The contentious issue of intellectual property continues to rise in importance in today's increasingly corporate and globalist economic landscape. Perhaps most visible in the current debates surrounding copyright infringement in illegal music downloading, academic plagiarism, open source computer software development, and medical/scientific research patents, the issue has only heightened since the 9/11 attacks and the question of library information access (Carlson).

Thomas Pynchon's *The Crying of Lot 49* (1965) and Don DeLillo's *Great Jones Street* (1973) are reflections of the rising corporate power in the U.S. in the postwar 1960s and 1970s, when intellectual property issues were beginning to become paramount concerns. Where *CL49* addresses the intellectual property manifestation of patents in corporate scientific research, *GJS* focuses on the copyright issue in the major label, music recording industry. Both novels are generally considered postmodern in their literary approach, and both address the theme of rock music; while *GJS* is centrally a novel about rock music, *CL49* is significantly informed by rock. As Andrew Gordon states, "Kerouac was of the cool fifties; he wrote jazz fiction. Pynchon was of the apocalyptic sixties; he wrote rock and roll" (233). Most importantly for this essay, both novels depict both the ultra-individualist and corporate priorities behind the intellectual property phenomenon that were representative of the capitalist economic system in the U.S. at the time of their publication, and which continue today.
"Capturing and sharing content, of course, is what humans have done since the dawn of man. It is how we learn and communicate," writes Lawrence Lessig. Be that as it may, it is now a forgotten history, a logic falling on deaf ears. Guided by the neo-Marxist perspective of Ronald V. Bettig's seminal book *Copyrighting Culture: The Political Economy of Intellectual Property* (1996), in this essay I propose that the institution of intellectual property infringes upon what is rightfully artistic and intellectual domain. As Pynchon and DeLillo's novels demonstrate, intellectual property replaces a creative imperative with a commercial one. Moreover, it is gravely misguided by the essentialist, ultra-individualist conception of the artistic/intellectual genius, thinking original thoughts and creating original works, unencumbered and alone in nature.

As historical background to the U.S. defense industry depiction in *CL49*, the Yoyodyne Corporation, I turn to Theodore Roszak's account of corporate America during the time. Roszak effectively considers "the sixties" period (in which the novel is set) to be more appropriately seen from the U.S. emergence from the Great Depression in 1942, through to 1972 in what he terms the "Age of Affluence":

Corporate leaders who had spent the last dozen years vilifying FDR as a 'traitor to his class' now flocked to Washington as 'dollar-a-year men' in return for bulging, cost-plus military contracts. By the time the war was over, the entire industrial plant of the United States had been rebuilt from the ground up to become the world's only state-of-the-art technological establishment. A new skilled workforce had been trained and booming new industries (electronics, chemicals, plastics, aerospace) had been born. Unscathed by the damage that other nations had suffered in the war, the United States had no economic rivals. It had emerged
from the war as king of the world industrial mountain, so vastly wealthy that it could afford to export the capital needed to revive the European and Japanese economies that would one day become its major competitors. (xi-xii)

With corporate America thus at its strongest point ever, the conservative foothold of the political establishment was firmly entrenched when CL49 was published in 1965. As David Farber and Beth Bailey additionally indicate, the radical conservatives of the period (represented in CL49 by the John Birch Society, et al) were beginning to grow stronger and go even further to the political right than their moderate brethren:

[I]deological conservatives took control of the Republican Party between 1962 and 1972. Beginning shortly after Richard Nixon's 1960 defeat, conservatives working at the grassroots and precinct levels, including members of the John Birch Society and the Young Americans for Freedom, were determined to build an infrastructure and wrest control of the party from those they disdainfully described as the 'Eastern Establishment.' (163)

With this growing conservatism in an increasingly corporate landscape, it is not difficult to imagine a subsequent emphasis put on property rights— the intellectual kind included. With defense contractors rushing to protect the designs of their newest military implements, the importance of patents, in particular, had perhaps never been more stressed.

Although the term "intellectual property" was not in general use at the time, Adolf A. Berle, Jr. wrote in 1959, "Bodies of knowledge, written and unwritten, in the technical laboratories of many corporations have little physical substance, but they are so real that they can be bought and sold. Their money-worth often exceeds the worth of many items in a corporation's plant and property account" (60). Clearly, the growing urgency of protecting
intellectual property had already begun achieving front-burner status before the advent of the new sixties decade.

