

Trademarks and Copyright for a Better Tomorrow

Alex Mogyoros

Ryerson University (Toronto)
Faculty of Law

Myra Tawfik

University of Windsor
Faculty of Law

Moderator: **Barry Fong**
Osler, Hoskin & Harcourt LLP (Ottawa, ON)

October 2, 2020

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Brands with a cause: The new normal for brands

Alex Mogyoros, JD, BCL (Oxon)

Assistant Professor
Faculty of Law, Ryerson University
Alexandra.Mogyoros@Ryerson.ca

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Outline

1. How are brands engaging with socio-political causes?
2. Drivers of this new brand normal?
3. Drawbacks?



How are brands engaging with socio-political causes?



Brands that just do it right



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The screenshot displays the Ben & Jerry's website. The top navigation bar includes links for FLAVOURS, SCOOP SHOPS, VALUES, ABOUT US, and WHAT'S NEW. The main heading is "Issues We Care About". Below this, there are four tabs for "Current Initiatives": All Initiatives, Fair and Global Economy, Social Justice, and The Environment. Three initiatives are highlighted with illustrations and text:

- Fairtrade:** Fairtrade means farmers get a...
- Marriage Equality:** We believe loving couples, of all...
- Climate Justice:** If it's melted, it's ruined. We're...

An inset box titled "Ben & Jerry's Joins the B Corp Movement!" contains the following text:

Ben & Jerry's Joins the B Corp Movement!

We are a certified B Corporation, which is recognized as the highest standard for social corporate responsibility. B Corps are a new type of corporation that uses the power of business to solve social and environmental problems.

B Corp

Recent Entries

CHOCOLATE CHIP COOKIE DOUGH ALE

In 1988, Ben & Jerry's was one of the first companies in the world to place a...

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Brands that champion a cause

If you are in crisis, please go to your local hospital or call 911 immediately.

Bell Let's Talk
support for mental health during COVID-19

Donations totalling \$5 million to address urgent need for increased resources with support for Canadian Red Cross, Canadian Mental Health Association, Kids Help Phone, Revivre and Strongest Families Institute.

[READ THE FULL RELEASE](#)

Bell Let's Talk
COVID-19 RESOURCES
OUR INITIATIVES
WAYS TO HELP
RESULTS AND IMPACT
FUNDING OPPORTUNITIES
TAKING POSITIVE ACTION
GET HELP

FOLLOW US
f t i

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ABSOLUT. PRODUCTS DRINKS WHERE TO BUY PLANET EARTH SIGN UP Enjoy Responsibly

TAKING CARE OF OUR HOME IS THE ABSOLUT® PRIORITY
ABSOLUT BELIEVES IN STRIVING TO MAKE AS LITTLE IMPACT ON THE ENVIRONMENT AS POSSIBLE.

Carbon Neutral Distillation**
By continuously improving and focusing on how we can be more sustainable, we have made our distillery one of the most energy-efficient in the world*. Today, we have CO2 neutral distillation**; a fact we're deeply proud of.

* 2018 Bier Benchmarking Executive Summary.
** Carbon emissions offset by planting trees that absorb CO2 over their lifetime.

JOIN OUR MOVEMENT

ABSOLUT DRINKS PRODUCTS BROWSE LEARN
Enjoy Responsibly

Sustainable Drinks

- Smoking Fix**
Absolut Vodka, Absolut Citrus, Absolut Peach, Absolut Raspberry
- Pickle Brine Bloody**
Absolut Vodka, Absolut Citrus, Absolut Peach, Absolut Raspberry
- Marmalade Martini**
Absolut Vodka, Absolut Citrus, Absolut Peach, Absolut Raspberry
- Beet & Breeze**
Absolut Vodka, Absolut Citrus, Absolut Peach, Absolut Raspberry

VODKA MOJITO

Ingredients Display in: Parts ML OZ

- 1½ Parts Absolut Vodka
- ¾ Part Simple Syrup
- 6 Whole Mint Leaves
- 4 Quarters Lime
- Soda Water

How to mix
Muddle mint leaves, lime and simple syrup in a highball glass. Fill with crushed ice. Add Absolut Vodka. Stir. Top up with soda water. Garnish with mint leaf.

