The act of copying all or parts of another’s text into one’s own—with or without permission, acknowledgement, fraudulent intent, or public opprobrium—has a history almost as old as writing itself. Nonetheless, at this current cultural moment, there is, in the Us and Britain at least, pervasive anxiety about what is perceived as an epidemic problem of plagiarism. A Google search of the term, for example, brings up over a million hits, a number that has been increasing steadily over the past several years. This is not just a pop Internet issue, however, but a subject generating wide ranging discussion and textual output, from library research guides, instructional handouts and teaching seminars, to institutional policies and government-funded projects, to scholarly books and articles. It is believed that plagiarism is allowed, even endorsed, by student access to information technologies such as the Internet, which allow for easy research and source retrieval and an easy way to cut and paste without attribution. The problem is perceived as adding to faculty workload, disrupting the learning process and undermining the nature and value of education itself.

Despite the time, energy and resources dedicated to prevention, surveillance and adjudication, however, little work has been done that attempts to dissect the ramifications of our current cultural concern with plagiarism. Instead, much of the instructional literature on
plagiarism assumes that notions of academic honesty and the citation conventions meant to reflect that ethical grounding are based on universal traditions. It implies that while procedures for recognizing attribution may differ stylistically across disciplines, they derive from a shared, transdisciplinary, even natural, understanding of authorship, ownership and the construction of knowledge in the academy. Because the problem is seen as a “common sense” issue, reactions to it are likewise thought to be rooted in a collective sense of moral outrage. Thus, anything done to stop the problem is seen as an inherent public good.

While not denying the ethical dimension of the plagiarism problem, however, this paper argues that the recent hyper-vigilance towards faulty source use and unsanctioned copying must be analyzed in the context of a culture increasingly oriented towards “fixing” what is seen as dangerously mutable and free-flowing textuality through legal rubrics of ownership and protection. Indeed, the “plagiarism panic” can be understood as a manifestation of a prevailing anxiety about new media, global information transformation, and the morphing of discursive forms and practices that accompany these changes. More specifically, however, I argue that the cultural fixation on plagiarism must be placed in the context of other forms of unauthorized copying: the increasingly strident condemnations are both an overlooked symptom and a ramification of the increasingly restrictive global culture of copyright.

Why should those studying and formulating copyright policy care about a related but officially extra-legal cousin of copyright? I argue that discussions of plagiarism overlap with and effect the larger debates on intellectual property issues. Kathy Bowrey, in a paper presented at an earlier AHRB meeting, discusses what she calls “new theory spaces,” the multiple sites outside academia in which intellectual property is being discussed, and through which policies
and technologies to manage it are formed.\textsuperscript{1} I believe that the rhetoric generated by and around plagiarism is also a “new theory space” in which the values of understanding, limiting, crediting and fairly using intellectual property in a market economy are being negotiated. The topic of plagiarism, however, has the advantage of being seen as easier for the average person to understand, or maybe just more connected to their lives, and thus more likely to be discussed in the public sphere of the popular media—especially when posed, as it usually is, in simple, black-and-white moral terms. Attitudes formed in reaction to these “conversations,” though, reflect and effect the public understanding of the provisions and ethics of copyright as well.

I. The Plagiarism Panic

One problem with any discussion of plagiarism is that it means so many different things to different people in different contexts. Of course, student violators and their accusing professors have infamously defined it differently, yet even among faculty and in published scholarly writing, meanings proliferate across disciplines and among theoretical discourses.\textsuperscript{2} It is often a term used carelessly, as a catch-all term to describe a variety of practices that actually differ in substance, quantity and intent. For example, “plagiarism” is used to describe explicit fraud, sloppy citation, ignorance of citation conventions, help from a tutor, or the resubmission of work done for other courses (known as “self-plagiarism”). Even journalistic fabrication—a crime of too much originality and so seemingly the inverse of plagiarism—is often covered by the more scandalous term. Despite this definitional elasticity, however, the one belief held in common across discussions of the problem is that it is rampant, and it is increasing.