James Boyle, however, parallels the institution of intellectual property to a much older phenomenon--the enclosure of the commons movement of fifteenth-century England (13). As he states,

[W]e are in the midst of a new kind of enclosure movement, this one aimed at exploiting a new and intangible kind of commons--call it a 'commons of the mind.' Once again, things that were formerly thought to be uncommodifiable, essentially common, or outside the market altogether are being turned into private possessions under a new kind of property regime. But this time the property in question is intangible, existing in databases, business methods, and gene sequences. (14)

Employing vastly similar language, Bettig's view coincides with this assessment and heightens the criticism of intellectual property:

The consequences of expanded intellectual property rights are always the same: the continuing enclosure of the intellectual and artistic commons. More and more, knowledge and culture are being privately appropriated and submitted to the logic of the marketplace. Political economists continue to document the negative effects of this process on democracy. (5)

In a capitalist system, submission to "the logic of the marketplace" is a frequent response. As this essay aims to demonstrate, however, in the context of intellectual property, said logic is highly suspect and not without dire consequences. Let us turn now to a direct examination of the issue of intellectual property in Pynchon's The Crying of Lot 49.
The Yoyodyne corporation in *CL49* designs and builds military implements, contracting with the U.S. Department of Defense and in competition with other companies like Douglas and Lockheed, among others (66). The competition is fierce, and the Yoyodyne higher-ups sing both in tribute to their company and in protest to the government for not cutting them in enough:

Yoyodyne, Yoyodyne,

Contracts flee thee yet.

DOD has shafted thee,

Out of spite, I'll bet. (66).

We are quickly made aware, however, that many of the Yoyodyne engineers such as Stanley Kotex are themselves disgruntled for the company's unwillingness to let them personally register patents for the designs they develop while under Yoyodyne employment. As David Seed describes, "[C]orporations like Yoyodyne buy up patents so that potential inventors find themselves reduced to minor functionaries in a commercial system" (28-29). *CL49's* Mike Fallopian of the Peter Pinguid Society (an underground anarchist group of which many of the Yoyodyne employees are a part) explicates the situation to the novel's protagonist, Oedipa Maas:

[H]ow can you blame them for being maybe a little bitter? Look what's happening to them. In school they got brainwashed, like all of us, into believing the Myth of the American Inventor--Morse and his telegraph, Bell and his telephone, Edison and his light bulb, Tom Swift and his this or that. Only one man per invention. Then when they grew up they found they had to sign over all their rights to a monster like Yoyodyne; got stuck on some 'project' or 'task force' or 'team' and started being ground into anonymity. Nobody wanted them to
invent--only perform their little role in a design ritual, already set down for them in some procedures handbook. (70)

Fallopian is accurate when he describes the ultra-individualist culture the Yoyodyne inventors would have been subject to in the post-WWII U.S. What they have been sold, what they strive to realize is also a core assumption for the basis of intellectual property itself: the genius myth.

Although he does not term it as such, Stanley is clearly on board with the genius premise. He refers to the invention of his hero, John Nefastis, and states to Oedipa, "Not everybody can work it, of course . . . Only people with the gift. 'Sensitives,' John calls them" (69). Bettig points out, however, that the genius premise is especially inaccurate in representing the process of much intellectual creativity today (particularly when compared to circumstances during the inception of copyright laws), where multiple persons are frequently involved in the creative process (7). As he states,

In the realm of intellectual property, the struggle is still cast in Lockean terms that individuals have a right to what they produce. The case is built upon a notion of individual artists creating in a pure state of nature. Clearly, this is not how intellectual and artistic works are created. First of all, what humans are able to think and create at the current stage of history is due to the contributions of all humanity. The most revolutionary moment of postmodern art is the recognition it produces of the intertextuality of human experience. The concept of individual genius, spontaneous and transcendent, is a mystification that helps perpetuate possessive individualism. Second, very few forms of intellectual and artistic
creativity involve an individual creator. Teamwork is required just as often as in the production of a tangible good. (239).

The foundations of Bettig's own philosophy are grounded in Marxist philosophy, and he first points to Marxist literary thinker Raymond Williams, who states in *The Long Revolution* that "Since the individual grows in relation to a learned pattern, which is of social significance, the assumption of autonomous creation--the creative individual acting wholly freely--is misleading and naive" (Bettig 240). In Marx and Engels themselves, Bettig turns specifically to those theorists' assessment of Raphael in *The German Ideology*, where they concurred the painter "as much as any other artist was determined by the technical advances in art made before him, by the organization of society and the division of labour in his locality, and, finally, by the division of labour in all the countries with which his locality had intercourse" (Bettig 239-40). Marx and Engels' economic explanation of the heightened abilities of some individuals as opposed to others as an historical consequence of the division of labour effectively demystifies the genius myth and by extension subverts its utility as grounds for the institution of intellectual property rights.

Similar to Marx and Engels' famous vision (in *Literature and Art*) of a communist society where "there are no painters; at most there are people who, among other things, also paint" (Bettig 240), Salman Rushdie describes the same scenario in the pre-industrial Renaissance: "The Renaissance artist is no longer a worker bee, a mere craftsman dancing to a patron's tune, but polymathic, a master of anatomy, philosophy, mythography . . ." (386). In each of the above accounts, the picture is of the dissemination of talents in multiple individuals, as opposed to the concentration of singular abilities in the few, as proponents of intellectual property rights would like to presume.
Tied to the myth of genius as underlying premise of intellectual property is the related myth of originality. Lisa Samuels relates how the concept of originality is simply another way of focusing on the individual and denying social context:

I'm concerned here with the benefits to be gained from giving up the pretense that our production of ideas and words is original and that we really acknowledge all our sources and are innocent of plagiarism, as though it were possible to do or be either. Recognizing our own pieces of writing as porous matrices of a continuing interchange, we would not perhaps be so inclined to view each one as some last word. (359)

Ensuring the "last word" (alongside the obvious motive of securing profit) is indeed one of the primary functions of intellectual property rights. The obvious consequence therein is that the "last word" signifies the end of the creative conversation and intellectual exchange. In this sense, it is a short-sighted goal for a usually short-term economic benefit.