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Brands that sell a cause

GIG GLUTEN INTOLERANCE GROUP

Giving Back to Our Gluten-Free Heroes

Hero Nominated: Amy W., Pediatric Nurse in AR
Nominated by: Anonymous

"Amy not only has spent time working in the PICU, and children's clinic, she is also in graduate school getting her doctorate to be a nurse practitioner during this pandemic. She is also on the board for her hospital's Nurses Week committee, and selflessly plans an amazing week of meals and treats for her peers every year that she can't enjoy because she has celiac disease. She is so strong and selfless, constantly giving and planning for others, and never complains that she can't enjoy something special for herself!"
- Anonymous

GIG teamed up with Bar-Necessities to say THANK YOU to Amy for her bravery on the front lines by sending snacks she can safely enjoy!

YouTube CA Search

ARE

Narrator >> You are a good person.

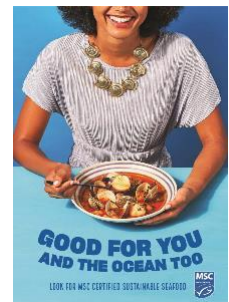
Follow the Frog

5,823,954 views • Sep 16, 2012

35K 1K SHARE SAVE ...

Rainforest Alliance
12.5K subscribers

You don't have to go to the ends of the Earth to save the rainforest. Just Follow the Frog! Shop for Rainforest Alliance Certified products here: <http://ow.ly/dKlas>.



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Brands that **are the cause**



BLACK LIVES MATTER



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“If we don’t protect the trademark, it could be co-opted and employed by people antithetical to our mission.”

Bob Bland, Co-President Women’s March, Inc.

“....[I]t's our uniform, and we want to secure it so that people can't profit from it who haven't shed blood for this movement.”

Hawk Newsome, chairman of Black Lives Matter's Greater New York chapter,

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Drivers of this new brand normal?

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[Click to go back, hold to see history](#)

Global (English) ▾



INSIGHTS

THE NEW BRAND DEMOCRACY

RICHARD EDELMAN / OCTOBER 2, 2018

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The [2018 Edelman Earned Brand](#) study shows that the market is being transformed by the rise of the Belief-Driven Buyer. Nearly two-thirds of consumers now choose, switch to or boycott a brand based on its stand on societal issues, up from 51 percent in 2017.

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BRANDS ARE CRITICAL TO WINNING THE FIGHT AGAINST THE PANDEMIC

Percent who agree

Our country will not make it through this crisis without **brands playing a critical role** in addressing the challenges we face

⊥

62%

Overall, I think **brands and companies are responding more quickly and effectively** to the pandemic than the government is

⊥

55%

2020 Edelman Trust Barometer Special Report: Brands and the Coronavirus. Q2. Please indicate how much you agree or disagree with the following statements about brands and how they are responding to the current coronavirus pandemic. 9-point scale; top 4 box, agree. Question shown to those who have heard of the virus (Q1/1). 12-mkt avg. Data collected between March 23 and March 26, 2020.

Edelman | 5

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Drawbacks?

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Inauthenticity

We at [Brand] are committed to fighting injustice by posting images to Twitter that express our commitment to fighting injustice.

To that end, we offer this solemn white-on-black .jpeg that expresses vague solidarity with the Black community, but will quietly elide the specifics of what is wrong, what needs to change, or in what ways we will do anything about it. This is doubly true if [Brand] is particularly guilty of exacerbating these issues.

We hope this action encourages you to view [Brand] positively without, you know, expecting anything from us.