It may seem that objective evidence could better inform the messiness of subjective terminology, yet statistics about the pervasiveness of plagiarism actually tend to complicate rather than clarify the problem. Many reports or surveys are undermined by the very fact that there is a question of what exactly is being discussed; this fundamental definitional problem casts doubt on their accuracy. Recent studies, for example, suggest that anywhere from 45% to 80% of high school students admit to cheating, while some 15% to 54% say that they have plagiarized from a website. While a detailed analysis of these surveys is outside the purview of this paper, the wide variation itself in the number of cheating and plagiarizing students “discovered” by various surveys suggests that the wording of the question—or the different interpretations students brought to the terminology used—may have shaped responses. There is also evidence that that some students do not consider plagiarism to be cheating, or that they do not consider what they are doing to be plagiarism: in a 2003 survey conducted by Donald L. McCabe, one of the founders of the Center for Academic Integrity, approximately half the students declared that they did not think it was cheating to copy up to an entire paragraph from the Web. In fact, many scholars with expertise in student writing problems have asserted that a variety of practices labeled as “plagiarism” are not acts of purposeful dishonesty, but the result of several factors: students’ ignorance of the conventions of academic writing; their earnest—if ultimately failed—attempts to mimic academic discourse; and cultural differences between students and their

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4 See Rimer, par. 2.
professors, whether ethnic, cultural, geographical or generational. Thus, studies of student cheating, while plentiful, are not completely adequate as an approach to this issue. Even if the focus is narrowed to only fraudulent activities, however, the perceived proliferation in plagiarism may be overstated, for despite widespread faculty worries that electronic sources constitute an almost unavoidable temptation for students, there is evidence to the contrary. As McCabe himself acknowledges, “research suggests that the primary issue is an increase in the amount of plagiarism by students who are already plagiarizing using written sources, and that the increase in the number of new plagiarizers is rather modest.”

Despite such qualifications, anecdotal evidence—from faculty hallway chatter to lurid TV show interviews with “confessed” plagiarists—continues to fuel fears of this purported rise. As more attention is paid to the issue, educators become more distrustful, questioning papers they used to let pass. Then, thanks to their increased ability to verify cases, using the web or other databases, they are able to find what they seek. Problematic passages faculty would once ignore because of the difficulty of tracking down the original print sources can now be challenged with a simple cutting and pasting of a suspect phrase into an Internet search engine—a process made even easier in the online classroom. Clearly, this technological transformation alone will produce more recorded incidents, further complicating the question of whether real rates of plagiarism have increased. Nonetheless, faculty suspicions continue to increase, as do


those of their colleagues to whom they voice their complaints, and the cycle continues. In describing this process, it might be useful to borrow the term criminologist Stanley Cohen used to describe this circular cause and effect of anxiety: there is, I believe, a “moral panic” over plagiarism.7 By using this term, I do not mean to imply that is not a rise in actual incidents of plagiarism, just that the climate of alarm has made it difficult to separate the reality from hyperbole and misinformation.

The inflated sense of the ethical stakes involved in the unsanctioned repetition of text or data is evidenced in the florid prose used to describe the issue. For example, one advice book, Ann Lathrop and Kathleen Foss’ Student Cheating and Plagiarism in the Internet Era: A Wake-Up Call, the cover of which is designed in a fiery motif of red, yellow and orange, uses the language of warfare in chapter titles such as “A Call to Action,” “Things are Bad and Getting Worse,” “Information as a First Line of Defense,” “High Tech Defenses” and “Be Vigilant about Cheating and Plagiarism.”8 Such approaches emphasize the inherent danger to academic integrity and urge educators to mobilize. This general feeling of threat is extended in the rhetoric of biological warfare: according to the senior editor of The American School Board Journal, plagiarism (which is never differentiated from cheating) is seen as an “epidemic” and “a plague” on the American school system.9 Even the ostensibly reserved and authoritative voice of the BBC used the “plague” descriptor twice in one year to refer to their sense of a desperate cultural ill (the term, I assume, is repeated because of its cultural fit, and is not an example itself of

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More recently, a primetime American network television news magazine show focusing on school cheating more broadly devoted a significant portion of its hour program to Internet plagiarism. This increased attention and inflated language helps to create an environment of hyper-vigilance, which, as with “moral panics” in general, results in more incidents being discovered, reported and labeled, without necessarily more occurring.

Indeed, examples outside academia are brought forward on a regular and increasing basis, perceived to be part of a broader “cut and paste culture” (again, a BBC term). Celebrity plagiarism sightings are becoming so common as to almost—but unfortunately not quite yet—be deemed unnewsworthy. Recent accusations have been leveled at novelists (J.K. Rowling, Graham Swift, Yann Martel, Vladimir Nabokov), musicians (Robbie Williams, Bob Dylan), journalists (*New York Times*’s Jayson Blair, *USA Today*’s Jack Kelley, and reporters from at least ten other papers\(^{12}\)), renowned historians (Doris Kearns Godwin, Stephen Ambrose), a university president, and perhaps least notable, a broad variety of politicians, including Tony Blair’s Labour government. Clearly, today’s students are in good company—never mind that again, the practices pointed to in these examples are varied and often obscurely, if at all, related to actual cheating or fraud.\(^{13}\) Nonetheless, this list has been called forth to verify this ethical “plague” and the extent to which it has permeated our society. Occasionally, it is admitted that perhaps the new technologies themselves allow for better verification processes or that the new emphasis on

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11 Adenekan, *ibid*, n.p


“information ethics” makes a more stringent environment.\footnote{14} This is, of course, an unsolvable chicken-or-the-egg type conundrum.

