STYLE AND REVENGE: THE VAGARIES OF THE ARTISTIC CLASS IN GENERATIVE AI

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AI in general and machine vision in particular have precipitated a redistribution of the sensible and the intelligible between humans and machines, and between humans themselves. Machines are increasingly skilled at interpreting visual input and, with their newly acquired capabilities, they intervene in various sectors of industry, health care, and on the battlefield. With the developments of generative AI, the production of images has accelerated and is contributing to an overwhelming visual tsunami. Further, AI technologies, the seeming new engines of accumulation, can be seen as symptoms of an age of unreason that precipitates us into a condition of stupor where our critical faculties are numbed. This diagnosis, inspired in part by Bernard Stiegler, connects technical development to the increase of a form of smartness that passes for intelligence. What is at stake in this diagnosis goes beyond the mere ability to distinguish right and wrong, truth and falsehood in the so-called age of post-truth. More importantly, according to Stiegler, what is affected is our ability to discern potential openings:

> this inversion of sign, through which reason leads to unreason, and progress to regression, is justified under the mask of reason itself, rationalization consisting in posing and in having accepted as a conclusion that 'nothing can be done,' that is, that there is no alternative.[1]

This text addresses the difficulty of discerning alternatives in the current conditions and the confusion generated by the ever more extravagant contradictions of capital. The question for aesthetics, I argue, is to devise interventions in the redistribution of the sensible and the intelligible between machines and humans. In this response to the questionnaire, I examine this question by looking into various legal controversies opposing artists and AI companies. Through the analysis of these juridical struggles, I contend that this crisis of discernment is intimately related to changing structures of ownership. From that perspective, I am asking two interrelated questions. As AI platforms redistribute creative agency between collectives of humans and machines, how do they destabilize structures of

ownership? And how does the recourse to law, authorship, and property rights enable and inhibit the collective of creators in their pursuit to resist platform extractivism?

REGULATING STYLE, BRINGING AI GENERATORS TO COURT

As Nick Srnicek argued in *Platform Capitalism*,[2] AI is the ultimate avatar in a series of attempts to exploit the remaining profit margins in a post-production world. Additionally, it is the product of neoliberal governance, a dynamic mode of intensive regulatory experimentation that actively shaped the conditions for AI development in passing laws that would support its further progress.[3] With mounting pressure from a wide range of activists, parliaments (mainly in Europe) have started to address problems of privacy and discrimination. In parallel, with new developments in text and image generation, a whole new series of legal questions have appeared and new stakeholders are making their voices heard.

Although formal legislation (writing law proposals and passing laws) has moved slowly, the actors impacted by the AI industry have been actively responding. An onslaught of litigations against generative AI systems, such as Microsoft's Copilot [4], OpenAI's Chat GPT [5], and Stable Diffusion [6], have been filed in the last two years. These cases mostly concern the ownership of the data that are necessary to train AI. These data, assembled in large collections of texts and images, are scraped from the internet without their author's consent. With these court cases, the AI industry meets an unprecedented challenge. In a world highly invested in property, it needs to legitimize the appropriation of billions of images protected by copyright. This brings forth a huge contradiction as the software industry is fundamentally structured on intellectual property. For instance, a company like Microsoft, OpenAI's $80bn investor,[7] declares 95% of its enterprise value in intangible assets such as patents and copyright.[8] On this basis, their legal challenge consists in denying others the very principle on which they build their empire.

When it comes to court cases against AI image generators, three core interlocking elements take center stage: dataset, style, and copyright. With AI image generators, users can produce images from a prompt, a more or less elaborated written description. The stylistic appearance of these artificial images can be controlled to varying degrees by including specific words in the prompt. In the world of image generation, style is an ill-defined concept. It can refer to the visual features associated with a given medium, in which case users

typically choose terms such as “watercolour” or “fashion photography,” but it very often refers to the stylistic characteristics of known artists: Van Gogh, Marie Laurencin, or Jackson Pollock are popular choices. As the keywords used to control the visual appearance of the image can also refer to living artists, creators such as Greg Rutkowski, whose name reportedly served in prompts more than 400,000 times in 2022,[9] express the fear that AI generators could simply out-compete them by producing images that could pass as theirs or by simply capitalizing on the currency of their style. This is because, through style mimicry,[10] algorithms do more than copy sought-after works, they create new images with very similar stylistic features within shorter cycles of production. Many creators see the development of this technology as an existential threat. For the users of generative AI platforms, style is conceived as a form of branding and an “immanent linking”[11] between people, representations, and visual strategies. If style can be captured algorithmically, then image generators can interfere in this immanent linking and hijack the author’s brand.