[BRAND][®]
You know the ones.[™]

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Copyright in the Age of Artificial Intelligence:

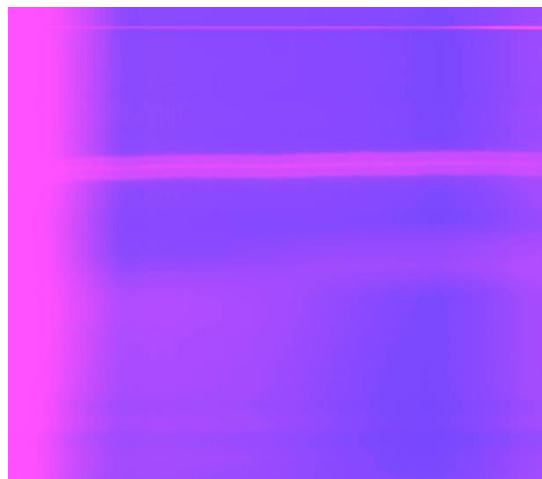
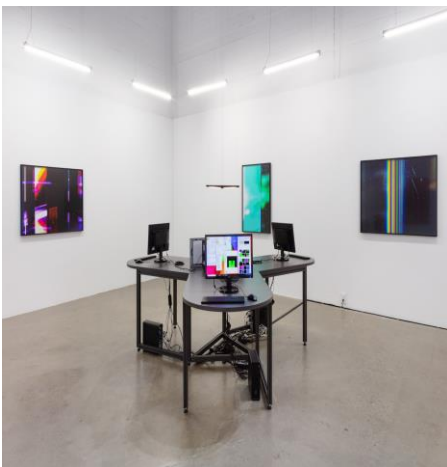
To Encourage Machines to Write Useful Books?

Myra Tawfik
Faculty of Law
University of Windsor

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Adam Basanta “Art Factory”



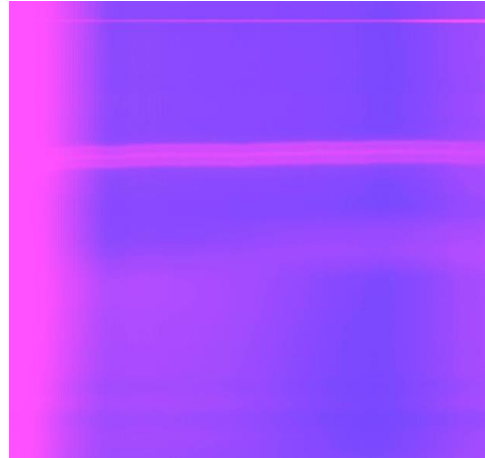
85.81%_match:
Amel
Chamandy
“Your World
Without
Paper”, 2009
created in the
project All
We'd Ever
Need Is One
Another by
artist Adam
Basanta.

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Chamandy v. Basanta Trademark and Copyright Infringement

Your World
Without
Paper
Amel
Chamandy
(2009)



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Amel Chamandy
The Globe and Mail October
2018

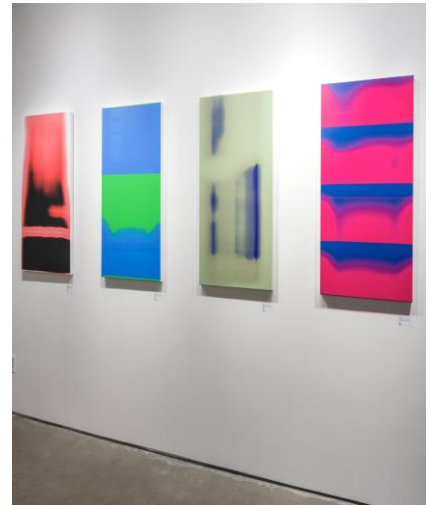
- “The digital world has become a means for artists and art dealers to promote their works and for that reason, it is important for copyright to adapt to the digital era in order to keep protecting artists who worked hard to be able to live from their art”



