

I could have done that

Guy Rohrbaugh

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1 Introduction

‘I could have done that,’ is a lament which will be familiar to anyone who has spent some time around artists, writers, or even other academics. It’s a funny claim, not just because of the pathos involved, but because there may be philosophical reasons to think the claim is necessarily false. To see the serious philosophical issue, we must first distinguish two claims which the speaker might be making, i.e., two scenarios the possibility of which the speaker might be asserting.¹ If we are careful about our use of the notion of identity, we will distinguish between (i) the possibility of someone other than the actual artist—the speaker—creating a very similar but distinct work, and (ii) the possibility of someone else creating the numerically same work.

The former possibility is not deeply troubling. We philosophers are used to contemplating all kinds of remote possibilities. A work just like that one? Sure, why not? Even if we unkindly think the speaker lacks the requisite skills, we might also think that he could have had them.² Either way, the issue only regards the possibility of our friend’s creating *another* work of art of a certain sort. The latter possibility raises a more significant philosophical question. Could the very work of art actually created by one artist have been created by someone else instead? I would wager that most aestheticians would say ‘No,’ and that the intuitions in favor of this answer are very strong. Isn’t there, one might say, a connection between an artist and her work deep enough to constitute part of the essence of that work? I will be defending this answer, but philosophy isn’t a democracy of intuitions, and the real question is what principled reason there is for thinking this scenario impossible.

The sort of question we are asking is not unique to aesthetics. It is continuous with a broader range of questions which fall under the rubric of ‘the necessity of origin.’ Saul Kripke (7, 110–115), for example, famously defended the thesis that material objects have their material origins as a matter of necessity. We are similarly interested in whether there are necessary connections between distinct existences, only we are interested in the relation of authorship and not that of being made from. As it happens, I think the answers to these questions are continuous as well. This paper adopts the general argumentative strategy of (**author?**) (Rohrbaugh and deRosset) and offers what I shall call an argument

from *independence principles*. Given some plausible assumptions, we will find that the necessity of authorship thesis can be established for most, though not all, artworks.

The relation of an author to his or her work is a central issue in aesthetics. It is a hotly debated question whether facts about an author, such as biographical facts and facts about his or her intentions, can be partly determinative of the aesthetic properties of a work and thus a proper focus of critical attention. Charges of committing the so-called ‘Intentional Fallacy,’ have loomed large in the history of criticism.⁽¹⁵⁾ Even among those who are now willing to assign authorial intent a critical role, we find disputes between those who think the actual intentions of the author are relevant and those who focus instead on the intentions of a hypothetical author or postulated authorial persona.

Would settling the necessity of authorship question help settle these further questions? Their relation is unclear. The primary motivations for skepticism about author-based critical practices are epistemic where our issue is metaphysical in nature. Facts about the author might be held irrelevant even if the work couldn’t have had a different author. And if authorship is contingent, it may be the case that other contingent features of artworks are already suitable for critical attention; it’s just that critical claims based on these features are also contingent. The issues seem logically independent.

Even so, perhaps one can make out an underlying metaphysical picture which motivates the epistemic worries about authorship. If artworks are profoundly independent entities—substances of a sort—always separable in principle from their authors, then we had better be able to account for our critical practices in terms of the artworks themselves. Perhaps we must conceive of them as authored, but the particular author must be irrelevant. This picture, at least, would be undermined by finding that authorship was a necessary relation. So too, only if authorship is contingent do we face the possibility of a work with just its actual aesthetic properties while having a different author. If this were to hold generally, surely a further thesis, then the author would be superfluous to criticism. In sum, finding that author and work are modally inseparable might undermine some reasons for barring considerations of authorship, but in no way alleviates the need for further argument from properly aesthetic considerations.

Apart from this aesthetic issue, finding authorship to be necessary would be novel in at least two other respects.³ First, some of the artworks in question are arguably non-material objects, those repeatable works like photographs, novels, and symphonies. It would be a powerful result to extend origin theses to non-material objects. J. L. Mackie (9, 360) once opined that, “the contrast between the necessity of origin and the contingency of development is not essentially connected with constitution,” and I hope to vindicate this suggestion. Second, it would demonstrate that the special modal status of origin is not confined to such coarse notions as material origin, but might include things we care rather more about.

2 Individuation vs. Necessity of Authorship

Before turning to the argument, we need to distinguish our question from another one regarding how many authors a work can have. While it is obvious that there are, in fact, many co-authored works, there is spirited disagreement over imagined cases in which multiple authors *separately* arrive at qualitatively indistinguishable works. Do they author the same work or distinct works? Keeping in mind that answers may vary with the kind of artwork in question, some say they author the very same work; others say that the works are the same only if the artists work in the same art-historical context; still others maintain that all such works would be distinct. Often, these views are associated with views about the ontological status of artworks. For instance, applied to musical works, the first answer is associated with the view that such works are pure sound structures.

Fundamentally, this is a dispute about the individuation conditions on works of art. One asks of any ‘two’ works, under what conditions are they the same work or distinct works? What is important to see is that questions about individuation are logically independent of questions about counterfactual authorship. Answers to individuation questions concern the identity and distinctness of items within a single possible world. While such answers are often taken to be conceptual or necessary truths, this is merely to say that the conditions imposed by an answer obtain in every possible world. Answers to individuation questions *never* settle questions of what is called cross-world identity. Questions about counterfactual authorship, on the other hand, only concern the identity and distinctness of items across possible worlds. We ask, given that a work is actually authored by this or these individuals, does this very work appear differently authored in another possible world?⁴

Because the two questions have a way of being run together when we focus on repeatable works of art, let us first run them apart by considering the simpler case of non-repeatable works like paintings. On the assumption that paintings are physical objects, the individuation of paintings is a relatively straightforward affair. Most believe that questions of the form, ‘Are these the same painting?’ are broadly settled by considerations of spatio-temporal continuity together with those imposed by the sortal ‘painting.’⁵ These considerations also settle questions about multiple authorship. Cooperation is permitted, but if painters separately produce two canvasses, the resulting paintings are distinct however similar their qualitative features or art-historical contexts may be. Settling these questions, however, leaves open the modal question of counterfactual authorship. Even if no other actual painting is this very painting, it is a further question whether someone else could have painted this very painting. In this case, it is clear that questions of individuation in a single world and questions about counterfactual possibilities of authorship are different questions.

