participants are outside copyright in a way that sometimes feels transgressive. Because phase 2 cannot occur, phase 1 in fanfiction subcultures may be artificially extended – perhaps for too long. (Artistically speaking, if you pair Ron Weasley with a giant squid only in order to keep a phase 1 buzz alive, that’s too long.)  Fancreators may either enter phase 2 by selling scripts or tie-in books as professionals, or move on to a new fandom, or create original works.
		In his LawGeek blog, Jason Schultz wrote, “Just as artists are an engine for creativity in our culture, so are fans. An artist on their own can make a work of art, but only fans can make it mean something in our society. Fans take art and translate it into culture. They invest in it, obsess over it, share it, and spread it to others. They turn it from an isolated item into a means of communication. But where is the recognition of this reality in copyright?” [17]	
Second Life	Avatars (and by extension, the people who create them)...	...can live a second life inside worlds run by Linden Labs. Many aspects of SL are inherently collaborative, from sex to art to running a business.	I invite comments from knowledgeable participants as to the extent to which Second Life and MMORPGs fit into the patterns of IP observed elsewhere. One critical difference is that SL, UO and other such worlds are explicitly owned and ruled by their designers. Nevertheless, SL participants’ reports suggest that there was a phase 1 in which people put aside that knowledge and enjoyed the party and the joy of finding out what could be done, followed by a phase 2 in which the reality of everything being owned by LL returned to the foreground, followed by the desire to move along to the next good collaborative party. Perhaps, as with Burning Man, each participant moves through his or her own phases 1 and 2.
YouTube dialogues	Creators / capturers of video material post it, with searchable tags...	...for others to see and react to in turn. Examples: <ul style="list-style-type: none"> <li>• terryfic created a video collage of moments from lonelygirl15’s videos, and put them with a patter song that was a parody of a Gilbert &amp; Sullivan song (that was itself a satire) discussing the lg15 phenomenon</li> <li>• CorytheRaven’s video reacted to mwesch’s video reaction to jutecht’s video entitled <i>Web 2.0</i>, which was a reaction to an O’Reilly conference title</li> </ul>	LG15 fandom was itself an MSE with a phase 1 in which it was pure fun to speculate about solutions to her puzzles, and a phase 2 in which LG turned out to be a construct with “commercial potential”.  Video dialogues on YouTube as a whole, regarded as a larger MSE, transitioned from phase 1 to phase 2 in February 2007: after a period of chaotic copyright-ignoring freedom, YouTube announced that it would implement organised copyright support, and removed content from the Oscar telecast. The video-sharing party may move elsewhere.
(your own MSE here)			

## 6. PATTERNS IN THE CHART AND QUESTIONS FOR FUTURE WORK

As noted in Table 1, looking specifically at intellectual property, the selected MSEs can be seen to have phases that could be characterised from within as “before we began thinking about IP” and “after we began thinking about IP”. However, some MSEs do not follow this pattern neatly, and these variations are likely worth studying and learning from. Which comes first, the organisation or the IP? Does IP  $\Rightarrow$  party (“not-IP means there’s a party”) and IP  $\Rightarrow$  organization? In other words, is a locally weakened conception of IP is a *requirement* for a healthy MSE or only a side effect. As far as the listed MSEs are concerned, I am not comfortable saying that locally weakened IP is more than a side effect. The explanation may be simple: whether one is immersed or engaged or both, substantive absorption precludes paying attention to IP.

Use of creative commons licenses, either from the beginning or in the second and more organisationally-oriented phase of an MSE, can in theory preserve a collaborative party apparently indefinitely, but they do require thought and effort up front (or as soon as artefacts are created), and it would be good to see more examples of their use in practice. On the other hand, in MSEs where IP issues have been ignored, problems typically become clearly apparent during the second phase, when material created within the MSE travels outside the MSE (or even changes context within it).

One possible answer to these questions can be found in arguments put forward by Lewis Hyde’s 1979 study *The Gift: Imagination and The Erotic Life of Property* [18], referenced by Lethem in [13]. Without attempting to do justice to Hyde’s complex discussion of gift exchange, he suggests that the fun goes out of collaborative parties because the psychic or actual “gifts” run out or become scarce (usually by being withdrawn or hoarded). Hyde’s description sounds like many other reports of good parties: “Gift exchange is an erotic commerce, joining self and other...in it we are sensible of, and participate in, the underlying unity of things.”[19]

Hyde’s work discusses all forms of art and games (not just the textually focused ones that I have focused on here), and describes precisely how a party can be ruined. Application of Hyde’s ideas suggests that the transition from phase 1 to phase 2 is caused not by the introduction of copyright *per se*, but by the assertion of ownership over the creative energy and or products of the group, in such a way that they are drawn out/away, hoarded, used for private profit, and so on. In my initial survey I had been misled by the way copyright concerns (and even battles) frequently surface during the transition from phase 1 to phase 2. Hyde might argue that such concerns are not the trigger for the transition, but only the signs of attempts to exclusively own the group’s work or play, and that it is these attempts at ownership themselves which are the actual triggers for the end of the party.

