

The critical delusion of the condition of digitisation

or the prosecution of sharing and seduction

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Abstract.

This essay discusses how digital media prosthetics, institutionalisation (in particular the manifestations of copyright and patent law which lurk behind vested interests in controlling the transition to a vastly more powerful new world), and the imperatives of corporate planning have come into a conflict so fierce that shared lived experience, increasingly, is forced to undergo a rapid process of commodification. This struggle, which can no longer be defined through the lens of geography or class alone, in turn, points to a not too distant future in which commons-based peer production is exploited within the context of intense social taylorism and digital fordism with the ultimate goal to turn culture into a paid-for experience, thus moving the terrain of struggle away from the surplus value of labour to the legitimacy of knowledge sharing and pervasive networking, and how the latter can be monetised and controlled in accordance with capitalist agendas. Obviously, the question which we ought to pose to ourselves is how the revolutionary demands of hacking can be guided, assembled and reproduced so that this process of commodification is consciously resisted by technology developers and users alike, artists, and all those whose creativity and desire for socially conscious technological innovation and emergent social co-operation have been enhanced by the digital condition we are increasingly in the midst of.

Digital condition, the. [def]

Copy and paste. Peer-to-peer. Free Software. Open Source. Questioning and re-drawing the boundaries of the real and the authentic. Promethean extension of global consciousness. Redefinition of communication, community, group dynamics, class consciousness. Capacity to tear down the consumption – production dichotomy, replacing it with plastic affluence and endogenous social relations premised on community involvement. Where societism can be decoupled from its economic facet. Arbitrary claim of the industrial-cultural complex; apotheosis of The Spectacle, of the Image, of the Sign, of Representation, of the Avatar, of the Automaton, of Narcisus. Embodiment of the revolutionary force of the reversal of perspective, ultimate justification of the radical subjectivity of those opposing property and law. Where pre-history is - presumably but wrongly - thought to give way to history. Where sterile hope is boycotted but also reproduced. Copy and paste.

We have entered a new world of struggles. Struggles that, whilst had been epidermically experienced by the generations before ours, are now coming into full force, threatening to imprison a world of radical opportunities. Our struggle is not about higher wages, though a good many people – myself included - would argue that the working masses are still deprived from a decent wage. Yet, this is a task I shall leave to others to discuss. The conflict I shall focus on derives from the interplay between digital media prosthetics, institutionalisation, and the imperatives of corporate planning.

This conflict is omnipresent. For the sake of brevity, I shall refer to only a few of the most blatant cases that have been brought to my attention. The first case is concerned with the forces at work in the realm of P2P distribution. P2P is, of course, a digital prosthetic to ourselves, or an extension to ourselves if you prefer, because it allows us to do things that before the advent of P2P were not possible: share our *files* as many times as we want, at no (or negligible) cost, without decreasing the value of our files. This new possibility has prompted many of us to reconceptualise and re-invent our attitude towards sharing and property, at least insofar as digital property is concerned. And this extension of ourselves has, beyond the shadow of a doubt, revolutionised the music industry. How do the industry and the entrenched players respond to this change? Have they embraced it? Or have they set themselves to destroying it? Suffice to say that the Recording Industry's Association of America (RIAA) and the Motion Picture Association of America (MPAA), who have consolidated the rights of most music and movie authors, are lobbying the US government and the EU to pass legislation according to which the free, uninhibited distribution of cultural artefacts will be illegal, thus criminalising the use of P2P networks and marginalising its users, effectively forcing such networks, and the socio-cultural arrangements that stem from their use, into the computer underground. Specifically, let us recall that Niklas Zennström, the CEO of Skype, – a major player in the rapidly expanding and highly competitive Voice-over-IP (VoIP) telephony business arena - is not allowed to set foot upon US soil.[1] Why would the US, with its long history of encouraging and rewarding new capitalist innovations, prevent the CEO of such an innovative and profit-making enterprise from entering its premises? The answer lies in the fact that Niklas Zennström is also the developer of Kazaa – one of the P2P networks that further led the 'napsterisation' of the music industry. Or, alternatively, remember that the developer of the *Winnie* P2P technology – has been put behind bars in Japan.[2] Or, furthermore, remember, for just one fleeting moment, all those unfortunate users of P2P networks whose files have been seized by the police, and such cases are not rare to encounter in the US. As a result, many have been imprisoned or have been forced to pay extortionate amounts of money to those mad dogs who call themselves

representatives of the rights of cultural producers because some mp3s were found in the formers' hard drives.[3] And they call this practice 'outcourt settlement'. What has been settled (in oblivion), would I ask, except perhaps for this long-lost notion of the right to freely disseminate cultural heritage and memory? Or the right to democratise culture?

As every user of P2P file-sharing networks has learnt the hard way, mainstream P2P networks like eMule and eDonkey are swarmed by spies [spyware], ice, and all kinds of crap that is designed to cause all kinds of shite to one's computer. Although I can't prove it, I strongly believe those malicious lines of code originate in the offices of the old world, written by clean-cut professional programmers, rather than being the late night endeavour of a disgruntled juvenile delinquent, as so many ignorant people fantasise. The people who write these exploits are the people we greet on the streets, who we work with, the people whose salary radiates a certain professional status well above that of the much romanticised figure of the volunteering saboteur. Why do they do it? Well, some companies cash in on anti-virus programs: they employ programmers to write software that detects and neutralises viruses, but to draw the market's attention to their offerings they also develop the viruses themselves that will, in turn, create market demand for their products. As J.K. Galbraith pointed out in *The New Industrial State*, the myth of consumer sovereignty that has been endlessly perpetuated by neoclassical economists is premised on the fallacy that production commences with the realisation of a need by the consumer, which is then communicated to companies in the form of market demand. Despite its understandable attractiveness to economists, the idea that the consumer is sovereign and that demand for a commodity is enacted by the consumer is empty rhetoric, with no applicability to the contemporary world of commerce. Demand as well as supply are things deemed far too important to be left up to consumers to tinker with. The companies who supply anti-virus products and services are, to a large extent, the same entities that create the demand for those products. The situation with viruses being hidden in all kinds of otherwise harmless formats, such as .jpg, is close to ludicrous.[4] Not that long ago, a trojan horse masqueraded as an .mp3, that when played with Winamp ushered chaos, terrorised a good many user of P2P networks.[5] One way or

another, companies capitalising on cultural production have declared war on P2P: in P2P networks war is rampant.