When we turn to repeatable works, we should continue to distinguish these questions. The questions about individuation become harder. All three answers broached above have been gamely defended in relation to musical works. The debate largely revolves around whether, in the imagined case of separate but

parallel compositions, the results are discernible in ways which allow the invocation of Leibniz's Law to show the distinctness of the results.⁶ I think there are good arguments which show that separate composition leads to distinct works, but what is important here is that none of these views settle the necessity of authorship question. Suppose the correct theory of individuation for musical works tells us that a work W_1 is composed by x , y , and z in light of various facts about what they do, whether they do it together, and the context in which they do it. What we do not yet know is whether W_1 could have been composed by some other individual or individuals, say, u and v . This is so even if our theory of individuation also tells us that, in some other possible world, u and v compose a work W_2 which is just like W_1 in a context just like that in which x , y , and z worked. An individuating theory does not speak to the question whether W_1 is W_2 .

Alas, things are more complicated. As noted above, theories of individuation are often associated with ontological theories, theories which *do* settle the counterfactual authorship question. If they do, such theories are logically stronger than the individuating theories they subsume. An example will illustrate the complications. Jerrold Levinson (8, 23–26) has argued that we should prefer the claim,

(MW) Repeatable works of art are S/PM structures⁷ as indicated by a particular artist at a particular time,

to the claim,

(MW') Repeatable works of art are S/PM structures as indicated in a particular musico-historical context,

in part because this would explain the phenomenon of fine individuation of such works. Levinson also takes (MW) to entail the necessity of authorship and (MW') to entail its contingency.⁸ He offers, in effect, a second inference to the best explanation argument, that we should accept (MW) over (MW') because it would explain the necessity of authorship. Together, these two implications of (MW) give, 'composers *logical insurance* that their works are their own.'^{[24](8)}⁹

Two points should be made. First, no argument has been offered in support of the necessity of authorship. Levinson's reasoning here presupposes that claim in order to use it as a phenomenon to be best explained by (MW). The alleged phenomenon of fine individuation provides, in itself, no support for this aspect of (MW). An ontological theory which provided fine individuation of works but allowed authorship to vary counterfactually would be equally supported.

Second, the appeal to 'logical insurance' conceals a difference between two kinds of insurance with which we might be concerned. Levinson asks,

Why should composers have to fear, however abstractly, that their works are not exclusively theirs any more than painters painting paintings or sculptors sculpting sculptures need be troubled about whether their works are at least numerically distinct from anyone else's? (8, 24)

Arguing that musical works are individuated as finely as paintings eliminates one source of such fear, that someone else is an unknown co-author. But since we have already seen that the fine individuation of paintings leaves open the modal threat of alternative authorship, we know there is another source of fear facing both painters and composers. What is needed is some argument that artworks have their authors as a matter of necessity, and one which applies equally to repeatable and non-repeatable works.

Despite the logical independence of these two issues, the argument I offer will require an individuating premise, that if distinct authors separately produce works of art in a world, then those works are also distinct. Anyone who holds that works are more coarsely individuated will rightly reject this premise and my argument. They may not automatically reject my conclusion, since it is a possible view that coarsely individuated works could not have had different authors.

Surprisingly, the argument will not be without interest to those who individuate works more coarsely. Those who hold that parallel but separately authored works are the same only if authored in the same context face a modal question exactly parallel to the necessity of authorship question, viz., *the necessity of context*. Could a work of art actually authored in one context have been authored in another? A natural view is that this is impossible, but, again, this result does not follow from their views about individuation. An opponent could consistently maintain both that (i) all authors of a work in a world must work in the same context, and (ii) that very work could have been composed in another context. Ruling this out requires an argument, and a variation of the one presented in this paper will turn the trick. I will note this option when the time comes, but for now let us turn to the basic argument assuming works are finely individuated.

3 Prevention

Origin theses express restrictions on possible processes of creation. They claim that certain logically possible productions, e.g., that of *Guernica* from Manet's hand, are not in fact possible. But why shouldn't this be possible? After all, it has seemed to many that such situations are easily imaginable. Julian Dodd, for instance, has recently claimed that, 'We can, it seems, quite easily imagine a possible world in which *In This House, On This Morning* was composed by Charles Mingus in 1958,' instead of by Wynton Marsalis in 1992.¹⁰ This evidence, however, is far from conclusive. As the post-Kripke literature in the philosophy of mind has made clear, there is a problem precisely with knowing whether such putative imaginings concern the objects we think they do or, rather, some qualitative duplicates.¹¹ While it is uncontroversial that Dodd can imagine Mingus composing a work just like Marsalis', it remains unclear (i) whether what is imagined is the very same work or another just like it, and (ii) whether conceivability implies possibility anyway. We must push further.

Now a thesis like (MW) entails that alternative authorship, at least of mu-

sical works, is not even logically possible, but this leaves us looking for a reason to accept this aspect of (MW) and without an answer for paintings.¹² I suggest that it will be more profitable to accept the logical possibility of alternative authorship and look for a reason that it is not, as they say, metaphysically possible. We may begin to find such a reason by asking a somewhat different question: What does it take to prevent an artist from creating a certain artwork?

Consider *Guernica's* coming from Picasso's hand. It is a contingent fact that Picasso painted *Guernica*. There are many ways it might not have come to pass. Picasso might have died before painting it; he might never have been born; the canvas might have been stolen before it was finished; we might not have had a practice of painting at all. In all of these cases, let us say that some factor prevents Picasso's production of *Guernica*. The *preventing factors* are those differences between the actual world and some possible world responsible for *Guernica's* not coming from Picasso in that world. Our question is thus, what kinds of factors can be preventing ones? The last few examples are all examples of one particular kind, factors which prevent by making a difference to Picasso's production process, his action of painting. In some, the process is simply absent; in others, the process is altered in a way that prevents it from culminating as it actually does. Of course, not all such alterations to the painting process will prevent *Guernica's* eventuating from Picasso. His using a paintbrush numerically distinct from that which he actually used, for example, is not a plausible preventing factor. The point so far is just that factors which make a difference to the painting process are candidate preventing factors. Call these sorts of factors, those which prevent by making a difference to the materials, agents, or tools of the actual production process, *local preventing factors*. What is local need not be the factor itself, but rather the preventing differences it induces in the locale of the actual production process.

