

Martha Woodmansee

Theorist,
historian,
and critic
of the concept
of authorship

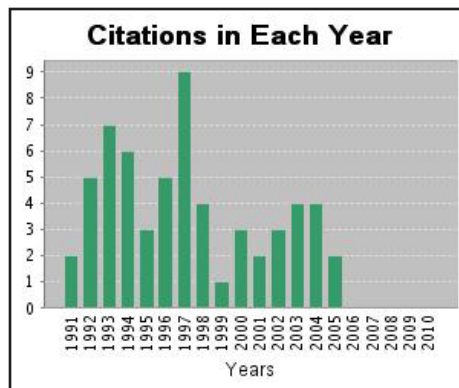
Martha Woodmansee has devoted much of her career to study of the nature of authorship in Western society.

Woodmansee's research has focused on developments of the concepts of authorship and intellectual property in the German-speaking world in the eighteenth and nineteenth centuries, literary theory, aesthetics, economics, and intellectual property law.

Germany and 'Genius'

Woodmansee has studied extensively in Germany—the research time there greatly influenced her research, helping lay the foundation for what became the paper, "The Genius and the Copyright: Economic and Legal Conditions of the Emergence of the 'Author'" (*Eighteenth-Century Studies* 17(1984): 425-448).

The study developed out of Michael Foucault's observation that "it would be worth examining how the author became individualized in a culture like ours, and what status he has been given, at what moment studies of authenticity and attribution began, in what kind of system of valorization the author



Trends in citations of "The Genius of Copyright" as reported in the Arts & Humanities Citation Index.

was involved, at what point we began to recount the lives of authors rather than of heroes, and how this fundamental category of 'the-man-and-his-work criticism' began."

In keeping with a number of latter twentieth-century literary

Vitals

Born 1944

Education

B.A. English and German literature, Northwestern, 1968
M.A. German Studies, Stanford, 1969
Ph.D. German and English literature, Stanford, 1977

Faculty appointments

English, Case Western, 1986-
Law, Case Western, 2002-
Humanities, Harvard, 1985-86
German, Columbia, 1984-85
Literature, German, and English, Northwestern 1977-1985
German, Pittsburgh, 1974-77

Books authored

The Author, Art, and the Market (Columbia, 1994)

Books edited

Erkennen und Deuten (Erich Schmidt, 1983)
The Construction of Authorship (with Peter Jaszi; Duke, 1994)
The New Economic Criticism (Routledge, 1999)
Making and Unmaking Intellectual Property (with Mario Biagioli and Peter Jaszi; Chicago, 2011)

Translations

Literary Hermeneutics by Peter Szondi (Cambridge, 1995)

Honors

Guggenheim fellow, 1999
Fulbright fellow, 2004

theorists, she argues that the notion of the individual author with intellectual property rights to his or her work is a relatively recent development.

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CRITIC of the Concept of the Author

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While she offers considerable evidence to support the notion that the intellectual property concept is a recent development, she—and other similar researchers—fail to mention that the concept of the author dates back to medieval times, such as in the works of St. Augustine, as well as back to classical Greek and Roman civilizations.

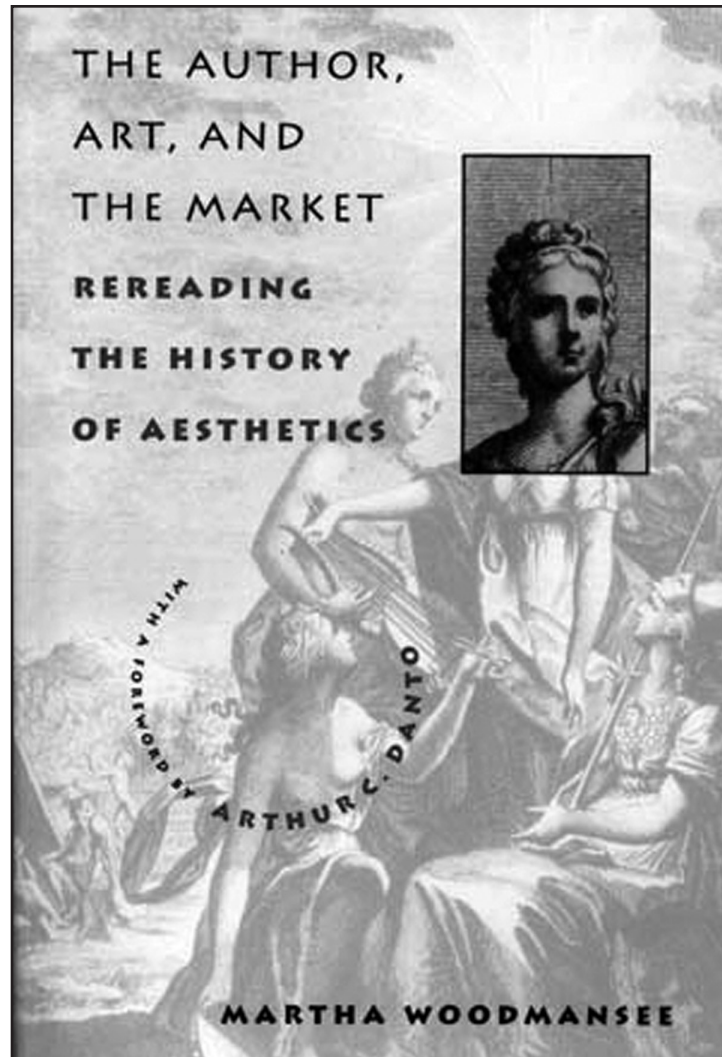
Certainly, proving the authorship of some, such as Homer, is problematic. Nevertheless, the authorship of others, such as Aristotle or Julius Caesar—and the defense of the concept of authorship as it applies to those others—can hardly be contested today. (Veracity of some texts, such as Caesar's justification of his highway robbery of the Gauls, can legitimately be contested, however.)

While her analysis of the timing of the development of the intellectual property concept is sound, and while she provides some important context to support her analysis Woodmansee seems to ignore other relevant context.

Intellectual property

While concepts of individual liberty had once flourished in parts of Europe in classical times, those concepts, and legal and government traditions based on those concepts, largely disappeared as, first the Vatican became the pre-eminent spiritual and secular power in Western Europe, and later as the feudal state ultimately governed by monarchs with "divine" rights usurped the power of the Church.

Under those conditions, a "middle class" such as it was, represented a tiny and relatively powerless



Woodmansee's first book as an author, *The Author, Art, and the Market*, focused on the history of aesthetics.

fraction of the population. As the power of absolute monarchs waned and as more and more artisans and craftsman became effectively independent of the authority of feudal lords, a middle class emerged with the clout to insist on a host of rights that had not previously been accorded them—these include the right to work for oneself, the right to private property, the right to some notion of privacy, and the right to a voice in the governance of one's community.

Woodmansee argues that the development of the concept of intellectual property could have turned out quite differently—even to the extreme that there is no such thing

as a "right" to intellectual property. That, as such, is true. But the development of other rights most Americans take for granted, such as freedom of speech or religion, could likewise have taken another course. Even today, there is no guarantee that such rights will be honored in all places at all times—the fate of a Nobel Peace Prize winner imprisoned in his home nation for exercising his constitutional rights, comes to mind.

Too often, analyses such as Woodmansee's are used to argue against the inherent right to intellectual property. In my mind, that is a misuse of what is otherwise an interesting historical analysis.