And patents. A discussion that is better not to ignite, as Reto Bachmann-Gmuer told me once, for the unintended consequences (such as reducing the motivation of developers to cut their teeth on anything technological) that the sudden awareness of the irrationality of the patent system could trigger, much like a boomerang. Yet, while I much understand and share Reto's view, I also find it important to briefly refer to the patent system as it is a perfect illustration of the hell that has broken loose. Indicatively, *IBM has a patent on how to employ and retain FS/OSS developers*, which means that in an insane world anyone who has ever written a single line of HTML would have to get IBM's permission to work at any company other than IBM. [6] In a similar vein, *Amazon has a patent on 'I-click'* [7], *BT has a patent on hypertext* [8], and a good many company is being sued for infringing on a patent on “A Method and Apparatus for Spherical Planning”, filled in 1988. [9]. The list is dramatically long and keeps getting longer by the day. But whether one looks at patents and wonders if the collapse(?) of the patent system will herald the collapse of the entire property rights system, as Johan Söderberg very convincingly argues [10], or one sees the evolution of the patent system as a metastasis counterproductive to the motors of capitalism, and, thus, as a parasite that ought to be rehabilitated and reformed, one thing remains the same nonetheless: the patent system, as it stands right now, is simultaneously decadent and all-encompassing, having stretched in scope and logic (or irrationality) beyond the threshold of intelligibility.

The entire spectrum of mechanisms devised by the ones in power to control and criminalise the free sharing of culture, such as the perpetual character of copyright law, or the imminent expansion of the patent space in the EU in line with the US and Japan, is what I refer to as mounting institutionalisation – which is the second thread that links my argument together (*the core of the argument, essentially, is that the whole of culture is in the process of being commodified, and that this process should be resisted. This course of events may not seem like the worst thing in the world to some people, but beware:*

“What happens to ideas, that while important, may not be commercially attractive? Is there any room left for noncommercial views in a civilisation where people rely on the commercial sphere for ideas by which to live their lives?”.[11] Many before us have glimpsed this conflict, and pondered the thought of what it means. Cornelius Castoriadis had warned us against the collapse of *The Real and the Authentic*, which is the loss of meaning and relevance in a society which allows irrelevant mechanisms and insane institutions to restrict and control the flow of positive subjectivity.[12] Copyright law is again a perfect example to illustrate this tension. Whereas its *raison d’etre* has been (or, should have been) rendered obsolete by the pragmatics of digitisation (and hence of P2P distribution), its effect is nonetheless very real in terms of its actual impact upon society, ie. *locking people in prison, and indoctrinating consumer society to regard sharing of files via P2P networks as an activity that correctly should be criminalised*.[13] It should be mentioned that when this mounting institutionalisation is examined through the prism of the economic interpretation of history, it leads to interesting conclusions. In *Capitalism, Socialism, and Democracy*, Joseph Schumpeter, an ardent supporter of the economic interpretation of history, argues that capitalism, as a social system, constantly enlarges the space within which rational decision-making applies, and it is this characteristic-dynamic which will eventually replace the innovator - entrepreneur with institutions that will carry out the functions previously carried out by the innovator – entrepreneur, including that of social leadership. This process of institutionalisation, for Schumpeter, marks the beginning of the end of capitalism. However, is the mere possibility of this theory coming true an anesthetic relaxing enough for us to sit back and watch in apathy to see what will capitalism be replaced by? Under no circumstances would I advocate such a disengaged position. Besides, as Schumpeter himself is quick to point out, static capitalism is an oxymoron. Capitalism is continuous change occurring through time, and thus not only never *is* but never could be in a state of delirious equilibrium.[14] Sure enough, the organisation of the society and the economy has changed in the past and it keeps changing, but why would we have to interpret that as a pointer, or worse as a sign of a forthcoming socialist utopia in the making, where nothing is scarce and anything can be replicated infinitely at the whims of a nanotek-powered

multitude? The end of history has been announced quite a few times over the past years, but this means hardly anything: the future is malleable – nothing is certain, yet anything is possible. Nevertheless, there are choices: the act of using, developing or extending a technology, may that be a mobile phone, the Internet, or a bicycle, constitutes a conscious or unconscious choice over the path our societies will progress or regress upon.[15] It is not hard to imagine the arrival of the day when (neo)luddite reactions to technology at large will become more common and more effectively organised, challenging the logic of capital-induced teknolust and obscuring the capitalist development of telematic technologies.[16] It is precisely this choice, scattered around the full fabric of media, that radicalises technology users. By choosing not to use a 3G mobile phone, one chooses – explicitly - to conceal his geographical whereabouts from the constant surveillance offered by GPS. Choosing not to jack-into cyberspace expresses the refusal to acknowledge that a human being may be(come) indistinguishable from a screen. Choosing to destroy a CCTV, a computer network, a DNA databank, or the digitised archives of the global financial services complex translates into a concrete political project, if done consciously. In much the same way that 19th century luddites used their sledgehammers to demolish a specific machinic technological sphere, and the relations of production, that the latter was reckoned to set in motion[17], we're now witnessing the rebirth of luddism, whose political project can be summarised as follows: *start using technology – stop being used by technology*. Said otherwise: *Use technology the way you want to use it - Stop using technology the way those manufacturing and selling it would like you to use it*. It is here worth recalling the words of a black worker to his white boss: “When we first saw your trucks and planes we thought that you were gods. Then, after a few years we learned how to drive your trucks, as we shall soon learn how to fly your planes, and we understood that what interested you most was manufacturing trucks and planes and making money. For our part, what we are interested in is using them. Now, you are just our metal-workers”.[18] The emancipatory force of the reversal of perspective is upon us. Now it's time we put it to use before it all fades away into spectacular success stories of ingenious hacker-entrepreneurs and nonsensical information societies.

