

Visual Law

THE ABSOLUTE

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Edition of One, Ljubljana, Slovenia

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I speak through the stones
In words as whorls and worlds.
I rest in calm, unagitated
By wind, waves, or wandering.
What was has always passed
Into places beyond stones or wood.
What will be is the wildest dream,
The question and answer as One.
Life turns on the slimmest chance
Into an immeasurable quest.
The heart rises with moon and stars,
And clouds drift over inner seas.

—Anonymous (Keeney 2023)



Haunted Tableau, Garli, Himachal Pradesh, India. Photo: Ishita Jain.

How to make the question and answer as One? How to make the life and the work the life-work? How to repair the broken centre? Three questions. They converge in and through what may be termed works-based agency: the immemorial, authorial force that resides in a work prior to its commodification, signalling its existence as prior art. This agency suggests the presence of the Absolute, long absent from cultural discourse other than as *presence as absence*. This erasure has, arguably, occurred across the history of intellectual property (IP) rights and accelerated exponentially with the capture of immaterial culture by the digital commons—a model of shared governance for data, information, and culture that is itself subjected to capitalist enclosure and commodification. In this process of capture, works-based agency is precisely what is erased. Thus, the hyper-capitalized knowledge commons has, through the very mechanisms of command and control, blocked access to that indeterminate and semi-mythical realm hidden in works. For this reason, a proper renaissance of works-based agency requires the elective abolition of IP rights in tandem with an a-legal stance denoted “No Rights” (Keeney 2026) such that “the Absolute” might emerge, freeing both subjects (authors) and works.

There are moments when the diachronic and the dialectical collapse. There are times when something is seen that has long been inferred but deferred. This *vision*, if that is what it is, inhabits and haunts all works that strenuously resist rote commodification. In the slipstream of cultural production, that haunted tableau appears only to disappear. It is driven once again into *exile* by the laws of cultural production. It can be configured in different ways, since it concerns not so much methodology as content. The presence of the Absolute in art and in literature (and in literary–artistic scholarship) is, notably, transformational. Its mere presence alters the premises of works through engagement with the common good. Yet that methodology and content can and often do appear in time as One. Even if rare, the appearance pre-figures an Absolute in cultural production that seeks return through the life-work, which it then privileges through and beyond conventional terms of engagement. Perhaps this is why Alain Badiou (Badiou 2005, 2013; Naderi 2023) resorts to mathemes to access what he calls the “Infinite”? Is the Infinite formless until it is given form? This particular paradox concerns what we might call time-senses (multivalent analogical states) in works. It is the clash between the linear, commodifying time of the market (*chronos*) and the disruptive, qualitative time of the artistic event (*kairos*). This clash exposes what has been hidden in the research biases of scholarship and the market-driven ideology disfiguring the knowledge commons. Telos, in this case, is not ethos. They are divided. Telos becomes force and farce, in turn driving scholarship into the abyss of

marketability. The legal and economic register enforces this logic, ensuring the “haunted tableau” disappears, insofar as that tableau is, precisely, a form of insurrection and renewal.

What appears here as a metaphysical clash between temporalities is, at the level of cultural production, a juridically engineered fact: copyright law operates as a governor of creative time. More precisely, it generates a legislated, commodifiable temporality (*chronos*) to manage, stabilize, and economically exploit the constitutive gap between the singular event of creation (*kairos*) and the work’s life in the market. The foundational legal categories of *author*, *originality*, and *property* are the malleable tools of this temporal governance. Critical legal scholarship has long deconstructed these categories, revealing them as social constructs that serve specific historical power structures (Borghi 2023). In this context, the temporal critique advanced here converges with a generative moment in IP law scholarship, a moment Craig (2019) identifies as a “second wave” of critical legal studies. It argues, however, that the operative logic of IP law in late capitalism ultimately supersedes (or suspends) its traditional justifications—whether utilitarian, personality-based, or Lockean (Moore & Nimma 2022)—by subordinating them to a singular function: the creation and stabilization of assets. Where Borghi (2011) theorizes copyright as a sphere for the *communicative act*, this analysis instead treats copyright as a governing discourse that captures, and commodifies, the *prior agency of the work* itself.

The treaties that supposedly underpin author protection—namely the Berne Convention for the Protection of Literary and Artistic Works and the Trade-Related Aspects of Intellectual Property Rights Agreement (TRIPS)—function, in practice, as a global framework for commodification. Their core principle of national treatment does not, in itself, harmonize law; rather, it delegates authority, creating a territorial marketplace where states are licensed to implement the logic of asset creation. Thus, international law provides the legitimizing structure, while national law wields the operating tools. Within this permissive structure, jurisdictions enact markedly different balances between, on one hand, the author’s inalienable moral rights of attribution and integrity (Berne Convention, Article 6bis) and, on the other, the demands of the asset economy.