It is thus necessary to reframe the problem. I have suggested that plagiarism cannot be wholly conflated with cheating and fraud. While these are understandably concerns for teachers and for the public sphere in general, I wish to set aside this approach in order to learn what plagiarism can teach us about the new knowledge economy. My interest, then, is in interrogating the panic itself—and in investigating what is at stake in the proposed solutions to the crisis. Thus we might first ask, why the panic? That is, if, as the public lists of plagiarizers suggest, direct copying and other more nebulous forms of borrowing take place so often and in so many sectors, sanctioned or not, why are these issues being foregrounded now? It may be useful to recall at this point that historical research into plagiarism has provided numerous examples of this practice in the past. It has shown, in fact, that the act of copying parts of texts into other texts has met with a variety of culturally specific responses, depending on time and place, positioning of both source and copy in the hierarchies of gender, race and class, the accepted economics of information circulation, generic demands, etc.\footnote{15} Understanding the complexity of past considerations makes it more imperative to question current responses to this perceived moral crisis.

II. Plagiarism and Copyright

The relationship between plagiarism adjudication and copyright protection is one of those areas that seems so obvious that it has become virtually invisible. Many schools have “intellectual property” or “plagiarism and copyright” sites, which explain both terms—but

\footnote{14} See Steinberg, \textit{ibid}.  
completely separately, usually to warn against both cheating and the downloading of music using university equipment. There is a boundary maintained between the two to illustrate the fundamental difference: one obviously a legal issue, one in the sometimes more nebulous realm of ethical behavior. Bill Marsh, summarizing an online discussion of this issue, refers to “the sometimes sticky relationship between two worlds often problematically opposed -- one legal/corporate and the other educational/academic.” Yet he relates the common sense view when he reports that, “While the two worlds might occasionally meet in battles waged over copyrights, most participants . . . agreed that copyright violations and plagiarism, though sometimes related, are quite different beasts, as evidenced by the fact that, if nothing else, behaviors normally regarded with disdain in the academic world are treated less seriously in the business world.”

Despite such claims of the divergence of the “beasts,” however, I would assert that there is a deep connection between both the two seemingly distinct environments and the two ways of managing information circulation within them. As one university policy site which does address them together puts it, “Plagiarism and copyright are different aspects of the same core issue: respecting and appropriately acknowledging the intellectual property of an individual or group of individuals responsible for the creation of original work.” Though this sort of acknowledgement is rare, I believe the boundary between the two realms is quite permeable, with the values and language arising in one realm supporting the policing of the other. Indeed, my own research into historical Lexis/Nexis data shows that within the last decade the frequency of major print media references to “plagiarism” spiked (after a one-year lag) in tandem with

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references to the Napster controversy; before “Napster” was part of our everyday lexicon, the term’s usage coincided with that of “copyright law” (see Appendix). This is perhaps not surprising: new digital technologies are perceived as both allowing for increased plagiarism and promoting an environment in which copyrights are violated, creating a culture in which information is thought to need increased and extended protection. What is surprising is that this common framework is not more frequently examined, beyond often superficial references to the “Napsterization of knowledge,” the belief that young people’s attitudes towards information have been fundamentally structured by their exposure to file-sharing and other Web forms of copying. Little has been noted, however, about how concerns about this attitude have also molded our information environment. Ignoring this connection, I believe, and allowing this cultural work to continue without comment has specific consequences. As I will show in my final section, the increased vigilance over source use that results because of and as part of the plagiarism panic may be actually increasing the domain of copyright, extending its reach by working to limit fair use and to commercialize texts not usually considered part of the market economy.

The relationship between the two sorts of intellectual property concerns has been addressed in the work of a few composition scholars. They discuss the ways in which the work of writing within the academy is not as “pure” —or outside the taint of the market— as many would like to believe. Lunsford, Rickly, Salvo, and West, for example, have commented that “Our nearly compulsive scholarly and teacherly attention to . . . hypercitation and to endless listing of sources, in fact, are manifestations of the need to own intellectual property or

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18 See Boynton, ibid.
knowledge that can be commodified, traded, and so on.” They claim that this model structures student writing as well, as students

are led to realize their own subjectivity by establishing their rights to ownership in the form of property that is commodified into grades and performance on tests, or even into other measures such as portfolios, measures that still depend for their efficacy on the traditional "author" construct and on the notion of knowledge as a product that can be bartered and traded.