My task would be simpler if only local factors could prevent, but we need to take account of plausible views on which this is not the case. Most hold that works of art display multiple forms of dependence on what has gone before them. One can prevent a particular artwork from coming to be by interfering with those things on which an artwork depends. For instance, many works of art have representational properties, and could not come to exist in worlds in which what they actually represent did not also exist. Without Jean Cocteau, Modigliani's portrait of him might be thought impossible. So too, many works of art comment on, are reactions to, or are about other works of art and could not have come to exist in worlds which lack those earlier pieces. Without *The Odyssey*, James Joyce's *Ulysses* seems equally impossible.

These preventing factors are not merely causal in nature. It is not simply that Joyce would be unlikely to come up with the text of *Ulysses* in the absence of Homer's epic. It is that we think nothing could be *Ulysses* if it were not a retelling of Homer's tale. It is nomically possible, I suppose, that someone, even Joyce, could have composed the very same text in the absence of *The Odyssey*, but I take it that we have some reason to think that *that* would not have been the same work of art as our *Ulysses*. Similar reasoning applies to Modigliani's portrait. Even in a Cocteaules world, Modigliani could have painted a portrait

just like his actual one, but it could only have been a portrait of someone else or of no one in particular. One might be inclined to say that it would not have been the very same painting as that which we actually have.

If we think that Modigliani's painting would not have been the same painting in the absence of Cocteau, then we have a non-local preventing factor on our hands. The absence of Cocteau prevents the production of his actual portrait, but not necessarily by inducing some local difference in Modigliani's actions. We must face the possibility that his actions go just as they actually do, and yet a distinct painting results. This would count as prevention. As before, not all alterations of the history leading up to the production of a work will turn out to be preventing factors. If different planes were involved in the bombing of Guernica, this would not prevent Picasso from painting *Guernica* in the way that the absence of the bombing altogether would seem to. Whether or not there are genuine examples of this phenomenon turns on whether extrinsic properties like these are necessary to the works which have them. Unless all are contingent, there can be non-local prevention.

One point should be stressed. We are not assuming that Picasso is one of those bits without which *Guernica* cannot do. For all we have said, someone else could have managed to paint *Guernica* if Picasso had not. While some of the examples mentioned would prevent anyone from painting *Guernica* (no bombing), others would only prevent Picasso from doing so (his non-existence).

I claim that we have identified the only two possible kinds of prevention factor: local factors and non-local factors which involve the absence of some object or event on which a particular artwork depends for its existence. Let us erect this into a general principle:

Prevention Principle Given a work of art W produced by an artist A dependent on the existence of $\{D_1, \dots, D_n\}$, any factor F which neither (i) has effects in the locale of the production process, nor (ii) affects the presence of $\{D_1, \dots, D_n\}$ does not prevent A from producing W .¹³

This expresses what looks like a general truth about processes of artwork creation. The causal-historical path leading to one work leads through quite specific influences, materials, and actions which are distinct from those leading to any other work of art. Because the actual production of an artwork is just a matter of what happens along the causal-historical path, any preventing factor must make a difference along this path. Factors that fail to influence it do not prevent the artwork from coming into existence just as it actually does.

4 Independence Principles

The Prevention Principle lays down a necessary condition on what it takes to prevent an artist from creating a certain artwork. With this in hand, we are in a position to pose the question which drives the reasoning of this paper: Is it ever the case that the production of a work of art by one artist *must* prevent the production of any of the works createable by a second artist? To

the degree that the answer is ‘No,’ we will be able to speak of the production processes of distinct artists as being *independent* of one another and of the truth of various *independence principles*. Claims about this sort of independence are compossibility claims, for where neither of a pair of production processes must prevent the other, both are jointly possible in some world or other. To anticipate, we will find some reason to think that not all pairs of artwork-productions by distinct artists are independent of one another. However, once we understand the source of the interference, we will find that some classes of production processes are classes of mutually independent processes and that these are just the classes which are relevant to establishing the necessity of authorship.

Let us begin slowly. It is clear that artwork-productions can be preventing factors in certain cases. Suppose, for instance, that an artist who produces a certain work of art would not have done so had there been a certain other work with which she had first come into contact. Perhaps the second work would have been close in conception to her own and would have dispirited her. Perhaps the contact would have sent her own work in another direction. Such things happen. While these are cases of the prevention of one work by the presence of another, the preventing connections between the productions are merely contingent. Had the artist not seen the second work, both works could have ended up being produced. The form of independence with which we are concerned is that which rules out *necessary* prevention of one work by another, and so these are not yet examples of production processes which are not independent.

It is hard to see how the production of a work by one artist could necessarily prevent the production of a work by a second artist. Consider, for instance, the process by which Picasso painted *Guernica*. Although all actual works are automatically compossible with it, it is easy enough to imagine worlds in which other works are created. But for every such imagined world, it seems we can also imagine worlds in which both (i) Picasso acts just as he actually did in our world and (ii) the other artist acts just as she did in the second world. Since these worlds do not differ locally with respect to either of the production processes, one (if not all) of them appears to be a world in which both artists succeed in producing what each produced separately, witnessing the independence of the productions. Because the processes which give rise to artworks are, for the most part, causally discreet and can be isolated from one another, they cannot give rise to necessary local interference. Even if a work is produced in a way (in one world) which does interfere locally with Picasso’s production process by, say, stealing his paint or taking over his studio, if that other work could have been produced with other paint or in another location, we could still find a world which contains both productions.¹⁴

This reasoning, however, ignores the possibility of non-local prevention. Those who believe that some extrinsic properties, like those of representation and influence, are necessary to some works of art have the means to produce examples of non-compossible work-productions. They might think that ‘importing’ a locally unaltered production process to another world, as the preceding argument does, might not result in the same work because the process would be set in a new context, one which would not permit the very same work of art

to eventuate. Think, for instance, of a counterfactual art history which would have obtained had the United States declined to become involved in Vietnam after the Gulf of Tonkin incident. One might plausibly maintain that some of our actual works could not have come to exist in such a world and vice versa. Such works would fail to be independent.

