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America's Corporate Art

The Studio Authorship of Hollywood Motion Pictures

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Introduction

> Man keeps on calling new things by old names—the work of the machine is manufacture; the contract of employment concerns masters and servants; the corporation, a device by which a group gets things done, is still a person.
>
> Walton H. Hamilton, "Our Social Responsibilities"

i. Corporate Art, Studio Allegory, Corporate Identity

Midway through *Fortune*'s profile of Metro-Goldwyn-Mayer in 1932—the first in the career of that primer on making and spending to be devoted to a Hollywood motion picture studio—the half-flattering, half-mocking tone of its analysis of the studio's history, structure, and personality shifts to a different key, as the article boldly heralds the advent of a new art form:

> MGM is neither one man nor a collection of men. It is a corporation. Whenever a motion picture becomes a work of art it is unquestionably due to men. But the moving pictures have been born and bred not of men but of corporations. Corporations have set up the easels, bought the pigments, arranged the views, and hired the potential artists. Until the artists emerge, at least, the corporation is bigger than the sum of its parts. Somehow, although our poets have not yet defined it for us, a corporation lives a life and finds a fate outside the lives and fates of its human constituents.[1]

Poets had not yet defined the fateful life of the corporation, but, as the writers of *Fortune* well knew, the Supreme Court had done its best. Since the landmark Santa Clara case of 1886, which nonchalantly declared the corporation to be a person, a series of judicial decisions had generously invoked the due process clause of the Fourteenth Amendment to expand the life of the corporation outside the lives and fates of its human constituents and to ensure the right of this prodigy of industrial capitalism to pursue profit undistracted by the threat of government intervention.[2] In the trough of the Great Depression, *Fortune* decided to promote the potential of the Hollywood motion picture studio to exercise cultural leadership at a time when such leadership seemed crucial to the future of capitalism. For *Fortune*, the condition for the emergence of cinematic works of art, and therefore for faith in the future of a capitalist system capable of transcending merely commercial concerns, was not money or technology or even individual genius, but the corporate organization of the studio. It may or may not be that, according to the criteria of the academy, Hollywood motion pictures qualify as art. No matter. *Fortune* does not promise that Hollywood motion pictures will be admired as art or that they will be preserved as art; it simply affirms that if any do, they will count as instances of corporate art. The conviction that the corporate organization provides the social condition for art is more important than evidence of any motion picture's fulfillment of the traditional aesthetic criteria by which paintings or poetry or concertos are evaluated.

Corporate art should not be confused with a house style, as important as the latter is for the establishment of a brand identity in the eyes of the audience. As *Fortune*'s profile of MGM argues, the look and feel of MGM motion pictures was largely the concoction of Irving Thalberg, vice-president in charge of production, but Thalberg's efforts to implement a consistent house style served a house strategy, which MGM's motion pictures both represented and, with tactical adjustments to contingent circumstances, performed. Whether corporate art is represented by General Motors' commissioning of massive murals painted by Diego Rivera in the courtyard of the Detroit Institute of Arts in 1932 or Warners' hiring of Howard Hawks to direct *Scarface* the same year, the key to understanding that art is to plumb the strategic intention of General Motors and Warners, not Rivera or Hawks. Corporate art always counts as a tool of corporate strategy—that is, as one of a set of actions taken to attain competitive advantage which are coordinated and implemented by executives, who can successfully claim the authority to interpret the intent of the corporation and project a policy that will advance its particular interests, whether financial, social, cultural, or political. Those interests are invariably diverse and necessarily specific to the individual corporation insofar as they are framed within a highly competitive environment. No doubt a major interest is making a profit, for without profit a corporation cannot survive. Yet to state that a motion picture studio pursues profit, even that its dominant goal is the maximization of profit, tells us nothing about what kind of business it is and what its objectives are. Only individual movies understood as corporate performances and restored to the social, economic, and political environment in which they competed and which they endeavored to mold, simultaneously identify the studio's business as they attempt to accomplish its objectives.

Strategy should not be confused with ideology, although each addresses ways in which economic interests condition or inform the cultural productions of corporations in a capitalist system. Ideology, however, operates at a higher level of abstraction; its operation is subject to no person's intention or control. Corporate strategy is intended by the artificial person who the corporation is. For strategy to develop and be implemented there must be agents who can consciously interpret corporate objectives and devise the specific means to accomplish them. Ideology does its work well on constructions that function at the same level of generality, such as "the corporation," or "corporate capitalism" or "the motion picture industry," but does not explain, let alone command, particulars such as the individual movies of MGM or Paramount or Warners. When it comes to film theory the concept of ideology has often been employed as a fail-safe device for the selection of movies as apt examples or symptoms or vehicles. As a consequence of its abstraction, most ideological critique discovers the belief system it already knows must be there. Fulfillment of its tasks does not require the interpretation of texts as instances of a deliberate, variable, and focused strategy that aims to define, explain, consider, or advance the particular interests of a specific corporation—in this case a studio. One Hollywood studio may resemble other studios in its use of technology, the terms of its contracts, and the size of its reels, but each makes movies that mean different things and advance different objectives. Those meanings and those objectives are only made intelligible by alert, informed interpretation of the circumstantially grounded, strategically oriented, and tactically effective individual motion pictures that MGM, Warners, Paramount, Universal, Disney, and Columbia have produced from the classical era to the present day.

As *Fortune* suggests and this study hopes to demonstrate, the motion picture studio is the exemplary modern corporation. Each studio motion picture has the capacity to represent the general conditions of corporate personhood and expression even as it allegorically represents and pragmatically advances the particular interests of the specific studio. The Hollywood studio is a business that does its business right there on the screen as the projector rolls.

During the so-called classical era of Hollywood (roughly from the incorporation of Metro-Goldwyn-Mayer as a fully owned subsidiary of Loew's Inc. in 1924, to 1967, when Jack Warner completed the sale of Warner Bros. to Seven-Arts Productions), the five integrated major motion picture companies—Paramount, Loew's, Warner Bros., Twentieth-Century Fox, and RKO—each an owner of a studio, a distribution agency, and a number of first-run theaters, colluded to exercise oligopolistic control of the film industry and to restrain competition by restricting producers' access to resources and markets and exhibitors' choices among products. Despite "gentlemen's agreements" among the majors, which were designed by Will Hays, head of the Motion Picture Producers and Distributors of America, to ensure cooperation among the principals, the studios did compete aggressively over market shares, especially after the crash in 1929, which imposed a new economics of scarcity on American businesses large and small. Each member of the oligopoly strenuously sought to differentiate itself from the others by acquiring what John Sedgewick and Michael Pokorny call "a monopoly on uniqueness." The burden of that differentiation fell, of course, on the studios, which made the products that engaged consumer interest and solicited their loyalty. In order to "attenuate the risks associated with film consumption," each studio incorporated "a bundle of design features which aroused and satisfied a set of expectations among filmgoers," such as "stars, genre, director, sequels, and production company."[3] The differentiation among the studios was not merely a matter of electing a certain style. MGM was the studio of stars, as part of a strategy conducted by a management that had more autonomy, more longevity, and more prestige than any other group. It was the preeminent producers' studio, and despite its status as a subsidiary of Loew's, which controlled the purse strings and administered both distribution and exhibition, MGM made movies that constructed a corporate whole of which it was the predominant part. Its capital was management capital: a reliable profitability based on managerial capacity to make stars on the screen before our eyes and to feature them in narratives in which the role of the individual star and the social, political, and economic value of the entertainment he or she provided were consistently confirmed.

The long-standing opposition between MGM, the studio of stars, and Warner Bros., the studio of genres, structures the narrative and organization of this book. MGM not only never made a gangster movie that could compete with *Little Caesar* (1931) or *The Public Enemy* (1931), it never even tried. Even when MGM did directly mimic Warners, as in its musical *Dancing Lady* (1933), the differences between the studios' take on economic need, individual desire, group opportunity, and company success were unmistakable—differences that expressed MGM's irrepressible commitment to use every motion picture it produced as an occasion to elaborate a studio identity which its customers would recognize, approve, and internalize. The careful control of the process of individuating each picture in conformity with what *Fortune* would call a "common denominator of goodness" (*AFI*, p. 325), within a large population of motion pictures, each of them individuals, some of them stars, is part of the production and marketing model that made MGM strong and enabled it to succeed Paramount as the leading studio in Hollywood—the production company most responsible for establishing and maintaining the oligopolistic equilibrium that was classical Hollywood.

The success of Irving Thalberg's and Louis B. Mayer's strategy for consolidating a studio monopoly on uniqueness depended on a massive investment in the cultivation of "outstanding personalities" into what Leo Rosten called "monopolies on themselves."[4] MGM became the studio of stars so that it might establish itself as the star studio—an intangible value that may not have shown up in the box office receipts for every MGM product but which accrued to the company's earning power and long-term profitability. The executives at MGM did not imagine that the studio's pictures were uniformly important—their budgets established their place in the hierarchy with ruthless precision—but it was central to the house ideology that pictures authored and owned by MGM and that appeared under the MGM trademark were more important, *better*, than Warner Bros. or Paramount or Fox films, regardless of the budget. That conviction fueled studio ambitions to establish an MGM taste among moviegoers and an MGM community among both its customers and employees. MGM motion pictures were characteristically and deliberately allegorical. They provided the immediate pleasures of watching charismatic stars performing in skillfully constructed narratives, even as they invited viewers to understand the arrangement of pleasures as the expression of a studio strategy that alert viewers could appreciate, of a studio ethos of quality entertainment in which, as faithful customers, they could participate, and, finally, of a corporate politics, to which they, as well-meaning citizens, could subscribe. *Dancing Lady* is a movie that imitates Warners, but it is also a movie about why, even in imitating Warners, MGM remains itself, innately superior to its competitor. *Boys Town* (1938) tells the story of the struggle undergone by Father Flanagan to establish a town for parentless boys outside Omaha, Nebraska, but it also represents Boys Town as a commonwealth of young performers under the benign leadership of a man who, despite the collar, resembles the paternalistic L. B. Mayer, who is a master of public relations and whose dream of an entertainment community free of the trammels of the state (and the church), dependent only on the goodwill of the public, the movie symbolically fulfills. *The Wizard of Oz*, a hotbed of allegorical meanings, paints a picture of the paternalistic leader as a former peddler who rules by bluster and deceit. Eventually, he is rescued from his impotent seclusion by the combined forces of three eccentric talents, who in support of a youthful star, form a successful unit that proves its merit to succeed the superannuated "Wizard," just as the Freed unit would eventually succeed Mayer as custodian of MGM's signature genre, the musical comedy.

Warners was the studio of genres. As we shall see in Chapter 1, the predominance of the gangster picture in the early 1930s was not incidental. Among all the studios, Warners had the least separation between ownership and management. The gangster movies worked out the strengths and weaknesses of that organizational compression through the model of the gang and the figures of Scarface and Rico. Thalberg and Mayer could adhere to the productionist model as the basis for their relative autonomy within Loew's. But the Warner brothers had more on their minds, and we can understand what that was only by careful study of the individual pictures that Warners used to conduct its business. Gangster movies are allegories of organizational imperatives and, even more distinctively, of distribution: how to get your product into speakeasies and nightclubs and how to keep your competitors out—problems that were of little immediate concern to MGM. One way that gangsters achieved their ends was through intimidation, a strategy adopted by Warners when it launched its controversial gangster cycle in 1931, which both allegorized the company as a gang and attempted to intimidate the other members of the Motion Pictures Producers and Distributors Association, just as Rico intimidates Little Arnie Lorch, the owner of the Golden Palm. Warner Bros., the only studio besides MGM not to go into receivership during the Great Depression, is the ideal complement to Metro as a subject for this allegorical history because Warners was antithetical to Metro in its management structure, its unapologetic assembly-line attitude toward production, its fervent commitment to story before stars, its general disdain for an ideal of quality derived from literature or the legitimate stage, its urban feel, its utilitarian look, its journalistic urgency, and its New Deal politics. As I have already stated, the Warners of the 1930s is characterized by its mastery of genres—an association so strong that, as we shall see, Jack Warner waxed wrathful over the persistence of Hollywood cycles, not because there were too many newspaper pictures or gangster pictures or musicals but because the cycles were sustained by studios like RKO and producers like David O. Selznick, who copied the Warner Bros. original genre pictures. An "original genre picture" sounds like a contradiction in terms, but even if the origination of a genre was not the self-conscious objective of the studio when it went ahead with *Little Caesar* or *42nd Street*, in retrospect the emergence of such Warner Bros. films involved less an individualized offering among the studio's roster than an act of speciation, a creation of a new kind of movie that punctuated the equilibrium of the industry as effectively as Warners' introduction of sound technology, its predatory raids on stars under contract to Paramount, or the studio's break with the Motion Picture Association of America's silent tolerance of anti-Semitic business practices in Nazi Germany. The credit for recognizing the impact of generic invention as a kind of speciation goes not to Warners, however, but to Universal's *Frankenstein* (1931): its self-consciousness about producing the first entry in a new "horror" genre (forgetting, of course, a precedent or two) is evident in the staged prologue to the narrative but also in the deliberate allegorization of the studio's ambitions to create a new species of entertainment in the narrative itself.

Studio allegories often address multiple audiences—an overdetermination of meaning that, for *Fortune* at least, was most compelling in *Grand Hotel* (1932), the preeminent symbol of MGM's symbolizing genius. A studio like MGM or Paramount that thinks in pictures may find certain dramatic situations, such as Lady Belden's flower show in *Mrs. Miniver* (MGM, 1942), convenient vehicles for allegorizing its corporate strategy. A studio may use allegory to admonish its employees and punish its stars; it may exhort the president of the United States to alter policy; it may allegorize its formidable institutional power to appease its creditors and dismay its competitors. During the classical era the appearance on the screen of the studio logo—MGM's lion, Paramount's mountain, Warners' shield, RKO's radio tower, Fox's searchlights, Disney's fairy castle—fused the statement of studio ownership with a claim of studio authorship. When the lion roars MGM speaks. If the lion fiercely announced a proprietary inclusivity, it also jealously guarded a carefully defined exclusivity. No studio but MGM could have made *Grand Hotel* or *Captains Courageous* (1937). MGM could never have produced *Little Caesar* even if L. B. Mayer had both Edward G. Robinson and Mervyn LeRoy under contract. *Too Hot to Handle* (Warners, 1933) and *Batman* (Warners, 1989) are definitive Warner Bros. pictures—although definitive of a studio which, under the pressure of fundamental changes in technology, in personnel, in the demographics of moviegoers, in the economics of filmmaking, and, most of all, in the corporate form, has been altered past recognition by its founders. Nonetheless, it is as important for a student of Hollywood to know that *The Big Sleep* (1946) was a Warner Bros. feature as it is to know that Howard Hawks directed the picture. It is vastly more significant that *Marie Antoinette* (1938) is an MGM feature and part of the legacy of Irving Thalberg than that the film was directed by W. S. Van Dyke: if not for the posthumous influence of Thalberg the film would not have been made; if Thalberg had lived Van Dyke would never have directed it.

That *Morocco* (1930) was made by Paramount may appear to be a fact of less significance than that Josef Von Sternberg directed and that Marlene Dietrich and Gary Cooper starred in the film—but it seems that way only because *Morocco was* made by Paramount. As a later Paramount motion picture, *Sunset Boulevard* (1950), would argue, in Hollywood only at Paramount were the directors and their stars more important than the studio (not to mention the screenwriters)—a hierarchy that was integral to Paramount's identity. Cecil B. de Mille's *Ten Commandments* (Paramount, 1956), a Cold War updating of his 1923 silent epic, is about a sacred text in the Judeo-Christian tradition; in addition, it is itself a sacred text in the Paramount canon of brand-lore, the set of films that ponder the conception, founding, consolidation, and transformation of the Paramount brand, including *The Cheat* (1916), *The Covered Wagon* (1925), *The Virginian* (1929), *Love Me Tonight* (1932), *Christmas in July* (1940), *Road to Utopia* (1946), and *Sunset Boulevard* (1950).[5]

If, to entertain an impossibility, *The Philadelphia Story* (MGM, 1940) had been made, scene by scene, shot by shot, star by star, by Warners rather than MGM—introduced by Warner Bros.' crest rather than by the rubric of MGM's roaring lion—the film would mean something entirely different. *The Philadelphia Story* as we have it is saturated with Metro's corporate intention to justify the ways of Louis B. Mayer, studio head, to Nick Schenck, the boss of Loew's Inc. Like *The Jazz Singer* (Warners, 1927), *Gabriel over the White House* (Cosmopolitan/MGM, 1933), *Bullets or Ballots* (Warners 1934), *Boys Town* (MGM, 1938), *The Grapes of Wrath* (Twentieth-Century Fox, 1940), *Pinocchio* (Disney, 1940), *Twelve O'Clock High* (Fox, 1949), *The Fountainhead* (Warners, 1949), *Singin' in the Rain* (MGM, 1952), *Psycho* (Shamley, 1960), *Jaws* (Universal, 1975), *Invasion of the Body Snatchers* (United Artists, 1978), *Toy Story* (Pixar, 1995), *Toy Story 2* (Pixar, 1999), *Shrek* (Dreamworks, 2001), and *Minority Report* (Dreamworks, 2002), *The Philadelphia Story* is a significant instance of studio authorship because it, like they, is a motion picture deeply involved in analyzing the concept of the corporation and in marketing that concept to an audience that the studio aspires to incorporate in order that it may achieve its social, economic, and political objectives. *The Philadelphia Story* is not, however, a motion picture that had long-term consequences for the strategic position or financial health of the studio as did *Grand Hotel*, *Mrs. Miniver*, or *Singin' in the Rain*, or as *The Jazz Singer*, *Little Caesar*, *Bonnie and Clyde*, *Batman*, or *You've Got Mail* did at Warners, where each of those motion pictures punctured an equilibrium established among the studios and became an instrument of what we can loosely call the evolution of the industry from classical Hollywood to New Hollywood and beyond.