They continue by outlining the system as a whole:

The business of education, from this viewpoint, can be seen as accessing and trading knowledge packages--accumulating them and then using them for advancement--toward grades, toward graduation, toward admission to graduate school, law school, medical school, business school, toward jobs, toward promotion and tenure, and so on and on and on.19

This “business” ethos can be seen even in the language we use to acknowledge the research and thoughts of others in our work. As Marsh points out, “we operate in a system of exchange that treats words and ideas and sentences, etc., as commodities with exchange value – hence the whole idea of giving ‘credit’ and acknowledging ‘debt,’ of ‘ownership (i.e., not passing off another’s words as ‘one’s own’), as if ideas were properties.” He also notes the "heavy reliance on commercial metaphors" in published rules regarding use and attribution.20

Jim Porter, however, is much more concrete about the consequences of the commodification of academic work. He extends this understanding of the exchange value of


writing specifically into the realm of copyright by discussing the ways in which “work for hire” has the potential—and is sometimes in fact—used to claim property rights to faculty writing and other products. He explains,

Writing teachers tend to think of writing as words, as text, as personal expression, collaborative exploration, or even political action. But these are all fairly naïvely notions of writing that will be obliterated if the corporate conglomerates have their way. The government, corporations, and increasingly, our own universities view writing as information. And, in order to enhance the commercial value of that information, they want to define writing/information as property, a frame that will make writing a purchasable commodity, which we and our students might not be able to afford.\(^{21}\)

He also warns that even student work could be vulnerable, a point I will return to below. We might note here, though, that given this environment, it is no wonder that many students have no qualms about purchasing papers from digital “paper mills.” I will show, however, that the unrelenting policing of plagiarism—or at least certain high-tech forms of policing—can actually serve to buttress a climate in which all writing is perceived of as marketable information.

In fact, at least one lawyer, Ronald Standler, asserts that plagiarism is actually a legal issue, despite his acknowledgement of the fact that it “is rarely discussed in legal journals and law textbooks.”\(^{22}\) While the website in which he promulgates his views is clearly not a scholarly source, I think it is worth discussing as a symptom the larger copyright culture (it is also


interesting to reflect on the ways in which the author might hope that these views would attract potential clients; he claims to be a specialist in education law). Indeed, Standler does link plagiarism directly to copyright law, explaining,

laws in civilized societies regard expression as property of its author. . . .

Plagiarism – either by verbatim copying or paraphrasing – is infringement of a copyright, a kind of tort. . . . The owner of the copyright (i.e., in most cases, the true author) could sue the plagiarist in federal court for violation of the copyright (n.p).

While this argument is perhaps not entirely credible—least of all for its reliance on a narrow, ahistorical and apparently prejudiced understanding of “civilized”—its existence points to a broader climate in which all texts are always already protected and therefore restricted from use, except under certain conditions. As Standler reminds us, “Any work created in the USA after 1 Mar 1989 is automatically protected by copyright, even if there is no copyright notice attached to the work. 17 USC §§ 102, 401, and 405.” While this very law can be used to actually protect student work from exploitation, as I will discuss below, in this context is serves to reify the structure of commercialized text production within academia that the compositionists I quoted above have described and critiqued.

Within this commercialized environment any sort of uncredited source use prevents erstwhile claims of originality. “It is important to note,” Standler asserts, “that the addition of original material by the plagiarist in no way excuses the act of plagiarism. The focus is on what the plagiarist did wrong, not what the plagiarist did right.”\(^{23}\) In promoting this viewpoint, in

\(^{23}\) To support this, Standler asserts that “Trivial changes in copied text, in an attempt to avoid copyright infringement, are specifically prohibited by law in the USA.” He then cites the following laws:

- Nichols v. Universal Pictures Corp., 45 F.2d 119, 121 (2d Cir. 1930) ("It is of course essential to any
which “right” and “wrong” are clear and stable categories of textuality, Standler advocates a view of language that is very rigid. Linguistic sense, import or the subtleties of implication do not seem able to vary through context or emphasis; rather, this commodified view of language fixes the text into impregnable units in which meaning is irrevocably secured. In fact, in this view, words are almost not meaning-laden at all—since meaning is always achieved through surrounding language—but merely opaque, purely visible things. Ironically, this model actually perpetuates the “cut-and-paste” mentality decried by the anti-plagiarists, as it supports a view of language in which words are infinitely transferable, able to remain unchanged when divorced from their original communicative context.²⁴

