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On the Concept of Intellectual Property
challenging the prevailing premise of architectural authorship

Research Question:

Which aspects contributed to the preservation of the premise of singular intellectual property through authorship within the architectural profession's collaborative practice?

Keywords: authorship, ownership, intellectual property, collaboration

Among many other aspects, digitalisation and an increasingly globalised collaborative society are challenging the outdated premise of the solitary architect as an authoritarian genius and thus the author of his work. Several theorists and architectural scholars have consistently discussed the issue of authorship (in architecture), as this question addresses a fundamental question to the essence of and engagement in the discipline. As both the artistic and the scientific inherent notions of the profession attribute different functions to the user, architecture appears as a hybrid, mediating intellectual property of the thought, ownership of the product and collective property through engagement. The interpretative dependency of each component's implication on the notion of authorship is sequentially explored in its linear allocation. Essentially, the whole discourse pivots on the chicken-and-egg argument, for the existence of an author implies per se the emergence of a previously non-existent idea. Establishing a collaborative essence of thinking and a separation of the profession's scope from the entitlement to the built product can result in both the service group's economic stability and the preservation of cultural production.

This essay does not claim a holistic explanation of the debate on authorship in architecture. Rather, it attempts to illuminate a variety of relevant considerations in the discourse. As it neither proposes exhaustive definitions nor elaborates on concepts in detail, the reader is invited to understand intellectual engagement as an interactive process. The necessity of a synchronous literature review highlights the dialectical essence of knowledge acquisition.

“He who receives an idea from me, receives instruction himself without lessening mine; as he who lites his taper at mine, receives light without darkening me.” - Thomas Jefferson, 1813

As with agriculture, architecture is a civilisation building practice (**Sohn, 2022**) and thus essential to the formation and sustenance of society. While epistemology links the architectural profession to the physical, tectonic instance of a building (**Frampton & Cava, 1995**), it has evolved to include increasingly sociological responsibilities and artistic authorial claims. The contemporary necessity of a creator of a product or service generally resides in the condition of attaching profit to a labour performance and thus covering the worker's cost of living. However, the explicit mentioning by name does not apply to most collaborators in the construction process. The quality of production and a significant impact on the environment reflect how, over time, authorship evolved into a means to an end, becoming a tool to control and organise economic activity. Outside of the theoretical discourse, the implication of architectural authorship appears in linguistic usage only as a third-degree reference. The notation of the built project is usually mentioned first, followed by its owner or function. It is only on closer enquiry that the producer is named to indicate the affiliation of creative talent. Elsewhere in the history of the built environment, we find oral authorships that use an entire population as a reference, for example, the pyramids of Ancient Egypt. Here, the authorial implication is less about individual talent and more about cultural belonging. These different notations challenge the necessity of a philosophical engagement with the implications of authorship of the built environment. It seems that outside of rental price, should any further thought be spent on attributes of inhabited space, it is availability, functionality or aesthetics of space that counts. I argue that the relevance of the contemporary analysis of authorship, ownership and intellectual property in the architectural discipline arises from the fact that the commercialisation of architecture over time alienated the profession from its original service-providing claim.

Architectural production includes three modes of engagement with im-/material matter: idea, product and dialogue. Its incipient character results in the art of creating new space through thought. Subsequently, it employs a craft, understood in both its direct anachronistic meaning (**Frampton & Cava, 1995**) and its indirect contemporary execution, referring to a substantial involvement with material. Finally, as an art, it is a form of language as it includes a dialectic engagement with the environment. This threefold division of architectural work denotes different disciplinary locations. On the one hand, it contains the autobiographical notion of artistic production and thus locates itself in the discipline of the fine arts. At the same time, it includes an allographic component,

an essence of scripting art that is technically executed by others. As a creator of technical construction manuals and instructions for use, architecture finds a place in the discipline of engineering. **(Carpo, 2011)** Without denying the legitimacy of Paper Architecture, which has architectural value without being constructively implemented, the dichotomy mentioned above of the architectural work points to the interdependence between idea and material realisation, which is definite for the further discourse. As both the artistic and the scientific disciplines attribute different functions to the user, architecture appears as a hybrid mediating intellectual property of the thought, ownership of the product and collective property through engagement. The interpretative dependency of each component's implication on the notion of authorship will sequentially be explored in its linear allocation.