The “work for hire” of the United States (US) doctrine provides the clearest instance of this logic pushed to its extreme. It legally constructs the employer or commissioner as the “author” from the very moment of creation (Copyright Act 1976, section 101), performing a complete juridical severance of the creator from the moral authority and future fruits of the

work. A similar, if less absolute, common-law logic of dispossession operates in the United Kingdom (UK), where statute designates the employer as the “first owner” of copyright in employee-created works (Copyright, Designs and Patents Act 1988, section 11(2)). These Anglo-American models exist in permanent, systemic tension with the *droit d’auteur* traditions of civil law jurisdictions, which philosophically resist the full alienation of the author from the work and uphold the primacy of moral rights enshrined in Article 6bis of the Berne Convention. It is, perhaps, unsurprising that the international system thereby thus institutionalizes a fundamental conflict between legal philosophies, ensuring the “haunted tableau” of works-based agency is perpetually caught in a cross-border legal vacuum.

The consequences for individual authors are a direct, foreseeable outcome of this design. Seeking to navigate this territorial maze, authors find that purported safeguards are neutralized by its complexity. Statutory termination of transfer rights, designed to allow authors to reclaim their copyrights after 35 years as a corrective to unequal bargaining (US Copyright Act 1976, section 203), is often so complex—and weaponized by corporate rightsholders—that it fails to achieve its redistributive purpose (Menell & Nimmer 2009). The moral rights enshrined in Article 6bis, a core *droit d’auteur* principle, are routinely waived in standard global publishing contracts, often leaving authors with only a domestic “patchwork of protections” (US Copyright Office 2019)—a practical vulnerability underscored by scholarly critiques of the conceptual instability of the personality-based justification upon which such rights are theoretically founded (Simon 2023). Furthermore, procedural requirements for exercising such rights can be rendered null by common corporate structures like “loan-out” companies (Moss 2020). For the individual, invoking the international principles meant to protect them is fraught with legal peril. Recent novel litigation, where an author’s attempt to terminate a worldwide grant has led a US court into uncharted legal territory regarding the global reach of US copyright law, only highlights the chaotic conflicts this system generates (Moss 2024; Moy 2025).

Therefore, the proposed a-legal stance of “No Rights” should be understood as a tactical refusal of this entire territorial, state-centric architecture. It seeks an exit not only from the discourse of temporal commodification but from the Westphalian logic of the Berne system itself—a system designed to manage national differences in the service of the asset economy, not to uphold the sovereignty of the creative act. This legal architecture forms the very laws of cultural production that historically precipitate exile and failure. The cyclical fate of the artistic avant-garde provides a clear historical demonstration of this dynamic.

Avant-gardes come and go, and some are destroyed by subsequent avant-gardes. This is particularly true of architectural avant-gardes, but also literary and artistic avant-gardes. In part, avant-gardes are destroyed by criticism, with criticism being a form of cultural production that privileges diachronic time combined with narratology. Hidden within the history of the modernist avant-garde is, for example, anti-modernism. But what anti-modernism was able to detect and subsequently deflect was ideological content that disfigured the quest for the Absolute as presented through modernist insurrections. If that Absolute took on diachronic agency, or if it took on utilitarian concerns that aligned it with political or social agendas, the qualitative leap sought through avant-gardism was compromised. Many demolition projects therefore involved removing last traces of ideology to see what was left. Quite often there was nothing there. The ideological empty centre was exposed and the debris field included the presumptions of architects and artists, exposing works as secretly aligned with a demiurge.

If in 2001, amidst the last ravages of postmodernism, Roberto Calasso (2002) took up the subject of the “Literary Absolute”, it was in many respects an acknowledgment that cultural critique had once again become a spent force. The proverbial centre could not hold—as often is the case in times of crisis. All manner of contagions had been released from the postmodern Pandora’s Box. As Massimo Cacciari (2018) would note more than a decade later, Epimetheus had been turned loose while Prometheus was once again bound in chains. The social contract, always constructed and often enforced, needed once again to become optional. The escape route was almost always the same: exiting through “exile” and only returning through a renewal of works-based agency once again haunted by the Romantic quest for the Absolute (or the Infinite).

This all comes to a focus in the theologically inflected insurrection known as post-phenomenology. Within that particular turn was to be found temporally deduced traces of a sublimity long bracketed in art-world and academic discourse. In some ways it emerged from postmodernism (which had emerged from structuralism). What was finally at stake was a proper demolition of law—insofar as law signalled ideological reserves present in cultural production. Far from being a relativization of the Absolute, this shift in cultural perspectivalism (a peculiar game of parallax) sponsored a renewed instance of stepping outside of and beyond socio-political, empirical, or linguistic biases (as manifestations of law) to see what else was in play. This philosophical insurrection against ideological law finds its necessary, concrete counterpart in a legal insurrection against the statutory laws of copyright, which institutionalize those very biases.

