ANAMORPHOSIS – Revista Internacional de Direito e Literatura
v. 6, n. 2, julho-dezembro 2020
© 2020 by RDL – doi: 10.21119/anamps.62.667-707

THE ACTOR AND THE "NON-GRANTING" OF RIGHTS TO THE UNRECOGNIZED CREATOR

VICTOR GAMEIRO DRUMMOND[1]

TRANSLATED BY FELIPE ZOBARAN

ABSTRACT: This paper is an essay, in which the author promotes an analysis of what he calls the deficient conditions of author's rights. It also studies the lack of understanding regarding the creative process of actors playing roles, which leads to the mistaken concept of related rights.

KEYWORDS: Author's rights; philosophy of author's rights; actor's rights; artistic creation and performance.

> One day, Yoshi told be about the words of an old actor from Kabuki: "I can teach a young actor what movement is necessary to point to the moon. Now, between the tip of his finger and the moon, it is his responsibility". And Yoshi added: "when I act, the problem does not lie in the beauty of my gesture. For me, the matter is only one: can the audience see the moon?". With Yoshi, I saw many moons.
>
> Peter Brook

> The hard part of art is executing it. It is not possible to teach someone to have a spirit; but you can tell someone where to look in order for the spirit to visit us.
>
> Jean Guitton

> Even in the most perfect of reproductions, one thing lacks: the here and now of the work of art – its single existence in the place where it is.
>
> Walter Benjamin

[1] Post-Doctorate Degree in Law at *Faculdade de Direito de Lisboa* (FDUL). Doctorate Degree in Law at *Universidade Estácio de Sá* (UNESA). Master's Degree in Law (Legal Sciences) at *Universidade de Lisboa* (FDUL). Professor at the Post-Graduation Programme in Law at *Centro Universitário FG/BA* (PPGD/UNIFG). Visiting Scholar at *Universidade de Lisboa*. Visiting Scholar at *Universidad de Santiago de Compostela*. Collaborating Professor at *Escola da Magistratura do Estado do Rio de Janeiro*. Visiting Scholar at *Universidad Complutense de Madrid*. Coordinator of the Research Group *Cultura, Arte, Direito, Informação e Sociedade* (CADIS – *Culture, Art, Law, Information, and Society*). Guanambi (BA), Brazil. ORCID: https://orcid.org/0000-0003-4147-8783. CV Lattes: http://lattes.cnpq.br/4862618570634510. E-mail: victor@victordrummond.com.

1 INTRODUCTION

Performing arts are the union of words, feelings, and the truth according to a performer or actor, and to the audience or the viewers. To act is basically a creative process – and this idea is the foundation of this paper, which gathers Law, Philosophy, and theoretical conceptions on creativity and art.

This paper is a result of theoretical and critical analyses made in view of a legal-philosophical perspective, focusing on author's rights laws. These ideas were put together as an essay at first, with further bibliographic references added throughout the process, with emphasis to the importance of actors in this discussion.

My ideas are developed in three different aspects. Firstly, the analysis of the *deficient conditions of author's rights*[2]. Secondly, the enumeration of *semantic impurities* that are commonly seen in this legal category, especially due to the system's mistaken understanding of certain philosophical matters (such as the use of the expressions "related" or "neighbouring rights"). Also, the paper explains how these two approaches end up creating the third one: *the unfair (non) granting of rights to actors*, especially due to the lack of recognition of their condition as art creators, and the use of the term "related rights", which I consider incorrect.

These deficient conditions are of distinct natures, so I begin by mentioning them before the other contributions in our three-topic structure. By the end, these ideas complement each other, I anticipate, with the conclusion that *the author's rights system is deficient and inadequate with regard to the actor's condition as a creator-subject of audiovisual works*.

[2] Deficient conditions of legitimacy, deficient philosophical conditions and deficient semantic conditions.