To understand the reason why AI generators are able to produce images in the style of certain authors, it is worth considering the process through which they learn to create images. Algorithmic models used in current applications are said to “learn” to make sense of images through the observation of the statistical regularities in a collection of visual samples. As scale matters for algorithmic training, these collections of images, also called datasets, comprise billions of images downloaded from the internet. As these acquired images are obtained without permission from their creators, there are accusations of unfair competition and plagiarism, along with appropriation of images without the author’s consent. Creators resent the irony of their own work being used against them. Further, they reject the division of labor imposed by image generators where what is traditionally viewed as creative work becomes raw material for algorithmic production. They reclaim the artist’s director’s seat in the process of creation.

Given this discontent, artists and photographers are engaging in boycotts and moving to the courts. Photography agencies such as Getty Images have also joined the movement, with reason to believe that courts will adjudicate in their favor. However, the claim of copyright infringement in the case of training sets has not yet been tested in court. That said, adjacent claims that have been tested recently concern the attribution of copyright on works produced

with AI. In such cases, judges have repeatedly ruled against attributing copyright to authors who used AI, even going to great lengths to establish the dividing line between human and AI contributions, as comic book artist Kristina Kashtanova recently realized.[12] Kashtanova, author of the graphic novel *Zarya of the Dawn*, made extensive use of the image generation tool Midjourney. The United States Copyright Office (USCO) only granted limited copyright protection to the novel, arguing that by using a tool as "unpredictable" as Midjourney, she did not exercise enough control over the generated images. The office concluded that there was too much distance between her intention (as formalized in her prompts) and the machine-generated output. USCO therefore granted registration for the text and the arrangement of images but excluded the images themselves from protection.[13] Artists and copyright holders seem to think that judges will go one step further. That is, now that the courts have denied claims of authorship on algorithmic outputs and thereby reaffirmed the sovereignty of the author over the creation process, artists hope judges will extend this sovereignty to the training data and hold AI generators responsible for copyright infringement.

DIVIDING LINES ALONG PROPERTY INTEREST

Legal action brings its own conceptual repertoire and the specialized framework of authors' rights. For legislators, the author is a subject who enjoys rights and can claim them over creative work. Accordingly, the complaint constructs its subjects through a specific mode of subjectivation, authorship, which functions according to parameters such as individuality and originality to qualify or disqualify subjects. Copyright implies a community based on mutual interests for those who enjoy the same property rights. This is particularly explicit in a lawsuit initiated by a trio of artists that is literally conceived as a class action, where the class is defined in the following terms:

> All persons or entities nationalized and/or domiciled in the United States that own a copyright interest in any work that was used to train any version of an AI Image Product that was offered directly and/or incorporated into another product by one or more Defendants during the Class Period.[14]

Admittedly, this description is broad enough to include every US citizen as any person who creates an image can be declared its legitimate author. However, the complaint negotiates the tension between this formal openness and the mode of subjectivity

copyright enacts, especially in the US. The class is constituted by subjects who are all recognized as owners and who are, on that basis, entitled to the same rights.

In practice, the economic rationale of this form of ownership is tightly bound to the figure of the professional artist. Here, image generators are not brought to court because they infringe on the rights of the authors *in principle* but because the economic competition with them is unfair. Returning to the above example, next to the formal definition of the class, the complaint presents the three artists who initiated the legal action. In a series of vignettes, the lawyers describe their careers, insisting on the extent of their professional networks and listing their artistic and commercial accomplishments. They become de facto the prototypes on which class membership is modeled. The complaint insists on the economic dimension of their practice and their engagement as *full-time* artists. If, in theory, the class action is open to anyone who creates images, in practice it postulates a subject defined by property interests who benefits from a commercial activity based on this property and whose time is dedicated exclusively to their artistic practice. That aspect severely restricts the access to class membership. Here, the legal attack against generators goes hand in hand with the construction and consolidation of a collective identity based on economic criteria and exclusive dedication. It seals a parity among a caste of actors rather than establishing a formal equality between image creators.