The issue is trickier than it seems, for we are not merely concerned with the fact that many of our actual artwork-productions would have been tremendously unlikely in that alternate history. Consider Maya Ying Lin's Vietnam Veteran's Memorial in Washington, D.C.. I will suppose for the sake of argument that it is physically possible that she engage in an exactly similar production-process in the warless world. The possibility is a bizarre one, and it is difficult to imagine a context in which it could have come to pass. What I find plausible is the claim that, however one fills in the story, the monument produced is not the same work of art as that which sits on the Mall in our world. The counterfactual monument would 'commemorate' a war that never happened, men who never died. Its significance in that world seems so thoroughly altered that that we ought to say that it is not our memorial. Even if Lin and many, many others are under some sort of mass delusion that there was such a war to commemorate, I would still be reluctant to identify it with our monument. This example, or others like it, appears to demonstrate that some work-productions are not compossible and that a fully general independence principle is false.

Despite this concession, the example also suggests that the source of necessary prevention of one by another lies in the conflict between the essential dependencies of the two works; what one requires, the other forbids. When we restrict our attention to pairs of work-productions which do not conflict in this way, it again becomes very difficult to see how one could necessarily prevent another. Work-productions which have exactly the same essential dependencies are the clearest case, as sharing dependencies is an obvious sufficient condition for lack of conflict. Consider the relation, ' x has the same essential dependencies as y .' Call it D . Formally speaking, D is an equivalence relation, which partitions the domain of artwork-productions into equivalence classes of productions which share all essential dependencies. Because all artwork-productions which fall into one such class share their essential dependencies, they are all compossible and need not prevent one another's existence. We thus find a plausible independence principle to be one which restricts itself to such classes:

Independence Principle Given two distinct artists, a work produced by the first can, in principle, be created in the presence of any of the works createable by the second artist which share the essential dependencies of the first work.

Perhaps stronger independence principles than this are true, but a principle of this strength is all we will require. At the limit, one who thinks that there are no essential dependencies—that all the extrinsic properties are contingent—is one who thinks that all works fall into a single such class of mutually independent works.

Because we have arrived at the Independence Principle through a chain of largely metaphysical reasoning, it may appear to some as a modal obscurity with no non-instrumental connection to aesthetics. This is not the case. The Principle encodes a distinctive view about art. It says that making a work of art is not, essentially, a competitive or zero-sum enterprise. Each artist has his or her own contributions to make, but these contributions are not in competition with one another. Each could merely serve to enrich the community of artwork-productions. My making an artwork cannot prevent you from making any of the artworks you otherwise could have made, for both may appear together in the same world. Well, perhaps the historical circumstances which make my work possible would have made yours impossible, but there is nothing about the production of my work as such which competes with yours.¹⁵ This is surely a congenial and optimistic picture. There may, in fact, be distinctively aesthetic reasons to accept it, in contrast to the metaphysical route I have offered, but developing careful arguments of this sort would take us beyond the scope of this paper.¹⁶

It is time we located the necessity of authorship issue within our more general discussion of prevention and independence. A purported counter-example to the necessity of authorship has the following profile: Given a work W produced by an artist A in some world, there is another world in which W itself is produced by an artist distinct from A , such as a production of *Guernica* by Manet. Now if Manet is going to produce *Guernica*, he had better produce a work which shares all of *Guernica*'s essential dependencies. Essential dependencies are, by definition, those things without which a particular work cannot exist. So if we are looking for a world in which someone other than Picasso paints *Guernica*, we may restrict our search to those worlds which are like the actual world in containing everything *Guernica* needs to eventuate. The upshot is that, for any work of art, its production by one artist and any purported productions of this same work by another artist fall into a single class of shared dependencies and are thus governed by the independence principle at which we have just arrived.

I should mention, in passing, a class of cases which may appear to be counter-examples to the necessity of authorship but which do not have the genuine profile of such. Suppose the board of directors of some corporation holds a competition for a work to be placed in the lobby of its headquarters. Perhaps they even stipulate what the title of the piece is to be, say, '*Promoting Shareholder-value*.' Smith wins the competition. It might seem that Jones could have been the author of *Promoting Shareholder-value* instead of Smith. This is a confusion. Smith and Jones both produce works called '*Promoting Shareholder-value*' which are distinct for the usual reasons and provide no special reason to doubt the origin thesis. What could have been the case is Jones's work winning the competition and hanging in the lobby, and this truth can be expressed sloppily by saying, 'Jones could have been the author of *Promoting Shareholder-value*,' where '*Promoting Shareholder-value*' functions as shorthand for 'the winner of the competition.' Part of the illusion is created by the impression that the board already has a particular work of art in mind, but this is no more the case than when parents decide to have a child and call it 'Simon.' Until a child is

conceived, there is no particular child on the scene.

5 The Main Argument

We are now in a position to understand the necessity of authorship, not as a bottom level metaphysical principle or mere intuition, but instead as a simple byproduct of the Independence Principle. Let us start with a more explicit characterization of the independence principle:

(IND) Necessarily, given an artwork W_1 made by an artist A_1 , for any artwork W_2 which shares its essential dependencies with W_1 and might be made by an artist A_2 , distinct from A_1 , it is also possible that both W_1 is an artwork made by A_1 and W_2 is an artwork made by A_2 .

This principle will, eventually, require amendment to deal with cooperative creative efforts, but the logic of the argument will be clearest at this point if we ignore cases in which multiple individuals work together. The argument requires two other premises. The first is a familiar logical principle, the (necessary) necessity of distinctness.

(ND) Necessarily, if $x \neq y$, then necessarily $x \neq y$.

The second is the aforementioned, potentially controversial individuating principle. Call it Artwork Distinctness.