The Concept of the Corporation is the title of Peter F. Drucker's landmark 1946 study, which endeavored to unhitch the corporation from its moorings in state charters, Supreme Court decisions, and abstract theories of corporate personality. No need to look back, Drucker claimed, since World War II had established "beyond any doubt" the "large corporation as the representative institution of America today." No empirical corporation matters as much as the concept of the corporation "organized in such a way as to be able itself to function and to survive as an *institution*, so as to enable society to realize its *basic promises and beliefs*, and to enable *society* to function and to survive." As the single most "dynamic element" of American society, the concept of the corporation has become the preeminent "symbol through which the facts are organized in a social pattern."[6]

Fourteen years before Drucker proclaimed the corporation's chief social importance as a symbol, *Fortune* had discovered that symbolizing power exercised at MGM by the executive vice-president in charge of production, Irving Thalberg. As we shall see in Chapter 1, the magazine figures Thalberg, star executive, as both camera and projector, producer and spectator—a division of functions that he mobilized to refine MGM's "common denominator of goodness," and thereby create his brand loyal customers. Thalberg does not claim to be the studio author; he famously takes no screen credit at all. Thalberg, in *Fortune*'s canonical interpretation, is the agent of the studio who best impersonates its purposes and practices, and who enables the structuring self-reflection that is MGM's singular mode of authorship. Although there was no Thalberg at Warners, an anti-Thalberg appears in the gloaming of Jack Warner's reign: Warren Beatty uses *Bonnie and Clyde* (1967) both to represent and to exploit studio dysfunction in a Hollywood where credit means everything because it is the brand, not the sound stage or the real estate or the superannuated Jack Warner, that remains of Warner Bros. And it is in the brand that moviemakers and movie executives will henceforth live, move, and have their being.

From the perspective of Drucker, corporate theorist, Thalberg developed his executive discipline in order to create customers for MGM motion pictures. From the perspective of Roland Marchand, cultural historian, by distilling a "common denominator of goodness" which deeply resonated with a struggling middle-class audience often forced to align with denominators of the commonest sort, Thalberg was creating MGM's soul. Marchand's important study, *Creating the Corporate Soul*, examines the connection between the professionalization of modern marketing and corporate America's response in the 1920s and 1930s to widespread discontent with a massive increase of corporate size and power unaccompanied by any regard for the public welfare. Progressives charged that if the corporation is, as the courts had ruled, indeed a person, it is a person without a soul.[7] If we have our eyes on the PR men who became expert soul makers for the corporations that hired them, we can read soul making as an allegory of the increasing sophistication and cynicism of modern product managers in exploiting any pretext to invest corporations with pathos. But marketing itself, as distinguished from either advertising or merchandising, may be reasonably read as an allegory of something like soul making, insofar as the project of marketing involves the establishment of the social legitimacy of a company that seeks to make customers for its products rather than simply make products it can somehow sell to a consumer. As making a shareholder into a stakeholder involves the establishment of a connection to the company based on a perception of its value independent of the Friday's closing stock price, so making a consumer into a customer involves the establishment of a connection to the corporation, which is also dependent on the perception of its value apart from the immediate appeal of the glistening commodity it puts on the shelf.

The common denominator between soul and value is *personality*—a term with innumerable associations that was used by marketers to humanize the spiritual astringency of *soul* and to spiritualize the commercialist connotation of *value*. In the 1920s and 1930s the phenomenon of "personality" became an instrument to synthesize a new kind of corporate capital. In his iconoclastic book *The Folklore of Capitalism* (1937), Thurman Arnold ponders consequences of the irrepressible tendency of the "folk" to personify what we now call the culture of organizations:

> Not only do organizations acquire personalities, they also acquire three-dimensional substance. Thus habits and disciplines and hopes of a great organization are given a money value. Capitalized earning power is called "property" and then is treated as if it could be moved from place to place and sold. Then people dealing with these imaginary personalities deal with them as if they owned this sort of property. Without this alternate reification and personification of the same things a corporate structure could not exist and do business under a money economy.

From one perspective corporations are personified; they become individuals with personalities, who acquire substance by their possession of "goodwill" (the economists' compromise with the term *soul*). From an alternate perspective they "are storehouses of tangible property" that can be sold down to the bare walls before the walls themselves are sold. The reification (or, perhaps, commodification) of goodwill as capitalized earning power enables it to be sold as property by the very personality that is constituted by nothing but the goodwill attributed to it. Nonetheless the seller retains its personality as an "earning capacity" (or brand), which somehow has value above and beyond the market value of its material property. Arnold illustrates the strange logic that follows from this structure with the remark that "to say that the Baltimore and Ohio Railroad Company owns the Baltimore and Ohio Railroad is like saying that the United States Marine Corps owns the United States Marines."[8] It would seem impossible for the Baltimore and Ohio Railroad Company to own the Baltimore and Ohio because the Baltimore and Ohio Railroad Company *is* the Baltimore and Ohio. Ordinarily, it would seem absurd that an organization could at once be itself and yet be a property of itself. But it is not absurd. The corporate person owns itself in a way that no other persons do—except, crucially, movie stars. The corporation, like a star, is, in form if not necessarily in fact, a monopoly on itself. It can authorize its agents to complete the sale of itself, its rolling stock, its autographed images, its buildings, its recorded performances, while still remaining itself, a singular subject which exists apart from those agents and despite those sales—a subject which has as its representatives those managers who have exercised their dexterity to create intangible value out of numerals in a ledger, or light and shadows on a screen. The goodwill that increased the intangible, material capital of the motion picture studios lay in the studios' capacity to manufacture goodwill for other companies or causes with practiced efficiency.

Goodwill, personality, soul, star—all are human terms for intangible values, for earning power, and for endlessly replenishable managerial capital. Classically, the profit motive drives the entrepreneur as he pursues ever more efficient transactions and, consequently, provides greater returns to the corporate shareholders on their investments. From Drucker's perspective—which we shall alternately call a *strategic*, a *managerial*, or a *marketing* perspective—it is the *institutionalization* of profitability as managerial capital which enables the executive to act effectively as agent of the corporate principal to assure that future revenue will be sufficient for the long-term survival of the firm. To attain profitability is to invest in producing the capital (capitalized earning power, goodwill, brand equity) that will enable the manager to render uncertainty as intangible value, to convert intangibles into wealth, and to exploit that wealth as an opportunity for the corporation to take risks—risks which are vital to an aggressive society for which a stationary economy is a threat to prosperity. A management perspective embraces the view that "management has replaced capital . . . , management reflects ([or] 'determines') societal and economic prerogatives in the broadest sense . . . , and at the centre of all societal and economic prerogatives is . . . the capitalist corporation."[9]

No company in America in the 1930s had a better claim to represent that fundamental shift in the concept of the corporation than MGM, which was formed not by a group of investors but by a management team that had organized the company as the production subsidiary of Loew's Inc. and, critically, renounced shares in the company in order to take percentages of the profit, which would improve, not simply as the annual revenue of the company rose but as profitability—that is, not its annual profit but its long-term capacity to return profit—increased. The MGM executives' primary, self-defined responsibility was not to manage the studio's relations with distributors, its allocation of resources, or the moods of its stars but to strengthen the MGM brand. Their management was so successful that although the MGM studio has, since the deaths of Thalberg and Mayer, been managed and mismanaged, bought and sold, dissolved and revived, only to be wrecked by debt and recently put on the block again, and although the MGM soul expired long ago, its brand retains its value in a world of mutating profit centers that neither Thalberg nor *Fortune* could have foreseen but for which they had astutely prepared. If it is true that in 1946, after the smoke had cleared from the battlegrounds in Europe and the Pacific and large companies had proved the vital importance of their capacity to organize society in successful defense against the nation's enemies, the corporation could legitimately claim to be the most representative institution in American society, it is equally true that from the beginning of the sound era, until approximately the postwar era, the Hollywood motion picture studio and especially MGM could plausibly represent themselves as what Will Hays called "the epitome of civilization and the quintessence of what we mean by 'America.'"[10] Hays could say such a thing not because it was actually true, however truth is measured when press agentry warbles its fond hyperboles, but because, more than any other major corporation, the Hollywood studio had and has the art of successfully marketing itself as a virtual star.

By 1949, however, the law, the Supreme Court, and the talent agents had intervened in that market, and when MGM under its new vice-president in charge of production, Dore Schary, turned to a new *Battleground* (MGM, 1949), the terrain had altered so dramatically that MGM's strengths proved to be weaknesses. It was one thing to model the concept of the corporate studio on the star, which was merely a form, when stars were safely under seven-year contracts to the studio; it was another when, after the war, the stars incorporated themselves and drastically diminished the capitalized earning power of the studios. By the 1950s MGM was caught in a struggle between two warring camps, the Freed unit and the Schary coalition: the former committed to retooling MGM's signature genre, the musical comedy—especially *Singin' in the Rain* and *The Band Wagon*—in order to stage a resistance to a diminished future by exhausting its imagination in its effort to revive the glory of the studio, the latter using *Executive Suite* as the vehicle to help save the company by prospecting a future of enlightened management and ill-defined innovation.

MGM barely survived, while Warner Bros. thrived. Warners had never tied its fate to the vicissitudes of stardom and the elixir of self-replenishing intangible capital. It preferred to put its faith in technology, in its capacity to be independent of any of its properties, and, under the cunning leadership of the brutally unsympathetic Jack Warner, its willingness to make the deals that would sacrifice ownership for a lingering control. The first half of this book is ruled by MGM, with appearances by Warners as conservative Metro's chief antagonist. The second half belongs largely to Warner Bros., as party to mergers and acquisitions which left the studio bereft of its connection to the past but healthy in its financials and ripe for rejuvenation: first, by a charismatic producer, Warren Beatty, who could exploit Jack Warner's willful depreciation of the asset in order to commandeer the Warners brand, and later, by a charismatic CEO, Steve Ross, who, as acknowledged master of the art of the deal, could deploy the studio as the marketing arm to use *Batman* to assert the transcendence of the Warners brand and beguile the management of Time Inc., the largest entertainment corporation in America, into outfoxing itself at the negotiating table. Finally, Gerald Levin, Ross's successor, who was infatuated by technology, handicapped by his unreflective faith in his acquisition of Ross's mastery, mistook the effective use of *You've Got Mail* (1998) to manipulate the stock market as the creation of capital, and happily completed the worst merger deal in the history of corporate America.

ii. The Studio Authorship Thesis: Authorship, Strategy, Functionalism

Positions on the authorship of studio films tend to cluster antithetically: at one pole are auteurist, so-called romantic accounts of authorship which stipulate that some actual individual's contribution, whether director, screenwriter, or producer, qualifies her to be credited as author despite her limited participation or control; at the other extreme are materialist and collectivist accounts that render some apparatus or set of industrial conditions or group as the functional equivalent of the individual author.[11] This book identifies a more comprehensive alternative, a person who is not actual but who nonetheless qualifies for the status of the intending author: the corporate studio itself. With the phrase *corporate studio*, I include those Hollywood production companies that were actually incorporated (such as Samuel Goldwyn Inc. and MGM until the end of the 1930s), those that were the production subsidiaries of larger corporations (Twentieth Century-Fox Film Corporation, RKO Radio Pictures Inc., Paramount Pictures Inc.), the one that straddled that distinction (Warner Bros.), and production companies that shared the structure, practices, and objectives of the major studios (Universal Pictures, Selznick International, and United Artists after 1950). Organizational commitment to "the concept of the corporation" as "a social institution organizing human efforts to a common end" is decisive in determining studio authorship, not strict adherence to any particular organizational form (*CC*, p. 12). Different organizations make pictures that have different objectives and meanings, not mere differences in style—a truth that cannot be deduced from a flow chart or a biography of an executive, or a table of revenues, or a theoretical model of the development of finance capitalism, or a policy statement from Will Hays or Jack Valenti, but must be discovered by close examination of the particular motion pictures that are each corporation's individualized speech. To state the studio authorship thesis in its full extension: no adequate understanding of the artistic achievement, social role, and economic objectives of Hollywood motion pictures can be attained without interpretation of individual movies. There is no interpretation without meaning, no meaning without intention, no intention without an author, no author without a person, no person with greater right to or capacity for authorship than a corporate person, and, finally, no corporate person who can act without an agent.

Although versions of the studio authorship thesis have been developed by filmmakers and studios from the mid-1930s to the present, it has attracted few adherents among those who study Hollywood motion pictures. As Richard Maltby declared in 1998, "there has . . . been a fairly clear division between a practice of textual analysis that has either avoided historical contextualization or engaged in it only minimally, and economic film history that has largely avoided confronting the movies as formal objects."[12] A review of major histories of the industry confirms Maltby's generalization. For example, Howard T. Lewis's *The Motion Picture Industry* affirms that "no attempt to understand the present problems of the American motion picture industry can be even partially successful without some appreciation of the character of the development out of which the present situation evolved."[13] Lewis gives a useful account of the background of the industry and illuminates each sector of its organization: production, distribution, and exhibition. But he rarely names an individual film. Leo Rosten's splendid *Hollywood: The Movie Colony, the Movie Makers* takes as its premise that Hollywood is "an index of our society and culture," and aims to lay bare the social mainsprings and the economic framework of a community that is "significant because of the product it manufactures and the symbolic function it serves to millions of men" (*H*, p. 6). Rosten's results are revelatory, especially regarding the often neglected, somewhat elusive role of producers in the manufacture of motion pictures, but by forsaking any study of the movies that those producers actually made, the social scientist scants the cultural dimension of his subject. In her indispensable 1944 study, *Economic Control of the Motion Picture Industry*, Mae D. Huettig asserts that "the structure of the major companies is important because there is a real and direct connection between the way in which they are set up, the kind of people who run them, and the kind of films produced."[14] Yet Huettig's predominant interest in structure rather than strategy is satisfied by classifying the releases of individual studios; she does not analyze the movies themselves. Maltby's generalization regarding the segregation of film criticism from economic film history also applies to key works that appeared in the 1980s and 1990s, such as Thomas Schatz's *The Genius of the System*, Maltby's own *Hollywood Cinema: An Introduction* (with Ian Craven), Douglas Gomery's *The Hollywood Studio System*, and the multi-authored *History of the American Cinema*. Of those valuable histories, Schatz's impeccable producer-oriented study, which makes a strong case for studio executives as the "chief architects of a studio's style," has had the most influence on this book. Most recently, in his illuminating study *Production Culture: Industrial Reflexivity and Critical Practice in Film and Television*, John Thornton Caldwell has skillfully employed an ethnographic approach to develop what he calls an "industrial auteur theory," which applies to the above the line/creative personnel (that is, those who contribute to the conception and direction of the picture—as opposed to below-the-line personnel who execute others ideas) and an "industrial identity theory," which applies to the above the line/business personnel for whom "screenplays are also business plans." Because Caldwell's "analytical task . . . is to make sense of film/video workers who function as part of a very different 'post-network' industrial world," he is not concerned to make sense of the movies themselves. Instead he commits himself to "considering cinema within the diverse contexts of electronic media"—an important task, brilliantly handled, but one that sharply diverges from the project undertaken here.[15]

Even though Huettig does not attempt analysis of individual films, she recognizes the importance of the project. "The facts," she writes, "indicate clearly that there is a connection between the form taken by the film and the mechanics of the business, even if the connection is somewhat obscure" (*EC*, p. 55). Four and a half decades after Huettig's book, *The Classical Hollywood Cinema*, by David Bordwell, Janet Staiger, and Kirsten Thompson, attempted to dispel that obscurity regarding the connection by applying a functionalist model of explanation to the industry that has been immensely influential, even hegemonic. This landmark study understands the Hollywood film industry during the classical era as comprising companies that shared a specific mode of production and that manufactured standardized industrial commodities—that is, motion pictures—which conformed to "integral and limited stylistic conventions" that emerged from and fed on Hollywood production practices.[16] According to that study, by the mid-1920s feature filmmaking had evolved from the individualistic enterprise of the early silent era into an industrial system organized on quasi-Fordist principles of mass production. Supervised by an inflexible hierarchy of managers, propelled by a rhythm of technological innovation and standardization, characterized by a coherent, yet variable repertoire of "ideological/signifying practices," and driven to maximize profit, the motion picture industry produced, distributed, and exhibited marginally differentiated commodities for mass consumption.