This distinction rests on a dividing line that traverses the artistic community. In his book *Dark Matter: Art and Politics in the Age of Enterprise Culture*,[15] the artist and activist Gregory Sholette postulates that the art world depends on a distinction between "real" artists and "dark matter," which he applies to the unnamed mass of cultural workers whose labor is never recognized officially. Building on an analogy with physicists' descriptions of the invisible gravitational mass of the universe, the author emphasizes the necessary relation between the existence of a glut of grey creative labor and the few elected works that are exhibited and sold in "legitimate" environments such as art institutions and galleries. Exclusion and precariousness are not the natural consequences of a process of selection but the necessary conditions that structurally define the logics of production of the art world where risks and benefits are highly unevenly distributed. For each successful artist, there is a disproportionate number of others who are dismissed as repetitive and redundant.

In Sholette's thinking, redundancy is an operative term. It refers to the surplus of creative laborers who remain invisible, treated as mere quantities, whereas the so-called bona fide artists are considered qualitatively. Redundancy also refers to the artificiality of the distinction between the elected few and the others. Sholette insists that there must be enough similarity between the recognized artists and their counterparts so that the latter can assume the various tasks that sustain the activities and status of the former. To make a living, the aspiring and failed artists constantly accomplish tasks that require a deep affinity with the works of the successful: they teach, they make guided tours, they film, they prepare canvases, they manage the production process, and they sometimes even create the objects that will be signed by the authors. Redundancy therefore indicates the high degree of imbalance and invisibility entailed in art world dynamics. At the same time, it always suggests a potential crisis as the redundants are never different enough from the bona fide artists for the distinction to remain stable; hence, redundancy can become a contested site.

Following Sholette and returning to the example of the perverse dynamic of power that informs the artist/non-artist binary underlying the lawsuit, it is now time to ask where the plaintiffs stand in their divided field. If the legal complaint positions a certain class of artists against the AI industry, it also effectively positions them in an ambiguous manner inside the art world and against other artists and (non-)artists. They simultaneously claim their role as artists against an enterprise of automation and within and against an art world that does not necessarily acknowledge them as artists. But who are these artists claiming their rights against the AI industry?

They are not the stars of the contemporary art world as defined by canonical institutions such as MoMA, Documenta, or the Venice Biennale. They are rather legitimated by cultural industries such as video games, comics, and other entertainment media. Their work connotes romantic painting, nineteenth-century pompier painting, or orientalist art and adapts these "traditions" to the constraints of game character creation or comics narrative. To the eyes of their customers of the creative industry, their style is the key factor that distinguishes them from their competitors. But their investment in craftmanship and virtuosity bound to an academic heritage of mastery as well as their unreflexive embrace of a culturally loaded visual tradition keeps them apart from the spheres of contemporary art criticism. Style is thus a marker that distinguishes them from the

mass of creative laborers of the entertainment industry and excludes them from 'bona fide' art institutions. Sought after by fans and users of the generative AI industry, their productions are simply ignored by the highbrow art world as their strengths for one audience are symmetrically considered as their weaknesses by the other.

But paradoxically, their action against AI gives them fresh visibility in a press whose coverage until now avoids them. For instance, while Karla Ortiz' work is never commented upon in the pages of *ArtNews*, her thoughts on AI generators are given ample space in that magazine in an article about the place of AI generators in the AI Bills of Rights.[16] If her work is not deemed artistically relevant for the exhibitions pages, her voice is considered representative of the artistic community in the face of the computer industry. These are the paradoxes of style as it delineates the positions of actors: *ArtNews* finds a spokesperson against automation whose art it rejects, whilst fans and generators threaten her economy for the love of her style.