The criminalisation of P2P is not merely an attack aimed at technology. Rather, it is geared toward abolishing a whole set of socio-cultural arrangements that have sprung to life due to the advances in technology. Users of P2P networks are not only sharing their files – increasingly, they also indulge in a sharing of their individual cyber-facade, which consists of the assemblage of digital artefacts they have been storing in their hard drives, which, in turn, through the cross-fertilisation of diverse tastes and socio-political extensions casts a radical shadow upon hacking as sharing (and vice versa). Users of file sharing networks also cement relationships, which, in effect, give rise to online communities of interest, formed outside the reach of corporate-fed pseudo-cultural priesthoods. Doc Searls nails it when he says that Napster and similarly functioning software are “the market's correction for the failure of mainstream radio not just to adapt to the Net, but even to fulfill the missions it established for itself over the decades”.^[19] In P2P networks, production and consumption overlap: those networks of shared meaning exemplify that people want to redefine music and cultural consumption as an essentially peer-activity. And by doing so, they deliver a strong blow to the consumer society. However, informational – cognitive capitalism seems well equipped to absorb this shock and reinvent it as crucial input. Although users of P2P networks cannot be classified as waged labour, their contribution to cultural production goes nonetheless appropriated by organisations operating on a proprietary business logic. It was imagined that the hierarchical organisation of society could only sustain itself to the extent that consumption and production were divided and fragmented in specialised activities, so that society could be equally divided along the lines of the ones who produce (a specific something) and the ones who consume (a specific something). However, as Johan Söderberg argues, the fact that production and consumption do overlap does not mean that the networks where this socio-economic relation finds fertile ground to grow are not amenable to capitalist appropriation.^[20] As it is made evident in the sphere of Free Software/Open Source Software (FS/OSS) development (which serves as another succinct example of the convergence between production and consumption as the producers of FS/OSS are, in most part, the users of FS/OSS too) the contribution of

volunteer labour is fundamental to the new face of commerce. Only by incorporating the unpaid-for contributions of volunteers into their core operating processes could profit-driven organisations meet the demands forced upon them by a global consumer market addicted to ever faster upgrades, improvements, and (supposedly) massively customised services and products.

In more abstract terms, law, apart from being the quintessential institutionalised mechanism, is always, with no exception, a reflection of the prevalent stand toward ethics that a given society in a given time and space has adopted. Law and ethics are just different forms of the same thing. The latter is encoded in everyday social practices and gestures, whereas the former is encoded in juridical practices and legally-binding artefacts. Said otherwise, a citizen should abide to the law because the law itself simulates the views of society on what ought to be permitted and what ought not. On these premises, the moment law and ethics collide is when irrationality kicks in, operationalising and establishing the institution of the imaginary. And this is the situation we are confronted with today: on the one hand, we have developed a new ethics as we have grown accustomed to the continuous sharing of digital cultural artefacts, clumsily developing a novel reconceptualisation of the public sphere, according to which culture is freed from old-world constraints, and, on the other hand, law still struggles to enforce the old ethics, removed from the emerging form of social consciousness.

Where does this all leave us now? And what does it really mean? How is culture subjugated under transcendent capitalism? Is it because mounting institutionalisation, manifested in legal devices such as the perpetual character of copyright law and the expansion of the patent system, threatens to enchain innovative forces, and ultimately create a world in which the freedom to own what you think is being taken away by the ones who pay your salary on the pretext of harnessing corporate-owned intellectual property? Or is it because unscrupulous corporations have resorted to underhand games, such as developing and unleashing into P2P networks Trojan horses that are detrimental to our computers, and rethinking their proprietary operating logic so that even unwaged

labour, including that of volunteers, is essentially a hot property to be defended against the very same people who have contributed it in the first place...? Yes, this is where we stand now. And this is the world we live in. Fact of the matter is cyberspace exacerbates this conflict, allowing us a glimpse into the brave new world. In *The Age of Access*, which, in my opinion, remains the most apocalyptic expose of that shift toward a fully commodified civic space and realm of ideas, Jeremy Rifkin postulates that the transition to this dystopia has been well underway for many years. By reading between the lines, from the rise of commercial-interest developments (CID) as the housing model of choice for increasingly more people in the Western world, so-called one-to-one marketer-customer relationships, the restructuring of business as play and the redesign of work as a performing act to the *hollywoodisation* of network production and the displacement of the public agora by the shopping mall, what we witness is the contraction of any room that might have been once left unexploited by commodification. Increasingly, all aspects of private and social life are being subsumed under commercial agendas. What we think when we work is the property of those who employ us. Even play, once seen as dialectically antithetical to work and productivity, now defines the essence of both consumption and production. Writes Marcuse: “The play is non-productive and useless exactly because it abolishes the repressive and exploitative elements of work and idleness”.[21] The dialectic of play - work that Marcuse portrayed has been turned on its head by the penetrating logic of late capitalism to apprehend all kinds of business as show business, as Tom Peters is oft-quoted for exclaiming during his highly-regarded management development training courses for senior corporate executives. And increasingly more corporations wake up to the potential of grasping the productive element of play and incorporating it into their organisational model. Kodak, in Rochester, New York, for example, has a room packed with all sorts of toys for its employees to fuck around with during long days at the office.[22] In line with Kodak, other mega-corps run spaces and environments, like gyms, video gaming saloons, and recreation areas inside their premises so that the working day extends to as much of the day as is humanly possible. Then again, from where I now stand, I'd easily fall for such a pleasant work environment. I am a sucker for video games. [It should be mentioned though that its

dialectical antithesis, those long lines and mazes of cubicles and desks where people hunkered down on their chairs are doing the phones and providing 'precious' customer support at call centres while being constantly watched by a camera facing them, still abounds if one cares to look around, in much the same countries that play is reconceptualised as crucial input, such as England].

But all this aside, it is a fact that the once anti-productive and anti-business elements of play have eclipsed altogether. In the context of our discussion, and having as our aim to show how cyberspace accelerates the tendency toward the complete commodification of culture, let us recall what ensued in the virtual universe of *Dark Age of Camelot* when Warsinger - one of the players - passed away (physically). They [the other players organised in tribes and clans] called it a day and organised a funeral to honour the apparently well-liked player. They stood in the shape of a heart, with the dead bloke's girlfriend and his sister located in the centre of the heart. The game, which hundreds of people play over the Internet on a daily basis – and not for free - , is just one of those gargantuan virtual universes that increasingly more people identify with as their homeland.