Classical Hollywood Cinema combines extraordinary attention to film form with an equally impressive analysis of the industrial system. But because "meaning" is incidental to the mode of production, questions of authorship or what *Fortune* would call "art" are not relevant. As Dirk Eitzen states in an early review of *Classical Hollywood Cinema*, the form of Hollywood motion pictures follows industrial function not individual intention. What an owner, manager, or worker wants to do or thinks he or she is doing has little bearing on what is finally done. In defense of *Classical Hollywood Cinema*'s functionalist premise, Eitzen argues that while the book does show how innovations in lighting and sound technology produced changes in Hollywood film style, it insists on "a clear discrepancy between the motivations for innovation and the actual causes of change. It was the *consequences* of inventions that determined their 'success,' and consequences, though they were deliberately sought, could very rarely be fully anticipated."[17] Among competing innovations by Hollywood practitioners, it was the system, not the individual inventors or even their managers, which determined what eventually succeeded: "The innovations that won out were always those that fit best into the established 'modes' of practice and production" ("E," p. 77). For the functionalist any supposed motive, whether individual or corporate, is a secondary effect of the dynamism of an industrial system that is fundamentally a technology for efficient self-reproduction by means of profit-maximization.

The symmetries of functionalist systems propagate most neatly if individual Hollywood corporations are amalgamated into the general category of the "film industry." The term *industry* conveniently designates "a group of firms producing products that are close substitutes for each other."[18] That an industry exists does not presuppose that it is the consequence of deliberate planning. From the perspective of classical economics, the behavior of a group of firms scales up from the behavior of an individual firm: there is a market demand for a certain kind of product; a firm can fulfill that demand more cheaply than the open market; it therefore makes sense that a group of firms would emerge to make the same product and probably more cheaply than one firm alone, since costs would be saved in terms of proximity to resources and customers. As the story to the Justice Department might go, it should be no surprise that the supply of products among all the firms in the industry would automatically seek and find a level that would dictate a floor on prices throughout the industry. For classical economics, whatever coordination occurs among the firms that constitute an industry is a function of the price mechanism, not the consequence of a plan shared among the producers.

Since the turn of the twentieth century, however, the term *industry* has usually been reserved for a group of firms that have some kind of formal relationship. Unlike a corporation, neither a firm nor a group of firms has the status of a person before the law, which is to say that when an industry is personified (as "Hollywood" regularly is in the pages of *Classical Hollywood Cinema*) and assigned "wants" or "needs," that trope is a metaphorical extension of the chartered status of the corporate person—a device that actually *has* wants and needs. Firms with shared interests do establish associations or councils, appoint representatives, agree on objectives, collaborate on policies, and hire specialized individuals to speak on behalf of their industry. The organization of the group of the major firms that constituted the American motion picture industry was more advanced than most in the 1920s as a result of the formation of Motion Picture Producers and Distributors Association (MPPDA) in 1922, with Will Hays as its director. As a result of Hays's skillful agency, journalists in the 1930s could reliably learn what the motion picture industry "thought" by consulting him. Or they could survey an aggregate, such as the studio heads or the members of the Academy of Motion Picture Arts and Sciences.

In *The Grand Design* Tino Balio distinguishes outmoded accounts of Hollywood as virtually controlled by the Wall Street financiers who owned the studios from "revisionist" accounts that "rest more or less on contemporary critiques of finance capitalism that focus on corporate hegemony." Like Bordwell, Staiger, and Thompson, Balio cites as his authority Alfred D. Chandler's *Visible Hand* (1977), which

> defined the modern business enterprise as having two specific characteristics: "It contains many distinct operating units and is managed by a hierarchy of salaried executives." Motion-picture firms took on the first characteristic during the teens and the twenties when they integrated both horizontally and vertically. As they grew in size, these firms became managerial, which is to say, they rationalized and organized operations into autonomous departments each headed by a professional manager.[19]

Such thinking has long ceased being revisionist. Well before Balio consecrated *Visible Hand* as the foundation on which contemporary histories of Hollywood should build, Martin J. Sklar argued that Chandler's functionalist thesis that increased efficiency of operation naturally selected large-scale, well-coordinated corporations for dominance of the economy echoes the Darwinian apologies made on behalf of the corporate system in the early years of the century by "pro-corporate partisans," who defended the social dislocation attendant on the rapid transition to a new, highly organized system of industrial production and market control as "simply a matter of submission to 'objective' laws of economic evolution."[20] William G. Roy has distilled the terms of the "major underlying debate" among contemporary historians and theorists of the modern corporation: those who insist that "the economy operates according to an economic logic based on efficiency" are opposed by those who are convinced that it "operates according to a social logic based on institutional arrangements, including power."[21] Roy's own case histories of individual corporations rising to dominate entire industries in the early decades of the twentieth century indicates that the efficiency of the business organization was rarely decisive. The success of particular corporations in specific industries was contingent on both the mix and mastery of the actual actors involved and the concrete material and political opportunities available for exploitation.

As established by judicial decisions and charters granted by federal and state governments, corporations of the late nineteenth century, according to Roy, constituted a "new type of property, socialized property," which was distributed among a number of owners who are strangers to each other and to the operations of the company in which they have a financial stake. The socialization of property entails that the "variable" rights, entitlements, and obligations are not only in relation to an "object itself but also in relationship to other individuals," including the board of directors, managers, workers, and customers; and also to the state, which must take an active role in defining and enforcing property rights. Consequently, Roy argues, "the major corporations as a form of property set within a broader institutional structure [are] shaped by the dynamics of power at least as much as by efficiency" (*SC*, p. 11). By committing to the anti-intentionalist efficiency thesis, by overvaluing technological determination, and by undervaluing the studios' strategic exercise of power, functionalist film scholars typically construct a history of unintended but preordained consequences. Getting the story right requires that we learn how corporate enterprises determined what they wanted, to reconstruct what corporate actors did to get what they needed—for example, spend money, exert influence, conspire—in order to acquire what they wanted, and to pay close attention to the ways in which interested representations *of* and *by* corporations helped achieve corporate objectives.

There are three distinct kinds of power that corporations deploy to achieve their objectives. The most evident kind Roy calls, after Weber, "behavioral power": "the visible overt behavior of the power wielder in the form of a command or request" (*SC*, p. 13). *Behavioral power* is the kind of power that could compel an actor, such as Clark Gable or Claudette Colbert, who is under contract to one studio, to report to work for another as a "loan"; it is the kind of power that would require George Cukor to shoot *A Star Is Born* (Warners, 1954) in Cinemascope rather than the preferred academy ratio; the kind that would keep potential scandal involving Rock Hudson out of the newspaper; and the kind that might be exercised by a congressional committee in the form of a subpoena summoning studio executives to testify regarding communist infiltration of the motion picture industry.

Corporate power is also structural—that is, embedded, ordered, expansive, and indirect. According to Roy, those corporate actors who possess structural power have an "ability to determine the context within which decisions are made by affecting the consequences of one alternative over another" (*SC*, p. 13). *Structural power* is the kind of power more or less systematically exercised by oligopolies such as the Motion Pictures Producers and Distributors Association; it is the power engineered by lawyers drawing up corporate contracts with investors and independent agents that mystify the relations between the gross revenue and the net profit; the kind exerted by the Office of War Information to assure the projection of a consistently optimistic image of the war effort.[22]

It was the motion picture companies' formidable symbolic power, however, that distinguished them among the leading corporations and earned them an influence out of proportion to the magnitude of their revenues or capital reserves. Each studio projected its preferred identity and screened its ambitions by marketing commodities that proposed plausible versions of the world, then, now, and in the future. As David Riesman argues in *The Lonely Crowd*, more than any other cultural medium it was Hollywood that constructed the characterology of the modern American individual, that sold the concept of personality (or "other-direction"), and that minted imitable prototypes of appealing personalities, which the studios mobilized on their screens.[23] The symbolic power generated by individual studios and channeled through the agencies of the MPPDA, the Academy, *Variety*, *The Hollywood Reporter*, *Fortune*, *Time*, *Life*, *Look*, *Photoplay*, the Hearst newspaper chain, and so on created the mystique of Hollywood as one of the handful of political, financial, commercial, and cultural institutions within the national imaginary—along with Washington, the national press, Wall Street, and Madison Avenue—which had the capacity to mold, manipulate, and mobilize public opinion.

To strategically exercise behavioral, structural, and, above all, symbolic power has always been the ambition of the major and minor Hollywood studios. This book departs most decisively from the premises of functionalist film scholarship and the procedures of traditional film criticism in its conception of how strategy is developed within the corporation and how corporate strategy projects institutional power. In the functionalist study *Strategy and Structure*, Alfred D. Chandler, Jr., acknowledges that one finds that changes in corporate "strategy . . . called for changes in structure," but typically adds that such changes, according to Chandler, "appear to have been in response to the opportunities and needs created by changing population and changing national income and by technological innovation. . . . The prospect of a new market or the threatened loss of a current one stimulated geographical expansion, vertical integration, and product diversification."[24] For Chandler and the school of economic history he launched, then, strategy is fundamentally reactive and adaptive to changes—"opportunities and needs"—created by the external environment. By establishing, realigning, or reinventing appropriate functions, structure *operationalizes* strategy.

Kenneth R. Andrews has argued that it is the task of the corporate strategist to interpret corporate discourse in order to discover and implement the intention it conveys. Whereas "business strategy" defines the "choices of product or service and market of an individual business," "corporate strategy" applies to "the whole enterprise" as "the pattern of decisions in a company that determines and reveals its objectives, purposes, or goals, and defines the range of business the company is to pursue, the kind of economic and human organization it is or intends to be and the nature of the economic and non-economic contribution it intends to make to its shareholders, employees, customers, and communities." The signification of a business strategy provided by any single decision or by any single employee becomes part of corporate strategy only when a manager, who understands himself as the intended interpreter of corporate purpose, deduces from "decisions observed, what the pattern is and what the company's goals and policies are." Corporate strategy cannot be inferred from any single action that alters the way something is done ("Why did you decide to change the office software system?"), or that can be referred to any individual such as, say, the writer of a mission statement ("What exactly did you mean by saying our mission was 'the general welfare?'"), or referred to the innovator of a product line ("Does this mean that all our shorts have to be baggy?"), or even referred to the CEO ("What was the *real* reason we merged with AOL, Mr. Levin?"). Sounding like a new critic, Andrews urges that because the "essence of the definition of strategy . . . is *pattern* . . . it is the unity, coherence, and internal consistency of a company's strategic decisions that position the company in its environment and give the firm its identity, its power to mobilize its strength, and its likelihood of success in the marketplace."[25] Corporate employees become effective executives insofar as they are able to discern a pattern and, discounting the professed intentions of the actual agent of any particular decision, make a decision consistent with the operant intention of the whole to mold an environment in which the company can achieve its objectives.

Andrews's corporate executive interprets a set of decisions as establishing the strategy authored by the corporation, which he then impersonates in order to render a decision in keeping with corporate intentions. Impersonation is the norm for successful performance in the corporation as, Barry King argues, it is in the theater and motion pictures:

> The process of character representation through impersonation entails that the actor should strive to obliterate his or her sense of identity in order to become a signifier for the intentionality inscribed in character. Such obliteration returns the project of intentionality to the level of the narrative itself, which is usually "authored" reductively in terms of the director's or playwright's "vision," rather than as a meaning emergent from a collective act of representation. The full participation of the actor in the narrative as character thereby depends upon the suppression of the literary conception of the author.[26]

If we substitute "corporation" for "collective," "executive" for "character," and "strategy" for "narrative," we are on firm ground. In the late 1920s and early 1930s, Irving Thalberg *personified* MGM, but so did Clark Gable, Louis B. Mayer, Cedric Gibbon, Joan Crawford, and Leo the Lion. Most people would have agreed that Clark Gable was the personification of MGM. If Gable were to have said, "I am MGM," however, that claim would have invited rebuttal from numerous quarters: the New York office, the shareholders, even the PR agent for Spencer Tracy. The personification of a studio is an identification that people may recognize, but not one to which anyone must consent. A personification does not bear corporate authority and cannot enunciate strategy. A personification of the studio is, ultimately, an element of the corporation's brand, one of the cluster of associations people make when they hear the name "MGM" or "Disney." Thalberg, Mayer, and Selznick impersonated MGM at various times, the latter filmmaker with a touch of the irony that flared during Warren Beatty's conversations with an aged Jack Warner when Beatty claimed Warners as his own proprietarial trademark, as if to predict that studio authorship, though merely nominal, would survive studio owners, who are merely old, merely mortal.

iii. Summary of Chapters

The chapters that follow are arranged roughly chronologically. Chapter 1 uses readings of MGM and Warner Bros. motion pictures from 1928 until 1939 to illuminate the way the two studios developed their identities in a struggle to attain competitive advantage during the Depression and under the rules of engagement established by the Motion Pictures Producers and Distributors Association, the Production Code Administration, and, eventually, the federal government. The predominant theme that emerges from the corporate liberal entente of the first New Deal involves the relation or competition between the motion picture industry and the government in providing protection—whether as a form of social insurance or as a protection racket—to a distressed populace. The chapter is organized by the elaboration of the autotelic mechanism by which *Fortune* figures Thalberg's successfully self-reflexive management, by analysis of the trope of social adjustment that MGM proposes as a device to divert potential conflict between the masses and the classes, and by illustrating the trope of commutability that characterizes the particular form of collectivism embraced by Warner Bros., the New Deal studio.

Chapter 2 explores the implications of *Fortune*'s return to MGM in 1939, this time to examine the dynamics of the relationship between Loew's and its subsidiary and to evaluate Louis B. Mayer's record as the studio head after the decline and death of Thalberg. The first two sections of the chapter engage *Mrs. Miniver* as MGM's chief statement of the importance of breeding for the creation of stars and for asserting the authority of the studio in the postwar era. The second section examines the chief cinematic exponent of change at postwar MGM, *Battleground*, the pet project of the studio's new vice-president of production, Dore Schary. *Battleground* tested whether the studio of *Meet Me in St. Louis* could remain relevant to the veterans of the war and restore its lost audience. It broke with MGM conventions by embracing a Cold War liberalism that stressed the importance of tolerance toward our former foes, vigilance toward our new ones, and the central role of motion pictures as the vehicle for the global spread of American popular culture.

Chapter 3 looks at MGM's response in the 1950s to a continued decline in revenue and to the bitter rivalry within the studio between those talents in the renowned Freed unit, which retained allegiance to the entertainment values that the retired Mayer had long embraced, and those who were aligned with Schary, a believer in the progressive mission of the studio to represent and even to solve contemporary social problems. Neither Freed nor Schary veered from MGM's core identity as the studio of the stars, however; and it is through reflection on the complex process of making, maintaining, reviving, and disciplining stars that *Singin' in the Rain*, *The Band Wagon*, and *Executive Suite* think through mortal threats to the continued existence of the studio.

Chapter 4 examines the terms on which independence as a director, a star, and a studio could be achieved in the 1950s. It begins with Warners' *The Fountainhead*, directed by King Vidor, which exploits the Ayn Rand novel as the opportunity to investigate the ways in which the modern corporation can achieve autonomy on the same terms as a work of modern architecture. The chapter then turns to a reading of Hitchcock's *Vertigo* as an allegory of the director's own struggles for independence in the 1950s under the guidance of Lew Wasserman, his powerful agent from MCA.

Chapters 5 and 6 unfold the contributions of three motion pictures, *Bonnie and Clyde*, *Batman*, and *You've Got Mail*, to the transformations undergone at Warner Bros. in the aftermath of the sale of the studio to Seven Arts Productions in 1967, during the negotiations over the merger with Time Inc. that were brought to a successful conclusion by Steve Ross, CEO of Warner Communications in 1989, and during the subsequent courtship of Steve Case and AOL by Gerald Levin and Time Warner in 2000. The essay on *Bonnie and Clyde* situates the motion picture in the context of a handful of cultural and political movements during the late 1960s: the New Sentimentality, the New Left, the New Wave, and, finally, the New Hollywood, which the motion picture inaugurated by its example of an organizational style that could exploit the chaos that the studio system had become and its demonstration that, in the absence of viable institutions, "institutionality" could be achieved by imaginative marketing and canny brand management. The sections of Chapter 6 on Ross and Levin both demonstrate how blockbuster motion pictures could be used as highly effective instruments of persuasion in the course of merger talks that depended on a mystification of the actual, book value of Warner Bros. by its CEO. *Batman* is a rescue fantasy that convinced Time Inc. that Warners could rescue *it*. *You've Got Mail* is a takeover fantasy that, like many, imagines itself as a merger of true minds.