2 DEFICIENT CONDITIONS OF AUTHOR'S RIGHTS[3]

Since their first developments in the first Brazilian national laws, and even before – when their "historical drafts" (as I call the printing privileges) were made, author's rights have suffered with deficient aspects, some of which were even noticeable at their times.

Nowadays, author's rights include problems of different natures, often linked among each other. I explore in this paper the ones I identify as the most important ones so far.

Firstly, there is a *deficit of legitimacy (or representativity)* when a third party represents the interests, rights or faculties of creators or performers, but this representativeness is not real or effective. Hence, there is a consequent decrease in legitimacy in the "distance to be covered" between the ownership of the creator's rights and the representativeness that, therefore, becomes deficient.

This *deficit of legitimacy* (or representativity) may happen when there is the possibility of transferring these rights for third parties that are not creators, and they take economic advantages over the situation[4]. Thus, another problem emerges: a semantic deviation, especially due to the use of the entitling expression in the legislation, not considering any matters that could lead to a philosophical justification of author's rights, which, by the way, should have always been the main point of author's rights themselves.

The *industry surrounding the creative process*[5] often appropriates these rights (either by contract or legal instruments, but also by political

---

3 I have been using, in several other philosophical studies, the term "author's rights" meaning all the legal apparatus the doctrine identifies as "related rights" of the performers and actors, in order to highlight my criticism of the system. The exclusion of the use of the term "related rights" in my doctrine has consequences, which I know of and I declare myself responsible for. The use hereby introduced, however, reinforces my criticism of the idea (thus established in the legal system) that the process of developing and interpretating characters by actors and other performers is not an activity of artistic creation.

4 This is the case, for example, of companies in the cultural and entertainment sectors that gain rights of contractual maintenance by means of assignment instruments, licenses, or other forms of transferring rights. Audiovisual producers, for example of the music sector, distributors, aggregators, in short, several companies in the cultural and entertainment sectors can be framed in this scenario. The same may happen with some collective management entities.

5 I could name it "cultural industry", but it is necessary to be more precise, and what is at stake here is the creative process itself.

means). This frequently happens fully ignoring the author, or not giving him/her due economic compensations. It is clear that there is a deficit of legitimacy when those who claim author's rights are actually representing their own individual interests, claiming rights that depend on semantic impurities (regarding the legislation's wording, as is developed further on)[6].

On the same line of thought, the *semantic deficit* is due to the poor wording when naming institutions, circumstances, and facts related to intellectual property as a legal genre. It helps the development of bad consequences because of the lacking philosophical comprehension of the system. This is especially seen in the "related rights" expression, which is the focus of this paper's criticism.

The elaboration of such narratives – either on purpose or as a consequence of tradition – creates misunderstandings on the need for a philosophical justification of intellectual property rights, and this maintains a semantically deficient environment. And this deficient condition precisely, together with philosophical deficit, isolates the fundamental creator to a locus of minor power in the system of author's rights, which creates a philosophical artificiality and prevents the authors of their rights with no escape.

Wording of names that do not correspond to the things is a serious circumstance that seems to be typical of the knowledge area of intellectual property, this expression itself also being a mistaken semantic attribution. Examples of semantically mistaken and formative (and fostering) expressions of the semantic deficit related to author's rights are: *moral*

[6] The possibilities of multiple and definitive transferences of rights – notwithstanding any legal certainty that may seem to be – constitute an example of a diagonal negotiation condition supported by a system that does not allow negotiations on real business possibilities. A clear example occurs in countries where actors, performers, and other audiovisual creators do not yet have a fair and due implementation for receiving rights for the works in which their creations were used. Hence, there is also the need for the understanding exposed in the present study of an actor's right and of an unrecognized creator's right (since this condition is ignored). Such balance, at the same time, could only be achieved by the exercise of such rights by collective management entities, or through a total modification of the system, which is unlikely in this period of history.

rights[7], *related rights*[8] and, even more comprehensively, I insist, the expression *intellectual property*[9] itself.