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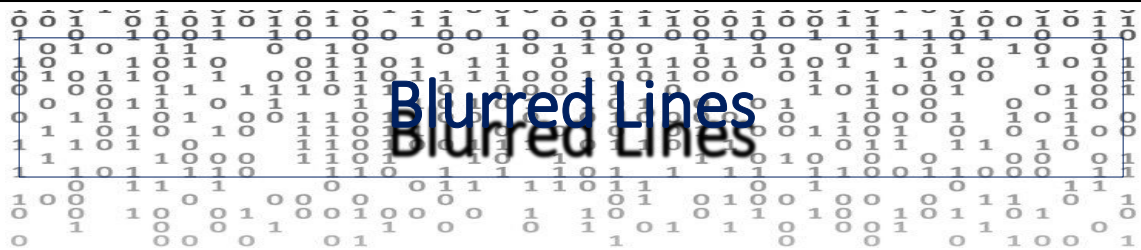
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- “...the legal case involving *All We’d Ever Need Is One Another* is still ongoing, and hopefully we will have a chance to make a small impact by creating a precedent in the law that protects an artist’s right to fair use in the context of massive online image databases and art made with algorithmic processes.” Adam Basanta



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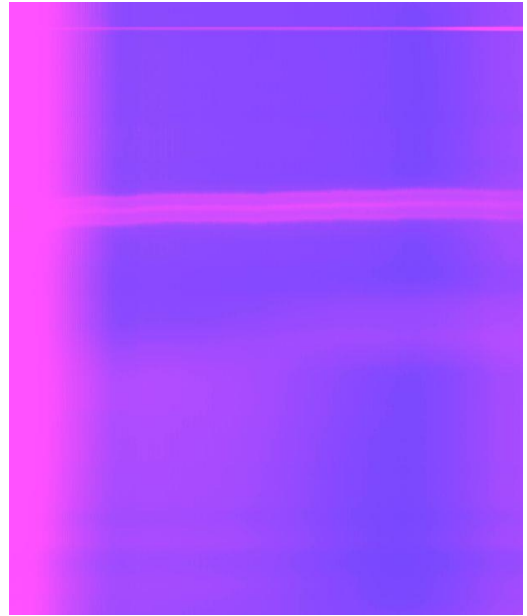
- Artist’s identity (trademark) v. artistic expression (copyright)
- Substantially similarity – Does the algorithm decide?
- Algorithmic infringement? Data mining/scraping/informational analysis –fair dealing?
- Authorship and Originality? Who (What) is an Author?

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Adam Basanta's website:

- "All images presented in connection with the artistic work All We'd Ever Need Is One Another by the artist Adam Basanta (the "Artist") are *original works created* by self-generative computer software."



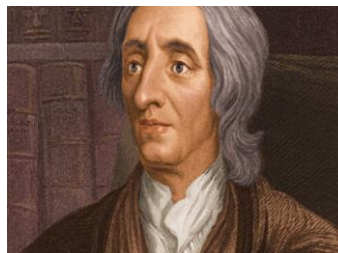
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Authorship and Originality

- "The word 'copyright' in the English version of the Act has obscured the fact that what the Act fundamentally seeks to protect is 'le droit d'auteur'" Décary, J.A *Tele-Direct v. American Business Information Inc* [1998] 2 FC 22

Locke (1632-1704)



Hegel (1770-1831)

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Who is an Author?

- “To encourage learned *men* to write useful books” *Statute of Anne 1710*
- *Copyright Act Lower Canada (1832)*, *Province of Canada (1841)* and *Canada (1868)*: “...if the author, being dead, has left a *widow*...”