Chapter 7 makes the case that the merger agreement between Pixar and Disney in 2006 executed a significant revision in the corporate form by the assertion of "cultural authorship." The chapter initially engages the vexed issue of corporate criminal liability in relation to the distinction between the author, whom this book invokes, and the corporate speaker, whom the U.S. Supreme Court lavishes with constitutional rights in *Citizens United v. Federal Election Commission*. The Roberts Court has recognized the corporation as a rights-bearing citizen, but it is a citizen without a conscience. The remainder of the chapter examines the *hermeneutic* relations between Pixar's *Toy Story* and *Toy Story 2* and *Pinocchio* in order to argue that it is by means of a reading of *Pinocchio*'s oddly evasive representation of the transformation of an artificial person into a real boy that Pixar was able to provide an alternative teleology for toys and for the animation studios whose culture they allegorize: not to become a real boy but to become a real conscience for the artificial person named Disney to whom Pixar belongs.

7 The Conscience of a Corporation

Toys United the Disney-Pixar Merger, and the Assertion of "Cultural" Authorship (1995–2010)

i. Corporate Speech, Corporate Liability

At the end of Walt Disney's 1939 feature *Pinocchio*, an animated, artificial person, proven to be a money machine for the gypsy impresario Stromboli, becomes, thanks to the intervention of the Blue Fairy, a real boy. In 2006 Pixar, the little company that had demonstrated its capacity to be a money machine to new Disney CEO Robert Iger, became, thanks to the negotiating skills of Steve Jobs, CEO of Pixar, a real conscience for Walt Disney Productions. I shall argue that the terms of Disney's acquisition of Pixar (consistently called a merger by the two parties), terms that commit Disney to "help maintain Pixar's corporate 'culture,'" reflect Pixar's reading of *Pinocchio* as an allegory of corporate transformation and the development of something very much like a theory of the function of "culture" as a creative technology within Disney.

To pursue this argument requires a revision of the studio authorship thesis, which is anchored by two claims: (1) an adequate understanding of the historical development and contemporary importance of the Hollywood entertainment business demands an understanding of what still remains its preeminent product, motion pictures; (2) many of those motion pictures cannot be fully understood without interpreting them as corporate texts. The thesis unfolds as a series of entailments: no interpretation without meaning, no meaning without intention, no intention without an author, no author without a person, no person with greater right to or capacity for authorship than a corporate person, no corporate person who can act without an agent, whether executive, board of directors, or employee.[1] This chapter adds a clause formulated to fit the circumstances of the transformative Disney-Pixar merger in 2006: the agent of a corporate principal may be its "culture," acting as the conscience of the corporation.

The critical issue for corporate theory is no longer whether a corporation may speak as freely as any other person, just as Pinocchio magically does when first touched by the fairy's wand. The U.S. Supreme Court has settled the question with its judgment for the plaintiff in *Citizens United v. Federal Election*

Commission, 130 S.Ct. 876 (2010). This judgment was made in the context of a suit regarding the release by Citizens United, a nonprofit corporation, of a critical documentary, *Hillary*, in January 2008, to be broadcast within thirty days of the Democratic primary elections, in violation of the rules established by the Court in *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652, which held that such speech could be banned based on the speaker's corporate identity. *Citizens United* conferred the First Amendment right to freedom of speech on all corporations, profit-seeking and nonprofit, so corporations can now speak as freely as any other person in the United States. As we shall see, however, whether a corporation is the kind of person who, like Jiminy Cricket, can intend as an author, tell right from wrong, and accept the consequences of its actions, are questions that the U.S. Supreme Court obliquely raises but fails to answer. There are good reasons why a corporation might be happy to speak but be unhappy to be burdened with intention. Speaking in the form of political advertising can be hugely influential. Speaking in the form of financial contributions to lobbyists and even legislators can guarantee access and influence. Speaking in the form of motion pictures enables entertainment corporations not only to reach a global audience but also to shape it and the social conditions in which such speaking means. Adding the capacity to intend would make it possible for the corporation to be an author who speaks copyrightable utterances rather than merely purchasing them. There may be a drawback, however. The people, the Congress, or the Supreme Court might decide that the corporate author should be held responsible for its works, even so far as to be held liable for criminal acts executed on its authority.

That a corporation could actually intend to make *Batman* or *Grand Hotel* has always been a difficult sell. Yet it would not be so had there not been a certain amount of professional interference from literary theorists, committed to preserving creativity for individuals or, conversely, intent on denying to any persons at all what Samuel Taylor Coleridge once called the esemplastic power. Corporate lawyers overall have cooperated with those academic agendas, since it is generally in the interest of their clients to cover any tracks that would make a corporation's intention legible. And for good reason. The problem of corporate intention has been critical in two distinct but affiliated areas of the law that bear on studio authorship: antitrust and criminal liability. In both areas attempts by prosecutors to attach liability to the corporation have often foundered on the implications of using terms traditionally applied to biological persons for identifying the subjectivity of artificial persons. As we have seen, since the passage of the Sherman Antitrust Act in 1890, corporate intent has been critical to the determination of the guilt or innocence of an alleged monopolist.

Proving the existence of a corporate intent to restrain trade has always been difficult, but directly prosecuting corporations for acts that do not involve strict liability or negligence has been almost impossible because liability for criminal acts traditionally depends on evidence of *mens rea*, a guilty mind, and few jurists have been convinced that the corporation as such is in possession of the subjective capacity to apprehend guilt. Consequently, criminal liability must be derived from the actions of people, not from an artificial entity supposedly incapable of forming motives. Peter A. French has, however, influentially argued that a corporation's capacity to select a right course of action over a wrong one is enabled by the Corporate Internal Decision structure, or CID, which distributes policy decisions throughout the executive hierarchy so that the corporation can pursue its strategic objectives without placing ultimate authority on any individual. According to French, the existence of the CID provides the means for assessing whether a corporate action is the offspring of policy and the grounds for judging whether that policy is moral or immoral.[2]

Nonetheless, behaving illegally is not the same as knowing right from wrong. To close the gap, activists in the 1990s, especially in the Commonwealth nations, adopted *culture* as their name for a nonindividualized corporate subjectivity with a sense of right and wrong, a trope designed to enable the legal system to dispense "with any necessary connection between corporate and individual liability. The aim," according to Eric Colvin, "is to construct a scheme of liability for the organizational conduct and fault of the corporation, regardless of whether or not any individual would have committed an offense."[3] One systematic approach, which Colvin examines, is the Australian Model Criminal Code of 1994, which recognizes "a distinctive corporate form of recklessness, based upon the presence of a corporate culture favoring the commission of offenses" ("CP," p. 34). Even though the "physical element of the offense" might involve "the conduct of officers, employees, and agents acting within the scope of their authority or employment," the "fault element" of the offense could be attributed to the culture of the corporation, which

> may have caused the offense to occur, either because the offense was actually directed or because the nature of the culture led to its commission [or because it] may have given psychological support for the commission of the offense. . . . The common bond between these various modes of participation is some positive feature of the culture that can be said to favor the commission of the offense. A corporation would be held responsible for an offense involving subjective fault because of this positive feature, just as an individual would be responsible because of some positive state of mind. ("CP," p. 37)

The Australian Code locates intent nowhere and everywhere: no person is charged with the construction of policy, although every informal practice presupposes a policy that anyone attuned to the culture may, perhaps *must*, infer. Therefore, Colvin concludes, "a corporation ought not to conduct its operations in such a manner that the inference of intent to commit a criminal offense can be drawn" ("CP," p. 35). A *Wall Street Journal* editorial posted by e-mail from the chief accounting officer to the entire accounting department that objects to the prosecution of corporations for backdating stock options could lead an employee to infer that she may be called upon to acquiesce in an implicit company policy to backdate stock options. Crucially, it is not the employee's fault for drawing such an inference. The culture's failure to prevent an employee from making the inference is evidence that the corporation either fosters or tolerates a criminogenic environment, which is tantamount to a violation of the code.

Bad behavior is supposedly caused by bad culture. Bad culture presupposes bad intentions, even though such intentions are nowhere avowed or even suggested in statements of policy or procedure. Bad culture motivates deviation from sound business practices; it is answerable for their commission and their omission. Under the Australian Code, the surest way for a corporation to protect itself from suspicious inferences regarding features of its culture would be to subject all conduct and practices to a code monitored by a specialized agency: a list of dos and don'ts that would leave no ambiguity about what was encouraged or tolerated in the corporation. The existence of that agency would be the best possible evidence that the company complied with its obligation to prevent bad things from happening. In sum, the Australian Code projects the need for corporate equivalents of a "Hays office," the agency established by the motion picture industry in the 1920s to institute a code of dos and don'ts and an enforcement procedure regulating what was seen or heard on the screen. Thus equipped with an officially objective monitor of business practices, a corporation's intention to comply with the law would be formally established—although, as the history of Hollywood's self-censorship shows, even scrupulous regulators would be subject to capture by the culture they are charged with policing: eyes would wink, heads would turn away, rules would be stretched. We may infer from experience that a code of dos and don'ts is no better than a transparent CID as a substitute for a conscience.

Given the implication that a conscience presupposes the subjective capacity for consideration of moral options, the likelihood or even the possibility that a corporation might develop one is not widely credited. That sentiment is entirely reasonable. The culturalist legal movement and this study of studio authorship share the premises that a corporation, considered as an organization, is irreducible to a group of biological individuals, and, considered as a person, is irreducible to a single biological, psychologically complex individual. Consequently, as legal reformers have argued, a positive criminal act committed by a corporation that is equivalent to an act by an individual with *mens rea* could be accepted as evidence of liability for a crime without adverting to the mental state of the corporation.[4] The converse position, however, has received little attention. If the sheer positive act, without reference to a mental state, is sufficient for conviction of a corporation, why could it not be sufficient for any person? It would seem to follow from the logic of the culturalist theory as from the logic of the evolution of the corporate form that people who are persons are not reducible to biological individuals any more than corporate entities are. It's not clear that we, the people, want to suffer the consequences associated with such a conclusion.

We may have no choice. The U.S. Supreme Court implicitly endorsed that logic of equivalence between corporations and people in *Citizens United v. Federal Election Commission*, which overruled the Court's recent decision in *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652, upholding the Election Commission's rule prohibiting electioneering by corporations within thirty days of a primary for election to a federal office. The Roberts Court extended full First Amendment rights to both nonprofit and profit-making corporations on the grounds that the First Amendment of the U.S. Constitution protects political speech, and that speech is speech, regardless of the identity of the speaker. An important, if implicit corollary of that decision is the Supreme Court's confirmation that there is no constitutional distinction between political speech and commercial speech, and therefore none between speech and money. The superficial plausibility of the Court's argument depends on a calculated inconsistency: sometimes it calls corporations "persons," sometimes "speakers," sometimes "citizens." The terms that the majority opinion deploys to identify what exactly distinguishes corporate speech also vary widely: they veer from "funding" to "facts" to "opinions" and "views." At times the decision is so loosely phrased and indifferent to both *stare decisis* and the basic professional obligation to quote earlier decisions candidly that the majority opinion in *Citizens United* seems less the handiwork of disciplined ideologues than the outburst of a renegade judicial subculture. That would be a dangerously comforting conclusion to embrace. The majority's discourse may be called an "opinion," but like the speech of the corporations that the majority zealously serves, its opinion is also an agenda.

The most immediate though not the only connection that *Citizens United* has to the history of the motion picture industry is its citation of a case to which free-speech cases have infrequently adverted: the Supreme Court's 1952 decision for the plaintiff in *Joseph Burstyn Inc. v. Wilson*, 343 U.S. 495, which rejected state censorship of a politically controversial motion picture on the grounds that the "importance [of motion pictures] as an organ of public opinion is not lessened by the fact that they are designed to entertain as well as to inform" (*Burstyn*, p. 501), thus reversing *Mutual Film Corp. v. Industrial Commission of Ohio* 236, U.S. 230 (1915), which found that expression tainted by commercial objectives, as in the film industry, could not qualify for constitutional protection. Building on *Burstyn* as well as *First National Bank of Boston v. Bellotti* 435 U.S. 765 (1978) and other recent decisions, the majority opinion deploys what might be called the "opinion effect" of any and all corporate speech in order to overturn *Austin*, which deserves reversal because that decision has "the purpose and effect" of preventing corporations, including small and nonprofit corporations, "from presenting both facts and opinions to the public" (*Citizens*, p. 39).

In his forceful dissent to the majority opinion, Justice John Paul Stevens states that "it is an interesting question 'who' is even speaking when a business corporation places an advertisement that endorses or attacks a particular candidate" (*Citizens*, p. 77). After eliminating various possibilities, including the shareholders, the directors of the corporation, and its employees, he concludes that if you take away "the ability to use general treasury funds for some of those ads, no one's autonomy, dignity, or political equality has been impinged upon in the least" (*Citizens*, p. 86). No harm to an individual, no foul on the corporation. Stevens's question regarding the source of corporate speech emphatically departs from Foucault's rhetorical question (quoting Samuel Beckett),"What does it matter who is speaking?"[5] For Justice Stevens it does matter; for Justices Kennedy, Roberts, Scalia, Thomas, and Alito it does not. Foucault called that "indifference" "ethical," but the Roberts Court more accurately calls it political, for if it does not matter who is speaking, then, as Stevens suggests, the corporation will speak for all—whether by making propaganda or by paying people to do its bidding.

Is corporate speech authored? The Supreme Court does not directly address the question. Nonetheless, apart from the infamous *Hillary* "documentary" that provoked the suit, the majority opinion's single concrete example of how corporate speaking works, which introduces the final section of the Court's opinion, suggests that corporate speech can indeed be authored and Hollywood movies are one important result:

> When word concerning the plot of the movie *Mr. Smith Goes to Washington* reached the circles of Government, some officials sought, by persuasion, to discourage its

> distribution. Under *Austin*, though, officials could have done more than discourage its distribution—they could have banned the film. After all, it, like *Hillary*, was speech funded by a corporation that was critical of Members of Congress. *Mr. Smith Goes to Washington* may be fiction and caricature; but fiction and caricature can be a powerful force. (*Citizens*, p. 56)[6]

The Court not only validates the studio-authorship thesis, it gets there by a foray into film history that successfully distorts every "fact" it blithely mentions. We know that because Justice Kennedy's industrious clerk supplied citations. In fact, Frank Nugent, film reviewer for the *New York Times*, reported in October 1939 that persuasion was initiated by no official but by Pete Harrison, an author of a trade journal, who, offended by *Mr. Smith*'s scornful representation of the U.S. Senate, lobbied for the retaliatory passage of the Neely antiblock booking bill, which was then making its way through Senate committees. His advice to the Senate, however, was not that *they* act on the bill, which was virtually certain of passage, but to "tell the members of the House of Representatives that [*Mr. Smith*'s widespread distribution] is only a sample of the impotence of the exhibitors to reject a picture that has been sold on the block-booking system, and that Congress must therefore make it possible for them to reject such a picture and similar other pictures which may offend the sensibilities of the American public" ("CCO," p. X5). Harrison's objective, then, was not to censor *Mr. Smith* (an option that was, of course, available to numerous state and local censorship boards), but to encourage the Senate to persuade the House to pass antitrust legislation that would prohibit block booking: the film industry's systematic policy of requiring exhibitors to take all the films offered in a package or to get none, thereby making it financially suicidal to refuse *Mr. Smith* or any other offensive pictures forced upon them by a studio. Passage of the Neely bill might have meant that exhibitors would have rejected *Mr. Smith*; or they might have welcomed the film. Defeat of the bill meant they would continue to have no choice. Lobbying on behalf of the bill was not a free-speech issue. Even today, the First Amendment has not yet been interpreted by the Supreme Court as requiring exhibitors to screen or citizens to watch the *Hillary* documentary or making it mandatory for anyone to sit still for any other corporate propaganda.