The first idea for future work is therefore to research what has been done with Hyde’s ideas since 1979. Even in its original form, his argument does provide one theory of how and why creative commons licenses, which explicitly support and encourage re-use (as long as such re-use does not withdraw the “gift” from ongoing use), allow creativity and copyright to coexist and keep the party going (in Lethem’s “middle ground” [13]).

My own goal in developing this analysis of MSEs was to better understand how to throw a good party: are there

definable preconditions for transcendent collaboration, and if so, what are they?

Finally, there are several additional directions in which the edges of the term MSE could be explored. DAC 2007 included extensive engagement with bio-art [20], dramatically demonstrating that collaborations can include cell cultures. In a related question, Nick Montfort has asked, “Am I crediting my computer properly when I attribute the authorship of works that my computer helped to create?” [21] Both digital and biological entities could be collaborators to be included in this analysis.

## 7. ASSESSMENT OF THE USEFULNESS OF THE TERM ‘MSE’

To return to the goal of the paper: how helpful was the new term MSE in actual use? I appreciate the comments of the reviewers who suggested that the concept could use more rigor; the expansive quality that allows it to cover so many different kinds of collaborations also leaves it open to the charge of being so imprecise as to be not very useful.

The most interesting part of this exercise for me was found (as is often the case in hypertexts and cybertexts) in a footnote to the chart. I believe the term MSE led me to “see” a collaborative game/artwork that I had previously overlooked: specifically, the discussion in which Salon letter writers attempt to figure out whether each letter writer (LW) is “real” seems to me to be a very enjoyable collaborative game with complicated ontological overtones, and it was not a game/artwork that I was aware of when I began my list.

Yes, frequently games and art are formally announced and introduced, but at other times they simply happen. As the chart documents, early phases of these collaborations can be especially enjoyable, so there is a benefit to finding new parties in a timely manner.

Perhaps with a new broad term for collaborative art/games I will be able to recognize other such new forms more quickly, and with copyright practices that recognise the importance of keeping gifts moving through a party, it will be easier to keep a party both alive and lively.

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## REFERENCES

- [1] A strong selection of these dialogues can be enjoyed in *First Person: New Media as Story, Performance, and Game*, edited by Noah Wardrip-Fruin and Pat Harrigan, MIT Press, Cambridge and London (2004).
- [2] I prefer the term “digital media” to “new media”, for the sake of the generations now coming of age for whom digital art and games are not new but simply the water in which they swim like fish; having said that, a useful historical volume that describes digital media with copious examples is *The New Media Reader*, edited by Noah Wardrip-Fruin and Nick Montfort with introductions by Janet Murray and Lev Manovich, MIT