As the first two decades of the twenty-first century played out, the field of intellectual and moral debris only grew more extensive, circling the globe and returning to source (crude, algorithmic techno-determinism, driven by market ideology), to be recycled or repackaged in entirely new forms associated with a highly debauched knowledge commons. The primary legal instrument enabling this debauched knowledge commons is the very system of IP rights that power and law enforce *en route* to destroying works-based agency. The absence of any emergent avant-garde during this 20-year period (versus neo- or retro-avantgardes) suggests that something had, indeed, been exhausted. Both the art world and architecture would attempt to revive cultural determinism through an accelerating set of interventions staged as cultural spectacle. Schools would repeatedly reconfigure their agendas to service capital while slowly destroying the arts and humanities, through de-funding the arts and humanities. The law of late capitalism was now commodify or perish. The arts and humanities are nominally useless to capital unless commodified, whereas uselessness is also their highest purpose. Indeed, it is the swindle associated with the 500-600-year history of IP rights, on behalf of the book trade, that remains the greatest hurdle today for scholars insofar as universities have introduced metrics and research standards that require the commodification of works. A system originally designed to incentivize creation has been twisted into a mechanism for the perpetual proprietization and metricization of knowledge, directly enforcing the commodify or perish dictate within academia.

The Romantic quest for the Absolute (as depicted by Calasso (2002) in *Literature and the Gods*) requires a quite different return to source, ending the cycle of appropriation and misappropriation. What comes in and out of view (as in a spirited dance with parallax) is when and how artists and scholars may become a law unto themselves. This is hardly a case of nihilism, even if certain forms of enlightened nihilism do embrace such an ethos. For an ethos of this order to emerge through works, there must first be an abandonment of law such that other laws may be brought into play through works.

Today this spirited dance requires the elective abolition of authorial privileges and an engagement with anonymity. This constitutes a refusal to engage with the law's governing discourse of temporal commodification and its constructed ambiguities. Anonymity is—in Calasso's terminology—the signature event of analogical creative expression. It is the obscure source, a door to the Absolute. If the Absolute is inherently non-commodifiable and exists prior to authorial identity, then any legal system whose constitutive function is to commodify and assign identity (ie copyright) constitutes, by its very design, a structural barrier to its access. It is also the source that

ideological agendas seek to overwrite by imposing the very laws of cultural production and commodifiable identity that this essay critiques. To erase these agendas and free authors and works to access the Absolute would require, in terms of IP law, an entirely new ecosystem for scholarship that permits authors to engage in collectively produced works of literary–artistic merit and to edition those works beyond Open Access protocols and beyond the metrics-driven systems imposed upon academia by the external forces of capital—competition, public relations, and so on. This is not an alternative licence but a teleological suspension of the legal framework itself—a stance that distinguishes itself from, for example, a Creative Commons Zero (CC0) dedication, by seeking not just to place a work in the public domain but to dissolve the author–work–property nexus entirely.

For the question and answer to become One, it is necessary to find (as Kierkegaard suggested) a form-of-life for life-works where ethos and telos merge (Kierkegaard 2019). Strangely, and given the place at which we have arrived in terms of the capitalist exploitation of knowledge, the implied lexical markers, Anonymous and No Rights, need a paradoxical adjustment through negation to ~~Anonymous~~ and ~~No Rights~~. What this confers upon works that engage with “the Absolute” is a set of a-legal terms that lead *into, through, and beyond* the prevailing venues and laws of cultural production as of 2025. The a-legal stance is thus not a nihilistic rejection of order, but a precise, tactical refusal of the logic of commodification—a logic in which the law’s primary function is to create and stabilize assets, a function that now often benefits platforms and capital more than authors. These measures introduce a measure of justice on Earth for the work itself, however temporal, and however endangered by reappropriation or coercion by law. This measure of justice is thus a restorative one: it returns to the work its primary ontology as a vessel of the Absolute, correcting the temporal and distributive injustice of a system that would reduce it to a mere asset.

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Gavin Keeney completed a research doctorate in Architecture at Deakin University, Australia, in 2014, on the subject of “Visual Agency in Art and Architecture”. Subsequent research projects include: “Knowledge, Spirit, Law” (2015-2017); “Lived Law” (2017-2019); and “Works for Works” (2019-2024). In 2024, he completed a second PhD entitled “Works for Works: ‘No Rights’” via the Postgraduate School, ZRC SAZU, Ljubljana, Slovenia, concerning the moral rights of authors in the age of cognitive capitalism, forms of scholarship that are also works of art, and editioning strategies for nominally useless works in the arts and humanities.

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