If any senators did organize their own lobby in response to the article in the trade journal, members of the House of Representatives either didn't listen or didn't care. As it routinely did during the Second New Deal, the House repelled any steps to stop block booking. So if an objective of the movie was to blunt the momentum to regulate the industry by burnishing the vanity of the junior chamber, it achieved a tactical victory. That victory was soon followed by a strategic defeat, however. The legislative rejection of Neely triggered the filing by the Roosevelt Justice Department of *United States v. Paramount*, a frontal assault on the industry's anticompetitive practices, the following year. So the Roberts Court is mistaken about the facts, but once again, its indifference to reference is political. By casting this brief dispute from the 1930s as a potential First Amendment issue, the Court cannily identifies governmental attempts to eliminate oligopolistic business practices in Hollywood with policies designed to regulate an individual's free speech and, without saying it, to associate, correctly, corporate intention in the sphere of distribution with corporate intention as manifest on the screen. It turns out that the 1930s are pertinent to contemporary developments in corporate law only insofar as progressive political efforts to dilute the concentration of power in the motion picture industry can be revised to look like a contemporary contest about the First Amendment rights of corporate persons. Indeed, it is just a slight exaggeration to assert that the 1930s are only invoked by the Roberts Court so that the Second New Deal can be succinctly annulled.

The majority may have gotten its history wrong, but it accurately concluded that the business of the studio's narrative is the studio's business. If corporate speech is indeed political (and who doubts that?), in a democratic society such speech is liable to have a political response from the people's elected representatives. Despite the majority's gesture of supporting disclosure requirements, the subsequent and partisan defeat in the U.S. Senate in October 2010 of HR 5175, the "Democracy Is Strengthened by Casting Light on Spending in Elections" Act, commonly called the DISCLOSE Act, which would have required such disclosure of the identities of corporate and union contributors to political campaigns, is widely regarded as flowing from the Court's decision in *Citizen United*, especially from Justice Thomas's concurring opinion. Whatever the Court's expressed views, the *Citizens* decision has given crucial impetus to lowering an impenetrable veil to protect corporations from a political response to their funding of the expression of political opinions.[7]

From the perspective of a film historian, the most telling aspect of the Court's invocation of *Mr. Smith* is its conspicuous omission of the name of Frank Capra, who directed the picture and who was one of the few directors whose name appeared in the credit "above the title." Capra's name was all over the newspaper accounts of the *Mr. Smith* controversy. He is not mentioned by the majority opinion, which imagines that credit and blame for celluloid speech is applicable solely to the corporation, Columbia Pictures, that "funded" the production and distribution of the picture. Although the title card does say "Frank Capra's" *Mr. Smith Goes to Washington*, that credit was negotiated with

Columbia Pictures, which displayed its own credit for ownership on a separate card preceding the title. Evidently, in the majority's serene mind, where ownership and authorship seamlessly combine, Columbia, not Capra, is author of the movie, has full responsibility for the picture, and should, therefore, be the target for those offended by an insult against senatorial dignity. In getting the facts of the news event wrong, the Roberts Court gets the spirit of the political event right by recognizing that Columbia had better reason for releasing a movie satirizing the Senate, for promoting the movie nationally, and for premiering it in Washington, DC, than Capra did. Moreover, in its political imaginary the Roberts Court appreciates that the Senate may have had excellent reason to retaliate, that is, to hold Columbia *liable* for its actions, since *Mr. Smith* is political speech, and in the real world of power politics that the Roberts Court plays so well, you are liable to be punished politically for your aggressive speech to the extent that the assailed party is capable. With that jeopardy in mind, the majority's retrospective defense of Columbia renders the First Amendment as a shield law protecting the corporation from both the legal and political consequences of its political speech—funding and action. It matters not to the majority that Columbia's speech could only reach the screen because the company had the assurance of profit provided by the systematic anticompetitive practices that the Neely bill aimed to abolish.

To put the issue in slightly different language, by suppressing the role of Capra or of any other person besides the studio in bringing *Mr. Smith* to the screen, the Court is able to exploit the linkage of corporate ownership with financing and slide the funding by the studio into the author position. In doing so, the Court brazenly represents a presumptive intent by Columbia to restrain trade as evidence of the studio's intent to satirize those who would attempt to outlaw its monopolistic practices. The Court thereby introduces an astonishing judicial trope that is comprehensive enough to render any attempt at regulation of corporate economic activity as an unconstitutional abridgment of free speech. The only political response open to this essay is to urge that critics and theorists do what they can do: take advantage of the Court's wily subterfuge by using the cover of authorship, with its presumption of a controlling mind, to slide liability right back. Rendering corporate speech as equivalent to corporate authorship may reinforce its claims on protection, but authorship can be used to introduce deliberation and discretion into the construction of the corporate subject—that is, to attribute to the corporation the capacity to distinguish between a right and wrong way of doing things as the basis for holding corporations criminally liable for the harm that they do, just like real people.

ii. Pixar's Logic: Corporate Liability, Culture, and Conscience

The Roberts Court was by no means the first collection of legal experts to connect the issue of liability for what corporations put on motion picture screens with antitrust prosecution by the federal government. The threat of antitrust prosecution, along with the danger of boycotts and censorship, motivated the industry's formation of the Hays Office, in 1922, the subsequent formulation of the Production Code, and voluntary submission to policing by the Production Code Administration. The studios were impelled to deal not only with moral issues, such as the exposure of people to sexual imagery and language, but also with tortious issues such as the measurable harm that many accused motion pictures of causing to its audience, particularly children. That vulnerability was addressed in the unusual prologue to *Frankenstein* (Universal, 1931), in which Edward Van Sloane, who plays the upright and earnest Dr. Waldman in the movie, appears on a stage as an agent of Mr. Carl Laemmle, head and owner of Universal Studios:

> Mr. Carl Laemmle feels that it would be a little unkind to present this picture without just a word of friendly warning. We're about to unfold the story of Frankenstein, a man of science who sought to create a man after his own image, without reckoning upon God. It is one of the strangest tales ever told. It deals with the two great mysteries of creation: life and death. I think it will thrill you. It may shock you. It might even horrify you. So if any of you feel you do not care to subject your nerves to such a strain, now is your chance to . . . Well, uh, we warned you.

No doubt the warning is about as sincere as a carnival barker's admonitions outside the tent of Little Eva. Still, Van Sloane's address seems to have fulfilled the minimum requirements for the speech act called "warning" and therefore potentially the conditions for the legal protection called "disclaimer" or "alibi." Whether or not the warning had any effect on the audience, it did little to appease all critics, some of whom had developed data to prove that the newly named "horror film" had bad effects on the children in attendance. Indeed, Henry James Forman's "popular summary" in *Our Movie Made Children* of the results of the investigations by the Committee on Educational Research of the Payne Fund, carried out during 1929 to 1933 at the request of the Motion Picture Research Council, reports the alarming results of movie going as disclosed by the application of a "hypnometer" to sleeping children, a "psychogalvometer," to boys and girls at the theater, an interview with a "theater nurse," who attests that *The Phantom of the Opera* "caused . . . eleven faintings and one miscarriage in a single day," and interviews of children disturbed by their exposure to "horror and fright pictures"[8]—all of which does not prove that

Frankenstein harmed anyone, only that Laemmle–Van Sloane's product warning prologue had little effect on sociologists who were conducting their studies at the time. Laemmle's intervention was a classic example of the power of the Hollywood mogul to override the Corporate Internal Decision structure of his company by forcibly binding ownership and authorship. The performative effect of this stagecraft was to subordinate the contributions to the picture of both the producer, Carl Laemmle, Jr., and the director, James Whale—who were warned by this segment, which neither had mandated, that this mogul reserved the power to trump rivals to his authority.

The reign of the founding Hollywood moguls was remarkably stable but not even close to eternal. After the transformation, decline, or extinction of the major studios in the late 1950s and 1960s, a new model of authority and, therefore, responsibility, adapted to the dramatic rise to prominence of the director as auteur, emerged, a model much more personalized and much less capitalized than the studios that financed, marketed, and distributed the auteur's creations. The most notorious instance of criminal prosecution of a filmmaker in the employ of a major studio for criminal negligence occurred in the trial of John Landis, director of two segments of the anthology picture *The Twilight Zone* (Warners, 1983). Landis was indicted for involuntary manslaughter for his role in the accidental deaths of the veteran actor Vic Morrow and two Vietnamese child actors, who were decapitated and crushed by a falling helicopter during the night shoot of a battlefield rescue in a Vietnam sequence. Landis was famous both for self-identifying as an auteur with the standing of a Steven Spielberg or a Francis Ford Coppola, subsequent to his taste-breaking success directing the blockbuster *Animal House* (Universal, Oregon Film Factory, and Stage III Productions, 1978), and for a zeal to push the boundaries of acceptable risk during his productions. Whatever other infractions of safety standards allegedly occurred during the shooting of *The Twilight Zone*, there could be no question that the child actors were on the set deep into the night in violation of California's child labor laws. The catastrophe and its aftermath dramatized the perilous consequences of the anticorporate auteurist model for those captivated by its allure, for despite Warners' funding and ownership of the motion picture, the studio was never indicted for any crime. Unlike the Supreme Court's erasure of Capra's name from its account of *Mr. Smith Goes to Washington*, the California justice system, sensitive to the glow of celebrity, featured Landis as its headliner, implicitly accepting the studio's self-exculpation. As Stephen Farber and Marc Green, the authors of the engrossing *Outrageous Conduct*, observe, "When civil suits were filed naming the studio as a defendant . . . the studio clung to the belief that it was Landis's movie.

The creative freedom that he and other directors had won as a result of two decades of growing directorial autonomy meant the he should take responsibility for mistakes he made without the studio's knowledge." Whether the studio's self-proclaimed ignorance was a reasonable excuse was never subjected to challenge in the courtroom from which studio executives, busy with other things, prudently absented themselves. Warners' own morality could not be tested because auteurism was the perfect alibi for the malfunctioning of what remained of the studio's CID (corporate internal decision structure) and a justification for its scapegoating of Landis. In his testimony, Landis tried to dissociate himself as auteur from control over anything except aesthetic issues. He blamed everyone else for everything else, including Warners and the "experts" responsible for explosives, helicopters, and live children. Almost everyone else in court blamed Landis as director–producer and boss. It was a standoff that worked. Landis escaped jail for the criminal charge and the studio escaped bad publicity while quietly settling the civil suits by the families of the victims.[9] By reducing authorship to a single, biological individual and failing to consider the negligence of the studio, the LA district attorney made it impossible to successfully prosecute a crime that in its complexity mirrored the corporate reality of the New Hollywood.

Warners escaped, but it was a messy business. The construction of shell companies to absorb the blame for any person or action that might incur liability makes a much cleaner studio alibi, in part because it does not depend on auteurist scapegoating. Disney, long unruffled by the antics of auteurs, understands these things. When, according to David A. Price, Disney partnered with Pixar to make *Toy Story* in 1993, they formed a "joint venture called Hi Tech Toons . . . to shield the two companies from liability and to simplify production accounting." Hi Tech Toons was a one-off company with a separate management that the principal firms could use to hire employees and to process salaries and other expenditures. If something happened during the production that damaged people or property, Hi Tech, which had no assets except the money to pay its employees, would be a very bad bet for a litigant seeking a settlement or a prosecutor seeking an indictment. The device also prevented conflict between Disney's unionized workers and Pixar's nonunionized employees by making both temporary employees of a third company.[10] Notably, the arrangement diminished liability but did not entail taking additional precautions to prevent unforeseen calamities. The addition of Hi Tech Toons had the appearance of modifying the CID, even as its true function was to employ a legal accounting maneuver to cordon off Disney, Pixar, and their executives from moral responsibility and legal liability for bad things that might happen.

Against that background of chronic concern about exposure to liability, Disney and Pixar's shell-less merger contract of 2006 is a striking innovation. "Culture" is the key. Once the concept of the corporation had been expanded to include the institutionalization of a way of doing things that invests all functions, such as planning, purchasing, allocating, producing, accounting, hiring and firing, reporting, ordering, marketing, and, of course, speaking with meaning for the stakeholders in a company, the rickety CID could be renovated as a CCD (corporate cultural decision) structure that explicitly binds authority and identity. No corporation in America was more prepared for this transformation than Disney, because no company takes culture as seriously as Disney, whether it involves culture that the company markets or the culture that the company is. Culture is Disney's business and its brand. That new CCD is invoked in Exhibit 99.1 of merger contract, "Policies for Management of the Feature Animation Businesses." The pertinent section of the exhibit reads,

> Upon the effective date of the Disney-Pixar merger, a Committee ("Committee") shall be immediately established to help provide oversight to the Feature Animation Businesses of Disney and Pixar. The principal objectives of the Committee are: (i) to help maintain the Pixar "culture," (ii) to help supervise Pixar and Disney Feature Animation, (iii) to oversee Pixar compensation practices and (iv) to approve the film budgets of Pixar, all subject to final approval by Disney's Chief Executive Officer.[11]

That promise to help maintain the Pixar "culture" that is expressively and uniquely framed by quotation marks, probably sealed the deal.

Michel Foucault accurately stipulated that "a contract may have a guarantor—it does not have an author" ("WIA," p. 108): no single subject is responsible for originating the contract, nor can the language of the contract be copyrighted or plagiarized. By so calling the culture that Disney promises to maintain, the contract enunciates a practice of "cultural" authorship identified by its warding off the connotations that culture usually bears—when, for example, it is used by a cynical Time management as an alibi to protect its prerogatives, or when it is codified by Australian legislators, or when it is preached by Disney in its self-promotions.

No doubt the scare quotes are an awkward gesture. In her history of ballet, Jennifer Homans illustrates how such awkwardness signifies:

> Many of today's dancers, for example, have a revealing habit: they attack steps with apparent conviction—but then at the height of the step they shift or adjust, almost imperceptibly, as if they were not quite at ease with its statement. This is so commonplace that we hardly notice. But we should: these adjustments are a kind of fudging, a way of taking distance and not quite committing (literally) to a firm stand. With the best of intentions, the dancer thus undercuts her own performance.[12]

The problem here is not a lack of talent, or will, or imagination. It is a problem of cultures: the weighty cultural capital of ballet tradition and the specific cultural conditioning that contemporary dancers undergo as part of their training. For Homans the dancer's adjustment does not express an individual subjectivity daunted by a challenge and escaping into the familiar. Her fudging of the last step is the almost imperceptible sign of a contemporary ballet culture that uniformly induces in dancers the uneasy adjustment to a statement of artistic conviction as its inadvertent signature.

Pixar's scare quotes fudge by instituting a position at a distance from a contractually frank and open statement of affiliation with a dominant culture, which, in this case, is not the culture of Petipa or Balanchine but the culture of Disney. Culture is Disney's business. The company not only has a prescriptive corporate culture but it produces culture homologous with its company culture, which it packages for the screen, vends on the shelves in Disney stores, and imparts to both visitors and employees of its theme parks. As Janet Wasko reports, "new employees learn about the 'Disney Culture'—defined in company literature as 'the values, myths, heroes and symbols that have a significant meaning to the employees.'"[13] Pixar, however, is effectively distanced from a potentially destabilizing avowal of the priority of its own culture by quotation marks that imply that the word *culture* properly belongs to the dominant partner, as part of its corporate identity. Whether the quotation marks were imposed by a condescending Disney, by a strategic Pixar, or in an ironic collaboration, its authorship belongs to whatever set of norms, practices, and personalities that make Pixar not what it is but what it does, and which thereby constitute not its identity but its *value*. Like the dancer adjusting herself to the core, doctrinal statement of the classical ballet, Pixar's assertion of "cultural" authorship is the enactment of a mild but definite form of apostasy. The "cultural" author becomes what it does as it intentionally falls away from complete fidelity to the dominant creed in order to make no statements, only movies.

As you will recall from the introduction to this volume, in a 1932 profile of MGM *Fortune* magazine announced its expectation of a corporate art. What went unmentioned was that just two years later *Fortune* named the studio that had fulfilled its expectations. It was not MGM, or Warners, or Paramount, MGM's chief competitors for market share. It was the Walt Disney Studio, a privately held corporation, whose size and revenue were dwarfed by the tiered establishments of the members of the Motion Pictures Producers and Distributors Association cartel.[14] Despite its size and specialization, Disney, which had never put a star under contract, built a sound stage, or owned a theater, had nonetheless brought forth something new into the world. The Disney studio, *Fortune* writes, is organized as "a factory. . . . But the result is no simple product like cigarettes or razor blades; it is myth. . . . In Disney's studio a twentieth-century miracle is achieved: by a system as truly of the machine age as Henry Ford's plant at Dearborn, true art is produced."[15] No early assessment of Disney's work and of the Disney studio would prove as compatible with contemporary judgments of Disney's organizational acumen or as prescient of the focal role that Disney would play in synthesizing mythmaking with what has come to be called "experiential marketing."

