ABSTRACT

How the Auteur Theory Changed Copyright Law
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Every so often, an aesthetic theory becomes so popular that it has a direct impact on popular discourse, industry, and even legislation. It is well established, for instance, that in the 1960s and 1970s the auteur theory began to fill newspapers columns, and it contributed to the transformation of the Hollywood studio system. I argue in my paper that the auteur theory also led to an attendant transformation of the legal treatment of Hollywood filmmakers—a transformation that still governs the circulation of media work.

The early Hollywood studio system created a class of filmmakers who were celebrated as original artists but who did not own the rights to their work. As early as the 1920s, some of these filmmakers used copyright lawsuits to attempt to save their work from the hands of corporate editors, who were instructed to reedit films for distribution to new markets. The situation became more intense after studios started to release films to be aired on television in the 1950s. Actors and directors including Douglas Fairbanks, Roy Rogers, George Stevens, and Otto Preminger fought to preserve the integrity of their work from “mutilating” and “emasculating” edited versions (as some court decisions read). In other words, filmmakers asked for the equivalent of moral rights. Their plight garnered some surprising concessions in legal decisions and at Congressional hearings, but, in the end, filmmakers were consistently denied the right to prevent their films from being shown in reedited or truncated form.

The situation changed after the popularization of the auteur theory in U.S. Hollywood directors gained increased commercial and artistic control, and, at the same time, the studios became part of diversified conglomerates. These parent corporations placed a larger emphasis on ancillary markets, including television, home video, and product tie-ins. As they had for decades, directors used lawsuits, contracts, and lobbying to challenge studios’ reuse of their material in new media markets. But, unlike in the past, filmmakers began to prevail in their standoffs with the studios. Directors from Steven Spielberg and George Lucas to Terry Gilliam and Steven Soderbergh successfully used the language of auteurism and moral rights to protect their work from being altered for use in new media markets.

My paper, first, demonstrates that auterism led to the changes in the legal definition of the media artists. I then argue that this new definition has affected the current media environment in several ways. It has limited the parameters for artistic expression, it has hampered the development of new media technologies, and, ironically, it has begun to emerge as legal tool for the very same Hollywood studios that fought against the expansion of filmmakers’ rights throughout most of the 20th century.