INTELLECTUAL PROPERTY OF THE IDEA

There are two main tools of diverse nature at the architect's disposal to articulate an idea. The first medium exists intellectually and visualises the concept with descriptive media. The second instrument is the precise notation, which ensures appropriate execution, such as construction drawings. As the creation of architectural concepts is situated at the intersection between immaterial ideas and material embodiment, the claim arises to consider the change of matter as the culmination of an idea. As Alberti postulates, the aim is to reach a pinnacle in the design phase from which any change in the elaborated revision(s) would only worsen the notated result. **(Carpo, 2011)** The formulation of these versions takes place in several steps, starting with the idea. The initial discourse on authorship in architecture pivots on this chicken-and-egg argument, for the existence of an author implies per se the emergence of a previously non-existent idea. The question of the original initiator of a causal chain in the artistic discipline introduces the ontology of knowledge acquisition. According to architect Mark Wigley, Descartes's explanation of the individual's existence "...therefore I am" with his capacity for thought requires a pre-given power of thought "I think, therefore...". Introducing "I think, therefore I know" **(Wigley, 2021)**, he challenges the act of conversation as an exchange of thoughts concerning its initial starting point. Thought is reinterpreted as an active act of speaking, for one knows as a consequence of speaking. Wigley argues that if one knew what they were thinking before speaking and therefore knew what the other was thinking or knowing, there would be no necessity for conversation. Defining the dialectic act

of thinking as the source for knowledge acquisition offers an analogy to the theoretical implications of the design concept. An illustration involves the metaphor of the original tectonic act of the "art of joinings" (**Frampton & Cava, 1995, 4**): The production of versions of the built environment through problem-solving is essentially the art of joining pre-thought ideas. The *ingenious* concept emerges through appropriation and arrangement of thoughts and applying them in a different context. (**Kousoulas, 2022**) Some of the ideas adopted in this essay arrive from external discussions. Still, any thought expressed and formulated by person A in context A has a different meaning to person B looking for answers for context C. The syntactical variations arriving at a symbiosis, transformation or compilation of these thoughts are independent in this argument. Any compilation, if it claims to establish novel approaches to a given matter, rearranged in a specific order to pursue a specific goal, is also a symbiosis. Furthermore, as the coexistence of different elements for mutual benefit, the latter can similarly be considered an innovation, a transformation of reality. Applying this logic to the discipline highlights the revisioning essence of conceptual sketching as the architect's inability to produce a copy of the imagined form on the *first try*. Just as engagement with the other in conversation is a verbal means of connecting the *preexistent* dots, the essence of the impulse of conceptual thought takes shape by employing a change in the medium's materiality through drawing.

Establishing conceptual production as a cooperative activity challenges the definition of value and intentionality related to or given by its author. In his investigation of this topic, Foucault differentiates between the *meaning* of what is said by an author as opposed to the *feature* of what is said by a writer. (**Wallace, 1998**) This introduces the widespread debate on the ontology of an author. Evaluating Roland Barthes' famous "Death of the Author", poet Harvey Hix divides the term author into the entities poet, scribe, proxy, and narrator. The reinterpretation divides the notion into two creational and two fictional aspects. The poet is the initial creator who, through his authority, gives the work its validity. The scribe represents the subject in history that wrote down the respective work. The narrator, the story-telling entity inherent in the work, is the most accepted instance as it is familiar through first-person perspective tellings. The proxy is the individual projection of his interpretation and the reader's engagement with the text. (**Hix, 1987**) In his analysis, however, Hix focuses on the discipline of literature. Applying this principle first-hand to the domain of art falls short in that the primary objective of the argument lies in tracing the

affiliation of spoken language. The discourse is mainly about the tension between what is said and what is meant in a literal sense, whereas in the arts, next to the descriptive notation, the primary medium is visual. The artistic domain uses the notion of the author, work and reader/viewer. Before the advent of mechanical or digital reproduction modes, artistic craftsmanship decelerated the process of creating art. The object produced would contain inherent intentionality from an author inviting the reader to engage actively in decoding it. Engineering sciences predominantly refer to the producer, product and user. Both niches use the triangular communication model to assign scopes of action, but different terminology carries different connotations. In philosophical discourses, a standard description of this relationship between the spectator and the spectated is subject and object. However, the implication of creation and its directionality of relations are missing in this dialogue. Theoretical discussions of modes of representation feature notions such as signifiers concerning the to be signified. While this relation to transportation of meaning's semiotic aspect could be fitting, there is a lack of implication about an observer.