Another function of the originality myth implicit in the institution of intellectual property rights is the legitimizing stamp it provides. As Paul K. Saint-Amour explains, it is a circular arrangement that not only deems the material in question "original," but also falsely aims to legitimize the capitalist economic mechanisms that produce and market it:

[T]he concept of radical originality duplicates the same commodity form it helps underwrite, sustaining the illusion of its autochthony and autonomy by concealing the social and economic conditions of its production and proliferation. This concealment, moreover, can work effectively to naturalize dominant powers and power structures so that they may both legitimate and replicate themselves.

Where art forks into 'highbrow' and 'lowbrow,' elite and proletarian, originality
acts as a kind of gatekeeper to the high road, remaining the indispensable criterion for the formation of high aesthetic canons and the ruling-class ideologies they tend to ratify. (9)

The way in which the concept of originality itself has been "naturalize[d]" in contemporary society, and thus, as Saint-Amour indicates, further "naturalize[s] dominant powers and power structures" that employ the notion for their own gain, is a phenomenon that even the most casual student of culture can observe. It is an obvious given in Western societies that "original" designates a positive attribute, while "unoriginal" exists in the negative. As Saint-Amour deftly explains, however, there is nothing "natural" about those designations; they are nothing more than human constructs employed to further the interests of the dominant powers who, among other uses, employ the "original" stamp upon intellectual property to validate their possession of it. It is accordingly amusing in CL49 when Kotex, in enthusiastic demonstration of his hero Nefastis' ingenious invention to Oedipa, produces "a copy of the patent" from a drawer-full of a "Xeroxed wad of papers" (68). Apparently the signifier of originality is not held to the same strict standard as the signified in this instance.

A bit more historical context at this point: referring to what he terms "desocialisation by gadgetry" (32), Ian MacDonald illustrates how an individualist priority (exemplified in CL49 by young intellectuals like Kotex) and dramatic rises in technology (Yoyodyne and corporations like it) during the Sixties led to significant social fragmentation and tension. He states,

[T]he very labour-saving domestic appliances launched onto the market by the Sixties' consumer boom speeded the melt-down of communality by allowing people to function in a private world, segregated from each other by TVs, telephones, hi-fi systems, washing-machines, and home cookers . . . It is, in short,
no accident that Mrs. Thatcher should have founded her outlook on the conviction that society does not exist--and no surprise that her favourite Sixties tune is 'Telstar' by The Tornados, a record symbolising the rise of technology-driven post-war prosperity and mass social emancipation . . . What mass society unconsciously began in the Sixties, Thatcher and Reagan raised to the level of ideology in the Eighties: the complete materialistic individualisation--and total fragmentation--of Western society. (32)

This is the context in which Kotex lives and works, which provides substantial insight into his individualist outlook and the disconnected, anarchist recourse he winds up taking. As I will now discuss, at the core of his professional and philosophical ethos that demands intellectual property rights is his implicit exchange of the creative/intellectual imperative in his work for a purely commercial/economic one.

Consider this exchange between Kotex and Oedipa in CL49:

'See,' Kotex said, 'if you can get them to drop their clause on patents. That, lady, is my ax to grind.'

'Patents,' Oedipa said. Koteks explained how every engineer, in signing the Yoyodyne contract, also signed away the patent rights to any inventions he might come up with.

'This stifles your really creative engineer,' Koteks said, adding bitterly, 'wherever he may be.'

'I didn't think people invented any more,' said Oedipa, sensing this would goad him. 'I mean, who's there been, really, since Thomas Edison? Isn't it all
teamwork now?" Bloody Chiclitz [Yoyodyne boss], in his welcoming speech this morning, had stressed teamwork.

'Teamwork,' Kotex snarled, 'is one word for it, yeah. What it really is is a way to avoid responsibility. It's a symptom of the gutlessness of the whole society.' (67-8)

The bottom line for Kotex is that in his view, the primary benefit of his work is the economic reward--not the intellectual or social value. When the economic reward is lifted, his impetus for creativity is severely lessened, as he states. Bettig succinctly explains this perspective as it pertains to intellectual property: "The central assumption upon which the copyright system is based is that creators of intellectual works need an economic incentive to be creative" (7). That economic incentive is also, of course, the driving force behind the capitalist system itself. What is often overlooked on this point as it pertains to intellectual property rights of "works for hire" (as in Kotex's case with Yoyodyne), however, is that "Ownership of copyrights increasingly rests with the capitalists who have the machinery and capital to manufacture and distribute them" (8). This is clearly the case with Kotex's arrangement with Yoyodyne. In his partial defense, his employers are certainly just as profit-hungry as he is, and they have co-opted the idea of "teamwork" in a cheap effort to appropriate their employees' work. Already predisposed against such a concept as "teamwork" where it might interfere with his personal glory and gain, Kotex's rugged individualism chalks up any such arrangement as a deeper societal flaw that denies his "genius" its rightfully forthcoming privileges.