THE REVENGE OF THE REDUNDANTS

These paradoxes can be explained in part by the tensions inherent in the notion of style itself. If style can function as a brand to the private benefit of an author, it is inherently collective as Jan Bäcklund explains in his meditation on *The Paradox of Style as a Concept of Art*.[17] Style implies redundancy to be recognized and needs copying to affirm its difference. Style is, in Bäcklund's terms, a form of algorithm, a recipe for making similar-looking images. If image generators can produce images that respond to the prompt "in the style of Karla Ortiz," it is because their training set contains images produced by the artist. It is also because images produced by other people employing similar effects and visual strategies are included in the training set. In the training process, the stylistic features that respond to the words "Karla Ortiz" are extracted from a constellation of images exceeding the limited set of those created by the author herself. The process of image generation takes advantage of the redundancy of the art world. A name doesn't gain brand value because it is associated with a unique visual signature; rather, it gains brand value because it is repetitive and because others produce similar albeit slightly different images. Both the repetitive dimension of the images produced by the author and those who produce similar images are necessary to reach the amount of repetition needed for the algorithm to statistically generate a style. Style mimicry, in AI image generation, is the revenge of those who are deemed redundant.

With this in mind, the argument of appropriation at the core of the lawsuit requires scrutiny. Clearly the datasets used by Stable Diffusion have been produced with little interest in negotiating the terms under which this process is carried out. Stable Diffusion's approach is undeniably extractivist in that it reflects a larger mode of exploitation of global capitalism. But, if we look at the complaint from the perspective suggested by Sholette, what about the artists themselves? If the difference between the plaintiffs' work and the dark matter they draw from relies on a division obtained through symbolic violence, why ask the AI system to reproduce it? If there is indeed a problem with the extractivist approach of Stable Diffusion, why should the solution necessarily imply redrawing the border between art and its dark matter? If we formulate the question this way, the complexity of the social dynamics of Stable Diffusion becomes more apparent. We begin to see how the dividing line drawn by the anti-AI discourse,[18] which separates artists and image generators, is in fact dividing artists too. For amateurs, graphic designers, fanzine producers, "failed" artists, and tinkerers of all stripes who form the glut of the dark matter, image generators offer a means of creation, distribution, and collaboration as the whole ecology of platforms, hacks, tutorials, forums, and communities testify.[19] It even extends this category of actors by lowering the barrier of entry and inviting people lacking the "relevant" skills of image creation. Interestingly, as Jacques Rancière noted in his discussion of the distribution of the sensible, there is always something worth observing when means of engaging in creative production arrive in the hands of those who do not have the time, whose bodies are busy doing something else, who are supposed to be somewhere else.[20] From that perspective, image generation could add an important component to an alternative infrastructure meant to bypass the art scene and its controlled access and provide to those whose work is not recognized by it a means of sharing and distribution independent from the legitimated structures. In this sense, AI generators belong to an uneven and contradictory set of technologies—encompassing blockchain, NFTs, and DAOs[21]—where the promises of emancipatory forms of organization and display of creative work are confusingly interrelated with heavily speculative forms of capital production.[22]

Therefore, the redistribution of the sensible that accompanies the cumulative disruptions caused by the introduction of new technologies of vision and image production implies reflecting on the dividing lines that separate humans and machines as well as those

who separate artists and their redundant shadows. As machines are increasingly able to capture how visual patterns propagate across all visual production, they undermine the idea of the work as a discrete and bounded entity. Further, and this is probably more crucial, they build on their ability to capture statistically these formal relations in order to operationalize image production at scale. In doing so, they raise the question of the distribution of labor between the stars and their dark matter. This is why the change in the ontology of images from end product to training data is inseparable from a reassessment of the foundations of authorship.

The question of ownership needs to be addressed afresh and in doing so we must avoid two reductions. One is the temptation to reduce the image to a privative object. This is the default setting in the law: an individual, the author, creates a discrete work solidified in a tangible form (as opposed to an idea) for which they receive protection. The other is to dismiss outright any collective attachment to an image. In this opposite view, an image is just data and up for grabs by anyone who can appropriate it. In both cases, different as they may be, there is a repression of the communal ground of every creation. Images belong exclusively to someone or to no-one, their collective entanglements are overlooked. Considering this collective entanglement is an urgent task for aesthetics if it wants to respond to the crisis wrought upon us by the development of AI.