III. The Technological Solution: Turnitin.com

In certain theoretical circles, the much vaunted philosophical “death of the author” and almost two decades of concrete historical research into the material, legal and aesthetic constructioning of the concept of authorship, would seem to have made plagiarism, based on anachronistic notions of authorship and intellectual property, if not a moot point, a far more complex one.²⁵ Indeed, Rebecca Howard, who has written extensively critiquing the standard view and theorizing new approaches to plagiarism, celebrates the many composition scholars

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²⁴ The extent to which some students also subscribe to this naïve view of the way language works, in fact, accounts for the frequency in which both their legitimate attempts to quote fail rhetorically and their attempts to purposefully plagiarize are easily detected. That is, novice writers will often carelessly import others’ language into their own papers without noticing the way in which abrupt juxtapositions actually impede logical and stylistic flow, ultimately derailing their own arguments.

joining “the exciting enterprise of designing pedagogies of unfettered authorship” and providing “essential support for the new model of authorship endorsed in English departments” (though, she adds, “resisted by the legislators and corporations who are energetically moving to extend the scope and range of copyright”).26 In a similar vein, Bill Marsh asserted in 1998 that “changing values of authorship, new opportunities for collaboration, and improved, easily accessible information technologies…make it difficult if not impossible to assess student writing and research practices via conventional standards for plagiarism.”27 Rather than an accurate statement of the status quo, however, statements such as Howard’s and Marsh’s must be judged as predictions—and overly optimistic ones at that. For not only have conventional standards remained, they have indeed been intensified. Fearing the moral chaos instigated by the Internet writing and research environment, professors often judge student papers by higher standards of source use and attribution conventions than were their own undergraduate attempts at scholarly prose (a point to which I will return). The sense of threat engendered by the purported “plagiarism plague” has reached a point within both British and American academies that teachers and administrators are desperate for a cure. There is a certain ironic aptness in the fact that, as anxious for a “quick fix” as they accuse their students of being, they are turning to a technological solution. Or, perhaps inspired by the language of conflict underlying the plagiarism rhetoric, they are hoping to “fight fire with fire.” Either way, one increasingly popular method of preventing and catching this sort of violation, in both the U.S. and Britain, is to subscribe plagiarism detection software.

Clearly, the services supplying this solution rely on the sense of threat underlying the plagiarism panic to promote their products. In the U.S., the most popular company offering the

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26 Howard, *ibid*, 14. For a fuller description of her “pedagogy for (re)formative composition,” see 137-153.
online antidote is “Turnitin.com,” billed as part of “the world’s leading online plagiarism prevention resource.” As the website of their parent company, iParadigms states, the Internet provides an “unparalleled environment for all varieties of intellectual property theft.” Rushing in to save the day, though, they “have developed a suite of advanced tracking tools to combat the piracy of intellectual property and ensure the originality of written work.” There are similar methods offered in the UK, such as the Electronic Plagiarism Detection project of the Joint Information Systems Committee (JISC), though this is a government funded project, not a capitalistic venture. The two are intertwined, however. In fact, as we meet to investigate “new directions in copyright,” Turnitin founder John Barrie is slated to give a keynote address at the “Plagiarism: Prevention, Practice and Policies 2004” conference in Newcastle-upon-Tyne, sponsored by JISC Plagiarism Advisory Service.

Such Anglo-American, profit/not for profit partnerships, one might imagine, could provide exciting new directions in plagiarism research. Indeed, as the advertising for this conference suggests, “With the global nature of electronic resources and e-learning this problem is no respector of national boundaries, and so the responses to the problem need to be developed across both disciplines and geographic boundaries.” The casting of plagiarism as a “global” problem seemingly offers opportunities for historically and culturally-specific investigation into the different ways of supporting, managing, and sanctioning the circulation of information. Unfortunately, this is not the case. Instead, according to Turnitin’s press releases, one view

29 JISC is funded by the Higher Education Funding Council for England, among other organizations. For more information on their Electronic Plagiarism Detection project, see http://www.oucs.ox.ac.uk/ltg/reports/plag.shtml.
30 See http://online.northumbria.ac.uk/faculties/art/information_studies/Imri/Jiscpas/site/eve_conferences.asp.

Indeed, according to their own promotional materials:

- Turnitin is now deterring plagiarism for nearly 6 million students and educators worldwide.\footnote{Turnitin.com, “About us.” Retrieved June 20, 2004 from \url{http://turnitin.com/static/about_us/}}
- During peak usage, [they] receive over 20,000 papers per day.
- [The] service is now used in over 51 countries, at some of the world's most respected institutions.
- Plagiarism Prevention is now licensed by over 2,500 institutions worldwide.\footnote{In a concrete example of this, Barrie’s invention framed the entire discussion of plagiarism in the aforementioned US television show on student cheating.}

In other words, the “turnitin” approach, based on a fear of and reliance on technology, is now structuring both the problem of and the solution to plagiarism—if not education itself.\footnote{In a concrete example of this, Barrie’s invention framed the entire discussion of plagiarism in the aforementioned US television show on student cheating.} Thus hopes for a more nuanced and complex understanding of the act of unattributed copying and new versions of authorship are far too optimistic. Instead, what has been taking hold in the Anglo-American academy is a “one size fits all” solution that resolves only to assuage cultural fears of Napsterized students by providing faculty with their own high-tech weapon.