Christine Greenhalgh and Mark Rogers also examine the concept of economic incentive as it pertains to intellectual property rights (IPRs, as they put it), highlighting its fundamental flaws in this context and the consequences such flaws hold for consumers:
The basic justification for IPRs is that they give people an incentive to produce socially desirable new innovations. Without some guarantee of private ownership, inventors might not put resources into inventive activity, as their findings would rapidly be imitated, leaving them with no profit. This happens as knowledge has the characteristics of a public good: it is non-rival, meaning it can be used by many without being used up; and it is non-excludable, as it cannot be easily defended from imitators. So IPRs assist the creators of a non-rival good (the innovative knowledge or design) to appropriate the returns of their innovation for themselves alone. But since IPRs make a non-rival good excludable, they introduce inefficiency for the duration of the right. The IPR, in effect, gives the creator a monopoly right and this causes the price of the good to be above the marginal cost of its production. Because a monopolist restricts output to boost price, consumers lose in the sense that not enough of the innovative good is sold.

The sum effect, then, is that intellectual property rights are nothing short of a device to ensure surplus value. It also begs the question: if knowledge "can be used without being used up," why shouldn't it be? Common ownership of knowledge would not deny the creator the opportunity to enjoy its benefit any less than anyone else. The only reason to insist upon the private status provided by intellectual property rights is, of course, to ensure the individual profit gained from denying others' free usage.

Beyond the consumer-based negative ramifications of intellectual property rights outlined by Greenhalgh and Rogers above, there also exist notable other consequences. As Bettig indicates, "Copyright seeks to restrict the use of a work to those willing and able to pay for it.
This exclusivity can have the opposite result than that intended by the founders of the system and may exacerbate the gaps between the information-rich and the information-poor” (8). Even amongst the classic inventor-icons that Mike Fallopian lays out in *CL49* as inspiration and defense for the capitalist individualism of Kotex--Samuel Morse and the telegraph--lies a history that concluded intellectual property rights not to be in the best interests of society. Morse had received not only a patent on the rights of his telegraph, but additionally broader rights "to a law of nature: the use of electromagnetic waves to write at a distance" (Andrews A7). In the 1853 case O'Reilly v. Morse, the Supreme Court invalidated the secondary rights, stating,

'If this claim can be maintained, it matters not by what process or machinery the result is accomplished . . . Some future inventor, in the onward march of science, may discover a mode of writing or printing at a distance by means of the electric or galvanic current, without using any part of the process or combination set forth in the plaintiff’s speculation. His invention may be less complicated--less liable to get out of order--less expensive in construction, and in its operation. But yet if it is covered by this patent the inventor could not use it, nor the public have the benefit of it without the permission of this patente.' (Andrews A7)

It is not a stretch to imagination that if Morse had succeeded in maintaining his patent on this law of nature, his estate might have enjoyed the profits gained from technology developed over one hundred years later (naturally long after his death) such as the fax, e-mail, etc., if those technologies would have been allowed to develop at all in light of his patent. This case is a perfect example of how patents (and intellectual property rights in general) endeavor to place inventions in an historical vacuum, outside any social context, and impede future scientific and intellectual advancements.
To make a final observation in this essay regarding Kotex's intellectual property dilemma and the potential recourses available to him, we frankly are presented with very few. Yoyodyne clearly is not about to bend its stance on the patent issue, and although Kotex is presumably a part of the Tristero underground with Nefastis (assuming such a network exists at all), there is no evidence that he is affiliated with Fallopian's anarchist Peter Pinguid Society--described by Oedipa's cohort Metzger in his comment to Fallopian: "You're so right-wing you're left-wing" (70). In all likelihood, that prospect would not appeal to the rugged individualism of Kotex, since even anarchism requires an element of the term the engineer has come to despise: teamwork. As Phillip Gochenour explains,

The order of corporate capitalism depends on the creation of subjects who perceive themselves as isolated monads in competition with one another, where individuality is a hard-won possession, perhaps the only one subjects feel they truly own, and it is unlikely to be surrendered to the promises of anarchist consensus or phasing. But for a distributed network to function, not only must each individual be willing to work with other individuals to create an order of consensus, but all must also understand that they themselves are not singular, but multiple. As a node in the overall distributed system, each individual can be said to present a different face to other nodes with which they interface. (42)