To return to Stiegler's diagnosis with which I opened this essay, the hardest problem brought by the recent waves of accumulation and extraction epitomized by AI is more than an issue of discernment between real and fake news, synthetic and indexical images. It is one of discernment of alternatives. The redistribution of the sensible between humans and machines inflects and reflects the structures of ownership and the unequal division of labor between all parties involved in creative production. The epistemic crisis that underlies the condition of stupor we are in is intimately related to our difficulty to name and analyze the social dynamics of accumulation it feeds off, troubles, and exacerbates at the same time. The legal controversies over generative AI make this confusion palpable as their implications infiltrate the cracks and crevices of the art world's antagonisms.

At this stage, we are faced with an imbroglio. If the plaintiffs are heard and this complaint (or another one of the barrage of lawsuits currently pending) succeeds, a heavily extractivist project can be

stopped and it will send an important signal to an industry that hasn't yet been confronted with many obstacles. At the same time, however, such a verdict will strengthen the distinction between Art (with a capital a) and dark matter in the jurisprudence. It will also deprive a large set of actors of a means to co-create and will lower their "autonomy" or at least the chances of constituting a collective and distributed form of organization. On the other hand, if the complaint fails, it will send the signal that everything published on the internet is up for grabs. Whatever the outcome, the development of a fruitful ecology between those who generate images with and without AI and their relation to the training systems won't be easier. But what is important to note here is that the development of an infrastructure for sharing and creating that operates outside of galleries, museums, and the entertainment industry is targeted by proxy. Beyond high-tech entrepreneurs, the plaintiffs also attack the "autonomization" of the creative dark matter whose disciplining ensures a stabilization of a universe of individual and sovereign authorship.

CODA

As the AI industry enters the terrain of content generation and opens a new market, it faces the challenge of subverting the very right on which its principle of accumulation of value rests: intellectual property. Whilst I have addressed the problems of legal mediation in this essay, I want to resist a too coarse conclusion that would rule out any attempt to use legal remedies. In the same vein, after having shown that adopting a definition of the artist's role through professionalism creates a dividing line that reinstates the asymmetries of the artistic community, I don't want to exclude any recourse to a definition of art or the status of the artist in response to the current wave of appropriation. In accordance with Wendy Brown, my take in response to the journal's questionnaire is not to condemn the use of legal means but to refuse it "any predetermined place in an emancipatory politics and to insist instead on the importance of incessantly querying that place."[23] The nexus of artistic identity, its interpretation in court, the leverage of copyright law, and the current stage of AI development that requires a redefinition of ownership are begging for strategies that are reflexive about the subjectivities enacted at the intersection of technology, art, and law. It is a huge challenge, and this essay tried to identify some of the obstacles that prevent thinking about the course of action.

I have argued that we have to contest the terms of the opposition that the court case and its accompanying discourse have set. The crude

opposition "Artists against AI" offers a false alternative. To frame the possibilities of an intervention, we need to look into what the temporary subversion of the notion of authorship allows, how it redefines the terms in which the oppositions and tensions in the field of art can be thought. As it stands in court and in a widely spread discourse, an opposition that seeks protection for a caste defined by its exceptional character risks becoming a regulatory move against the creative inclinations of the cultural glut more than a struggle against automation. It can become a form of bargain for a special interest group who might end up negotiating a share of the revenue rather than an occasion to fundamentally and critically engage in the practices of appropriation of AI. If the current parameters of the struggle opposing full-time artists and image generators do not include a rethinking of the relation of the asymmetries of the art world, it will end up as a corporatist version of art's autonomy.

To reframe the problem entails coming to terms with the irreducible ground on which artists define themselves and the law acknowledges them. In addition, it implies a shift of perspective from a discourse of aesthetics that seeks answers to the burning questions of the day only in the avant-garde or the contemporary artistic practices exhibited in canonical institutions. It is precisely that which disqualifies Sarah Andersen, Karla Ortiz, and Kelly McKernan from the world of *October* and *Art News* that simultaneously makes them a perfect fit for judges and lawyers whose categories of authorship and art objects remain faithful to conventional schemes. The conservative definition of art that these artists embody perfectly matches the legal subject and its property interest that the juridical tradition has preserved over the years. A critical perspective on the redistribution of the sensible ushered in by technology needs to account for the persistence and reinforcement of these residual formations. The perceived anachronism of the plaintiffs is exactly what makes them timely and operational against the development of AI. If there is any perspective of transformation on the horizon of the controversies, it will imply a politics of the residual.