Turnitin and other plagiarism detection services work through a fairly simple concept. Student papers are electronically submitted by instructors subscribing to the service. They are then compared to an extensive “proprietary database”—Turnitin claims that it indexes over 4.5 billion pages—of Internet sites, online paper mills, digitized versions of published works and—this last is especially significant—other students’ papers. Within minutes, an “Originality Report” is then returned to the instructor, charting on its “similarity index” the percentage of the
paper derived from other sources, and providing color-coded links to source material. Using the service is believed not only to catch plagiarism, but to prevent it.

Turnitin, and more broadly, the digital detection approach, while clearly growing rapidly and spreading globally, has not been without controversy. It has been accused of fear-mongering as well as enabling a classroom environment of central authority and policing inimical to the best practices of teaching and learning. It is the actual constitution of their “proprietary database,” however, that has been most recently challenged, for although Turnitin does not advertise this, every student paper that is submitted to the service becomes part of their collection, often without student permission or even knowledge of this use. This usage has raised questions about students’ right to privacy, covered in the US under the Family Educational Rights and Privacy Act (FERPA), as well as the extent to which students can control the use of the intellectual property of their own papers. Clearly student papers are copyrighted documents. How is it, then, that Turnitin can profit through the use of these papers without requesting permission?\(^{34}\)

Turnitin claims they are legally within fair use exemptions—in fact they maintain a lengthy webpage listing their defenses on their commercial site.\(^{35}\) Nonetheless, the irony is obvious: a service dedicated to ferreting out intellectual property violations in the “ethical” realm of plagiarism, takes what is at least a liberal interpretation, if not actual and questionable liberties, when it comes to the legal realm of copyright. Students, who gain nothing financially (at least directly) from their work, are forced to become more and more vigilant about their usage of source materials—which is often, in terms of copyright, well within fair use—are at the same time coerced into relinquishing their rights to someone who does benefit economically from their

\(^{34}\) For an overview of this controversy, see Andrea L. Foster, “Plagiarism-Detection Tool Creates Legal Quandary: When professors send students’ papers to a database, are copyrights violated?" *The Chronicle of Higher Education* (May 17, 2002): A37

completed texts, plagiarized or not. “Coerced” may seem a strong word. After students and some faculty at several universities protested this inequity, Turnitin did begin encouraging instructors to get students’ permissions to submit their work. The extent to which such “permissions” can said to be freely given within the inherent power inequities of the classroom is questionable, however. Little has been determined about the fate of students who refuse to comply.

Nonetheless, it is not my purpose to rehearse the legal arguments for and against Turnitin’s use of student texts. Rather, I’d like to examine the ramifications of what I call the “turnitin culture” to our understanding of the proper nature, purpose and circulation of texts and language. This is not merely an academic issue—though they have most successfully targeted their services to educators, the parent company is extending into other areas by also offering service called “iThenticate” specifically for journalism, publishing, corporate and legal uses. By using the term “turnitin culture,” I hope to emphasize how both the implications of this specific well-known software’s name and the practices that all such detection services encourage and support are becoming accepted as the natural status quo. In one clever name, Turnitin.com conflates what is perhaps the most essential act of our current system of education, turning in work to be graded, with one more familiar to the realm of policing, the “turning in” of a criminal violator. At once, then, it links the student (or any writer) with the criminal, a linkage sustained and reinforced by the implication that all prose produced by students and other authors is inherently suspect—otherwise, plagiarism detection services wouldn’t be necessary. This understanding of the writer and of written texts creates, in turn, an environment of text production more broadly in which every key phrase or language string is viewed as potential act of “piracy” which must be “traced.”
This turnitin culture is supported by the technology itself, with its capability of constructing, storing and searching databases that allows the service “expose” plagiarized text effectively and efficiently. However, it is also fostered by the company’s relentless marketing campaign that promotes the need for such surveillance by pandering to (and helping proliferate) the plagiarism panic. Of course, we have seen how this panic is reflected and extended within the larger media, as well. For uses outside the academy, the “iThenticate” brand name promises to guarantee “authentic” information. Reminding potential customers that “recent high-profile scandals like the one at the New York Times prove that no one is immune, as some organizations have turned unknowingly criminal by purchasing and disseminating stolen intellectual property,” their service claims to be “the best way to perform due diligence on both your current and future intellectual property” and “the commercial world's weapon of choice against intellectual property theft.”