It seems fair to say, thus, that Kotex and Yoyodyne reside at a permanent stand-off. Employing Gochenour's perspective, corporate capitalism has created Kotex and will now use him as a functionary cog in its expansive wheel. To be sure, it is an undesirable position for the engineer to have to endure, yet given the opportunity, it is one that he would gladly institute in the dominance of others were he given the opportunity.
In an effort to present a more complete picture of the intellectual property issue in this overall essay examining two novels, in CL49 I have focused only on elements (the Yoyodyne corporation and its "genius" employees like Stanley Kotex) that clearly never question the fundamental validity of intellectual property rights and that gladly eschew an intellectual/aesthetic imperative for a commercial/economic one. In my analysis below of Don DeLillo's Great Jones Street, which includes clearer examples of intellectual property opposition and maintenance of the aesthetic/intellectual imperative, that will not be the case. In fairness to Pynchon's novel, an examination of different scenes and characters from the ones I have chosen here could very well present a very different picture regarding CL49's cumulative disposition on the intellectual property issue. Indeed, for a thoroughly postmodern novel that consistently questions reality (does the Tristero underground exist or no?), originality (the Paranoids rock band as Beatles/Beach Boys pastiche), and artistic integrity (actor Randolph Driblette's unilateral decision to alter the ending of The Courier's Tragedy play) throughout, the proposition of support for intellectual property might appear, overall, dubious at best.

Turning to DeLillo's Great Jones Street (GJS) and it's treatment of the intellectual property issue, I begin similarly as with CL49 with an examination of the historical context within which the novel operates. The rock novel GJS was written in 1973, not even twenty years into the new music genre's existence. With the emergence of rock music in the late fifties-early sixties, major record labels like Capital-EMI harnessed copyrights of the material of the most amateur teenage acts (whom they viewed as part of the fly-by-night rock genre) to maximize potential profits for as long as the rock fad might last. Bands like the mid-Sixties' Monkees and Royal Guardsmen (each of which, and particularly the Monkees, recorded some very respectable material), not to mention the countless California surf bands and British Invasion-influenced
groups across the country were exploited by the music industry for all they were worth. As Fred Goodman indicates,

> With the rise of the popular rock culture in the sixties, as rock albums supplanted films and books as the most influential popular art form for young people, the mainstream entertainment industry embraced the music. At the better-run companies, the fiscal results were astounding: although largely unnoticed, the twenty-two-year history of Steve Ross's Warner Communications, Inc., reveals that the record operation was the firm's biggest, most dependable financial engine; the corporation widely considered the preeminent American media conglomerate of the age was literally fueled by rock and roll. (xi)

Although there were attempts by several bands in the mid-Sixties to provide rock groups with at least a bit more power and determination over their own careers, these had marginal immediate effect. The Beach Boys were the first rock band to launch there own record label (Brother Records) in 1966 as an effort to be able to release whatever material they deemed to have aesthetic value, whether it was commercial or not. The Beatles followed a year later with Apple Records (and its own more experimental/non-commercial wing, Zapple Records), as both bands fought for more say from their handlers, behemoth Capitol/EMI Records. Although both bands' labels suffered from lack of business expertise in the early days, the precedent they provided for the empowerment of subsequent generations of groups should not be underestimated.

Incidentally, the Beatles and curiously, EMI, also provide late Sixties' precedent for a rock band's willingness to subvert the intellectual property commercial imperative with their "Revolution #9" track on the 1968 White Album. As Kembrew McLeod explains, however, the record label's view of a similar effort in 2004 would reveal the 1968 instance as a true anomaly:
The basic rhythm for 'Revolution #9' was built from the sound of twenty tape loops pillaged from the archives of EMI, the Beatles' record label. 'We were cutting up classical music and making different size loops, and then I got an engineer tape on which some test engineer was saying, 'Number nine," John Lennon recalled. While the Beatles obviously had the implicit approval to chop up EMI's material, it is highly unlikely that the Beatles paid any 'sampling' royalties or got permission from the original performers. It was ironic, though not surprising, that when Danger Mouse cut up the Beatles for his *Grey Album* [2004] he received a cease-and-desist letter from EMI. (82)

The 2004 disposition of EMI (and the remaining Beatles themselves, for that matter) on intellectual property matters such as this one has shown to be their more representative stance, at least in the past twenty years. Any bootleg collector will confirm that EMI and the Beatles' representatives are easily the most staunchly vigilant in the online bootleg community, normally disabling websites' offerings of Beatles bootleg material within days of its appearance.

By 1973 and the publication of *GJS*, the rock music industry had frequently become so far removed from any discernible aesthetic base that it held no qualms of accepting the crudest of material from a currently highly marketable star. The manufacturing and production of said material into a glossy, media campaign sensation, where the music became literally an afterthought (as seen in *GJS*), was the modus operandi of the industry almost from the beginning, and was now a well-oiled, smoothly-running machine by the early Seventies.

The protagonist of *GJS*, rock star Bucky Wunderlick, is the darling of the music industry and his record label (personified by the record executive Globke), which is determined to milk him of whatever half-hazard material he can produce to reap as much profit as possible. The
protagonist is shown from the beginning to be, at least at this point in his career, an unwilling participant in the corporate process: "I'm just a tired old figure of the entertainment world. You know that. Music industry wore me down" (37). Wunderlick, much like Kotex in CL49, has been manufactured as a "genius" and then plugged into a corporate "design ritual" constructed to maximize profits. Unlike with Kotex, however, the music industry in GJS is perfectly willing to rain personal accolades onto Wunderlick—-that is, in fact, part of the media blitz marketing strategy where the artistic material itself is incidental and subordinate. Beyond this disparity in the corporate strategizing in CL49 and GJS, however, the corporate representations in the two novels are quite similar, particularly as regards their desire to secure intellectual property at all costs.