When cyborgs die: Warsinger's funeral in the Dark Age of Camelot

[Source: <http://www.tbray.org/ongoing/When/200x/2002/09/05/-big/heart.jpg>]

Unsurprisingly, those virtual universes are developed and owned by commercial entities, but oddly enough, on a different level of analysis, it can be argued that real economic activity (that is, it can be measured and expressed in standard economic terms, i.e. GDP, and it is convertible to currencies accepted in the physical world, as all those avatars selling for shitloads of money at ebay demonstrate beyond doubt) takes place within their ecosystems.[23] Upon first glance, it is very encouraging to observe that cyberspace

offers the ability to forge real social bonds with real people, mediated by the flexibility of immaterial avatars, and regardless of spatial parameters. However, on the other hand, the space/place within which those relationships and cultures exist is not public. And that is very unsettling. *When a critical part of shared lived experience has migrated in the simulated universes inhabited by digital communities, and our last hope for inner meaning lies in the non-spatial dimensions of cyberspace, then we're no longer humans...we've become something else, and whether we like it or not, commercial entities are ahead of us in homesteading the noosphere.* We should bear in mind that communication [and play] is inextricably linked to culture. When the ability to communicate can only be rented with hard cash, not much of free culture is to be expected. This problematic has been documented extensively, with Electric Minds and the Digital City of Amsterdam (DDS) being perhaps the most widely referenced communities whose aspiration to eke out a profit – directly or indirectly (coupled with mismanagement) – led to their demise.[24] The point in concern here is not, however, how to design, implement, and maintain online communities that will prove a good profit-making enterprise. What I'm concerned with, is, primarily, to show that the free universes in cyberspace that so many envisioned in the early days of the Internet, and which fueled so much (unfounded?) optimism during the early 90s tend to be substituted by private spheres, which, for one way or another, mainstream users demonstrably aggregate around. In the gaming alleys of cyberspace, as well as in the market cornucopias of friction-less hyper-capitalism and in the repugnant servers where the twisted and repulsive logic of spam finds economic justification and social legitimacy, the commodification of human relationships reigns. Is this what we dreamt of the Internet? Is all that we dreamt of nothing beyond shooting monsters in proprietary servers, buying books at Amazon, exposing ourselves to wicked advertisements, and colonising (by invitation only) the closed universes of AOL and Orkut where we submit to the marketlords of cyber-Cockaigne? Where has the sexual attractiveness of cyberspace been hiding? Where is lust held hostage? Where is that tainted hope that all those great people and their droogs who indulge in sharing images of porn, knowledge encoded in software, and cultural experiences encoded in mp3s and mp4s will reclaim the

Internet for the limitless, free universe it could be? From a radical vantage point, sprawling cyberspace for porn, music, and horny IRC channels is a rebirth of the revolutionary desire for seduction, fulfilment, and transcendence. The idea, or the fear to be exact, that cyberspace is flooded with all sorts of erotic creatures and illegitimate sexual fancies has been proven a deterrent well suited to scandalise puritans concerned about the welfare of their offsprings in a largely plastic environment. But this very same idea, no matter how deviant from the truth it might have been, afforded a sexual scent and invested the new frontier overwhelmingly with a compulsion to experiment, traverse, and communicate openly one's feelings, desires, and frustrations. For some groups, this capacity to undress (both literally and metaphorically) and open themselves up to others, with no fear of being ridiculed by narrow-minded social cliques, provided a much-coveted opportunity to re-discover their identities. It addressed a tangible human need; it satisfied a deeply repressed desire, unleashing it free from the confines of the tyrannical - symbolical impotence that is political correctness. Gays, and all kinds of people that were the receivers of a nasty interface by clones fabricated in the image of the canonical conformist archetype in the material world due to their sexual preferences discovered (or built anew) their Ithaca in cyberspace. Unfortunately, with the exception of IRC channels that are frequented mainly by lonely youngsters, only bits and pieces of that vision remain visible online, with Suicidegirls (and Minitel in the early 1980s pioneering this business model in Paris, France) serving as perhaps a great example of how the contemporary Internet can be sexy, enticing, and at the same time a good business. Suicidegirls, needless to say, is commodifying and capitalising on human relationships. But insofar as Suicidegirls is honest about its goals and commercial aspirations and manages to communicate that clearly to its community, then I see nothing wrong with it. Nothing other perhaps than the near complete absence of similar spaces catering for the ones who want the same thing, more or less, but who are turned off by the idea that they have to pay for sex, obliged to enter a contractual agreement in order to play the game of seduction. A critique of sexuality, if it wishes to be substantiated, should also consist in catapulting a critique against the entire spectrum of power relations that define our society, as Foucault did,[25] or, additionally, setting out to define the boundaries of such

a critique (*i.e. who classifies for a cyberian? And are there any different classes or generations of cyberians? And why would someone seek sexual satisfaction online?*) neither of which I have done here. Drifting away consciously from psychoanalysis and anthropology alike, my analysis is empirical and subjective: it aims at showing that cyberspace need not be a specific given; cyberspace need not be solely a business platform for converting paedophiles and sadists/masochists to loyal customers – it could be something else; in fact, it could be anything else provided that the people who jack-in cyberspace are striving to create and establish their own spheres of governance, belief systems, and mental models. And since we live in a world where nearly everyone faces a sexual problem, which stems from communicative castration, or the pseudo-communication offered by social codes (*i.e. I walk down the street and I see a woman I'm attracted to, but unless I conform to the prevalent social code for approaching would-be sexual partners, I am unable to communicate my real desires – asking directly for sexual satisfaction, or even expressing oneself openly about one's desires is, more often than not, frowned upon*) cyberspace could provide a rhizomatic channel for coordinating those creative energies that liberate the flow of positive subjectivity, which, in turn, could deliver a strong blow to the dominant power relations in meatspace too.[26]