Thus the turnitin culture of linguistic surveillance and policing fostered in an academy now fully armed promises to be imported beyond the ivory tower.

What has not been addressed in any of the promotional literature of plagiarism detection services, however, is what the standards are for “authentic” text. Clearly, the implication is that a piece of writing should be utterly “original,” not “stolen” or “plagiarized.” But how are any of these terms defined? For example, how many of the same or similar words strung together constitutes a plagiarized phrase? How new or novel must ideas be? What sorts of source use are allowed, in which contexts? The standards seem at once ambiguous, vague, and frustratingly high—wouldn’t the ideal score on Turnitin’s much vaunted “similarity index” of their Originality Report be a zero percent? Is such a thing possible? These new, more stringent demands may effect our understanding of the fair use of copyrighted materials as well, for the

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dictums imposed by the plagiarism police may indeed be stricter than those regulated by copyright lawyers. For example, a student who copies verbatim a paragraph from another work without the intent of selling his own might be protected under fair use, both because he is not impacting sales of the original document and because his use of another’s words within a different context might be seen as a refashioning of the original. Within the turnitin culture, however, the same student could by this unsanctioned copying fail an assignment, fail a course, be expelled from school or have his/her degree rescinded. Please note that I am not suggesting that it is okay for students to copy bits of others’ texts into their own without attribution.

Certainly, we have specific educational aims in having students construct papers that develop their own opinions or document sources they do use, and students should be graded on their ability to meet these goals. Nonetheless, I think we need to reflect on the atmosphere created by this “crime and punishment” approach, and not just for students. If this turnitin culture, with its demand for a very pure form of originality and low, if not zero, tolerance for source use or derivation, extends beyond the academy through the sales of detection-type services to other domains, fair use exemptions may be, in practice at least, eroded. Thus we might put Turnitin and other digital plagiarism detection services into a category with other new technologies such as “trusted systems” that have also been described as threatening fair use by literally preventing any sort of copying and forwarding. While Turnitin cannot physically prevent fair source use the way these can, the extreme dichotomy it sets up between originality and criminality might be seen as rhetorical technology that psychosocially blocks certain behaviors.

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37 I outline an alternative approach in Maruca, ibid. I have also co-authored a practical departmental policy based on this approach, which can be viewed at http://www.is.wayne.edu/Policies/Plagiarism.htm.
I am also concerned, however, with the cultural flow in the other direction, from the commercial realm into the educational. That is, I believe that the increased public attention to copyright violation in the mainstream media also structures our understanding of student work. This goes beyond the ways in which, as I described earlier, the media’s focus on the Napster controversy influences the plagiarism panic, though that clearly is a crucial component. Here I wish to focus on another aspect of the turnitin culture that is signified in the company’s url extension, the “dot-com” that completes the full name by which it is conversationally known. I previously alluded to work by composition scholars examining the ways in which student writing can be seen as a “knowledge packets,” tradable units of intellectual property with an exchange value in a system of advancement and certification. Under the Turnitin.com regime, however, student texts become even more explicitly commodified, as they are branded and bartered as copyrighted items. Part of this has to do with what we might call the “language theory” produced in the turnitin technology. Even though—or perhaps because—they claim to use algorithms based on frequency and location of key phrases, for this technology the detection of copied text becomes a strict yes-or-no proposition, with no subtleties or gray areas. Software, after all, cannot judge the context of a quote or paraphrase, it cannot read nuance or subtle shifts in emphasis—it cannot read, period. This has the result of removing writing from the human context of communication and complex meaning-making, rendering it just words on a page, or pixels or a screen. Paradoxically, then, this digital tool in effect “fixes” the print of student papers more than print culture itself, freezing into units which are always already property, and most likely someone else’s. It is usually “print logic” that is seen to privilege abstraction, uniformity, repeatability, visuality, standardization, linearity and quantification—qualities that
allowed writing to emerge as a “property” one had the right to protect.\textsuperscript{39} The turnitin culture reveals this logic does not necessarily inhere in a specific technology (the press or the computer), but in a market perspective.

