Author’s Right and Creativity Incentives: The Case of Gastronomy

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Motivations (1/2)

- Definition of cultural goods (Throsby, 2001)
  - Human creativity
  - Symbolic meaning
  - Intellectual property

- Cultural fields enlargement
  - Ex. the case of Alain Ducasse

- Theoretical explanations of the growing importance of cultural fields
  - The rising of *semiotic products*: Barrère and Santagata (1998)
  - The emergence of a *creativity paradigm*: Caves (2000) and Towse (2001)
  - The expansion of *intellectual capitalism*: Grandstand (2000)
  - The existence of an *economy of singularity*: Karpik (2007)
Motivations (2/2)

- Gastronomy is a cultural and creative discipline
- The gastronomic creative act is close to artistic acts
- Chefs are invited to artistic events as art creators
  - Such as Grands couturiers, they issue collections,…
  - Ex. F. Adrià in *La Documenta* (Kassel, Germany)
  - Ex. Th. Marx *Dans la Bulle* in Le Laboratoire (Paris, France)
Questions of the paper (1/2)

Considering gastronomy as a creative and cultural discipline implies to question the IPR implementation in order to:

- Protect creators
- Incite further creations

... adding the fact that chefs claim for such an institutional recognition
Is it relevant to ask for IPR for gastronomy? And especially for author’s right mechanism?

Is it possible to implement IPR to gastronomic creations?
Outline

- The issues of protection
- Definition of the “gastronomic work”
- The two sides of protection: financial and moral rights

Concluding remarks
1- The issues of protection
The issues of protection

- A search of efficiency and a better allocation of resources
  - The ratio “intellectual content/ material components” is increasing: Benghozi and Santagata (2001)
    - The 2000’s with a new generation of chefs (Gagnaire, Adrià, etc.), using chemistry, introducing “molecular gastronomy”, new ways of cooking, etc.
  - Incentive for creators to renew permanently their supply

- Reduction of the asymmetric information effects due to the strategic role of gastronomic guidebooks (in determining the gastronomic segment boundaries)
  - Clarification of the population of *Grands cuisiniers*: the IPR owners list seen as a creators’ *vade-mecum*
2- Defining the "gastronomic work"
Which object to protect?

- The food amenity as a whole
- Separated characteristics of the food amenity
  - The setting
  - The recipe
  - The course
  - The aesthetic form

Indirectly linked to the food:
- The setting
- The recipe
- The course

Directly linked to the food:
- The aesthetic form
# The gastronomic work and the protection devices

<table>
<thead>
<tr>
<th>Characteristics</th>
<th>Description</th>
<th>Protection devices</th>
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</thead>
<tbody>
<tr>
<td>All</td>
<td>unique</td>
<td>Useless (non reproducible)</td>
</tr>
<tr>
<td>Setting</td>
<td>unique</td>
<td>Parasitism</td>
</tr>
<tr>
<td>Recipe</td>
<td>Instructions, ingredients proportions</td>
<td>Books of recipes</td>
</tr>
<tr>
<td>Course</td>
<td>ephemeral</td>
<td>Know-how contractually transmitted</td>
</tr>
<tr>
<td>Aesthetic form</td>
<td>original form</td>
<td>design and models patents</td>
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Thus, gastronomy is difficult and almost impossible to protect through the IPR and especially through the author’s right mechanism...
Understanding the difficulties

- Problems for inciting creativity
- Problems for financing creativity
- The two sides of protection through the Author’s right:
  - Financial right
  - Moral right
3- The two sides of the AR protection
Financial Rights

- Would they be interesting for chefs?

- They have more gainful devices
  - Guidebooks selection developing reputation

- Reputation is the key factor for financial returns to lead diversification strategies
Diversification Strategies

- Ready-to-eat for supermarkets
  - Alain Senderens, Michel Guérard, etc.
- Development of middle-of-the-range restaurants
  - Joël Robuchon, Paul Bocuse
- International development
  - Ex. A. Ducasse (Beige, A.D. at the St Regis, etc.)
- Worldwide consulting activities
- Rooms, boutiques
- Books, cooking lessons
- etc.
Moral Rights

- That is what they are interested in!

- Chefs become authors then creators for everybody through AR

- Such recognition could not emerge from copyright
Diversification strategies exactly risky for creativity

- Lacking of time for invent new courses
- Chefs may become free riders
- Then by introducing IPR on gastronomy, there could be a means to improve creativity
Concluding Remarks

- **The questions and the answers:**
  - Is it relevant to ask for IPR for gastronomy? And especially for author’s right mechanism?
    - ***YES***
  - Is it possible to implement IPR to gastronomic creations?
    - ***NO EASY MEANS***

- **The real problem:**
  - diversification strategies which are risky for cooks and for creativity