Work on *Pinocchio* began in December 1937, upon the completion of *Snow White*, Disney's first feature, when studio morale was high and artistic invention inspired. This was the golden age venerated by Lasseter's team at Pixar, the period when Disney animation was presided over by Walt and the "nine old men," who gave Disney features their entrancing look and feel, when the Disney Company still retained some of the effervescent, egalitarian community spirit of the late 1920s and the early 1930s, and when Walt was still able to ignore the financial pressures that his brother Roy had to face every day. All that would change by the end of 1941. Agitation for unionization led to violent conflicts between management and labor. The disappointing revenues from *Pinocchio* and *Fantasia* (1940), which contributed to the mounting debt at the Bank of America, compelled the Disney brothers to take their company public and distribute ownership to anonymous shareholders. The studio was also forced to desist from making features until the financial health of the company could be restored. Moreover, the onset of the war curtailed the studio's access to markets overseas, forced rationing essential chemicals at home, and required diversion of its diminished financial, physical, and human resources to government projects, that is, to propaganda, serving the war effort (*BC*, pp. 139–40).

Disney's travails in the 1940s would steel Walt to make riskier investments in the postwar period so as to exploit changing audiences that were developing new habits of pursuing entertainment. Disney had some inherent advantages over the other Hollywood studios. Although Walt bridled at his inability to mount live-action movies, that inhibition actually benefited him in relation to his larger peers, especially the stodgy MGM, whose star-constellating strategy, which had elevated MGM to industry leadership in the 1930s, had begun to raise its costs enormously (Mickey Mouse never collected a paycheck or signed a contract) and, consequently, to limit its scope. People joked about

Clark Gable's ears; no fans bought caps to display them. As a company uniquely responsive to consumer demand, Disney early on became an innovative and efficient licenser of its cartoon figures, which, unlike MGM's stars, could not object to any use to which the studio put them. *Steamboat Willie* marketed Mickey to merchandisers around the globe, who, in turn, produced towels, caps, and pajamas that extended the reach of Disney's marketing deep into the domestic life of multitudes. In the 1950s, more than any other studio, Disney successfully exploited the marketing opportunities offered by television and, with the opening of Disneyland, the burgeoning superhighway system. After Walt's death and a fallow interregnum, Disney, ruled by Michael Eisner, resumed its marketing leadership among entertainment conglomerates in part by even more aggressive cross-platformed theming, which reached its peak with Eisner's reckless decision in 1994 to theme America in a new park near Manassas Junction in Maryland, site of the First Battle of Bull Run on July 21, 1861. The plan was, surprisingly, defeated by opponents of the "Disneyfication" of American history.[16] Nevertheless, although Eisner did not succeed in becoming the titled impresario of "America," his merchandising touch remained nearly infallible.

Disney's assumption of the role of mythmaker to the nation's children has been attacked by cultural critics. For example, Wasko quotes Frances Clarke Sayers, who charges that Disney's "treatment of folklore is without regard for its anthropological, spiritual, or psychological truths. Every story is sacrificed to the 'gimmick' of animation.'" Sayers adds that "there is nothing to make a child think or feel or imagine."[17] More recently, Michael Budd has argued that Disney's synergism erases any distinction between mythmaking and brand management by ensuring that every "Disney product is both a commodity and an ad for every other Disney commodity."[18] Sayers's and Budd's complementary critiques of the blurring of the boundaries between high and low culture as the malign effect of the Disneyfication of childhood are, of course, deeply indebted to Theodor W. Adorno's somber analysis of the manipulative techniques and homogenizing impact of the culture industry,

> which fuses the old and familiar into a new quality. In all its branches, products which are tailored for consumption by masses, and which to a great extent determine the nature of that consumption, are manufactured more or less according to plan. The individual branches are similar in structure or at least fit into each other, ordering themselves into a system almost without a gap. This is made possible by contemporary technical capabilities as well as by economic and administrative concentration. The culture industry intentionally integrates its consumers from above.[19]

Another way of putting it, keeping in mind *Citizens United*'s supreme indifference to the source of popular culture, would be that indifference "as to who speaks" solicits the corporation to speak to and for us.

Adorno's perspective has ruled in academic criticism of Disney, and *Pinocchio* has been a touchstone for that criticism. Jack Zipes's landmark Adornovian essay, "Toward a Theory of the Fairy-Tale Film," takes *Pinocchio* as the chief example of Disney's ideologically driven adaptations of fairy tales, here with the aim of Americanizing an edgy European story by celebrating the transformation of a willful puppet into a socially conforming young boy. Zipes's zeal to expose the repressive project of *Pinocchio* leads him to distort the symbolic significance of that transformation, however. He remarks that "Pinocchio is the perfect charming good boy when he awakes on his bed, but he is almost too perfect to be true. Like a doll that has been mass-produced and is ready to be taken home from the shelf of a store, he is the dream toy that Geppetto has wished for, prefabricated by the fairy's instructions and endowed with a moral conscience also supplied by the fairy."[20] Zipes may regard the child as a dream toy, but apparently no one else did. Although merchandizing was vital to the Disney corporate enterprise, which needed to squeeze out as much revenue as possible to make up for the costliness of *Pinocchio*'s production, I can find no evidence that Pinocchio, the real boy, ever became a toy displayed on shelves for sale. Instead, Pinocchio, the stringless puppet with the telltale white gloves, was mass-produced and stocked in shops.

Indeed *Pinocchio*'s narrative contrives a cul-de-sac: the final version of *Pinocchio* may represent a real boy, but the figure we see is still a cartoon. *Pinocchio*'s transformational logic sets an objective that the picture cannot achieve except extradiegetically, by repudiating animation for live action—a choice that Walt happily made in the postwar era, when he seized the opportunity to produce *Treasure Island* in the United Kingdom in 1950. Consequently, the most blatant of the Walt-centric allegories that *Pinocchio* offers is the identification of Geppetto on his knees, praying that Pinocchio will become a real boy, with Walt praying to the same star that in his next movie, cartoon figures will be replaced by real live boys. From that perspective, the movie's dead end deliberately forecloses not just sequels to *Pinocchio* but any more animated features—an objective that Eisner would also later embrace.

Instead of following Zipes's example by imagining a shelf in the store where Geppetto's dream toy sits, we might instead repeat Jiminy Cricket's more helpful tour of Geppetto's "shop," on the walls and shelves of which are displayed "the most fantastic clocks you ever laid your eyes on, and all carved out of wood. Cute little music boxes, each one a work of art. Shelf after shelf of toys"

(Figure 7.1). None of those intricate artifacts bears either a price destining it for the market or a trademark connecting it to Geppetto. They have no exchange value and, therefore, in Geppetto's world, no use value: when he wants to know the time, he ignores the chiming, cuckooing, cawing, and buzzing clocks that surround him and consults his brass pocket watch. So what kind of place is this? A store, a home, a workshop? Proprietor, father, craftsman—which narrative function is most important? "Proprietor" doesn't take us far, for not only are the other artifacts literally priceless, Pinocchio, who is connected to Geppetto as artifact to maker, fulfillment to wish, is never displayed on a shelf. He is, as Jiminy says, when he first sees him set apart on the workbench, "something else . . . , a puppet, you know, one of those marionette things, all strings and joints." Although the newly stringless Pinocchio is sold to Stromboli, who knows exactly how to exploit his unique capacities, the sale occurs without Geppetto's knowledge, and without him profiting from it. If we stress *father*, we will inevitably invoke Walt as either benevolent parent or anxious son and join the psychoanalytic critics of the movie in a debate about what it means for Disney to induce the wish that the father's wish could be the living puppet's wish and that both wishes could be gratified by the puppet's dramatic transformation into a virtuous boy. If we prefer *craftsman* it may be because Geppetto appears less as a woodcarver than as an animator (the only tool we see him wield is a paintbrush); therefore he reads as a figure for the formidable collection of talents at Disney, who often modeled their characters in three dimensions, and even acted them out for each other. The parallel between Geppetto's shop in the movie and the animators' shop at either Disney's Hyperion or Burbank studio partially explains the curious exemption that Geppetto is imagined to have from market considerations.[21] Of course, the Disney animators were not so naïve as to ignore either the proximity at the studio of exuberant fun and donkeylike drudgery or their own participation in the creation of a money machine that would enrich the Stromboli who owned the studio. Disney's "nine old men" fetishized decommodification and were as contemptuous of mass production as Zipes or Adorno. Because to think "father" you must think Walt, and to think "craftsmen" you must recall a group of highly talented men who labored almost anonymously under Walt's supervision and were forcibly assimilated to his paternal image, the movie should be

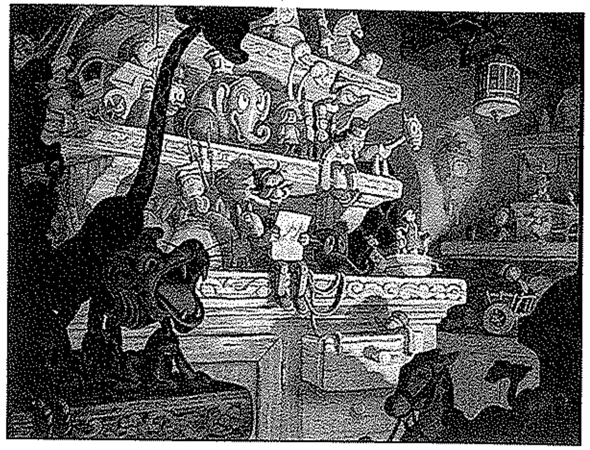


Figure 7.1

read, as it surely was by Pixar, as an early sign of the acrimonious conflict over credit, salary, and unionization that almost destroyed the heavily indebted Disney studio in 1941. Recall that Hi Tech Toons was formed as a device to avoid both liability and the threat of unionization.

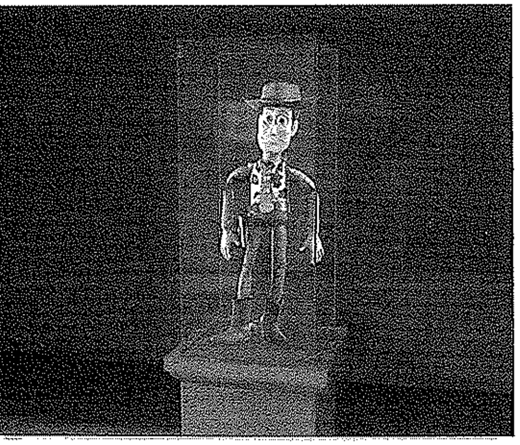
Jiminy Cricket was the first visitor to Geppetto's shop to call attention to the difference between the toys and a puppet; Pixar was the second. That difference is the crux of *Toy Story 2*, Pixar's most extended engagement with *Pinocchio*. After deciding to make *Pinocchio*, the first question that Walt asked himself, his animators, and his writers was how they could effectively adapt Collodi for the screen. Although he had a vexed relation with Collodi's story, Walt accepted the basic narrative arc of stringed puppet to stringless puppet to real boy. *Toy Story*, however, was an original script idea. According to a well-worn anecdote, "Once [John] Lasseter and the rest of the team asked themselves a key question. "'If a toy were alive, what would it want?'—the answers came flooding out. Toys are manufactured to be played with by children, they reasoned, so that is what they want more than anything else in the world" (*IB*, p. 85). A puppet is not crafted to be a toy. Its purpose is neither to be played with nor to become a real boy but to perform for an audience as the instrument of a master entertainer intent on accumulating wealth. From Pixar's perspective, Geppetto *should* have sold the puppet to the gypsy impresario, who is the only character able to exploit this unique expression of the puppet form, this artificial person, by realizing its true potential to be a money machine: Pinocchio Inc., privately held and controlled by Stromboli. Alive or not, toys are toys and not some other thing—least of all unevolved children. No toy pines for a conscience, that's for sure. Toys are not crafted by a loving maker. They are trademarked objects, manufactured in plastic with standardized characters and devised to fit into a marketing niche, their names and functions prescribed. Mass production and consumption are manifestly the conditions for the existence of every toy in Pixar pictures, and relentless, centralized, top-down merchandising is the only way any toy could get into the toy box of Andy, the chief executive officer of the privately held bedroom.

Toy Story does not challenge that system. Its answer to *Pinocchio*'s nostalgia is the same as its answer to Adorno's critique: mass culture is, indeed, centralized and fully commercialized, but the administration of culture stops at the playroom door, where another culture forms. The toys are manufactured for a purpose but if the purpose is play, how play *happens* is, according to *Toy Story*, *Toy Story 2*, and *Toy Story 3*, the prerogative of the child's imagination, not the manufacturer's design: in the exercise of that prerogative the child can be smirkingly sadistic, like Sid, or noisily exuberant, like Andy. Who wouldn't prefer to be owned by Andy? Straight out of the box Andy singles out all the toys for a role in play at some variance with their manufactured and marketed characters; and even that role is no constraint on toy creativity, for each toy has a distinctive personality developed through conversation, conflict, and, above all, cooperation in the pluralistic culture that thrives under Andy's benign corporate canopy. Toy "culture" works fine for a toy as long as the toy can stay out of a box and off of a shelf; and that depends on Andy's continued, reasonably attentive ownership. Pixar has a deeply corporatist vision: no distinctive, satisfying way of doing things can be formed without the institutional framework of Andy's bedroom or Disney's boardroom; no culture can be held together without Andy's mark or Disney's brand. The sense of belonging at Pixar was cultivated in two specific ways. First, the company fostered a distinctive culture that blends techies with creative types and places as high a valuation on idiosyncratic personalities as on specialized expertise. Second, that sense of belonging was cultivated by a technology of corporate identity formation. The initial device was the agreement to co-brand with Disney, a division of screen credit which was institutionalized in the second contract. That co-branding relationship is thematized in *Toy Story* by the scrawl of "Andy" on the bottom of the boots of Woody, Buzz (and, eventually, Jesse). Pixar's avowed dream had always been to be a productive, creative community thriving within the institution of a studio and protected by a strong brand. As Michael Szalay has suggested, *Toy Story* has the shape of an allegory that dreams of the merger between the bygone Disney's older characters, represented by Woody, and the new, techno-driven figures, represented by Buzz Lightyear, that are generated by Pixar's creative computer experts. The Andy brand is not, then, the correlative of "Pixar" but the sign of Disney, the matrix of narrative animation to which Pixar, a company of talents that had weathered business crises and employee attrition, had long aspired to pledge its allegiance.

Pixar did not, however, pledge this allegiance to the Disney of Michael Eisner, who, like his surrogate Al, owner of the Toy Barn in *Toy Story 2*, always put money first. It is true that when, after many fallow years, in 1984, Eisner assumed control of the Walt Disney Company, the company once again began to think seriously about toys and even animation, but always within what Eisner called the "box." Eisner famously enunciated this management philosophy: "I have always believed that the creative process must be contained in what we call 'the financial box'—financial parameters that creative people can work in—but the box is tight, controlled and responsible. Finance," Eisner declared, "has the key to the box" (*UD*, p. 29). And, of course, every aspect of "finance" answers to Eisner, in whose office the financial box is shelved. It's a vivid metaphor made more so by the prominence of the shelved and then boxed toys in *Toy Story 2*, a movie that systematically repudiates Eisner's corporate philosophy as it moves from the crisis of a damaged Woody being shelved in Andy's bedroom, when the boy goes off to cowboy camp, to his confinement in a display case readied for sale to a Japanese museum, to the sublime scene in Al's Toy Barn, where Buzz Lightyear confronts the colossal array of boxed replicas of himself, stacked to the ceiling and stretched to infinity and beyond—a shot in stark contrast to the view of the individualized clocks and knickknacks stocked on the shelves in Geppetto's shop (Figure 7.2).

Indeed, *Toy Story* erases Geppetto altogether. There is no maker of Woody, Buzz, or any of the other toys; and there is no father for Andy.[22] Stromboli returns, however, in the guise of Al, proprietor of Al's Toy Barn, the villain of *Toy Story 2*, who boxes up Woody because of his value just as Stromboli had caged Pinocchio. Unlike Stromboli, who has no contact with Pinocchio's home life, Al's commercial world impinges on Andy's household, first through the television set in Andy's room and then during the yard sale that Andy's mother sets up. This sale is the occasion of Woody's return to the realm of exchange value, when he is boxed by Al and spirited away in his Cadillac. The episodes in Al's office and on the display floor are all about boxes: the Lucite case in which Woody is displayed and which, the Old Prospector attempts to convince him, is the vehicle of his emancipation (Figure 7.3), the opaque cardboard boxes from which Jesse and the Prospector yearn to escape (Figure 7.4), and the imagery of the mathematical sublime that nearly overwhelms him as he comes across the display of the new models of Buzz Lightyear.

7.2



7.3

Separated from his friends, Buzz discovers that the multitude of boxed and shelved star rangers that stretch to infinity and beyond are identical to him in every

respect except for their subjection to the advertising copy with which the culture industry has defined their identity. Each is, of course, utterly ignorant of the experiences that Buzz has shared with the rest of Andy's toys, whose conversation and example had encouraged him to test his fantasies of omnipotence against a reality that does not conform to the generic scenarios recorded on the looping tape that dictates his character. When released from the box into the social world of the playroom, Buzz painfully learns the disparity between the ad copy on his box, which endows him with super powers, and the real world in Andy's bedroom, which is a web of interdependence. Buzz must learn the crucial importance of belonging, of being owned and of being loyal. He constructs his own personality by interacting with his peers, the way that Pixar encourages each employee from Lasseter on down to construct his and sometimes her own corporate personality.