The *semantic deficit*, therefore, stems from the inappropriate terminology to name the circumstances of the authorial universe. In other words, it is a mistaken way of "naming things". This relates not only to naming, but to the attribution of rights (in addition to meanings), since names throughout history have appropriated the meanings that had been given to them.

Finally, the third deficit of author's rights (the main and most important one) is what I call *philosophical deficit* of author's rights. It represents the *hiatus of philosophical justification between what should be the protection of creators and what the legal system effectively proposes and embraces*. This deficit also relates to the semantic deficit, since many of the systemic expressions carry meanings that do not correspond to the philosophical justification that I understand should be the recognized one.

The philosophical deficit and the semantic deficit are indicative, as a consequence, of the semantic impurities of the system, which leads to what matters most to this text. That is: the weakness of the expression "related rights" when attributed to the actors and the disregard of their interpretations / activities as artistic creation by the legal system. This gives rise to a kind of *non-right of (consequently) unrecognized artistic creators*. Or a *non-right of artistic creators (by being) unrecognized*. There are apparently many possible expressions with negative content, but in fact, this is the factual circumstance and the position of the actors' rights in the scenario of the current author's rights system.

---

7 In contrast, there are no immoral rights, and, on the other hand, the expression *droit moral* in French implies a different meaning from its mere translation into *direitos morais* (moral rights) in Portuguese.

8 As already indicated, but it does not hurt to reinforce that this is a name that excludes some subjects who are effective creators (actors or performers, for instance), and include companies that do not bring any creative contribution so considered by the system, but solely economic support (broadcasters and phonographic companies).

9 Perhaps the most paradigmatic example of a semantic deficit is the name given to this very category of rights.

For the correct analysis of the philosophical deficit in author's rights, as a starting point, a previous question must be understood, which is the fundamental questioning of the order of philosophy by doctrine: *why are there rights to / of the author?* But there has been a constant question of what author's rights are, with a notion of previous interpretation to justify historical foundations and economic reasons (the economic aspect being accentuated a lot, which proves the philosophical deficit[10]).

The authoralist common sense[11] stems from the starting point of analyzing what author's rights mean and, on the other hand, what can be done to (re) adapt them to contemporary reality. So, the question that is asked about *what author's rights are* necessarily requires an understanding of those rights today, full of inauthentic prejudices and based on extra-philosophical valuations, which, as a consequence, leads to an evident and unquestionable relativization. On the other hand, and also a serious misunderstanding, the question of what author's rights are leads to an analysis of legal nature, which distances the search for the central philosophical content of the law under analysis[12].

The absence of such philosophical answer has existed since the embryony beginnings of author's rights, leading to the present state. To me, the answer has not yet been correctly found (or at least consolidated), with no harm to propositions and pragmatic solutions for the conflicts that have been arisen. From then on, the system of author's rights ended up being absorbed by the industry, which, safe rare exceptions, have held for themselves the only possibility of systemic control. Thus, for example, the difficulty in establishing fair conditions, despite the existence of right transference contracts. That is, the system has generally accepted certain forms of right transference and licensing (which is reasonably expected), but has forbidden others. From the point of view of its very systemic

[10] That is, a question that seeks economic answers carries the absence of philosophical justification.

[11] Adapting Warat's idea of jurists' theoretical common sense.

[12] Among the authors who propose philosophical justifications are Robert Merges (2011), William Fisher (2020), and Peter Drahos (1996), among very few others. Most of these authors search for answers to the legal nature of author's rights, therefore, with a philosophical analysis already delayed, as the law, in this case, is already set.

structure, aimed at transferring rights for the industry itself, it has not permitted the development of a balanced relation, in most cases, since other relevant activities for the existence and dissemination of works of art – which are products for the industry – are commanded by people who do not create art. Thus, the excess of power granted to publishing companies has been fought against. That is the case, for example, of literary works (which become book products for the industry) and audiovisual works (which for the industry are products such as movies, soap operas, TV series...), ruled over by big conglomerates of power, such as movie distributors and big TV channels[13].