To be sure, this leaves us within a rigid frame where the contours of the artist's identity seem to tightly conform to the legal template of ownership. But the recent experiences of cultural movements have shown that the legal frame could present some room for maneuver and intervention. The strategies adopted in the 1990s by free software activists and their subsequent translations in the cultural field, such as Creative Commons or the Free Art License, have

revealed that copyright law could be turned upon itself,[24] which could enhance open forms of creative collaboration.[25] If these strategies suffered from real shortcomings,[26] they nevertheless demonstrated that legal mediation was a domain where tactical intervention was possible. It is also important to remember that the particular mode of subjectivation of the artist persona is not irremediably bound to corporative isolation. As Maurizio Lazzarato's discussion of the *Intermittents du spectacle* in France emphasized, exceptionalism as a mode of collective agency can be challenged by artists themselves. The reform of the status of "intermittent," which gave access to unemployment insurance to cultural workers, was creating "a rupture between those artists and technicians who are becoming the 'human capital' necessary to the cultural industries, and those who are destined to fall into precarity, poverty and a struggle for survival."[27] In contesting the reform, the intermittents not only fought for more solidarity between the creative human capital and its "redundant" counterpart but also extended the movement to other struggles for social justice and economic fairness. This struggle should act as a reminder that there are alternative ways (although examples are scarce) to mobilize the artist status than reasserting its exceptional character.[28]

1 Bernard Stiegler, "Doing and Saying Stupid Things in the Twentieth Century: Bêtise and Animality in Deleuze and Derrida," trans. Daniel Ross, *Angelaki* 18, no. 1 (2013): 160–61, https://doi.org/10.1080/096972 5X.2013.783436.

2 Nick Srnicek, *Platform Capitalism* (Malden, MA: Polity, 2018).

3 Niels van Doorn, "The Parameters of Platform Capitalism," *Krisis: Journal for Contemporary Philosophy* 1 (2018): 103–7, https://archive.krisis.eu/ the-parameters-of-platform-capitalism/.

4 Doe 3 et al. v. GitHub, Inc. et al., No. 4:2022cv07074 (US District Court for the Northern District of California 11 October 2023), https://dockets.justia.com/docket/ california/candce/4:2022cv07074/403693.

5 Tremblay et al v. OPENAI, INC. et al, No. 3:2023cv03223 (US District Court for the Northern District of California June 28, 2023).

6 Andersen et al v. Stability AI Ltd. et al, No. 3:2023cv00201 (US District Court for the Northern District of California 2023).

7 Staff and agencies, "Microsoft-Backed OpenAI Valued at $80bn after Company Completes Deal," *The Guardian*, February 17, 2024, https://www.theguardian.com/ technology/2024/feb/16/ microsoft-openai-valuation-artificial-intelligence.

8 Sandjar Muminov, "Global Intellectual Property Value Reached $57.3 Trillion, but 75% of the World's Intangible Assets Are Still Missing from Balance Sheets," *LinkedIn*, 2018, https://www.linkedin.com/pulse/ global-intellectual-property-value-reached-573-trillion-muminov.

9 Clare Hutchinson and Phil John, "AI: Digital Artist's Work Copied More Times than Picasso," *BBC News*, July 20, 2023, https://www.bbc.com/news/uk-wales-66099850.

10 Shawn Shan et al., "Glaze: Protecting Artists from Style Mimicry by Text-to-Image Models," in *Proceedings of the 32nd USENIX Conference on Security Symposium*, SEC '23 (USA: USENIX Association, 2023).

11 See Jan Bäcklund, "The Paradox of Style as a Concept of Art," in *The Aesthetics and Ethics of Copying* (Copenhagen: The Royal Danish Academy of Fine Arts, 2016), 211–23.