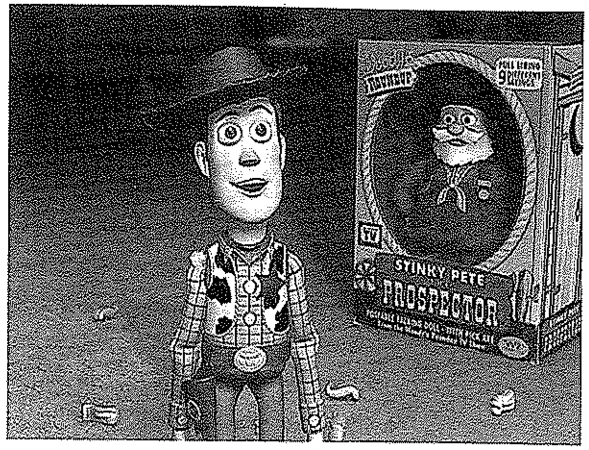


Figure 7.4

Unlike Buzz, Woody is completely outfitted with a personality when he appears in *Toy Story*. We do not see him in his naïve state, that is, in full conformity with his manufactured character until the scene in *Toy Story 2* when Stinky Pete, the Old Prospector, plays the tape of the 1950s television show *Woody's Round-Up* on the most seductive of all the boxes, the TV (Figure 7.5). Here the mythic function of the media narrative does not, as Sayers complains of Disney, replace some more authentic story; the video recording provides the illusion of a biographical

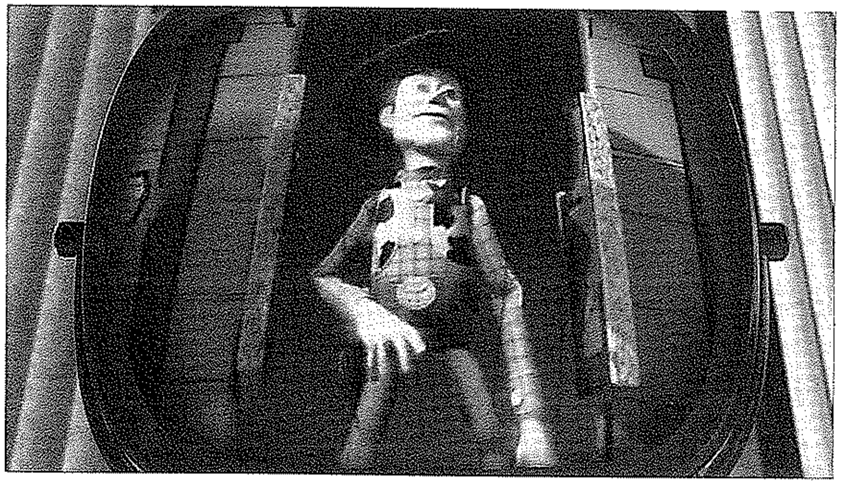


Figure 7.5

narrative and a continuous identity where there is none. *Woody's Round-Up* does not revive memories: it makes them. The television adventures never happened to *this* Woody but to another Woody, who is not only a distinct article, like each boxed and shelved Buzz Lightyear, but a different species, as different as a puppet is from a toy. What is peculiar about the video is that our Woody so easily identifies with someone else, who is living the same story over and over again, imprisoned in the video box, as if it really were an earlier version of a self that had evolved, metamorphosed, or somehow acquired a personality. But it isn't and it hasn't. There's no video of a Blue Fairy appearing to transform Woody the puppet into Woody the toy. Cultural memory is false memory. Watching *Woody's Round-Up*, our Woody revels in the fact that "Woody" (now in scare quotes) was once a performer, who, like Pinocchio in the hands of Stromboli, was a money machine for the various companies whose products he advertised. Had Woody actually made the *Pinocchio* connection, as Pixar does, however, he would have noticed that, unlike the toy he is, the Woody on the *Round-Up* is a puppet—and there he is bested by Pinocchio, for the performing Woody has strings and the performing Pinocchio does not. The video representation of Woody the puppet so effectively mediates lapsed time and distance that regression would be as easy as turning on the remote and as appealing as climbing back into a Lucite box to be shipped abroad and then displayed on a shelf in a museum, where, abstracted from the culture that has given him personality, a toy could fantasize that he will forever enjoy the regard of people to whom he is a pristine relic of another world and time, guaranteed value by his rarity, immortality by his value, and sterility by his box.[23]

As we have seen, in *Citizens United* the majority opinion equates corporate authorship with corporate speech and corporate speech with corporate funding. The Supreme Court's verdict put American political culture in the box called finance and slammed the lid. I have countered that under the corporatist regime, authorship, considered not as a sign of subjectivity but as the supervening intentional function of the organization, differs from speaking in the capacity not only to take responsibility for what it makes but to accept liability for its making. Where do we find the model for such a corporate author? As a child of Disney, I have had an answer ready for a long time: let our conscience be our guide. If, according to the Roberts Court and Michel Foucault, it makes no difference who is speaking, it might as well be a homuncular cricket who can tell right from wrong and who can convincingly impersonate the corporate author. *Pinocchio* is ultimately Jiminy Cricket's story. The movie begins and ends with his direct address to the audience (the first in Disney's history) and with his physical framing of the narrative, which he initiates by opening a book,

and which he concludes by closing the window frame to set the stage for his departure to other venues where he can carry out the office conferred on him by the Blue Fairy. Unmistakably, the significance of Jiminy as conscience is that he is *not* internalized by Pinocchio or by the narrative. Indeed, he was only given prominence in Disney's feature when the narrative authored by Collodi was jettisoned in favor of a narrative authored by Disney. *Pinocchio* and *Citizens United* have pretty much demonstrated that an artificial person cannot internalize a conscience (although there is a contrary view articulated by Steven Spielberg and Stanley Kubrick's riposte to *Toy Story 2*: *Artificial Intelligence: AI*, which travels deep into the valley of the uncanny to sentimentalize artificial persons, even as it abandons human beings to the deluge of history). Jiminy Cricket is not the part that stands for the Disney whole: *no* part can legitimately stand for the corporate whole; that's what logos are for. A corporation, however, can acquire a conscience by incorporating it, just as Disney did with Jiminy Cricket and, much later, with Pixar.

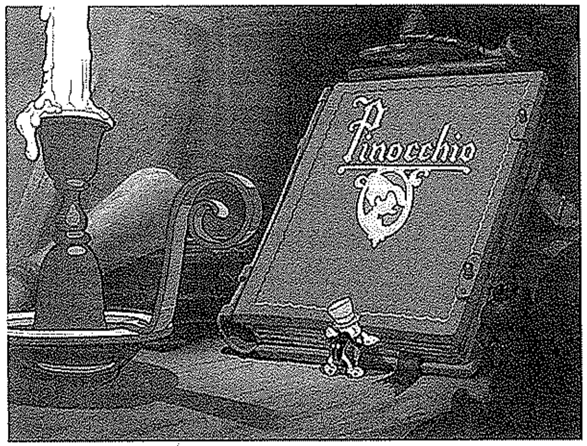


Figure 7.6

Although Pinocchio the puppet is not shelved during the movie, the narrative named *Pinocchio* is, in the form of the large red book with a silhouette of Pinocchio on the cover, propped up on a table (Figure 7.6). When Jiminy opens its cover he discloses a new species of book. It has no title page, no frontispiece, no acknowledgment of Collodi, no words at all: just a framed image of a sleeping village within the frame of the book's page (Figure 7.7). This book is remarkably different from any volume in which Collodi's story might appear; it is a book that only Disney could produce, with its animators, its multiplane technology, and its license from Technicolor. Just as Walt had to dispose of the first script that in its fidelity to Collodi weakened the native force of Disney's animation, so Jiminy usurps the writer of the tale by impersonating the figure of an author who can incorporate

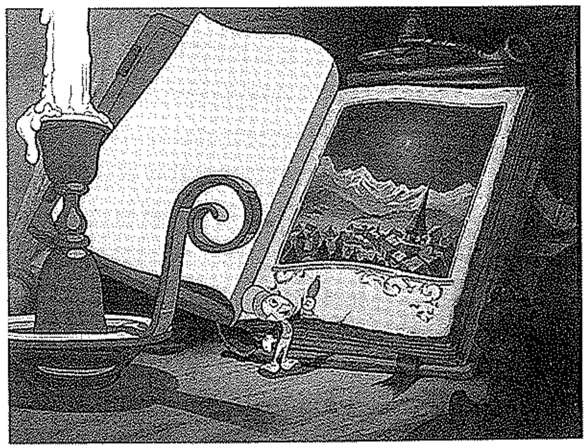


Figure 7.7

fairy tales while fully reimagining them, who can break with tradition even while celebrating it, who can visualize a book of visuals without needing to write one—and who, ideally, would not just receive credit and revenue for his products, but would also accept liability, if something (Blue Fairy, help us!) should go wrong. Jiminy Cricket may not have the high cultural authority that Adolf Berle deploys when, in *The 20th Century Capitalist Revolution*, he exemplifies how corporations might be invested with a conscience by invoking medieval Norman Law and the right of the convicted to appeal to the conscience of the king for equity; but each age has its convenient myths, and Jiminy has turned out to have more relevance to at least one major corporation than William the Conqueror.[24]

Jiminy Cricket was invented by the Disney animators to right a narrative gone wrong and, incidentally, to teach an artificial person with no inner voice how to recognize the right way of doing things from the wrong way. Disney featured the personality over the years as the image, if not the agent of the company's conscience, its acknowledgment of a right and a wrong that cannot be written into charters or expressed on a spreadsheet. Had Berle but known what was bred into Pixar's bones, that Jiminy Cricket, who became the spokesman for the Disney empire, was a figure with more potential to persuade the corporation to behave than to assure the social conformity of the kids in the TV audience, he would not, I think, have demurred from putting him to theoretical use in 1954, as Pixar did in its business model in 2006.

Pixar always wanted to be owned, whether by George Lucas of Industrial Light and Magic, who was a neglectful father, or by brotherly Steve Jobs, who redeemed Pixar from neglect and eventually arranged the merger that would attach Pixar to Walt Disney under terms that would maintain its "culture" and enable it to fulfill the obligations of belonging. But, it is fair to ask, what about Pixar's "culture" makes it worth maintaining? Why would Disney, which under Eisner was notorious for breaking its contractual promises, keep its promise to Pixar? In a thoughtful analysis of the deal, Victor Fleischer is skeptical that the company will in fact keep its promises. He does not believe that what he calls Pixar's "bottom up culture" can be maintained under a contract that subjects the execution of all agreements to the authority of the executive at the top of the Walt Disney Company. Fleischer warns that the omission of any mention of the well-publicized Pixar University has been adduced as evidence that distinctive elements of Pixar's culture were already being abandoned before the contract was signed. Only the reification of Pixar's culture as bottom-up, however, impels Fleischer to inventory what is in the Disney basement. Indeed, it was Fleischer who first pointed to the importance of the quotation marks

around *culture* in Exhibit 99.1 and who astutely associated that form with the way that the intangible managerial capital called "goodwill" was once represented in contracts.[25] The association of "culture" with "goodwill" is telling, both because the quotation marks around goodwill were eventually dropped as accounting methods were adopted that made that capacious intangible accountable, and because, by asserting itself as author, Pixar "culture" claims to be able to generate both good products and goodwill—neither a moral good. For Iger to squeeze out that "culture" would be, Eisner-like, to deliberately destroy that value, both by driving away indispensable talent and by disabling the institutionally specific protocols shared by techies and creative types, who combine to author the motion pictures that generate goodwill. The insistence on the maintenance of the contract is the assertion of a cultural authorship of incalculable value, because as long as Pixar continues to be able to tell right from wrong and conscientiously does things right, one must trust that its "culture" will be indefinitely productive of more value. Indeed, rather than facilitating the imposition of Disney ideology on Pixar, the merger has been followed by influence heading the other way—and, significantly, not only on the animators. Lasseter is now principal creative adviser for the imagineers, who have the responsibility for planning the future of Disney in all areas of its enterprise. In 2010 it was reported that Iger has invited Lasseter and other Pixar directors and writers to conferences on live-action productions with the aim exploiting their narrative expertise so that Disney can get its stories right.[26] We may congratulate Pixar executives on their success as consultants on the Disney side, but such missionary work is not always welcomed by the supposed beneficiaries, and in this case Pixar's willingness to advise inevitably comes with liability for advice that may not save or may even sink the project in which they intervene. The chances for failure always exceed the chances for success in Hollywood, and Pixar's institutional capital, namely its astounding record of continuous successes, is put at risk not only by each new feature but with each consultation.

We can skip an inventory of the assorted policies, practices, properties, and personalities that constitute Pixar "culture," for although many of them are important, none is either necessary or sufficient. My construction of Pixar's self-understanding has exploited the peculiar appearance of a framed culture in the merger contract to avoid what I believe Pixar was avoiding: being boxed in by a Hobson's choice between the demystification of Pixar as ultimately the studio of John Lasseter, creative genius, whose vision is served by zealous, talented acolytes, and the alternative hypostasis of Pixar culture as a prescriptive way of doing things, a medium for the formation of a collective identity, and a technology for enforcing brand discipline. "Cultural" authorship cannot thrive at either extreme. Extremes must meet—not, however as formal collaborations or task-dedicated teams, but as studio functions that mutually inform each other and figure a cultural identity as a maneuver, not a subject position. I can't imagine how that relationship could be empirically verified, whether from the bottom or the top. No reason to try. The framing of culture in Exhibit 99.1 invites an allegorization of Pixar Animation Studio as structured by the always potential conflict between the freewheeling creative types, authors of meaningful, character-driven narratives, and the cubicled techies, ingenious writers of code who make dew glisten, hair tousle, and Buzz tango. That allegory was first invoked by John Lasseter as the chiasmus that figures the engine of Pixar culture: "the art challenges the technology, and the technology inspires the art" (*IB*, p. 43).

What matters, then, is not culture as another version of goodwill, intangible but quantifiable managerial capital fabricated by the expert manipulation of the corporation's two bodies, but culture as *figurative* capital. "Culture" is the framing of a word that would refer to and be uttered by what is casually called corporate culture, could such a culture find a voice adequate to the figure of the chiasmus by which this "culture" recognizes itself, assures its dynamism, takes responsibility for corporate projects, gets things right, and, crucially, accepts liability for what goes wrong. Liability is crucial because Pixar cannot claim to be a conscientious author without accepting liability for the consequences of its actions, even if those consequences prove that the corporation has no real conscience at all.

Notes

Introduction

1. *Fortune*, December 1932, in *The American Film Industry*, ed. Tino Balio, rev. ed. (Madison: University of Wisconsin Press, 1979), pp. 318–19. This source hereafter will be cited in the text as *AFI*.

2. See Morton J. Horowitz, *The Transformation of American Law, 1870–1960* (New York: Oxford University Press, 1992), pp. 69–70.

3. John Sedgwick and Michael Pokorny, "The Risk Environment of Film Making: Warner Bros. in the Inter-War Years," *Explorations in Economic History* 35, no. 2 (1998): 196–97.

4. Leo Rosten, *Hollywood: The Movie Colony, the Movie Makers* (New York: Harcourt, Brace, 1941), pp. 81–82. This source hereafter will be cited in the text as *H*.

5. See Jared Gardner, "Covered Wagons and Decalogues: Paramount's Myths of Origins," *Yale Journal of Criticism* 13, no. 2 (Fall 2000): 361–89; Paul Grainge, "Branding Hollywood: Studio Logos and the Aesthetics of Memory and Hype," *Screen* 45, no. 4 (Winter 2004): 354–60.

6. Peter F. Drucker, *The Concept of the Corporation* (New York: John Day, 1946), pp. 8, 15, 7.

7. Roland Marchand, *Creating the Corporate Soul: The Rise of Public Relations and Corporate Imagery in American Big Business* (Berkeley: University of California Press, 1998), see esp. pp. 130–201.

8. Thurman Arnold, *The Folklore of Capitalism* (New Haven, CT: Yale University Press, 1937), pp. 350–53.

9. Suman Gupta, *Corporate Capitalism and Political Philosophy* (London: Pluto Press, 1988), p. 102. This source hereafter will be cited in the text as *CC*.