But with this new technological axis also influencing the copyright and the author's right systems, new technologies have pushed the discussion even further, because now, not only does the right within the system become more difficult or unviable – when excessive or truly adherence contracts do not allow negotiations – as there is also a vilification and categorization of author's rights as something negative, perverse and contrary to society. The idea of a "natural predator" of freedom of expression, freedom of access, freedom of creation is visible then. And those who make use of such performance mantras[14] (which is how I define expressions that seek to create a reality by insisting on their diffusion, especially in the wrong sense) are precisely those companies interested in profiting billions without regard to the primary philosophical concept of copyright and author's rights, especially the large contemporary technology conglomerates that make use of content, data

[13] In fact, regarding the particular case of audiovisual works, it should be pointed out that the new technologies affect power relations in such a way that even companies that have been working in different platforms such as streaming apps or video on demand technologies have already been concentrating production, distribution and exhibition, which subverts the control logic highlighted for each of these activities, without a modification of the author's right system. In other words, the author's right system, again, allows the concentration of power in the hands of the industry, but in this particular case, even to the detriment of the old industry participants. From the point of view of copyright and author's right, the creators, actors included (as the system does not name them as creators) by contractual imposition, are evidently the most affected ones.

[14] On performance mantras, see the various texts in which the theme was addressed by me directly or partially (Drummond, 2014a, 2014b, 2018).

and information[15]. More than using works of art, I insist, those conglomerates hold a huge share of communication control, and substitute the old traditional media groups. This is a space of economic power that affects every human activity, such as the Law, and even enormously important ideas like democracy itself. It is an oligopoly that brings consequences to the legal sphere.

It should be announced that this discussion, as others, presents no doubts as for the fact that naming different systems indicates philosophical projections that make up an important semantic meaning in the context of the creation of the law. Whereas in England the right to make copies (or copyright[16]) is protected, with a declared objectivist and property character, the law of humanist philosophical tradition from continental Europe is based on the values of the individual having personal rights (*droit d' auteur*), especially due to the French Revolution and the philosophical thoughts of personal orientation, such as the writings of Kant[17]. Even though, in the realm of the author's rights system, there was a proprietary vision (the concept of ownership seems to orbit all the initial discussions of author's rights and copyright, even the personalist versions), a kind of proprietary-personalism can also be observed. This understanding of mine stems from the fact that even with the influences of the historical development of the French Revolution, which, to some extent, repositioned the individual (generally, but also

---

[15] Currently, some of the subjects that most act in the political scenario of discussions on copyright and author's rights are exactly the greatest enemies of such rights, like Facebook, YouTube, Google, and others.

[16] According to Rose (1993, p. 12), the term "copy" was traditionally used in the Stationers environment with one of two meanings: that of the manuscript itself and that of the right to make copies of it (including the manuscript as the basis for the copies). This indication is relevant to prove the aspect of the emergence of author's rights, whether in the copyright system, or in the *droit d'auteur* system, by then already supported by partly deviant semantic conceptions, which has fed the philosophical deficit of author's rights.

[17] About Kant, it is essential to understand the text *On the Injustice of Reprinting Books* (originally in German, *Von der Unrechtmäßigkeit des Büchernachdrucks*), published in 1785. The original version and the English translation are on: http://copy.law.cam.ac.uk/cam/tools/request/showRepresentation?id=representation_d_1785. Also, see the translation and brief comments on the text by Karin Grau Kuntz (2011). I also indicate that the German term *Unrechtmäßigkeit* can be translated as illegality, irregularity, illegitimacy or injustice. The English edition mentions the use of the term injustice, but the translation can also be found as unlawfulness. See, also, the comments of Friedemann Kawohl (2008). Buydens (2012) uses the French expression *illégitimité*.

regarding authorship), and developed the establishment of a symbiotic relationship between the author and their work, property still seemed to overcome the concept of authorship.