One of the ways in which Wunderlick is shown to be unsympathetic to the commercial aspect of the music industry is by his conversations with his neighbor, fledgling writer Eddie Fenig. Like CL49's Kotex, Fenig clearly holds the commercial/economic imperative behind his work over any aesthetic one. Much more than Kotex, in fact, the nature of his work (in his case, what genre or topics he might embrace) is purely incidental, determined solely by what he sees as the whims of the market at the current time. Furthermore, Fenig is clearly sold on the originality myth, believing that he must somehow find a market niche that no other writer has sufficiently developed. His first selection as such is to (absurdly) write child pornography, for children. As he explains,

I think this may be the only untapped field in all of literature. Although you never know for sure. Maybe there's somebody working away right now, trying to pre-empt a corner of the market. Once you pre-empt, you're good for years. Send them bird shit wrapped in cellophane, they'll buy it. So I may be too late. There
are people typing away all over the place, trying to wedge themselves into little corners of the market. (49)

The priority for Fenig is clearly the economic value and ownership of the idea, not the aesthetic value, as shown by this instance when the aesthetic is obviously repulsive. Surely DeLillo is commenting here on the distastefulness of the purely economic imperative at all costs, and even in this case, Fenig is defeated because even the most repulsive subject matter is unoriginal and has already been done—child pornography is everywhere.

Fenig's next strategy is an even more blatantly commercial enterprise: "I'm in the midst of work on a whole new genre. Finance. Financial writing. Books and articles for millionaires and potential millionaires. The floodgates are opened and the words are pouring out. Financial literature. Handled right it's a goddamn gold mine, relatively speaking" (164). Although perhaps of only mildly more aesthetic value, at least this venture by Fenig is more honest in regard to his economic goals.

Fenig's commercial (and lack of aesthetic) motives are highly comparable to Wunderlick's manager, label executive Globke. Like Fenig, Globke has also bought full in to the idea of originality and the importance of product ownership. He states, "Nothing is too personally distasteful for me to get involved in as long as it helps create a new product or extends the life of an existing product" (188). More completely, he describes his corporate career in the rock music industry (a genre he abhors but extracts massive profits from) as he sees it:

My whole life is a study in bad taste. Bad taste is the foundation for every success I've ever had. I'm a self-made mogul in an industry that abounds in bad taste. Look at me. Mogul is written all over me. How did I get there? Aggressiveness got me there. Massive double-dealing. Loudmouthedness.
Insults beyond belief. Little white lies. Farts and belches. Betraying a friend and then bragging about it. These are the things that give you stature in the industry. Not just respect or clout or notability. *Stature*. It's not enough to betray a friend. That gives you respect at the very most. You have to supply the extra touch. You betray a friend and then you brag about it. That's star quality. That gives you stature. Do you know what I have on top of bad taste? I have self-starting entrepreneurial instincts. The combination is unbeatable. (235-36)

For Globke, there is no other motivation beyond a commercial one. His complete disregard for social context is evident in his casual willingness to "betray a friend," and this includes his current rock star money-making source. Wunderlick is, indeed, nothing more than property for Globke, the most profitable of his many copyrights.

The record label giant that Globke represents, Transparanoia, has Wunderlick copy written at every step: even the nonsensical utterance "pee-pee-maw-maw" (106), which the musician remembers from his childhood and has transformed into song material, is immediately protected. The artist's promotional package, the "Superslick Mind Contracting Media Kit: 'The Bucky Wunderlick Story,'" abounds with notices/warnings of copyright protections such as "exclusive trademark" (97), "All rights administered" (102), "International copyright secured" (107), etc.

The central scene involving the intellectual property issue in *GJS*, however, derives from Wunderlick's lost *Mountain Tapes* (great, lost, masterpiece albums have of course long been a marketing ploy of record companies, sometimes proving true, and frequently not. And sometimes, as in the case of Brian Wilson and the Beach Boys' *Smile* sessions tapes of 1966-67, the artists have actually resisted the corporate pressure to release the material). These
minimalist, highly amateurish recordings by Wunderlick were done at his home on semi-professional equipment, purely for his own edification at a time of intense personal alienation with the course of his life and career. As he describes,

I refused to discuss the tapes with anyone. I declined to release them, to re-record the songs, to accept any offer concerning this material. I didn't understand the nature of my own labor. The guitar work was recognizable but the voice didn't seem to be mine. It possessed an extraordinary childlike blandness, a bit raw at times in its acknowledgments to pain, but mostly lonesome, homeless and dull, lacking true crudeness as well as any other distinctive quality. Beyond this were the lyrics themselves, strange little autistic ramblings. Perhaps because the words had never been put on paper, or even thought about for the briefest moment, these songs conveyed a special desolation, a kind of abnormal naturalness. In the past there had been a mind behind every babble and moan I'd ever produced. But the mountain tapes were genuinely infantile . . . Every reel was full of repetitions, mistakes and slurred words. There were long incoherent vocal passages interspersed with the sounds of eating, drinking and talking back to the TV. (147-48)