(AD) Necessarily, if W_1 is an artwork made by A_1 , W_2 is an artwork made by A_2 , and $A_1 \neq A_2$, then $W_1 \neq W_2$.

This principle says that a single work of art cannot be created by distinct artists within a single possible world. The conclusion of our argument will be:

(NA) Necessarily, given an artwork W_1 made by an artist A_1 , any artwork W_2 which shares its essential dependencies with W_1 and might be made by an artist A_2 , distinct from A_1 , is distinct from W_1 .

Some will notice that (NA) appears to fall short of a full-strength necessity of authorship claim, which ought not be restricted to works which share dependencies. This is easily remedied. Given the definition of ‘essential dependency,’ it is trivial to claim that, if x and y do not share their essential dependencies, then $x \neq y$.¹⁷ This claim and (NA) together entail the unrestricted,

(NA’) Necessarily, given an artwork W_1 made by an artist A_1 , any artwork W_2 which might be made by an artist A_2 , distinct from A_1 , is distinct from W_1 .

Now the argument. Start with a work of art, W_1 , made by an artist, A_1 . Let W_2 be some arbitrary work of art sharing all its dependencies with W_1 and is possibly made by an artist, A_2 , distinct from A_1 . Since (i) W_1 is actually made by A_1 , (ii) it is possible that W_2 is made by A_2 , and (iii) W_1 and W_2 share

all dependencies, the independence principle says that both are jointly possible in some world w . Since A_1 and A_2 are distinct, they are distinct in w as well by the necessity of distinctness. By artwork distinctness, the distinctness of the artists in w shows that W_1 is distinct from W_2 in w . A second application of the necessity of distinctness shows that W_1 and W_2 are actually distinct as well. Since the choice of A_2 and W_2 was arbitrary, we can conclude that any artwork sharing dependencies with W_1 that it is possible for such a distinct A_2 to make is distinct from W_1 . Since the choice of starting world was arbitrary, the conclusion holds for all possible worlds. Q.E.D.¹⁸

More casually, the reasoning is this: Consider some purported counter-example to the necessity of authorship, such as *Guernica* coming from Manet's hand. Since Manet is to produce *Guernica* itself, his work must share its essential dependencies with Picasso's *Guernica*. But if both Picasso's work and Manet's work share their dependencies, the Independence Principle tells us such separately possible work-productions are also jointly possible in some other world. But by Artwork Distinctness, we know that the differently-authored works are distinct works in the world in which both appear. And since what is possibly distinct is actually distinct as well, we know that the work which Manet could have produced is not, contra our hypothesis, *Guernica* itself, but some other work.

A few comments about the argument and its premises are in order. First, I should flag a certain level of generality in the argument. The premises only make use of an undifferentiated notion of artwork, along with the relations of distinctness, being-made-by, and dependency-sharing. The notion of artwork here is intended to range indifferently over all artworks, both repeatable and non-repeatable. If we can derive a necessity of authorship result, it will apply with equal generality to all artworks. This is what I advertised earlier as an advantage of the independence approach. If it works, it gives us a unified account of why authorship is necessary.

Second, one might think that (AD) should be rejected by those who maintain that some artworks are discovered and not created. This is not correct. On their view, the antecedent of the conditional is false in the case of discovered works, because such works are not made by anyone. Conditionals with false antecedents are true. A discoverist who accepts that some works, say paintings, are created and that created works are finely individuated should accept (AD). What should lead one to reject (AD) is not discoverism *per se*, but the view that any created works are coarsely individuated. This is not the discoverist thesis. Obviously, the argument is not intended to settle whether works are created or not. It's an argument that artworks have their origins necessarily, not that they have origins at all.

Third, one who maintains that works are coarsely individuated, whether or not a creationist, should reject (AD). No argument for (NA) will remain. Consider, however, the necessity of context. Could a work of art actually made in one context have been made in another? This is a pressing question no matter what your individuating views are, and a variation of the above argument settles it. Replace (AD) with Context Distinctness:

CD Necessarily, if W_1 is an artwork made in a context C_1 , W_2 is an artwork made in a context C_2 , and $C_1 \neq C_2$, then $W_1 \neq W_2$.

This says that a single work of art cannot be made in two distinct contexts in a single world. This is accepted by those who believe that many who work separately can create the same work of art only if they work in the same context. Combining this with a similarly adjusted independence principle,

IND-C Necessarily, given an artwork W_1 made in a context C_1 , for any artwork W_2 which shares its essential dependencies with W_1 and might be made in a context C_2 distinct from C_1 , it is also possible that both W_1 is an artwork made in C_1 and W_2 is an artwork made in C_2 .

gives rise to an exactly parallel argument that a work's context of creation is necessary to it.

Fourth, it is a natural reaction to the argument to think that, while valid, it simply begs the question because the independence principle just is the necessity of origin in disguise. What difference is there, one might ask, between being told that an artwork could have come from no other artist and being told that the production of any similarly dependent work by another is compossible with the first artwork? While understandable, this charge is mistaken. Independence and the necessity of authorship do not imply one another. Independence, by itself, does not imply the authorship thesis in the absence of ND and AD, which last, we have seen, is not a trivial claim. More surprisingly, the necessity of authorship does not entail the truth of independence. Even if no artwork could ever come from another artist, independence might still be false because some distinct artworks which share dependencies are not compossible. The necessity of authorship only denies the existence of certain possibilities, while the independence principle makes a positive claim that a certain situation, that containing both works, is possible.

6 Cooperation

I now want to refine the Independence Principle to deal with the case of cooperative enterprise among artists. We cannot simply restate the Independence Principle using a relation of authorship between works and sets of artists instead of individual artists. Suppose that W_1 is created by the cooperative effort of a set of artists S_1 , and that S_2 is a proper subset of S_1 . Is it the case that W_1 is compossible with any similarly dependent work separately createable by S_2 ? It might seem not, for the efforts of S_2 might take up just the time and space which were needed by S_1 to make W_1 ; they compete for their authors. Independence is false in this case because we do find necessary interference between the processes, and so no authorship result will be forthcoming.