In the historical evolution of the systems, the legal and economic arguments that justified the implementation since the incipient catalog of rights must be analyzed, but it is essential to understand which philosophical reasons arose or failed to appear at that historical moment in order to understand the contemporary version of author's rights. It seems that this was not properly done by the doctrine, at least by the part that does not seem to care about the philosophical justification of author' rights. As a result, standards that seek to answer mere problems such as "*which legal nature should be applicable*[18]" or other mistaken assumptions (such as the semantic impurities that I present in this text and that name various foundations) have drawn the attention of thinkers from the core of this philosophical discussion[19].

The philosophical deficit of author's rights is, therefore, due to a misinterpretation evidenced in the historical moment of the system creation[20], which proves the lack of understanding of a philosophical justification for the attribution of author's rights as a legal category. Author's rights, to a greater or lesser extent, therefore, arose and developed their history with very little protection – to say the least – for the subjects that should own them according to their name[21].

In turn, the semantic deficit of author's rights ends up certifying sometimes in reverse, leading to a philosophical deficit. It is a cyclical relationship whose entrance door cannot be spotted.

---

[18] In this regard, see note 14 above.

[19] I have developed in several texts on the subject of the philosophical justification of author's rights since the thesis I presented to achieve the degree of Doctor of Law at UNESA in 2014. (DRUMMOND, 2014).

[20] It is worth remembering that, based on the development of the author's rights in our tradition in Portuguese, the royal privileges with the attribution of exclusive rights started with Valentim Fernandes, Jacobo Cromberger, Germão Galharde, among other printers and typists. In the year 1536, and then in 1537, Dom João III attributed privileges to authors (Gonçalo de Baena and Balthasar Dias) and not printers. The system (universally), however, ended up, in its creation, benefiting the investor and not the subject-creator, thus maintaining itself until today.

[21] Whom I've named as subject-creator.

3 THE SEMANTIC DEFICIT AND THE SEMANTIC IMPURITIES OF AUTHOR'S RIGHTS

As seen, the philosophical deficit ends up generating or at least being evidently related to a semantic deficit. Naming stuff may attribute them with characteristics and meanings that will lead to misinterpretations of the things themselves[22].

This is what happens with related rights and the consideration of the importance of actors as art creators, something this paper also develops further.

Before all that, however, it is necessary to understand that author's rights are filled with systemic incongruences and also artificial attributions that are simply named as author' rights even when they are not, which I insist.

See, for example, the so-called "moral rights", an expression that has come to mean a series of rights that stem from the creator's relations with the result achieved by their creation or interpretation. The work, as a result of such a process, must always have its author indicated (although other discussions have recently emerged on that matter, such as computer programs and, more recently, artificial intelligence). It turns out that the lack authorship indication does not lead to *contrario sensu*, to a form of immorality, when considering characteristic attributed to the law. The solution found – the universal export of the nomenclature – ended up also generating circumstances that do not correspond to reality. This is the case, for example, in Brazil, where judicial decisions are easily found in which moral damages are attributed to moral rights, which shows an evident confusion of concepts. It is not my intention to indicate that violations of the so-called moral rights are not configured as violations of a moral order, but one cannot start from this point as a paradigm of semantic appropriation for the whole of this idea. This is evidently a semantic impurity. For example, one of the moral rights provided for in

[22] I could have developed the semantic deficit in the chapter of the philosophical deficit, but as said before, this text was composed of the sum of isolated works that correspond to my research on a philosophy for author's rights. Thus, my reflections on the semantic deficit are developed according to the text that originated this chapter, while those previously referring to the philosophical deficit come from my doctorate thesis published in 2014.