A representative verse from the Mountain Tapes (from the Wunderlick media kit) goes as follows, with the bold print warning "DO NOT QUOTE WITHOUT PERMISSION" (207) below it:

I know my toes
I touch my hand
I smell my nose
I close my mouth (207)

Despite the clearly questionable aesthetic value of the material (even by Wunderlick's own admission), there is a massive, industry-wide frenzy to secure it for immediate release.

Wunderlick is told, "Everybody in the free world wants to bid" (171). What happens next is a classic example of corporate obsession with intellectual property rights.

Under Globke's direction, Transparanoia endeavors to literally remove (steal?) the tapes from Wunderlick's possession, without the artist's knowledge. Once aware of the situation, Wunderlick confronts Globke and receives the following explanation:

We needed product, see. You were failing to deliver product. Product is something that matters deeply. You owed us product. Contracts in our files specified what product you owed, when it was due, how it was to be presented. This was not a question of a few thousand dollars gurgling down the drain. We're a parent corporation. We've got subsidiaries and affiliates all over the place. Do you know what they're constantly doing? They're yowling for their food. Feed me, feed me. Enormous sums of money were involved in your disappearing act. All these companies with their mouths opened wide for the worm breakfast, the worm lunch, the worm dinner. I needed the tapes to keep some kind of action going. Create demand for exotic product. Keep the public salivating. (186-87)

Several observations become blatantly apparent in Globke's above justification. First, any notion of an aesthetic/intellectual imperative behind the work has long been off the table; commercial viability is the sole concern and driving force. Secondly, the corporate view of its employee is that of a functionary without rights, another source of income in the company "design ritual."
If DeLillo's narrative of Transparanoia literally appropriating its artist's material without his knowledge seems far-fetched, one only need consider the historical modus operandi of record companies in handling their artists' material from the very beginnings of rock. Record labels have routinely released music from bands, including the Beatles and Beach Boys, without their consent or even knowledge. Corporate pressure has consistently prioritized economics over aesthetics, with one of the more famous examples being EMI's demand for product in early 1967, which resulted in the Beatles' having to hand over the double-A-side, "Strawberry Fields" and "Penny Lane," which had been previously designated as the two flagship tracks for the forthcoming _Sgt. Pepper_ album. Countless other instances of music industry, corporate misconduct in the name of economic gain at all costs abound. The Beach Boys sued Capitol Records (and won) in 1967 for years of unpaid back royalties. Record executive David Geffen (head of Geffen Records) actually attempted to sue Neil Young and his manager Elliot Roberts in November, 1983, for "fraud and breach of agreement" because they had "failed to make 'commercial' records" (Goodman 355). As Goodman describes, "Geffen demanded Young repay the nearly $3 million he had received for a couple of albums that had sold poorly, a demand for which there was virtually no legal precedent" (355). With a history of cases like these, DeLillo's depiction appears not only plausible, but part of the typical course of events in the corporate-controlled, rock music industry.

Having long lost interest in being a music industry pawn, Wunderlick cares little at this point about Globke and Transparanoia's actions. Despite their desire to "brush up" and release the _Mountain Tapes_ and send him on tour as part of a massive media spectacle (197), Wunderlick only wants out: The effect of the tapes is that they're tapes. Done at a certain time under the weight of a certain emotion. Done on the spot and with many imperfections. This
material can't be duplicated in a concert situation. So the tapes can be released, sure. But how do I get released?" (188). Bucky's sentiment here may seem parallel to Kotex's perspective in \textit{CL49}, but it is quite different. Getting "released" for him does not mean getting out from under Transparanoia corporate control so that he may reap the economic benefit of his own work. What Wunderlick wants "released" from is an industry that has traded in the aesthetic/intellectual imperative for creative work for a purely economic/commercial one. That is the key difference separating Wunderlick's sensibility toward intellectual property from Kotex's. As Mark Osteen explains, "Like Thoreau, Bucky withdraws in an attempt to discover an internal economy; Wunderlick wants to remove himself from the circulation of commodities" (157). Peter Boxall, however, sees the prospects for Wunderlick's successful withdrawal from the corporate machinery, however admirable his intentions, as unlikely:

Wunderlick's withdrawal does not lead to purity and experimental art but to the recognition that 'it is finally impossible to withdraw.' The novel demonstrates that the artwork can offer no safe haven and no retreat, that there are 'no meaningful alternatives' to the market economy, that 'all artists are objects of consumption,' and that 'everything is bound in the cash nexus and the exchange of commodities, outside of which there stands nothing. (45)