Returning back to our discussion of ethics and sustainable development, we can see that there is a plethora of very interesting efforts underway to catalyse new structures and bring about new models of cooperation and creativity. One way to enforce ethics in the digital sphere is through licensing mechanisms, of which the most well known is the GNU General Public License (GNU GPL), designed to help establish a free universe in cyberspace. What the GNU GPL does, and it does so beautifully, is to effectively and logically reverse the function of copyright law so that technology artefacts licensed under the GNU GPL remain unpropertied forever. In other words, the GNU GPL caters for digital freedom, though it is a kind of freedom defined objectively by the Free Software Foundation (FSF). Other licensing mechanisms, such as the Hacktivism-Enhanced Software Source License Agreement (HESSLA) and the Common Good Public License (CGPL) try to build on the GNU GPL, extending it to encompass a wider array of

political goals like respect for human rights and environmental sustainability. However, there are setbacks with this approach toward incubating an ethical technological sphere: first, the greatest problem with licensing as an ethical device consists in its inability to be enforceable in its complete totality, that is, to be enforced consistently, universally and globally. Second, all contemporary approaches toward ethical licensing fall prey to the delusion that one can foretell with a certain degree of precision and certainty how the technology under concern will evolve when in the hands of mainstream users. This is not a logical paradox. Even if one is certain of what constitutes ethical and unethical, one still can't police the ways technology will co-evolve with, and be shaped by individual end-users. So, if we take this argument to its logical extreme, what is the point of licenses such as the GNU GPL, the HESSLA, and the CGPL? Satisfaction of pure egoism and megalomania? Or demonstration of shocking ignorance and vulgar arrogance? And if there are so many setbacks with technology licensing, why do it then? Using a license to enforce ethics can be critiqued on the level that it is, at best, nothing more than an imaginary desiring-machine combating an imaginary institution. But this very same vulnerability constitutes its invisibility, the well hidden underlying hope that the simulacrum produced will neutralise the simulation that is the law – but that one only time can tell. For one thing, the fix we should be aiming at need be social rather than technological or legal alone. In that regard, and insofar as the GNU GPL, the HESSLA, the CGPL, and other licenses manage to raise community awareness, stimulate dialogue, and rally support around the issues inherent in dynamic technologies, their *raison d'etre* has been fulfilled.[27]

Yet, the greatest hope for bringing about an ethical technological future and for materialising a radical transcendence of cyberspace beyond cyberspace consists in the undergoing process of radicalisation of both technology users and developers, as well as artists. From the explosive growth of community Wi-Fi networks worldwide and the rapidly expanding adoption of free software by the very institutions that free/open source software, as an organisational paradigm, logically undermines and challenges to new genres of art like flashmobs that were spawned by the Net, and, which instead of coding

and decoding space like most performance acts did in the days before the rise of cyberspace, they are territorialising and deterritorialising it [space], thus consolidating that territory by the construction of a second, adjacent territory: deterritorialising the enemy by shattering his territory from within.[28] Let's start from the end of this list (which though it is in no way exhaustive, it includes a few examples that, in my opinion, get the point across) with flashmobs, and proceed in reverse order.[29]

What is a flashmob, and what is that that constitutes the radicality of flashmobbing, if such a verb can be indeed constructed? Personally, I reckon it is futile trying to define what a flashmob (and flashmobbing) is. It is many things and then some. It is a new form of art enabled by ubiquitous desktop networking capabilities and portable–wearable technology. It is a form of political protest, whether designed to be a conscious and forced entry into someone else's imaginary perception of space and time or a blunt statement. Nowadays, we are very likely to be witnessing just a somewhat primitive, embryonic manifestation of the inevitable power of flashmobs that is yet to be unleashed to the world. Hence, in order to understand what a flashmob is we should contemplate what a flashmob could be. Arguably, since 2003 when the first flashmob was recorded – and flashmobs have been mushrooming ever since, flashmobs are mostly appearing to be an art project resembling an interactive installation. They are organised in an ad-hoc fashion, with most people taking part not having a clue who is the one who initiated (the idea for) the specific flashmob. Aside from the fact that mobile phones and the Internet are the media commonly used for the purpose of co-ordination, flashmobs incorporate no (other) significant electronic element. Their *raison d'etre* is fulfilled in meatspace; their goal is to overwhelm a specific physical space with material energies beyond the level that space can absorb so that the activities that take place in that space are brought to a halt; the most useful working definition I could come up with is that a flashmob is the whole process (or project) of dis-organisation that aims at resulting in the temporary paralysis of a given space in a given time. Closely related to flashmobs are smartmobs, which, actually, are a re-definition of flashmobs that reflects their effectiveness in catalysing new massively decentralised organisation models and coordination structures

for spontaneous action. But in spite of which terminology one is inclined to adopt, both smartmobs and flashmobs envisage the potential to turn into a vehicle for the realisation of concrete political projects. This is where their real political promise hinges upon: to become something far bigger than a fancy art project; to become a political project in itself by appropriating the spatial dimensions of reality upon which the institution of the imaginary is so persistently welded on, and without which, it is reckoned, it cannot operationalise its logic. Flashmobs solve one of the two greatest problems of the revolutionary project today; they satisfy one of the two most important conditions that need to be present for the revolutionary project to manifest itself: the condition and the problem of decentralised, and leaderless, yet, spontaneous co-ordination and concerted action. ““Former Philippine president Joseph Estrada, accused of massive corruption, was driven out of power two years ago by smart mobs who swarmed to demonstrations, alerted by their cell phones, gathering in no time. "It's like pizza delivery," Alex Magno, a political science professor at the University of the Philippines, told The Post at the time. "You can get a rally in 30 minutes -- delivered to you.””[30] No more delusions of revolutionary art: art now more than ever should be cross-pollinating the boundaries between the cyber and the material.

The radicalisation of the average user is here to stay. The industry ensured that consumers are being alienated and radicalised with its obsessive fixation upon consumer-unfriendly initiatives and draconian measures, of which the most despised is perhaps what has come to be known as Digital Rights Management (DRM), or Digital Restrictions Management, as some of its critics prefer to call it in acknowledgement of its restrictive role. DRM, in a nutshell, is about forcing one's hardware and software to act in a manner that is incompatible with the consumer's actual desires, such as preventing an 'original' music CD from being copied more than twice (in accordance with the mandates of the fair use doctrine). Yet, what the industry and its cybernetics brains fail to realise is that the average consumer has no interest in what the law mandates, and that they will not put up with anything that interferes with their consumption desires. In the society of consumption, forcing consumers to adapt to usage patterns that reflect a non-endorsed

state of artificial scarcity is as close to a suicide on behalf of the industry as it gets. Say my father, who, in his early seventies, is completely ignorant of what the law says about the limitations of copying and distributing, buys a CD burner and a CD and he starts copying it for all his ten-plus friends to listen to and enjoy as well. He copies it once, he copies it twice alright, then his device refuses to copy it for the third time. My father would interpret this to mean that there is something wrong with the CD burner (or with the CD) that he bought with his hard-earned cash. He would take this as a sign of a dysfunctional burner (or CD), and would immediately go back to the store where from he bought the burner and ask for his device to be either fixed properly or have it replaced. And refusal to comply with his claim would result in his asking for his money back. Trust me: it is not going to be easy to convince him and any other average consumer that their device works alright when they cannot make it work as they would like (or as they think the device would allow them to). This is where the radicalisation of the average user begins: the moment consumers will not be able to use the industry's products they way they see fit is when they will constitute the most fierce threat the industry has ever faced. There is nothing more melancholic than the unsatisfied desire of the consumer.[31] And this axiom has never been more true than today. With DRM the industry has signed its death wish.