Brazilian law (as well as that of other countries, such as Portugal and Spain) is the right to have access to a unique and rare copy of a work. This right, in fact, is more for cultural preservation than it is properly related to the creative personality of the subject-creator.

In the same sense, the legal genre called "intellectual property", where the "author's rights" category is included, according to the dominant terminology in Brazil[23], is filled with a series of inadequate and semantically mistaken nomenclatures. Hence, its way of naming is also inherently mistaken in terms of hermeneutics, starting with the idea that it is an analytical universe of "property". See, this idea is a mistake, since it is not a concept about property[24]. The discussion, which often appears to be overcome by the universalization of the term "intellectual property", reappears when diverse indoctrinators make use of other ways of naming them (intellectual rights, exclusive rights, rights of the spirit) often with the purpose of proposing one of the meanings of the expression (in fact, of the system itself). For me, it is urgent, more than to merely rename it, to re-understand the system, so that it is possible to analyze the way it is named and, therefore, what it effectively means.

This discussion has happened historically in several moments. For example, there was a high-level technical discussion between two of the greatest Portuguese nineteenth-century intellectuals, Almeida Garret and Alexandre Herculano[25], on that matter, among others.

Another semantic mistake, perhaps the worst of them, is the expression "related rights", which shows an evident deviation and contribute to the philosophical (thus, semantic) deficit. The main expression of that mistake is the attribution of the so-called related rights

---

[23] But it is called in several other countries of the system originated from France and was later named as author's rights and related rights.

[24] On the other hand, the system has other mistakes, such as naming authors physical persons, as if there were a previous condition of holding a legal stamp of physical person in order to be an art creator, when it is obvious that the condition of subject-creator would give one full conditions of being protected by the law.

[25] "The opposition of ideas between Almeida Garrett and Alexandre Herculano left the foundations of their opinions very clear: while Herculano was concerned with eminently technical-legal aspects, Garrett centered his arguments in the practical reality then lived by people who took part in creative processes of literary and artistic works, clearly more concerned with economic consequences than with legal ones" (Drummond *et al.* 2018, p. 90).

to radio companies and record labels, at the same time as the expression is also used for interpreters and performers[26].

Particularly, as indicated, in this paper I deal with the critical analysis of the realm of actors and actresses, that is, in the sphere of the audiovisual interpreters and performers.

The mistaken nomenclature is indeed inadequate to name the rights of actors (who are creators in essence, as a profession), but the related attribution to another group reaffirms its total inadequacy. In addition, obviously, there is an amalgamated link between the *semantic deficit* and the *philosophical deficit of author's rights*.

It does not take much effort to understand that *artists who contribute or artistically add to a certain work have no similarity to the financial investor of such a work, which, it is supposed, becomes a product*. Now, the contribution of a singer to a song and an actor to a role to be played are not, in any way, similar to the role of the phonographic company or even that of a broadcasting company.

Anyone knows the difference between a financial investment and an artistic-creative act. Therefore, the question that must be emphasized is, if the acts themselves have no relation to each other, nor even any similarity, why should the legal same name be applied for both situations? It is a rhetorical question and, although it looks like a legally sophisticated discussion, I am afraid it is quite basic. And in this sense, it becomes even more blatant how the professionals of the area do not understand what they are dealing with.

[26] Eboli (2003, p. 32) accomplishes a very enlightening narrative on the subject, accurately mapping each national legislative evolution, regarding the expression "related rights". It is important to highlight a short excerpt: "It was through phonography and cinematography that the creative effort of the artists became capable of being fixed and reproduced, a fact that allowed the interpretations and performances to be communicated to the public, regardless of the physical presence of the respective performers, through discs and films. Faced with this new reality, a movement arose in favor of the recognition of rights for performers, extended to those who carried out the fixation of their interpretations, that is, the phonographic and cinematographic producers, to whom rights would be attributed for the same reason why rights are attributed collective organizers. Although there is an old awareness of the intrinsic value of artistic interpretations and performances, it was only in the 20th century that it appeared in the laws, in a more or less defined way".