- Press, Cambridge and London (2003). One of the many achievements of this volume is its balancing of comprehensiveness and relevance with careful acknowledgement of traditional copyrights; see pages 799-802.
- [3] In the volume *Second Person: Role-Playing and Story in Games and Playable Media*, edited by Pat Harrigan and Noah Wardrip-Fruin, MIT Press, Cambridge and London (2007), there is less emphasis on dichotomies (as interesting as those are) and more on how multiple mechanisms work together.
- [4] For example, I have been convinced by the *CyberText Yearbooks 2000, 2001, and 2002-2003*, edited by Markku Eskelinen and Raine Koskimaa, Research Centre for Contemporary Culture, University of Jyväskylä, Jyväskylä (2000-2003) that there are 576 possible types (functional possibilities) of cybertexts, and the next time I am imprisoned in a computer lab with a group of collaborators and five kilos of dark chocolate I will propose that we try to create exactly one instance of each type.
- [5] For analysis of mechanisms, see (portions of) the preceding, and also work from scholars and practitioners, including but not limited to:
- Aarseth, Espen. *Cybertext: Perspectives on Ergodic Literature*. Johns Hopkins University Press, Baltimore, 1997; editor-in-chief, *Game Studies*, <http://www.gamestudies.org/>
- Ankersson, Ingrid and Sapnar, Megan. <http://www.poemsthatgo.com/>
- Bernstein, Mark. <http://www.eastgate.com/> and <http://www.markbernstein.org/>
- Bly, Bill. <http://www.infomonger.com/bbly/blog/>
- Breeze, Mez. <http://www.hotkey.net.au/~netwurker/>
- Cayley, John. *P=R=O=G=R=A=M=M=A=T=O=L=O=G=Y*. <http://homepage.mac.com/shadoof/net/in/> and <http://www.shadoof.net>
- Electronic Literature Organization. <http://eliterature.org/>
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- Fullerton, Tracy. <http://www.tracyfullerton.com/> and <http://www.ludica.org.uk/>
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- Montfort, Nick. <http://nickm.com/>
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- Ryan, Marie-Laure. *Narrative as Virtual Reality: Immersion and Interactivity in Literature and Electronic Media*, Johns Hopkins University Press, Baltimore, 2001.
- Strickland, Stephanie. <http://www.stephaniestrickland.com/>
- Suominen, Jaakko. <http://www.tuug.utu.fi/~jaakko/>
- Tosca, Susan Pajares. <http://www.it-c.dk/people/tosca/>
- Tronstad, Ragnhild. <http://www.media.uio.no/om-instituttet/ansatte/vit/ragnhitr.xml>
- Walker, Jill. *jill/txt* <http://jilltxt.net/>
- Wardrip-Fruin, Noah. *Expressive Processing: On Process-Intensive Literature and Digital Media* (dissertation), and other projects at <http://www.noahwf.com/>
- Wittig, Rob. *Invisible Rendezvous: Connection and Collaboration in the New Landscape of Electronic Writing*, Wesleyan University Press, Hanover and London (1994) and <http://www.robwit.net/>
- [6] Brecht Forum, *Augusto Boal, Theatre of the Oppressed*, at <http://www.brechtforum.org/IPE/boal.htm>; see also Boal, Augusto, *Theatre of the Oppressed*, translated by Charles A. and Maria-Odilia Leal McBride, Theatre Communications Group, New York (1985), and *Legislative Theatre*, translated by Adrian Jackson, Routledge, London and New York (1998).
- [7] Alford, William P. *To Steal a Book is an Elegant Offense: Intellectual Property Law in Chinese Civilization*. Stanford University Press, Stanford (1995), page 2.
- [8] Re Moral Rights, see OzNetLaw's summary at <http://www.oznetlaw.net/facts.asp?action=content&categoryid=230>; also very interesting for this discussion are:
- Charles Oppenheim's "Moral Rights and the Electronic Library" at <http://www.ariadne.ac.uk/issue4/copyright/>
- Peter Low's online dissertation "Copyright Law and the Ethics of Sampling", copyright 1996-2002, at <http://www.low-life.fsnet.co.uk/copyright/part3.htm#ethics>,
- ArtLaw's "Current Copyright Legislation: Collaborative Works" at <http://www.artquest.org.uk/artlaw/copyright/29483.htm>
- M/C Journal's "Copyright in a Collaborative Age" at <http://journal.media-culture.org.au/0605/02-charmanholloway.php>
- Tyrone McKenna's "Where Digital Music Technology and Law Collide – Contemporary Issues of Digital Sampling, Appropriation and Copyright Law" at [http://www2.warwick.ac.uk/fac/soc/law/elj/jilt/2000\\_1/mckenna/](http://www2.warwick.ac.uk/fac/soc/law/elj/jilt/2000_1/mckenna/)
- [9] Creative Commons: <http://creativecommons.org/>



- [10] Graham Charnock's comments are quoted in *The Book on the Edge of Forever* by Christopher Priest, Fantagraphics Books (1993) and online at: <http://www.novymir.com.au/terminalcafe/charnock.html>
- [11] Peter Low at from <http://www.low-life.fsnet.co.uk/copyright/part3.htm#ethics>
- [12] Urizenus Sklar, "Post Mortem: A Brief History of the SimCast Project" at [http://www.secondlifeherald.com/slh/2005/08/post\\_mortem\\_a\\_b.html](http://www.secondlifeherald.com/slh/2005/08/post_mortem_a_b.html); if you read the full article, note the way intellectual property issues that arose
- [13] Lethem, Jonathan, "The Ecstasy of Influence" in *Harper's*, February 2007, discussed by Amy Benfer in an article for Salon called "Writing in the Free World", online at [http://www.salon.com/books/feature/2007/03/25/lethem\\_interview/print.html](http://www.salon.com/books/feature/2007/03/25/lethem_interview/print.html)
- [14] Contributions are solicited for an updated version of this table at <http://www.juliannechatelain.com/>
- [15] Wikipedia history of IMDB at <http://en.wikipedia.org/wiki/Imdb>
- [16] <http://www.burningman.org/>
- [17] Jason Schultz, "Fox Lawyers C&D Buffy Fandom Musical", online at [http://lawgeek.typepad.com/lawgeek/2005/10/fox\\_lawyers\\_cd.html](http://lawgeek.typepad.com/lawgeek/2005/10/fox_lawyers_cd.html)
- [18] Hyde, Lewis. *The Gift: Imagination and the Erotic Life of Property*. Vintage paperback, 1983 (original publication date 1979).
- [19] Hyde, *op. cit.*, page 163
- [20] For a discussion of bio-art that includes arguments why it has "grown" to unusual fecundity in Perth, see Farren, Anne, and Hutchison, Andrew, "Here Be Dragons: Bio-Art Beyond The Edge of Everything" in *Switch 23*, [http://switch.sjsu.edu/mambo/switch\\_21/here\\_be\\_dragons.html](http://switch.sjsu.edu/mambo/switch_21/here_be_dragons.html)
- [21] Montfort, Nick. "The Coding and Execution of the Author", in *CyberText Yearbook 2002-2003*, edited by Markku Eskelinen and Raine Koskimaa, Research Centre for Contemporary Culture, University of Jyväskylä, Jyväskylä (2003), page 201.
- [22] Jones, Meredith: <http://mim.ims.uts.edu.au/jones.html>