Is this so? I would argue that, whether or not Wunderlick can professionally escape the control of his record label, he has already won the moral battle by refusing to participate in the machinery that prioritizes commerciality over creativity. This is particularly impressive when the work in question is his own and he presumably would stand to make a sizeable profit from securing and promoting the intellectual property in question.
Pynchon's *CL49* and DeLillo's *GJS* are novels that are heavily invested in the issue of intellectual property rights, as well as the related issues of the "genius myth," originality, and the aesthetic/intellectual v. commercial imperatives behind creativity. Whereas each novel projects elements that fall on each side of the intellectual property issue, I have chosen to analyze the ones that seem most compelling for their particular interests. Whereas both *CL49* and *GJS* present formidable corporate forces that are willing to stop at nothing to secure intellectual property rights, it is DeLillo's novel, via the character of rock star Bucky Wunderlick, which most directly provides an opposing viewpoint, maintaining the aesthetic/intellectual imperative even when it means a loss of intellectual property rights.

Keeping in mind the representations of the intellectual property issue from these two novels, is an alternative to the corporate-controlled system of intellectual property an impossibility, as Boxall indicates above? Martin Scherzinger agrees that at this point in the U.S. capitalist economy, it is: "The day artists will need corporate endorsements and advertisements to defray costs of production before they even begin making a video or recording is probably imminent. The reversal of aesthetic priorities matches the reversal of communal priorities in the American social landscape at large" (34). Lessig also concurs, stating that as long as a capitalist economy dominates, the laws governing intellectual property rights are also unlikely to change: "This is not a protectionism to protect artists. It is instead a protectionism to protect certain forms of business" (9). It should be additionally noted however, that again, under our current economic system, there is widespread disagreement even among artists themselves regarding intellectual property rights. Artists are of course keenly aware of corporations efforts to exploit them, however they simultaneously seek to ensure their means to make a living. Semisonic drummer and noted author Jake Slichter exemplifies this dual awareness of artists, in the
intellectual property context of illegal music downloading: "Record labels pretending to be outraged at downloading because of how it hurts artists is a laugh." However, Slichter equally states, "Downloaders hiding behind the notion that 'music belongs to the people' is especially weak. If music belongs to the people, so does food, clothing, shelter, health care, transportation, and diamonds." Back to Bettig's original claim: "The enclosure of the intellectual and artistic commons is not inevitable or necessary . . ." (5). Is there, then, any historical precedent eschewing intellectual property rights for the sake of maintaining the aesthetic imperative?

Perhaps a step in that direction was rock band Radiohead's pay-as-you-will (or not at all) 2007 digital release of their album In Rainbows. Although the group certainly made enormous amounts of money via other merchandising from the album (as well as from the subsequent physical release of the record, which was not free), and despite what the band members may say, this was a revolutionary move that verifies the band's aesthetic imperative. Band leader Thom Yorke states, "It's really not that radical . . . The only thing that was radical about it was that we were prepared to give something away that one might not normally consider in our position. But we never saw it as giving away. It has a worth regardless of whether you make people pay for it or not" (Paytress 84-5). Radiohead's Colin Greenwood adds that if nothing else, the release brought the intellectual property issue to the fore:

We weren't giving the record away . . . We were saying, 'What is it worth?' Music is one of the only commodified art forms where when you walk into a store and records by Dylan, Roxette, Klaxons or The Hives are the same price. Does that mean they're all as good as each other? Is there a way to say, by how much you pay, how good or bad something is? It's good that the whole experience has got people asking those kind of questions" (Paytress 84).
Yorke remains dubious about the release's long-term ramifications, however, but humbly concedes its potential to offer an alternative to creators other than the corporate route of enforced intellectual property rights: "Well, it would be nice if what we did was free up artists and musicians to think, 'I don't have to sign my name in blood,' maybe I can do this in a different way" (Paytress 85). To be sure, this singular event is not going to change the deeply-entrenched culture of intellectual property rights. Nevertheless, it was a bold move by a major contemporary artist that sent shockwaves through the music industry. For those who resist the commercial imperative that intellectual property rights imply, it was a promising step in the right direction.
Works Cited


Thomas Pynchon. Suffused with rich satire, chaotic brilliance, verbal turbulence and wild humour, The Crying of Lot 49 opens as Oedipa Maas discovers that she has been made executrix of a former lover's estate. The performance of her duties sets her on a strange trail of detection, in which bizarre characters crowd in to help or confuse her. But gradually, death, drugs, madness and marriage combine to leave Oepida in isolation on the threshold of revelation, awaiting The Crying of Lot 49. One of Pynchon's shortest novels and one of his best. "The great fiction story is now being rehearsed before our very eyes, in the Nixon administration," Corey announced. More fully perhaps than any other novelist, including Don DeLillo, with whom he is so often (and so oddly) paired, Pynchon has explored and exposed the overlap between paranoia and fiction, between the plots imagined or unearthed by conspiracy theorists and the plots of novels, not least because both are concerned with what's excluded from the historical record. In The Crying of Lot 49 (1965), the "true paranoid" is defined as someone for whom all is organised in spheres joyful or threatening about the central pulse of himself.