It should be said that it was exactly what the system proposed, by naming different factual circumstances by the same expression (related rights) even though they share no similarities whatsoever. Now, when attributing the term "related rights" to such different categories of people (which includes legal entities, as it turns out) in equally different circumstances, the philosophical and semantic deficits of author's rights reach one of its most negatively radical moments in the system.

That is, within the system of author's rights legislation, the expression *related* obviously means "similar", "connected". The expression is used in Portuguese (*direitos conexos*), Spanish (*derechos conexos*), and Italian (*diritti connessi*). It also means relative proximity, thus the expression *neighbouring rights*, in English, and its equivalent *droit voisins*, in French. Sometimes the physical metaphor is not used, but the idea of closeness is maintained, such as with the expression of proximity *related rights*. Being closely related, in Law, however, means to be different. Otherwise, no other name would be assigned. One right compared to another may, being very or somewhat similar, have a comparative measure that names them for such proximity. Proximity, therefore, proves that there is something different.

By naming the activity of an actor or actress as protected by a related or neighboring right to the author, the system excludes the understanding that the actor or actress, interpreter of the world and user of their own body in whole or in parts, voice and spirit, *makes use of this complexity to compose a character and to be considered a creator*. And some even defend[27] that, in a certain way, character composition goes through the creation of the other characters with which the actor interacts: "an actor must first create the other characters in the interaction" (Tavira, 2013, page 84, translated).

[27] That is the case of Tavira (2013, p. 84, translated): "To create the character, an actor must first create the other characters in the interaction. Rather than worrying about the creation of the character he embodies, the actor must take care of the creation of the characters he does not embody. The character in his privacy does not know who he is. In the scene, he knows that he is in front of the other. What the other finds out of who he is. That is why the most valuable creations of an actor are precisely the characters that he does not embody".

One character will never be the same as another because there will never be two equal actors, which is obvious. The fact, therefore, is that it is not just an interpretation or performance. The constitutive act of interpretation in the creation of the character is within the interpreter, a constituent part of it. Thus, by assigning a condition and by applying semantically an expression that differentiates one right from others, *a creator is set apart from the condition of creator*. This unrecognized creator receives a consolation prize that comes to be characterized as a right that, after all, is a minor right, which is the complex of faculties, rights and obligations known as "related rights".

Were it not enough, financing companies that contribute nothing to the creative process, among which the phonographic producing companies and the broadcasting companies, receive, in an absolutely contrary way to the exclusion of the actor-creator, the same recognition for the attribution of rights, which is: *related rights*!

Now, if there is a right arising from the process of creation by performing, it really should not be a merely "related" right. Even so, considering this eventual "systemic philosophical-semantic" defeat, calling it by the same name of a right that brings together those who have not contributed to the creative process is even more scandalous. In other words, companies that do not contribute to the creative process join the system with a philosophical-semantic overvaluation and, at the same time, exactly those who should deserve to be considered systemically creators, since they really are so, are set apart from the core of the creative process within the system itself.

It is delusional to think that the system itself will solve this disturbance, but there is a blatant need for it to be pointed out in the most critical way possible.

As a way to further point out this systemic inappropriateness, I understand that there must be some deepening in understanding what the creative process of the actor actually is (what I will do next). But before that, let us refer to Bakhtin:

> In fact, the artist works on language but not as language: as language he surpasses it, as *it cannot be interpreted as language in its particular linguistics* (morphologically, syntactically, lexically, etc.), *but only*

> *to the extent that it comes to be a means of artistic expression* (the word must cease to be felt as a word) (2011, p.178, translated, emphasis added).

Well, the ability to overcome the written language that is presented as a starting source for creation and using all one's existential, physical and psychological framework, should definitely be something praiseworthy for the law in the attribution of values and, therefore, rights.