In addition, both the development and adoption of free software/open source software and hardware and free community Wi-Fi networks animate the ongoing radicalisation of the computer user and developer. Foucault said that some day the people will discover the tools they need. But Foucault was wrong. The people never discovered the tools - they had to build them themselves. That is one reason why free software is truly subversive. Not because hackers, due to their mass media portrayal, encapsulate the image of the lone revolutionary better than other subcultural icons or comic book heroes much like Batman. And not only because free software is, contrary to what some people would like us to believe, indeed, 'free beer'. But because free software, above and beyond all other things, is free people collaborating to build tools not in order to eke out a profit, but to use them. "Let us imagine, for a change, an association of free men, working with

the means of production held in common, and expending their many different forms of labour-power in full self-awareness as one single social labour force”.[32] The radical implications of the shift in collective subjectivity arising from people, who, *en masse*, use the tools they need to create new situations they individually desire is compelling enough to tremble the earth. And, obviously, those very tools (through their collaborative use and development) give rise to social relations of production that further undermine the irrelevance of the hierarchical organisation of society. The bourgeoisie due to its need to constantly and continuously revolutionise the means of production has reached a point of no return: the spectre of P2P, as an organisational paradigm, haunts informational-cognitive capitalism.[33]

Moreover, the entire Internet-critical infrastructure consists of free software/open source software: from TCP/IP, Sendmail, and BIND to the Apache Web Server, HTML, and XML. The meaning of which is that people do not have to accept for granted what corporates have to offer: they can develop their own networks and form the next network of the networks by appropriating the ether (and, of course, the development tools, the already existent code and the tested protocols, as well as the technical ingenuity, etc.) that the soon-to-be(?) compromised network of the networks is premised upon. The roofs all over the Western world are on fire with Wi-Fi antennas and hotspots. The time has come for a radical response, rather than a mere critique, to the development and use of technology-mediated networking. In *The Augmented Social Network*, Ken Jordan, Jan Hauser, and Steven Foster lay out a vision for a condition of networking that is no longer capitulated by incompatibility, echo chambers, closed standards, virtual gatekeepers, and lack of interoperability. The elements of the Augmented Social Network (ASN) are: persistent online identity, interoperability between communities, brokered relationships, and public interest matching technologies. But the sheer brilliance of what they propose boils down to the fact that “the ASN is not a piece of software or a Web site. Rather, it is a model for a next-generation online community that could be implemented in a number of ways, **using technology that largely exists today**”...to “strengthen civil society by better connecting people to others with whom they share affinities, so that they can more

effectively exchange information and self-organise”. [34] But how would that Augmented Social Network be built in concrete and practical terms, a good many critics seem to ask? *Forward Track* [35] is one of those many little pieces that when assembled together will help unveil the Augmented Social Network. Forward Track helps activists connect to other like-minded individuals by monitoring and mapping their social networks and helping them enlarge them. And myriads of other pertinent projects such as MudLondon[36], Mapping Contemporary Capitalism[37], Indyvoter[38], and Informal[39], to name but a few, are underway to help activists network, share knowledge and tools, and act in a decentralised manner. The time has come for the development of the Internet to be, and all the rethinking that goes hand in hand with such a gargantuan undertaking. It is up to us to choose whether we want to be involved or not. The technologies that will power Internet 2.0 could well be proprietary or free, if none of us can be bothered to be involved in creating what that next-generation Internet will be. But if we choose to be mere spectators, then we have no excuse – the cyberspace will be shaped according to profit making organisations' agendas because those organisations are indeed bothered about the Internet. It is a simple matter of choice: choose what they have to offer or choose to be able to make your choices forever.

Epilogue.

Share. Then share some more. Copy. Then paste. Then copy and paste and share again. In the process, something will have changed: that will be you. Do not accept cultural impotence and economic phantasmagoria for they are nothing but short-lived claims for stardom. Claim technology. Claim culture. Claim cyberspace for one day cyberspace may become meatspace. Break technology if technology is about to break you. Or stop using it – exodus, they say, is a powerful and very effective form of revolt. But what I would say is to explore if technology could be used in ways that you desire, rather than in ways desired by those who manufacture and sell it. Make technology work for you. And extend it for you and allow others to extend it as well. And stop holding on to this delusion of customer/citizen sovereignty. You're not alone. Whether we like it or not, we're together in this. Network with others who share your interests and act. Right now, we are all actors in the theatre of discontinuity. Some of us will naturally favour representation over experimentation. But remember that what we play in that theatre could be the real thing. We only have to imagine it hard enough to make it come true. Indian poet Tulsie Dass composed the opus of Anoumann and his army of monkies. After years, a king imprisoned him in a stony tower. Stranded in a cell with room barely enough for his body, he focused very hard and recreated in his mind Anoumann and his army of monkies until Anoumann and his army of monkies sprung alive, conquered the city, invaded the tower and set him free. [40] The dream can be real, if enough people share the same dream. The differential factor lies in how we dream and how seriously we take our dreams. As T.E. Lawrence wrote in *Seven Pillars of Wisdom*: “All men dream: but not equally. Those who dream by night in the dusty recesses of their minds wake in the day to find that it was vanity: but the dreamers of the day are dangerous men, for they may act out their dream with open eyes, to make it possible”.

Notes.