1	Copyright Holder	Title of Work	Registration date
2			
3	Mrs Fleming	Exercises on the English Language	16 June 1845
4	L. Eliza McNally	Book of "Skeleton Maps"	24 January 1850
5	L. Eliza McNally	Key to "Skeleton Maps"	29 May 1850
6	Mrs. C.P. Traill	The Female Emigrant's Guide	27 April 1855
7	Mrs. J.C. Sheppard	Chants Canadiens...	18 October 1856
8	Mrs. Col. Savage	Watch the Prophecy of the Scripture	13 March 1857
9	Augusta Baldwin	Poems	2 November 1859
10	Mrs Mayerhoffer	Autobiography of Revd VP Mayerhoffer	28th February 1861
11	Rev Ladies of Notre Dame de Montreal	Mois de Marie Desolee	13 May 1865
12	C. Hannah	Household Recipes or Domestic Cookery	29 December 1865
13	Mrs. J.B. Livernois	Galerie des Contemporains	11 May 1866
14	Margaret Robertson	Shenac's Work at Home	25 February 1867
15	H. Louisa Whitcomb	First Canadian Arithmetic	13 April 1867
16	Madame J B Livernois and Louis Bienvenu	Photographie du Mosaïque des Pretres du Diocese de Quebec	26 April 1867
17	Madame J B Livernois and Louis Bienvenue	Group of the Jesuits of Montreal	25 January 1868
18	Madame J B Livernois and Louis Bienvenue	Monseigneur l'Archeveque de Quebec	25 January 1868
19	Mrs E J Duggan	The New Dominion Waltzes	3 April 1868
20	Madame JB Livernois and Louis Bienvenue	Photographie du 4e Concile de Quebec	19 May 1868
21			

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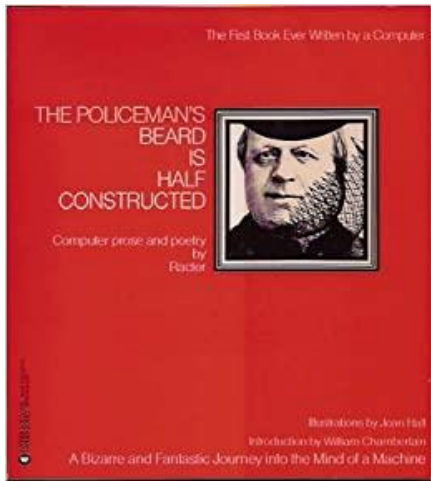
Who is an Author?

- “From this it would almost seem as though the individual who has been dead and buried for some 1900 odd years and the plaintiff ought to be regarded as the joint authors and owners of the copyright, but inasmuch as I do not feel myself competent to make any declaration in his favour, and recognizing as I do that I have no jurisdiction extending to the sphere in which he moves, I think I ought to confine myself when inquiring who is the author to individuals who were alive when the work first came into existence...”
- *Cummins v. Bond* [1927] 1 Ch 167

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Who is an Author?



- "Night sky and fields of black
A flat cracked surface and a building
She reflects an image in a glass
She does not see, she does not watch."

The Policeman's Beard is Half Constructed (1984)



Who is an Author?

Michel Foucault
 “What is an Author?” (1969)

“We can easily imagine a culture where discourse would circulate without any need for an author...”



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ISED Statutory Review of *The Copyright Act* (2019)

“Our own legislation, perhaps informed by approaches taken in other jurisdictions, can be adapted to distinguish works made by humans with the help of AI-software from *works created by AI without human intervention*. The Committee therefore recommends:

Recommendation 14

That the Government of Canada consider amending the *Copyright Act* or introducing other legislation to provide clarity around the ownership of a computer-generated work.”

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Alex Mogyoros

Assistant Professor
Faculty of Law
Ryerson University

Alexandra.Mogyoros@Ryerson.ca

T= 01010100

h= 01101000

a= 01100001

n= 01101110

k= 01101011

(space)= 00100000

y= 01111001

o= 01101111

u= 01110101



Myra Tawfik

EPICentre Professor of
Intellectual Property
Commercialization and
Strategy
Faculty of Law
University of Windsor

mjt@uwindsor.ca