10. Will Hays, *See and Hear* (1929; rpt., New York: Arno Press, 1970), p. 4.

11. For a splendid account of this theoretical spectrum see Robert Spadino, "Geniuses of the System: Authorship and Evidence in Classical Hollywood Cinema," *Auteurism Revisited, Film History* 7, no. 4 (Winter 1995): 362–85. Spadino begins with a judicious response to Thomas Schatz's groundbreaking study of Irving Thalberg's authorship at MGM in *The Genius of the System: Hollywood Filmmaking in the Studio Era* (New York: Pantheon Books, 1988); he then gives an enlightening account of both the power and constraints of the formalist paradigm elaborated in David Bordwell, Janet Staiger, and Kristin Thompson, *The Classical Hollywood Cinema* (New York: Columbia University

Press, 1985), surveys auteurism, and concludes by proposing a more pluralist theory of authorship, which does not, however, include among its eligible authors the corporate person.

12. Richard Maltby, "'Nobody Knows Everything': Post-Classical Historiographies and Consolidated Entertainment," in *Contemporary Hollywood Cinema*, ed. Steve Neale and Murray Smith (London: Routledge, 1998), pp. 25–26.

13. Howard T. Lewis, *The Motion Picture Industry* (New York: D. Van Nostrand, 1933), 1.

14. Mae D. Huettig, *Economic Control of the Motion Picture Industry: A Study in Industrial Organization* (Philadelphia: University of Pennsylvania Press, 1944), p. 67; hereafter *EC*.

15. Schatz, *Genius of the System*, p. 5; Richard Maltby and Ian Craven, *Hollywood Cinema: An Introduction* (London: Blackwell, 1995); Douglas Gomery, *The Hollywood Studio System: A History* (1986; new ed., London: British Film Institute, 2005); Charles Harpole, gen. ed., *A History of the American Cinema* (Berkeley: University of California Press, 1994–2006); John Thornton Caldwell, *Production Culture: Industrial Reflexivity and Critical Practice in Film and Television* (Durham, NC: Duke University Press, 2008), pp. 197–274, 13, 9.

16. Bordwell, Staiger, and Thompson, *Classical Hollywood Cinema*, pp. 3, 88; hereafter *CHC*.

17. Dirk Eitzen, "Evolution, Functionalism, and the Study of the American Cinema," review of *Classical Hollywood Cinema*, in *Velvet Light Trap* 28 (Fall 1991): 76; hereafter "E" (emphasis added).

18. M. E. Porter, *Competitive Strategy* (New York: Free Press, 1980), p. 5.

19. *The Grand Design: Hollywood as a Modern Business Enterprise, 1930–1939*, ed. Tino Balio, vol. 5 of *A History of the American Cinema*, gen. ed. Charles Harpole (Berkeley: University of California Press, 1995), pp. 25–26.

20. Martin J. Sklar, *The Corporate Reconstruction of American Capitalism, 1890–1916* (Cambridge: Cambridge University Press, 1988), p. 12.

21. William Roy, *Socializing Capital: The Rise of the Large Industrial Corporation in America* (Princeton, NJ: Princeton University Press, 1997), p. 6; hereafter *SC*. See also Charles Perrow, *Organizing America: Wealth, Power, and the Origins of Corporate Capitalism* (Princeton, NJ: Princeton University Press, 2002).

22. See the earlier discussion of corporate structural power in Carl Kaysens, "The Corporation: How Much Power? What Scope," in *The Corporation in Modern Society*, ed. Edward S. Mason (1959; rpt., New York: Atheneum, 1966), pp. 84–105.

23. David Riesman, in collaboration with Reuel Denney and Nathan Glazer, *The Lonely Crowd: A Study of the Changing American Character* (New Haven, CT: Yale University Press, 1950). For influential developments of Riesman's categories, see Warren Susman, *Culture as History: The Transformation of American Society in the Twentieth Century* (New York: Pantheon Books, 1984); and Jackson Lears, *Fables of Abundance: A Cultural History of Advertising in America* (New York: Basic Books, 1994).

24. Alfred D. Chandler, Jr., *Strategy and Structure: Chapters in the History of the Industrial Enterprise* (Cambridge, MA: MIT Press, 1962), pp. 13,14, 15.

25. Kenneth R. Andrews, *The Concept of Corporate Strategy* (1971; 3rd ed., Homewood, IL: Irwin, 1987), pp. 13, 18, 15.

26. Barry King, "Articulating Stardom," *Screen* 26, no. 5 (September–October 1985): 31. See also Leo Braudy's influential discussion of "role-playing and type-casting," in Braudy, *The World in a Frame: What We See in Films* (Chicago: University of Chicago Press, 1976), pp. 201–12.

Chapter 1: The Rackets

1. Quoted in Richard Maltby, "The Production Code and the Hays Office," in *Grand Design: Hollywood as a Modern Business Enterprise, 1930–1939*, ed. Tino Balio, vol. 5 of *A History of the American Cinema*, gen. ed. Charles Harpole (Berkeley: University of California Press, 1995), p. 43; hereafter *GD*.

2. Quoted in Scott Eyman, *The Lion of Hollywood: The Life and Legend of Louis B. Mayer* (New York: Simon and Shuster, 2005), p. 139; hereafter *LH*.

3. The only prior article was "The Case of William Fox," in May 1930, which, in the words of the caption, "dissected, rearranged, and spread out in coherent and comprehensible form" the origins, conduct, and conclusion of the litigation between Fox, and Harold Stuart of Halsey, Stuart, and Co., Inc., and John Otterson of Electrical Research Products, Inc., over ownership of 150,101 shares in Fox Film and Fox Theaters. The case had been concluded with a surrender by Fox and loss of control of his company (*Fortune*, May 1930, pp. 48–49 ff.

4. *Fortune*, December 1932, in *The American Film Industry*, ed. Tino Balio, rev. ed. (Madison: University of Wisconsin Press, 1979), p. 312; hereafter *AFI*.

5. See Terry Smith, *Making the Modern: Industry, Art, and Design in America* (Chicago: University of Chicago Press, 1993), for a splendid account of *Fortune*'s strategies for acquiring prestige and influence (pp. 173–89); hereafter *MM*.

6. Cf. Douglas Gomery, *The Hollywood Studio System: A History* (1986; new ed., London: British Film Institute, 2005), pp. 99–107; and John Izod, *Hollywood and the Box Office, 1895–1986* (New York: Columbia University Press, 1988), p. 89 (hereafter *HBO*): these represent MGM strictly as a subsidiary of Loew's and subservient to its corporate strategy, with an authority structure that flows from Schenck to Mayer to Thalberg. That is a reasonable perspective after the diminishment of Thalberg's authority in 1933, but to account for product differentiation at MGM and the toleration of ideological conflict requires the attribution of authority to Thalberg. See *LH*, p. 33.

7. See Janet Staiger's article "Announcing Wares, Winning Patrons, Voicing Ideals: Thinking About the History and Theory of Film Advertising" *Cinema Journal* 29, no. 3 (Spring 1990): 3–15, on pitching to mass audiences from 1910 to 1940.

8. In a statement that he later drafted in response to the pressure on the industry to amend its practices, Thalberg professed a much more modest cultural role for the motion picture industry: "We do not create the types of entertainment. . . . We merely present them" (*GD*, p. 43).

9. Bernays, *Propaganda* (New York: H. Liverwright, 1928), p. 18; hereafter *P*. On contemporary responses to the book, see Larry Tye, *The Father of Spin: Edward Bernays and the Birth of Public Relations* (New York: Henry Holt, 1998), pp. 98–99.

10. The marketing objective of making customers would be featured as first prin-

porate allegory in the Fox series and for calling my attention to the specific episode that tweaks CNN.

22. Farrell Kramer, AP, 1996, n.d. (www.google.com/search?q=Fox+News+antitrust+lawsuit&hl=en&lr=&ie=UTF-8&oe=UTF-8&start=10&sa=N).

23. *Time Warner Cable of New York v. City of New York*, United States District Court for the Southern District of New York, November 6, 1996 (Communications Media Center at New York Law School; www.nyls.edu/cmc/uscases/timewnyc.htm).

24. Jim Hu and Dawn Kawamoto, "Is Time Warner Next in Merger Mania?" CNET News.Com, February 9, 1999, http://news.com/2100-1040-221449.html.

25. AOL's concern was warranted. Just after the release of the film AT&T began using "You Have Mail," "Buddy List," and the mailbox logo "in connection with its email service. AOL was upset, and filed suit in federal court alleging various trademark and unfair trade competition." "Summary of *America Online v. AT&T*," *Tech Law Journal* Web site, n.d., www.techlawjournal.com/courts/aolvatt/Default.htm (accessed April 6, 2011). AOL eventually lost its suit on appeal.

26. In November 1998 *Wired News* quoted a comment by Evan Neufeld, "practice director for online advertising strategies at Jupiter Communications," that "you could typically see a deal like this in the US $3 to 6 million range." But Neufeld "cautions that much of the value of the deal could exist only on paper: AOL gets brand placement in the film; in return, Warner Bros. gets heavy promotion through AOL's online properties" ("You've Got Product Replacement," *Wired* Web site, November 4, 1998, www.wired.com/news/culture/0,1284,16046,00.html [accessed April 6, 2011]). The day before the film was released Paul Farhi reported in the *Washington Post* that "no money changed hands" (*Washington Post*, December 17, 1998).

27. Time Warner investors, who were burned in the earlier merger, were regarded as being opposed to enormous expenditures for overpriced internet companies. See the comments of David Simons, managing director of Digital Video Investments, reported by Hu and Kawamoto.

28. "In the Money," CNN, transcript no. 00011001FN-I04, January 10, 2000. Perhaps there was an omen for AOL Time Warner in Case's choice of a phone rather than an e-mail to ask his question, "Do you want to merge?"

29. Here's just one example of the line that Case incessantly spun at the time of the merger: "But there is another reason why this merger is so important, and it is not its size, it is really the company's potential for innovation and creation of new value and new choice for consumers" (*In the Money* news conference, January 10, 2000). As events would soon prove, "innovation" meant little, "choice" meant less, and "value" meant nothing.

Chapter 7: The Conscience of a Corporation

1. For an elaboration of this theory in relation to contemporary debates about intentionalist interpretations, see Jerome Christensen, "Studio Authorship, Corporate Art," *Auteurs and Authorship: A Film Reader*, ed. Barry Keith Grant (Malden, MA: Blackwell Publishing, 2008), pp. 167–79.

2. Peter A. French, "The Corporation as a Moral Person," *American Philosophical Quarterly* 16, no. 3 (July 1979): 211–15.

3. Eric Colvin, "Corporate Personality and Criminal Liability," *Criminal Law Forum* 6, no. 1 (1995): 2–3; hereafter "CP." See also Pamela H. Bucy, "Corporate Ethos: A Standard for Imposing Corporate Criminal Liability," *Minnesota Law Review* 75 (1990–91): 1095–1184.

4. See Celia Wells, *Corporations and Criminal Responsibility* (2nd ed., Oxford: Oxford University Press, 2001), esp. pp. 63–83; and James Gobert and Maurice Punch, *Rethinking Corporate Crime* (London: LexisNexis Butterworths, 2003), pp. 46–81.

5. Michel Foucault, "What Is an Author," *The Foucault Reader*, ed. Paul Rabinow (New York: Pantheon Books, 1984), p. 101; hereafter "WIA."

6. Cited as sources in text are Eric Smoodin, "'Compulsory' Viewing for Every Citizen: *Mr. Smith* and the Rhetoric of Reception," *Cinema Journal* 35 (Winter 1996): 3, 19, and n. 52, which cites Frank Nugent, "Mr. Smith Riles Washington," *Time*, October 30, 1939, p. 49; and "Capra's Capitol Offense," *New York Times*, October 29, 1939; hereafter "CCO."

7. See Ben W. Heineman, Jr., "Hidden Election Expenditures After *Citizens United*," *Atlantic*, July 14, 2010, www.theatlantic.com/politics/archive/2010/07/hidden-election-expenditures-after-citizens-united/59756/ (accessed April 6, 2011); and Charlie Cray, "*Citizens United v. America's Citizens*: A Voters Guide," *CorpWatch*, October 22, 2010, www.corpwatch.org/article.php?id=15635 (accessed April 6, 2011). Jill Jusko, "DISCLOSE Opponents Gain a Victory," *Industry Week*, November 1, 2010, p. 12.

8. Henry James Forman, *Our Movie Made Children* (New York: Macmillan, 1933). See chap. 5, "Movies and Sleep," pp. 69–89; chap. 6, "Other Physical Effects, pp. 90–104; and chap. 7, "Horror and Fright Pictures," pp. 105–20.

9. Stephen Farber and Marc Green, *Outrageous Conduct: Art, Ego, and the "Twilight Zone" Case* (New York: Morrow, 1988), pp. 156–57, 196–97, and *passim*.

10. David A. Price, *The Pixar Touch: The Making of a Company* (New York: Vintage Books, 2009), p. 133, and in private correspondence with the author.

11. Exhibit 99.1, "Policies for Management of the Feature Animation Businesses," www.sec.gov/Archives/edgar/data/1001039/000119312506012082/dex991.htm (accessed April 6, 2011).

12. Jennifer Homans, *Apollo's Angels: A History of Ballet* (New York: Random House, 2010), p. 541.

13. Janet Wasko, *Understanding Disney* (Cambridge Mass: Polity, 2001), p. 92; hereafter *UD*.

14. The company that was formed in 1923 was named the Disney Brothers Studio. The name was changed at Roy Disney's suggestion to the Walt Disney Studio when the company, still a partnership, moved to a new location on 2719 Hyperion Avenue in the Silver Lake district of Los Angeles in 1925. It was incorporated as Walt Disney Productions in 1929. Walt Disney Incorporated was formed by Walt as an independent company to finance the planning stages for Disneyland in 1953. Concerned that the stockholders might "be disturbed over possible conflict of interest between Walt Disney Productions and Walt Disney, Incorporated, [Roy] suggested that Walt change "the name of his company, and it became WED Enterprises, the initials of Walt's name." Bob Thomas, *Building a Company: Roy O. Disney and the Creation of an Entertainment Empire* (New York: Hyperion, 1998), pp. 48, 52, 139; hereafter *BC*.

15. "The Big Bad Wolf," *Fortune*, November 1934, p. 88.

16. James B. Stewart, *Disney War* (New York: Simon and Schuster, 2005), pp. 147, 190.

17. Frances Clark Sayers and Charles M. Weisenberg, "Walt Disney Accused," *Horn Book Magazine*, November–December 1965, p. 610; quoted in *UD*, p. 126.

18. Michael Budd, introduction to "Private Disney, Public Disney," in *Rethinking Disney: Private Control, Public Dimensions*, ed. Mike Budd and Max H. Kirsch (Middletown, CT: Wesleyan University Press, 2005), p. 1.

19. Theodor W. Adorno, "Culture Industry Reconsidered," in *The Culture Industry: Selected Essays on Mass Culture*, ed. J. M. Bernstein (New York: Routledge, 1991), p. 98.

20. Jack Zipes, "Toward a Theory of the Fairy-Tale Film: The Case of *Pinocchio*," *Lion and the Unicorn* 20, no. 1 (1996): 20.

21. For an account of Lasseter's veneration of the "nine old men" and the golden era of Disney animation, see Karen Paik, *To Infinity and Beyond: The Story of Pixar Animation Studios* (San Francisco: Chronicle Books, 2007) pp. 30–31; hereafter *IB*.

22. In *Toy Story 2*, however, the figure of the ancient touch-up artist (a figure recycled from Pixar's earlier short *Geri's Game* [1998]), who repairs and rejuvenates Woody, evokes the near obsolete craftsmen who specialized in hand-drawn animations.

23. A condition which seems to be endorsed by the epical transfixion of the robot boy David through millennia of frozen adoration of the carved figure of the Blue Fairy in Dreamworks' apocalyptic version of the Pinocchio story: *Artificial Intelligence: AI* (2001), directed by Steven Spielberg.

24. Adolf A. Berle, *The 20th Century Capitalist Revolution* (New York: Harcourt, Brace, 1954).

25. I'm indebted to Victor Fleischer, University of Colorado Law School, for providing me with his invaluable, unpublished draft manuscript, "Protecting Pixar's Culture in the Disney Merger." For his comment on the peculiarity of the quotation marks surrounding "culture" in Exhibit 99.1, see "Steering Culture," *Conglomerate* (January 27, 2006), www.theconglomerate.org/2006/01/steering_cultur.html (accessed April 6, 2011).

26. Jeffrey Leins, "Disney Picks Pixar Brains on New Muppets Movie," NewsinFilm.com, *The Hollywood Reporter*, July 27, 2010, www.hollywoodreporter.com/hr/content_display/news/e3i4c15c030a696fa14c0791f2acbc0e09b (accessed April 6, 2011). Leins mentions the involvement of "the Pixar Brain Trust" in discussions of plans for *The Greatest Muppet Movie* and the reshoot of *Tron: Legacy* at the invitation of Rich Ross, newly appointed Disney Studios chairman in 2009.

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