[1] See http://marc.blogs.it/archives/2004/06/niklas_zennstro.html

[2] On May 10, 2004, Slashdot posted the following: "The author of [Winny](#), the Japanese P2P software with encrypted networking capability, similar to [Freenet](#), has been today officially [arrested](#) for abetment of copyright violation, after the raid in the last December. He started its development in May 2002 and occasionally appeared on the web forum [2ch](#) with his anonymous codename "47", but today turned out to be an assistant professor of computer science at [the University of Tokyo](#) in his 30s. Winny was so efficient and popular that it generated problems even at the [Japanese police](#) and the [GSDF](#). As the Japanese police is the most advanced among the world in pulling P2P into criminal cases, outcry of users in Japan is expected." Prior to his arrest, on December 3, 2003, according to a *CNET Asia* report, two users of Winnie were also arrested for copyright violations.

(<http://asia.cnet.com/news/security/0,39037064,39159923,00.htm>)

[3] The criminalisation of P2P is very vividly captured in a swathe of news stories and court cases. For some of the more recent cases, I cite the following: On December 15, 2004, Slashdot reported that "[Police in Finland raided the operation of a popular BitTorrent site](#) and arrested 34 people, 30 of which were volunteers who helped moderate the site. This comes right after the [MPAA reported that it would start suing](#) tracker servers". See Drew Cullen, "Finnish police raid BitTorrent site", *The Register*, December 14, 2004, at http://www.theregister.co.uk/2004/12/14/finnish_police_raid_bittorrent_site/. On August 25, 2004, Slashdot posted a pointer to a *Reuters* report according to which the US State Dept. raided the homes of five people in several states for trading music on P2P networks.

(<http://slashdot.org/article.pl?sid=04/08/25/2230211&tid=99&tid=103&tid=95&tid=1>) .

On August 21, 2004, Slashdot posted a pointer to an *Associated Press* report "which reviewed many of the copyright infringement lawsuits that the RIAA filed against individuals charged with illegally sharing songs on P2P networks. According to the

article [over 800 of the targeted individuals](#) have settled for approx. \$3000 in fines. One man in California had to refinance his house to pay his \$11,000 settlement. Many of the defendants are unwilling to face the possibility of even higher fines by fighting the suits in court despite the fact that it could resolve important questions about copyrights and the industry's methods for tracing illegal downloads. It seems that even some of the judges presiding over these cases question the RIAA's tactics. 'I 've never had a situation like this before, where there are powerful plaintiffs and powerful lawyers on one side and then a whole slew of ordinary folks on the other side,' said U.S. District Judge Nancy Gertner, who blocked the movement of a number of these cases in her courtroom for months. She wanted 'to make sure that no one, frankly, is being ground up". See <http://yro.slashdot.org/article.pl?sid=04/08/21/1320203&tid=123&tid=141> and Ted Bridis, "Slow-moving lawsuits over music downloads producing court twists", *Associated Press*, August 20, 2004 at http://www.boston.com/ae/music/articles/2004/08/20/slow_moving_lawsuits_over_music_downloads_producing_court_twists/ On May 27, 2004, Slashdot posted a pointer to a *The Register* report according to which "Italy has made [transferring content via the Internet without the permission](#) of the copyright holder a criminal offence. Those found guilty of the unauthorised distribution of copyright material now face a fine of between 154 and 1032 (\$185-1240), a jail sentence of between six months and three years, the confiscation of their hardware and software, and the revelation of their misdeeds in Italy's two national newspapers, La Repubblica and Corriere della Sera". See Tony Smith, "Italy approves 'jail for P2P users' law", *The Register*, May 20, 2004 at http://www.theregister.co.uk/2004/05/20/italy_p2p_law/

[4] See Munro, Jay. "Security Watch Letter: Inside the JPEG Virus", *PC Magazine*, September 29, 2004, at http://www.pcmag.com/print_article2/0,2533,a=136159,00.asp

[5] For the record, Nullsoft, the company which develops Winamp released an updated version of its software which fixed that vulnerability shortly after news of the elusive 'virus' had broken loose on the Internet.

[6] See Söderberg, Johan. Reluctant Revolutionaries – the false modesty of reformist critics of copyright, *Journal of Hyper(+)-drome. Manifestation*, Issue 1, September, 2004,

at http://journal.hyperdrome.net/issues/issue1/Söderberg.html#_ftn38

[7] See <http://www.gnu.org/philosophy/amazon.html>

[8] See Delio, Michelle. "BT Linking Suit Dealt a Blow", *Wired*, March 14, 2002, at http://www.wired.com/news/politics/0,1283,51056,00.html?tw=wn_story_related

[9] See GameDaily, "Spherical Planning: Exclusive: Multi-Publisher Legal War Looms Over 3-D Patent", October 29, 2004, at http://biz.gamedaily.com/features.asp?article_id=8236§ion=feature&email= Apparently, all video games developed from the late 1990s onwards (and similarly, all "war/flight simulators") are using this allegedly owned idea since they're emulating a three-dimensional space. Is that fair for the people involved in the gaming industry? And, say, you have a good idea for a 3D game, would you like the idea to have to pay some "3D-patent-owner" for the permission to develop in 3-dimensions? Wouldn't that be a blatant rip-off?

[10] See Söderberg, Johan. Reluctant Revolutionaries – the false modesty of reformist critics of copyright, *Journal of Hyper(+)drome.Manifestation*, Issue 1, September 2004, at <http://journal.hyperdrome.net/issues/issue1/Söderberg.html>

[11] Rifkin, Jeremy. *The Age of Access: How the Shift from Ownership to Access Is Transforming Modern Life*, Penguin Books, 2001, pp.55, *italics mine*.

[12] Castoriadis, Cornelius. *The Imaginary Institution of Society*, MIT Press, 1998.

[13] Following the launch of the British Department for Education and Skills' *Music Manifesto* (<http://www.musicmanifesto.co.uk/>) campaign, children in UK schools are now being indoctrinated about the illegality of downloading music. See Lettice, John. "Stealing songs is wrong' lessons head for UK schools", *The Register*, August 5, 2004, at http://www.theregister.co.uk/2004/08/05/uk_school_copyright_lessons/ . Also see Braiden, Lee. "Open Letter Against British Copyright Indoctrination in Schools", *Kuro5hin*, August 6, 2004, at <http://www.kuro5hin.org/story/2004/8/5/151113/8977>

[14] Schumpeter, Joseph A. *Capitalism, Socialism and Democracy*, Harper & Brothers, 1942.