The architectural discipline employs the artistic terminology, manifesting this self-understanding. While agreeing with the necessity of a threefold subdivision of the interrelationship, shifting emphasis among the existing variables will result in different semantics. Similar to Hix's approach, this part offers a proposal for the architectural dissemination of roles and contemporary vocabulary: *con-ditor*, *con-dition* and *con-fectus*. The widespread notion of the author changes to the architectural *con-ditor*, the co-speaker. The assimilated form stems from *com* (together) and *dicere* (to speak). Consequently, the architectural work becomes the co-said, *con-dition*. Now, the reader converts to the architectural *con-fectus*, the co-creator. The word consists of the assimilated form of *com* (together) and the combining form of *facere* (to make, to do). Relating to the development of thought, the necessity of this interrelation arises from the immaterial incompleteness of initial concepts and their dependency on intermedial exchange. **(Massumi, 2008)** For example, Giambattista Vico's concept of a corporeal imagination states that immaterial intuition and perception arise as a result of peoples' material engagement with their environment; for "when the beauty of a conceit overwhelms the spirit (...) both speaker and listener are caught up in a rush of ingenuity, each making connections that were not made before (...)." **(Michael Mooney on Giambattista Vico in Frampton & Cava, 1995, 10).** While external commissioning in architectural practice describes the usual linear

sequence of con-ditor, con-dition and con-fectus, the shared prefix *com* allows for an impartial directionality in this triangular relationship. Accordingly, an adaptation to the different niches of architectural creation becomes possible, including, for example, an incipient evaluation of the con-fectus in participatory methodologies of architectural ethnography. This exploration does not claim to be exhausted but will be sufficient to illustrate a broad palette of more suitable ways of defining relational conditions. Concluding, con-dition becomes the impulse, independent of materiality, which both poles can activate.

OWNERSHIP OF THE PRODUCT

The absence of the initial creation and its temporal imperishability calls into question the very claim of ownership. Excerpts from the debate about the origins of modern liberalism offer insightful interpretive grounds on the importance of property for society. John Locke's naturalism ascribes to the individual a natural right to own their labour and person. Georg Hegel, however, does not acknowledge natural property relations but postulates their violent appropriation as a natural right. In doing so and thus controlling objects, (wo)men give meaning and change their now possessions' status. By contrast, Jean-Jacques Rousseau negates this precedence of human ownership over the environment. He insists that while it also created civil society, desire and spatial appropriation are the origins of oppression. **(Ryan, 2012)** The utilitarian interpretation of appropriation and ownership has enabled civilisations to rise above the natural environment through economic cooperation. The above examples show two ways of interpreting ownership: through natural right or forced appropriation. Architecture can be understood as the imposition of form onto the material, thereby taking possession of it, conveying a similar dominant attitude. However, the division of labour in favour of efficiency led to a physical separation of the architect from the built product. Using the contemporary hand-made, mechanically-made and digitally-made modes of production **(Carpo, 2011)**, the architectural scope is limited to the lifecycle phases up until the beginning of construction, revealing a shift from the art of tectonic creation to the immaterial art of creation. While this division suggests otherwise, the definition of property à la Hegel through physical appropriation has found its way into modernist thinking. Ensuring domination of idea over the material **(Hollier, 1989)**, construction supervision represents the controlling authority between the executing parties and the architect's instructions. The notion that everything on

the building site goes *according to plan* reflects this duality between spatially absent perfectionism and on-site realism.

Inspiration as intellectual matter and innovation as tactile matter are in a dichotomy and, at the same time, interdependent, for without the execution of experiments no progress would be possible. Despite this, as the ideal drawing precedes the realised project, the architect's profile highlights the past, superior to the future. The beginnings of this attitude lie in the Enlightenment and the emergence of the autonomous rational individual, which redefined itself in the humanistic market economy of the 17th century. As a means to distinguish oneself from the competition, the notion of an author leads from thematic attribution and moral evaluation to thematic classification and evaluative hierarchisation of works. The advent of printing and the subsequent globalisation further enable the emergence of an international style (**Carpo, 2011**), introducing the related necessity of copyright as an immaterial brake of the reproducibility of an idea. This restrictive mindset leads to singular authorship in a collaborative work environment, which, through its opportunistic commercialisation of *the one*, predominantly harms the product. Not giving credit to the collective decreases its productive engagement as, in the realm of creation, accountability appears to be tied to the sense of reflexive and self-referential commitment. For (wo)men, the idea that their actions leave symbolic traces even after their existence is more incentive to produce than the profit.

COLLECTIVE PROPERTY THROUGH ENGAGEMENT

In a capitalist society, an object's value attributes to the process of labour performance. Creation, however, always entails responsibility which is the reason and simultaneously the result of the construct of authorial authenticity. Responsibility in the artistic realm arises when the producer of an object claims its holistic completeness. (**Scollon, 1994**) In terms of documentary evidence, the signature appears as a sign of ownership. The idiosyncrasy of personal production (**Brown et al., 2020**) separated an original from a copy in the time before mechanical reproduction. In engineering sciences, the notion of authority refers to the claim of objectivity. In order to arrive at uniformly recognised objectivity, any subjective intention and interpretation of the producer are illuminated, questioned and, if necessary, erased in a process of exclusion. As an artwork, space is a creative interplay with the pluralism of the unconscious ego. At the same time,

its production lies in the realm of accountability of service. Therefore, architectural authority lies at the intersection of the artistic context of discovery and the scientific context of justification.