What is interesting about such cases of overlapping authorship is that they are cases in which the necessity of authorship is itself implausible. Couldn't W_1 have been made by a slightly smaller group of artists? Couldn't it therefore

have been made by a set of artists distinct from that which actually created it? If my claim that independence principles ground the necessity of authorship is correct, then it is no coincidence that the authorship thesis seems implausible in just those cases where independence fails. Such cases also suggest that we may restore (IND)'s plausibility by restricting it, from distinct sets of artists, to disjoint sets of artists. This yields:

R-IND Necessarily, given an artwork W_1 made by a set of artists S_1 , for any artwork W_2 which shares its essential dependencies with W_1 and might be made by a set of artists S_2 *disjoint* from S_1 , it is also possible that both W_1 is an artwork made by S_1 and W_2 is an artwork made by S_2 .

Such a restricted independence principle (along with a similarly reformulated Artwork Distinctness principle) supports a similarly restricted, and more plausible, necessity of authorship thesis, *viz.*, that no artwork could have been made by a group of artists disjoint from that which actually made it. You will notice that this leaves a gray area of cases unsettled, those in which there is some overlap in authorship.¹⁹ These are, however, just the cases in which the necessity of authorship is itself plausibly thought indeterminate. If it seems clear that the group could have gotten by with one of their number gone walkabout or with one additional member, it's rather less clear whether a single member of the group could have made the very work actually made by the group, or whether a group of artists could have made what in fact took only one.

7 Limits of the Approach

By now, it will have become clear what form a counter-example to independence will have to take: a pair of production-processes which are modally entangled in a way that prevents their co-existence as a matter of necessity. We should look for production-processes which compete for what cannot be shared. Let us consider some hard cases in this neighborhood to see how the approach can deal with them. Depending on our understanding of the cases, we will either find that the necessity of authorship holds across the board or that some kinds of artworks are exempt.

Suppose Smith and Jones are sitting on seawall with a single camera between them. At that moment, the seascape presents a brief opportunity for a stunning photograph, one of Bresson's 'decisive moments.' Smith leans over, picks up the camera, and takes a picture. Could Jones have taken that very photograph?²⁰ Clearly, Jones could have picked up the camera instead and taken *a* photograph just like Smith's. The question is whether they both could have, for that would show that Jones could not have taken Smith's picture. We have here the appearance of competition for tools between two acts of production; there is just one camera and not enough time for them both to have a go with it. This is in the right spirit, but the single camera is a red herring, for there could easily have been two cameras. What is trickier is the point of perspective, that between

them, which Smith occupied to take his picture. They cannot both lean in and occupy that point at the same crucial moment.

Whether the two photo-takings are independent turns on a antecedent modal issue, whether photographs possess any degree of *modal flexibility*. Questions of modal flexibility are questions about whether a given work of art could have been at all different than it actually is. If Smith could have taken the very picture he actually took from a very slightly different perspective, that of leaning in not quite as far, then the two takings will be independent. If it is essential to Smith's photograph that it be taken from the exact point and time from which it was actually taken, then the two will not be independent and there will be no argument that Jones could not have taken Smith's. I have argued elsewhere (13) that modal flexibility is a phenomenon common to all artworks, and in this case I am inclined to think that Smith's photograph could have been taken from a point a few inches to one side, and thus that they could have taken both pictures cheek-to-cheek. The reasoning about the second camera turns on a similar issue, whether the camera a photograph was taken with is essential to it. The difference is that 'camera essentialism' is as implausible as the 'paintbrush essentialism' earlier denied in passing. The upshot here is that in hard cases, the applicability of the independence argument can depend on one's antecedent views about the modal flexibility of various works of art.

Consider Robert Rauschenberg's *Erased de Kooning Drawing*.²¹ It is clear that any number of people could have erased a de Kooning drawing, even this de Kooning drawing. But what is not possible is that two individuals, say Rauschenberg and Warhol, separately erase the same de Kooning drawing in the same world. The two productions compete for raw materials. Whether the two productions are independent again turns on a question of modal flexibility: Is it essential to *Erased de Kooning Drawing* that it be made by erasing this particular de Kooning drawing, or could another have done just as well? If Rauschenberg could have used a different de Kooning drawing (regardless of whether someone else is around erasing them) in his production process, much as Picasso could have used different tubes of paint or different paintbrushes, then that production is compossible with Warhol's. If not, then the two productions are not compossible and it is open whether Warhol could have made *Erased de Kooning Drawing*. The arguments of this paper strongly suggest the latter answer, for it looks like Rauschenberg's efforts with regard to two different de Koonings are themselves compossible and independent, so that a work Rauschenberg could have made from some other de Kooning would not have been the work he actually made. Appropriately, the *Erased de Kooning Drawing* case is one in which the necessity of authorship is not as plausible as it usually is. Some may well believe that what is truly important about *Erased de Kooning Drawing* is the act of erasure and not the agent of the erasure. They might think, surely someone else could have done that.

Let us draw some general conclusions from these examples. Where artworks have (i) essential features which are (ii) not sharable, these features will give rise to pairs of production-processes which are not independent and for which no necessity of authorship result is forthcoming. To put this another way, where

we think that what is essential to a particular artwork is something necessarily unsharable that someone else could have produced, independence will fail and the necessity of authorship will have no support. In contrast, where artworks do not possess unsharable features or these are subject to modal flexibility, independence and the authorship thesis will be in force. Much as in the case of cooperative efforts, I claim this is an advantage of the independence approach. It provides necessity of authorship results in just those cases in which one's antecedent modal views tend to make the authorship thesis plausible, and withholds these results in cases in which one is already committed to modal views which make the thesis implausible; it tracks and explains our intuitions about the necessity of authorship.

Some may hastily conclude that we have made the argument for the necessity of origin depend on prior modal intuitions in its favor, but this is a mistake. The applicability of the independence argument turns on modal features of artworks *other* than their susceptibility to creation by another. What matters in hard cases is always whether some (often intrinsic) unsharable features of artworks could have been any different, and this is a question on which we have an independent, and prior, grip. Considerations one could offer in favor of some feature's being essential or not to a work—e.g. the centrality of a feature to the point of an artwork—are not, by themselves, considerations in favor of the necessity of authorship.