Ironically, even critics of the service who claim Turnitin is violating student copyrights, though well intentioned, actually buttress the very culture they condemn, for a copyrighted document is inherently a property capable of being transacted. Indeed, this economic view towards student writing is one the company’s founder, John Barrie, has made explicit he holds, when he defends Turnitin’s databasing of these protected works under fair use. Utilizing the proviso that circulation of the new work not impact the original’s commercial value, Barrie has claimed, “In no way do we diminish students' ability to market their work,” and in fact, “since we vet for originality, it increases the marketability of the work and increases the confidence a publisher might have in publishing that work.”\textsuperscript{40} In this characterization of student work, their texts become always already potentially marketable commodities, literally ready to be published and marketed. Of course, most teachers do not assign papers so that students can produce saleable commodities. Barrie clearly ignores the unique function of authorship in the educational context: that students write in order to practice and master a skill, to exhibit their knowledge, to learn through the process of organizing and managing information, and to discover their own sense of self and that self’s ideas within and among the voices of others. Not that this sort of writing is somehow pure or free of the market—clearly students who do well in school are

\textsuperscript{39} For the theoretical view of print as fixed, standardized and uniform allowing for the rise of a print market, complete with a legal structure of intellectual property, see Elizabeth Eisenstein, \textit{The Printing Press as an Agent of Change} (Cambridge: Cambridge UP, 1979), esp. 70-159; Walter Ong, \textit{Orality and Literacy: The Technologizing of the Word} (New York: Routledge, 1982), esp. 117-138; Alvin Kernan, \textit{Samuel Johnson and the Impact of Print} (Princeton, NJ: Princeton UP, 1987), esp. 49-50. Adrian Johns has critiqued the technological essentialism of these works by showing how what was later considered inherent to print was in fact propagated by those within the trade in an attempt to authorize and legitimize their businesses. See Adrian Johns, \textit{The Nature of the Book: Print and Knowledge in the Making} (Chicago: Univ. of Chicago Press, 1998).

\textsuperscript{40} Andrea L. Foster, \textit{ibid.}
perceived to get better jobs and increase their own self-marketability. Nonetheless, such a blatant product-oriented view of student textuality brackets the role of writing in learning and the role of process in writing, instead intensifying and extending the purely economic underpinnings of education.

**Conclusion**

John Cahir has written for this conference that the moral justification for copyright law has been provided by a “public interest narrative” in which copyright is thought to encourage an increased production of works, the circulation of which, in general, promotes public welfare.41 We might recall the shorthand title of the first English copyright law, “An Act for the Encouragement of Learning.” This was later mirrored in Article I, Section 8, Clause 8 of the U.S. Constitution, in which protection was thought “to promote the progress of science and useful arts,” Even as late as 1954, the US Supreme Court, Cahir notes, explained that

> The economic philosophy behind the clause empowering Congress to grant patents and copyrights is the conviction that encouragement of individual effort by personal gain is the best way to advance public welfare through the talents of author and inventors in “Science and useful Arts” [Mazer v Stein 347 US 201].42

While the Court does reference “personal gain”—an important impetus that the law has long acknowledged—the emphasis throughout the first 250 years of copyright was on the way this gain encouraged learning. In this thrust, the domains of copyright and education might certainly be thought to intersect. Recently, however, the “public interest narrative” Cahir describes has taken a different emphasis. The European Parliament declared in 2001, for example, that

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42 Qtd. in Cahir, *ibid*, 3.
providing for a high level of protection of intellectual property, will foster substantial investment in creativity and innovation, including network infrastructure, and lead in turn to growth and increased competitiveness of European industry, both in the area of content provision and information technology and more generally across a wide range of industrial and cultural sectors. This will safeguard employment and encourage new job creation [my emphasis].

In this rationale, the public good takes a new form. As Cahir notes,

The paragraph from the European Copyright Directive quoted above indicates the extent to which strong copyright laws have become conflated with economic growth and hence the public interest. The constant mantra of governments and producer interests is that in the absence of such protection investment will shrivel up, culture will wither and jobs will be lost.

Public interest it seems, has moved from promoting learning to promoting industry. This is a subtle shift—learning was always thought to be of an economic good—but a profound one. And it is this latter form of public interest that the turnitin culture supports: one in which the educational function of texts is subsumed into their ability to produce jobs—for the author and others. All texts are always commodities. As I noted earlier, fears about plagiarism were purportedly fostered by the “Napsterization of knowledge.” Given the recent role that corporate interests have played in extending and restricting copyright in the name of public

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44 Cahir, ibid, 4.
good—concretely, in the Sonny Bono Copyright Term Extension Act of 1998—perhaps we should dub this new attitude the “Disneyization of learning.” Surely this is not a public good we wish to encourage as we point copyright in its new direction. If we wish to intercede, though, we must pay vigilant attention to the nature of discussion of all forms of intellectual property regulation and control.
Appendix

Lexis/Nexis Database Search
Category: General News, Major Newspapers
June 15, 2004

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