An architectural idea's translation into built space should not be seen as a conclusion of the idea but only as an intermedial embodiment of a version. The reinterpretation of this version can then be assessed according to its improvement potential, enabling ideas to exhaust their maximum potential. Daniel Libeskind's Chamber Works drawings illustrate this point, as they cannot be understood as architecture without the active act of interpretation. **(Evans, 1998)** Similarly, the temporal discontinuity of architecture is exemplified in Constant Nieuwenhuys' work New Babylon. **(Wigley, 2021)** The visual artist invites the viewer, Homo Ludens, to help shape and develop the project. While these two collaborative approaches centre on the interpretive capacity of users, Vilém Flusser experiments with its very disappearance. He suggests that the notion of repetition can contribute to an overall improvement in quality and value **(Foster, 1996)** at the expense of interpretive meaning. Repetition semantically implies a loss of depth, but it does not lose everything as it filters the repeated object down to its essence. An example shall illustrate this point. In theory, photography should have no claim to originality since it is, in its essence, the mechanical production of a copy of reality. However, referring to the phenomenon of cryptomnesia in the perceptive environment **(Lethem et al., 2007)**, one could suggest the production of a new object, as photographic art enables capturing forgotten and thus hidden realities. Still, it does not claim ownership of the object, even though it is a materially detached re-creation. Relating the captured object's availability to their status as visual communal property *dissolves* the phenomenon of ownership. Analogies appear in architectural concepts such as Mies van der Rohe's open floorplan, which lost the need for referencing through its *universal* character. **(Scollon, 1994)**

These transformed objects became part of the cultural heritage of a society. **(Flusser, 1986)** The replacement of labour performance by digital devices disrupts this linear sequence. Since Flusser never experienced global digitisation at the scale of the 21st century, his prognosis outlines a future vision of liberation from the urge to produce where digital mass culture will eventually lead to the separation of the production of cultural objects from human activity. Using the example of the camera as further development of painting, the media philosopher

defines culture as the collection of cultural objects - a counter-movement to the natural tendency of decay. Thus, the artist as producer of these cultural objects becomes the revolutionary. As this is replaced in Flusser's vision of the future by the mass production of the apparatus, an entropic necessity disappears, and (wo)men are freed from this labour - they are free to enjoy art in its primary states. What could not be foreseen is that the excess of cultural objects would lead to a loss of value instead of liberation. The cultural object rejoins the natural decay cycle while a new kind of hierarchisation has developed in contemporary mass culture: populism. Whereas previously, authors were concerned with controlling that no one steals their ideas, the sheer number of productions today has made them slaves to the algorithm, which, contrary to common beliefs, is even more concerned with sameness than with originality.

A COMPROMISE

This contemporary speculation focussed on the implications of architecture's idea, product and engagement with their respective meanings for the concept of authorship. Stretching out the established dialectic production of concepts to its extreme, every thought can be considered plagiarism. Sustaining this, John Locke highlights the difference between rights over an object as an act of transfer instead of rights based on original acquisition. Inheritance of property refers to the right to transfer goods at will. Even if a plagiarised concept is considered intellectual property, its intangibility is not transferable to third parties. This concludes the inapplicability of ownership to *timeless* intellectual claims of architectural concepts. Additionally, once constituting a *universal* character, they contribute to a cultural heritage that precludes authorial self-reference.

Moving to a new interpretation of the physical nature of architecture, Wigley's reinterpretation of Paul Thek's *Meat Pieces* (1964-67) highlights a novel consideration of the multiplicity of the built environment. The building's entanglement of pipes, its non-conformity to rules and organic circulation result in the understanding that architecture is not exclusively reducible to aesthetic qualities. Relating the production of the built environment to the architect's profession ceases with the beginning of construction. Consequently, after the completion of the allographic notation of a proposed version, the product withdraws from the profession's field of responsibility and affiliation.

Understanding architecture in Wigley's anthropomorphic metaphor as a living organism brings awareness that insisting on the meticulous debate of originality

and ownership outside its legitimate framework will sooner or later lead to the discourse of cosmogony. Offering a middle ground to this debate, the writer Jonathan Lethem locates art both in the so-called "gift economy" (**Lethem et al., 2007**) and in the market economy. He divides these different economies into the first and further product use. Value is attributed to the artist's labour consolidating his livelihood while the production does justice to the collective claim of art as a cultural institution.

Without a gift economy, there will be no cultural heritage. Without cultural heritage, there will be no inspiration. Constituting this reveals how the insistence on intellectual property as private ownership will stop the cycle of creation.

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