Applying this reasoning to a third example should make clear the limits of the approach. Suppose you think—unwisely by my lights—that it is essential to some work of art W that it be the first work of a certain sort. You think that even if the artist's efforts had transpired just as they actually did, resulting in a work just like W , it would not have been W in a world in which someone had already created a work of that sort. In the framework of this paper, the earlier work would be a non-local preventing factor. Again, we have a feature which any number of artists could have produced in a work but which is not sharable between two such works in a single world. Productions of works by different artists which are necessarily the first to possess this feature are not independent of one another, and we cannot argue that the actual author is necessarily the author. This is the natural result, for one who thinks that what is really essential to W is that it be the first work to possess that feature is one who may well think that someone else could have made that very work simply by making a work with that feature before anyone else. One who thinks that 'being first' is never essential to a work will find that independence reasoning goes through.

8 Conclusion

Where does this leave the authorship thesis in general? Clearly, there will be hard cases in which we cannot pronounce on the origin thesis without first coming to a settled view of which other features of a work are essential to it, at least when it comes to unsharable features which give rise to competition.

Depending on how we settle these other questions about modal flexibility, the independence approach will either uphold a finding of necessary authorship or leave the question open in a way that makes sense given our other answers. But one should not lose sight of the fact that many cases we might care about are not hard cases. We have asked, for instance, whether Manet could have painted *Guernica*. It seems clear that all of the candidate paintings which Manet might have painted are independent of Picasso's production of *Guernica* and could have appeared alongside Picasso's effort. *Guernica* plausibly has no unsharable essential features of the sort which give rise to hard cases. We are thus assured that no possible production of Manet's could have resulted in *Guernica*. So, Manet could not have painted it. Similar reasoning would seem to rule out any other artist, actual or merely possible, so the relationship between Picasso and *Guernica* is necessary. Often, our questions about the possibility of counterfactual authorship will be equally simple to resolve in this way.

In light of these observations, we can conclude that the independence approach offers a powerful argument in favor of the necessity of authorship. First, there is a valid, non-circular argument from independence principles to the necessity of authorship. Second, there is a plausible argument for the truth of the independence principle based on the idea that the creation of artworks is governed by a locality of prevention principle. Third, the few cases in which independence might not hold involve commitments to essentialist theses about works of art which might already lead us not to expect an authorship result in those cases. Finally, the argument has the desired generality, as its logic is equally applicable to both repeatable and non-repeatable works of art. With few exceptions, a claim that one could have produced a work in fact made by another is false, unless, I suppose, the claim is that they could have worked on it together.

Notes

¹ Strictly speaking, the claim, 'I could have done that,' is further ambiguous on account of the demonstrative. Among the readings are, (i) that the speaker could have performed that very action of authoring, (ii) that the speaker could have performed an authorial action of that kind, (iii) that the speaker could have created a work of that kind, (iv) that the speaker could have created the very work in question. This last is the pertinent reading here. Related claims using more specific verbs like 'write' and 'paint' suffer less from the act-object ambiguity afflicting 'to do that' while continuing to raise the type-token ambiguity relevant here. For the sake of generality, I will use the generic, if awkward, 'to author' as a stand-in for the familiar, specific verbs.

²In all fairness, the point of the speaker's claim may lie not in what is literally said but in a conversational implicature to the effect that she possesses skill and originality at least equal to the actual artist's, thus the pathos. This implicature

is present on all these readings and may well be true. That this further claim is a matter of pragmatics and not semantics is shown by the lack of explicit reference to either skill or originality and the fact that the speaker can cancel the implicature by continuing, e.g., ‘though it would have been sheer luck on my part.’

³ There is a third upshot. In the literature on the necessity of origin, the orthodox approach requires that one assume a sufficiency of origin principle in order to derive necessity of origin results, i.e. that it is a sufficient condition for being a certain object *O* that a thing have *O*’s actual origin. See, e.g., McGinn (10); Salmon (14); Noonan (11); Forbes (4); Hawthorne and Gendler (5). Even if it can be argued that a hunk of wood has at most one potential table in it, it is an obvious non-starter to think that an artist has only one work of art lurking in her. Perhaps a sufficiency principle could be weakened by relativizing it to an artistic plan, time of creation, or some such, but, counter-examples aside, it is clear that the sufficiency approach is a poor match to the subject matter of aesthetics. The capacity to deal with origin theses other than those concerning original material constitution in a unified manner is one of the strengths of the independence approach.

⁴In essence, the point is that claims about individuation are *de dicto* modal claims, while claims about the necessity of authorship are *de re* modal claims. Quine (12) taught us to recognize the difference in ‘degree of modal involvement’ between a claim like, ‘Necessarily, every work of art has one author,’ and one like, ‘Every work of art has one necessary author.’ That the truth of the former does not settle the truth of the latter and vice versa would be even clearer if we substituted ‘owner’ for ‘author.’

⁵This approach to physical object individuation has its roots in ?). The role of sortal concepts is emphasized by ?). Doubts about this approach arise in the bulky literature on Ship of Theseus cases and, in a different way, in ?).

⁶See, e.g., Levinson (8); Kivy (6); Currie (1); Davies (2). I offered, in passing, a different sort of argument in Rohrbaugh (13), that even where the works are not discernible we should think they could have been had their composers composed them differently. Defenders of the middle position face an additional difficulty. Since the relation *same-art-historical-context* is vague, we can construct a paradox analogous to the four-worlds paradox of ?). By starting with the assumption that the independently composed works in the same context are identical and then introducing a series of contextual changes leading to a situation in which the contexts are clearly distinct, we contradict our assumption.

⁷S/PM structures are types individuated in terms of musical structure and performing means of their token performances.

⁸ As should become clear, (MW) and (MW’) are ambiguous. If one were to

read ‘particular’ as ‘single’ in (MW), it would not logically imply that authorship is necessary while continuing to demand fine individuation. (MW’) likewise has another reading on which context is not necessary, even though a single work cannot be indicated in distinct contexts in a single world. A third view, not expressed by either of these, would make authorship necessary but allow coarse individuation.