[15] McLuhan, Marshall. *Understanding Media - The Extensions of Man*, MIT Press, 1964, and at <http://heim.ifi.uio.no/~gisle/overload/mcluhan/umtoc.html> .

[16] It should be noted that luddite action usually refers to the conscious act of destroying

a given technology in order to destroy the social relations of production that that technology is reckoned to bring about. However, I have here adapted this terminology so as to come to mean the act of using, developing, and extending a given technology, rather than destroying it. For those who wish to delve more deeply into the controversial subject of neoluddism, the classic text is *The Unabomber's Manifesto* (originally titled Industrial Society and its Future), written by Theodore Kaczynski, which was published jointly, under duress, by The New York Times and The Washington Post (1995) in an attempt to bring his campaign of terror to an end, accessible online at <http://www.washingtonpost.com/wp-srv/national/longterm/unabomber/manifesto.text.htm> . Also, for a different take on the social response that should be pursued in the face of ultra-hazardous dynamic technology, see Joy, Bill. Why the Future Desn't Need Us, *Wired*, Issue 8.04, April 2000, at <http://www.wired.com/wired/archive/8.04/joy.html> ; also worth seeing is “An anarchist in the Hudson Valley. In conversation: Peter Lamborn Wilson with Jennifer Bleyer”, *The Brooklyn Rail*, July 2004, at <http://brooklynrail.org/spotlight/july04/wilson.html>

[18] Quoted in Veneigem, Raoul. *The Revolution of Everyday Life (Traité de savoir-vivre à l'usage des jeunes générations)*, 1972, Ch.9, at <http://library.nothingness.org/articles/SI/en/display/39>

[19] Searls, Doc. “The New Tradition”, December 6, 2003, at <http://doc.weblogs.com/2003/12/06#theNewTradition>

[20] Söderberg, op. cit.

[21] Marcuse, Herbert. 1981. *Eros and Civilisation. translated by Ιορδάνης Αρζόγλου*, Αθήνα: Εκδόσεις Κάλβος, p.198 (*translated from greek by the author*).

[22] Kao, John. *Jamming: the Art and Discipline of Business Creativity*. NY: Harper-Collins, 1996, pp.66-67.

[23] For a breathtaking analysis of the economy of EverQuest, see Edward Castronova's seminal *Virtual Worlds: A First-Hand Account of Market and Society on the Cyberian Frontier*, December 2001, CESifo Working Paper Series No. 618, at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=294828 and its follow-up *On Virtual Economies*, July 2002, CESifo Working Paper Series No. 752, at

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=338500

[24] For an extensive discussion of the Digital City of Amsterdam (DDS), see Reinder Rustema's doctoral thesis *The Rise and Fall of DDS* (November 2001, University of Amsterdam) and the very elaborate list of DDS-related documents, essays, etc., that he has collected at <http://reinder.rustema.nl/dds/>; also see Geert Lovink's *The Digital City – Metaphor and Community* in Lovink, Geert. *Dark Fiber - Tracking Critical Internet Culture*, Cambridge / London: The MIT Press, 2002, pp. 42-67. Regarding Electric Minds, see its founder's, Howard Rheingold's, reflections entitled “My experience with Electric Minds”, *Nettime*, February 1, 1998, at <http://www.nettime.org/Lists-Archives/nettime-l-9802/msg00004.html>

[25] Foucault, Michel. 2004. *The History of Sexuality: The Will to Knowledge Vol.1*, translated by Robert Hurley, Penguin Books.

[26] See Kroker, Arthur and Kroker, Marilouise (Eds.) *The Last Sex, Feminism and Outlaw Bodies*, Montreal: New World Perspectives, CultureTexts Series, 1993, and at <http://www.ctheory.net/download.asp?bookid=7>

[27] This section on ethical licensing (or, on the enforcement of ethics in the digital realm through law) and F/OSS licensing, as well as its limitations, draws heavily on a document in progress I've been writing over the past twelve months. For the unfinished version of the document, see Dafermos, George. *Openness and Digital Ethics: F/OSS Licensing Under the Microscope*, Version 0.9, February 2004, at http://radio.weblogs.com/0117128/ethical_licensing/Openness_and_Digital_Ethics.html

[28] See Deleuze, Giles and Guattari, Felix. *A Thousand Plateaus*, Continuum International Publishing Group – Mansell, 2001. p. 353.

[29] For an insightful vision into the current state, as well as future of flashmobs/smartmobs, see Rheingold, Howard. *Smart Mobs: The Next Social Revolution*, Perseus Books, 2002. The book is also accompanied by a weblog where the same issues are being explored, at <http://www.smartmobs.com/>; also, see <http://www.flashmob.com>.

[30] Garreau, Joel. “Cell Biology - Like the Bee, This Evolving Species Buzzes and Swarms”, *Washington Post*, July 31, 2002; Page C01, at <http://www.washingtonpost.com/ac2/wp-dyn/A23395-2002Jul30?language=printer>

- [31] I am here slightly paraphrasing the *dealer* from Bernard-Marie Koltès's *In the Solitude of the Cotton Fields*.
- [32] Marx, Karl. *Capital: A Critique of Political Economy* (Vol.1).
- [33] Bauwens, Michel. *Peer-to-Peer: from technology to politics to a new civilization?*, 2001, at <http://noosphere.cc/peerToPeer.html>
- [34] Ken Jordan, Jan Hauser, and Steven Foster. The Augmented Social Network: Building identity and trust into the next-generation Internet, *First Monday*, Volume 8, Number 8, August, 2003, *emphasis mine*, at http://www.firstmonday.org/issues/issue8_8/jordan/
- [35] ForwardTrack Website: <http://forwardtrack.eyebamresearch.org/>
- [36] MudLondon Website: <http://space.frot.org/mudlondon.html>
- [37] Mapping Contemporary Capitalism Website: <http://docs.metamute.com/view/Home/McCFrameworkDocumentV01June2003>
- [38] Indyvoter Website: <http://indyvoter.org/>
- [39] Informal Website: <http://informal.org.uk>
- [40] I am here paraphrasing slightly the story of R.F. Burton, *Indica* (1887) in A.B. Borhes, *Cuentos Breves Y Extraordinarios*, 1953.

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-- *Dedicated to E.*

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