

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

Véronique Chossat
OMI – University of Reims, France

The Creative Industries and Intellectual Property Conference

London, 22-23 May 2008

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
 - Parkhurst-Fergusson (1998, 2004)
 - Lucas et Lucas (2006)
- 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

Questions of the paper (2/2)

- *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

directly linked to the food

The gastronomic work and the protection devices

Characteristics	Description	Protection devices
<i>All</i>	unique	Useless (non reproducible)
<i>Setting</i>	unique	Parasitism
<i>Recipe</i>	Instructions, ingredients proportions	Books of recipes
<i>Course</i>	ephemeral	Know-how contractually transmitted
<i>Aesthetic form</i>	original form	design and models patents

→ 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