12 MMM LLP, "Unraveling the 'Zarya of the Dawn' Decision: US Copyright Office Sets a New Precedent," *Morris, Manning, & Martin, LLP*, May 10, 2023, https://www.mmmlaw.com/news-resources/ unraveling-the-zarya-of-the-dawn-decision-us-copyright-office-sets-a-new-precedent/.

13 Tony Analla and Anirudh Jonnavithula, "Zarya of the Dawn: How AI Is Changing the Landscape of Copyright Protection," *Jolt Digest*, June 3, 2023, https://jolt.law. harvard.edu/digest/ zarya-of-the-dawn-how-ai-is-changing-the-landscape-of-copyright-protection.

14 Andersen et al v. Stability AI Ltd. et al at 9.

15 Gregory Sholette, *Dark Matter: Art and Politics in the Age of Enterprise Culture*, *Dark Matter: Art and Politics in the Age of Enterprise Culture* (London; Pluto Press, 2011).

16 Shanti Escalante-De Mattei, "Policymakers in D.C. Don't Appear to Be Focused on Artists' Artificial Intelligence Concerns," *ArtNews*, 2023, https://www.artnews.com/ art-news/news/ ai-white-house-artists-automation-karla-ortiz-1234655354/.

17 Bäcklund, "The Paradox of Style as a Concept of Art."

18 Karla Ortiz, "Why AI Models Are Not Inspired like Humans and," *KOrtiz Blog*, December 7, 2022, https:// www.kortizblog.com/blog/why-ai-models-are-not-inspired-like-humans; Melissa Heikkilä, "This Artist Is Dominating AI-Generated Art. And He's Not Happy about It," *MIT Technology Review*, September 16, 2022, https://www.technologyreview.com/2022/09/16/ 1059598/this-artist-is-dominating-ai-generated-art-and-hes-not-happy-about-it/.

19 It is interesting to observe the role of people who identify themselves as artists either contribute to the development of generative AI or consider that their use of generative AI is artistic. Artist Katherine Crowson for instance whose work has been crucial for the architectural design of AI image generation is involved in the development of Midjourney, part of the engineering team and large communities of users are involved in the art of prompt writing and create their own groups to discuss their creations.

20 Jacques Rancière, *Le Partage Du Sensible, Esthétique et Politique* (Paris, France: La Fabrique, 2000), 68.

21 Blockchain is a shared, immutable ledger that facilitates the process of recording transactions and tracking assets in a business network, see IBM, "What Is Blockchain?" *IBM*, accessed April 19, 2024, https:// www.ibm.com/topics/blockchain. NFT stands for non-fungible tokens, an entry in a blockchain that represents ownership of an asset. Decentralized Autonomous Organizations (DAOs) are blockchain-based communities that are designed to operate without centralized leadership. See Chainalysis, "Introduction to Decentralized Autonomous Organizations (DAOs)," *Chainalysis* (blog), July 4, 2023, https://www.chainalysis. com/blog/ introduction-to-decentralized-autonomous-organizations-daos/.

22 Felix Stalder, "Digital Objects and Radical Imagination," *Nero*, 2022, https://www.neroeditions.com/ from-commons-to-nfts/.

23 Wendy Brown, *States of Injury: Power and Freedom in Late Modernity* (Princeton University Press, 2020), 131.

24 Cornelia Sollfrank, "Performing the Paradoxes of Intellectual Property: A Practice-Led Investigation into the Increasingly Conflicting Relationship between Copyright and Art." (PhD diss., University of Dundee, 2012), https://discovery.dundee.ac.uk/en/student Theses/performing-the-paradoxes-of-intellectual-property.

25 Susha Niederberger, Cornelia Sollfrank, and Felix Stalder eds., *Aesthetics of the Commons* (Zurich: Diaphanes, 2021).

26 Séverine Dusollier, "The Master's Tools v/ the Master's House: Creative Commons v. Copyright," *The Columbia Journal of Law & the Arts* 29 (2006): 271–93.

27 Maurizio Lazzarato, “Construction of Cultural Labour Market,” *Eipcp*, November 2006, https://eipcp.net/policies/cci/lazzarato/en.html.

28 Maurizio Lazzarato, *Signs and Machines: Capitalism and the Production of Subjectivity* (Los Angeles, CA: Semiotexte, 2014).