⁹ Julian Dodd has complained that Levinson unhelpfully uses ‘logically belongs to’ as a mere synonym for ‘created by.’ This need not be correct, though Dodd’s larger point remains. Talk of ‘logically belonging’ can be cashed out. Where R is belonging-relation of some sort, xRy can hold on logical grounds if the identity of y turns on the identity of x as a matter of definition, much as (MW) would have it. Dodd’s point is simply that (i) we may construe *discovering* as a belonging relation, and (ii) discoveries are not usually individuated in terms of discoverers. Interestingly, some discoveries do logically belong in this sense. The doctrine of Marxism, for instance, might be taken as a mere bit of content, so that someone else might independently arrive at the same doctrine. On the other hand, we might take Marxism as essentially involving Marx, so that the other discovers a different doctrine with the same content. This latter sort of discovery does logically belong to its author.

¹⁰(3)

¹¹See, e.g., Gendler and Hawthorne for a contemporary overview.

¹² Levinson (8, 23) faithfully reports the thought that these do not seem like ‘*logical impossibilities*’ (emphasis original). From the point of view of logic, *composes* is just another relation, no different in its logical structure from *loves*, so one would not expect to find this sort of difference between them on purely logical grounds.

¹³ In the locution of possible worlds, the Principle claims: Given W from A dependent on $\{D_1, \dots, D_n\}$, any factor F is such that: if there is a world in which F operates without either local effects or effects on $\{D_1, \dots, D_n\}$, then there is also a world in which F operates and A produces W .

There are subtleties here not directly related to adopting the independence strategy to the case of authorship, as opposed to higher-level issues of distinguishing this strategy from others. Briefly: The Prevention Principle does not claim that W will eventuate from A in every world that does not differ locally and with respect to $\{D_1, \dots, D_n\}$, but only that it eventuates in at least one such world. The latter claim is weaker because it does not articulate a sufficient condition for being W as the former would, i.e. anything which comes from A in circumstances relevantly like W ’s actual eventuation is W . While many would find the stronger claim acceptable, there are metaphysical positions that reject it which the independence approach need not exclude. For details, see (Rohrbaugh and deRosset).

¹⁴ The reasoning in this last case is more complex than a simple appeal to the Prevention Principle. That principle assures us that a work which appears in one world can appear in another which does not differ locally from the first world. In this case, the second work appears in a world which differs from ours in the region of Picasso's production of *Guernica*. One cannot directly produce a third world, containing both works, as one can when the second work is produced elsewhere or elsewhen. One can produce such a world indirectly. If one thinks, for antecedent reasons, that either of the works could have been produced by itself elsewhere or elsewhen, then the production of that work elsewhere or elsewhen can be combined directly with the unaltered production of the other.

¹⁵ Such a view may even be accepted by those who hold that works are individuated coarsely, as the Principle itself is neutral with regard to whether the 'two' works are identical or distinct when produced alongside each other. It only says that any two artwork-productions may appear together in the same world with the same results they had separately.

¹⁶ Here is a sketch of one such strategy. One could argue that artworks never possess 'negative essences.' While artworks may require the presence of certain circumstances to eventuate, they never require the absence of anything in particular, including other artworks. This view emerges somewhat naturally from two ideas: (i) an artwork is the culmination of a particular causal-historical path, and (ii) where a work comments on, is influenced by, or stands in a variety of intentional relationships to earlier works in that path, those relationships can be important enough to the identity of the produced work to form part of its essence. In contrast, the absence of various, merely possible works from that path can have no import to the work, thus there is no way for an artwork to acquire a negative essence which renders it non-compossible with some other artwork.

¹⁷ If x and y do not share essential dependencies, then one can exist in a world in which the other does not. But if x can exist without y or vice versa, then $x \neq y$.

¹⁸ The proof is straightforward and requires only the K and T axioms along with the rule of necessitation. Using ' $O(x, y)$ ' for ' y is authored by x ,' ' $D(x, y)$ ' for ' x shares all essential dependencies with y ,' and letting a range over artists and w range over works of art, the relevant QML symbolizations are:

$$\mathbf{IND} \quad \Box \forall w_1 \forall a_1 (O(a_1, w_1) \Rightarrow \Box \forall w_2 \forall a_2 (a_1 \neq a_2 \wedge O(a_2, w_2) \wedge D(w_1, w_2) \Rightarrow \Diamond (O(a_2, w_1) \wedge O(a_1, w_1))))$$

$$\mathbf{ND} \quad \Box \forall x \Box \forall y \Box (x \neq y \Rightarrow \Box (x \neq y))$$

$$\mathbf{AD} \quad \Box \forall w_1 \forall a_1 \Box \forall w_2 \forall a_2 \Box [(a_1 \neq a_2 \wedge O(a_1, w_1) \wedge O(a_2, w_2)) \Rightarrow w_2 \neq w_1]$$

$$\mathbf{NA} \quad \Box \forall w_1 \forall a_1 (O(a_1, w_1) \Rightarrow \Box \forall w_2 \forall a_2 (a_1 \neq a_2 \wedge O(a_2, w_2) \wedge D(w_1, Dw_2) \Rightarrow$$

$w_2 \neq w_1))$

NA' $\Box\forall w_1\forall a_1(O(a_1, w_1) \Rightarrow \Box\forall w_2\forall a_2(a_1 \neq a_2 \wedge O(a_2, w_2) \Rightarrow w_2 \neq w_1))$

¹⁹ Salmon's four-world paradox, mentioned in footnote 6, might appear to lurk here as well. Consider a purported series of worlds, w_1 : x makes W , w_2 : x and y make W , w_3 : y and z make W , w_4 : y makes W . Taken in sequence, the pairs are not independent by (R-IND), and so it might appear that y could have made W after all, contra (NA). However, this reasoning is blocked because (R-IND) says that what x makes in w_1 can appear alongside what y and z make in w_3 , and AD says those are distinct. The description of the series is faulty, for the works created in w_3 and w_4 cannot be the work created in w_1 .

²⁰This example is due to Michael Watkins

²¹This insightful example is due to Aaron Meskin.

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