Next, I bring some important historical and philosophical elements to justify the lack of consideration of the actor – from a legal point of view – as a creator.

4 HISTORICAL ELEMENTS FROM THE LATE NINETEENTH CENTURY TO UNDERSTAND THE SYSTEMIC UNRECOGNITION OF ACTORS/ACTRESSES AS CREATORS

There is another element to be thoroughly analyzed. It regards the national liberal legislations, those developed in the nineteenth century, such as the whole of the Portuguese constitutional-legislative evolution. Such context is noticeably the locus for an important characteristic when it comes to author's rights: these legislations dealt with the hypothetical usage of works that, at that time, could be economically explored. The objective of that exploration was clearly the use with aims of profiting commercially. One may say it is not necessary to write an academic text to reach such obviousness. At first, I would probably agree with that.

However, as is known, nowadays, the conflicts of author's rights have been linked to an excessive attempt by authors to hinder access to their own works. In fact, this idea is mistaken in different levels. One of the reasons is the fact that usually it is not the subject-creator the one who makes it difficult for the market to have access to works of art, but it is rather accomplished by the whole of cultural industry, especially by those companies that own huge catalogs of works and their respective patrimony and copy rights. This happens in the realms of music, literature, visual arts, and several others.

On the other hand, there is a misbalance between the potentialities of using works of art nowadays in relation to the way the law saw it in the eighteenth and nineteenth centuries, with the consequences of

technological development. On the one hand, technology is linked to the idea of multiplying the access to several works, and obviously in contemporary times these possibilities have been enhanced, due to new ways of reproducing and using artistic objects, much differently to the way it used to happen from the sixteenth century. The very creation of art has been changed radically since then.

I analyze, to take as an example, the partial evolution of Portuguese author's law, one of the countries that, as a result of the French revolution and liberalism, allowed legislative evolution.

When tracing an analysis of the constitutional protective evolution from 1822 to 1867, in Portugal, the presence of very few forms of commercial exploitation is evident. Also, above all, there was a blatant absence of the types of works that could generate such acts. It is worth remembering that the phonograph was invented in 1877, the cinematograph in 1895 and the radio in 1896 (see table 2 with other important technological innovations). Therefore, discussions about other forms of multiplication of access to works, whose first paradigm was reproduction, would only occur when these forms came into existence. The same phenomenon would also occur at other times in human history, such as the development of the Internet in the 1990s and, more recently, of the social networks.

What I intend to conclude with these facts is that *the protection modalities provided for in the laws then developed did not include performers of the audiovisual sector, as there was simply no audiovisual technology*. On the other hand, there were interpreters, although the concept of interpretation is uncertain, but they used to be paid by the public, for participation in the theaters, and when there were other possible forms of payment, such as private hires – which I do not intent to develop further.

In any case, it should be noted that there was no questioning, either, about the creative process and no reason to rule out, when appropriate, the understanding that the actor's performance was also a process of creation. That is, when there was no consideration of rights to be shared within the scope of the author's universe, there was a sharing of payment

that did not discuss about patrimony, copy or author's rights, or even related rights, since the performers were paid for their activities. It obviously does not mean they were well paid, or that there as a perfect balance in their relationship to those who paid them, such as directors, producers, theater owners, etc. However, there was not a multiplicity of categories that could generate more or less economic valuation for theater performers in relation to authors, for example. As for these authors of theatrical works, they soon started to seek specific remuneration (which would be later fully provided for by law[28]) for their profession. Interpreters and performers were not there. There could obviously be a potential conflict hypothesis due to the disregard of the creative process, which also includes the actors' craft, but particularly on this occasion, what was possibly observed was an equally hypo-sufficient condition, both for playwrights and interpreters, due to right unrecognition. It turns out that for the actors there was no compensatory right or any protective law related to the exploitation of their works, since they were not (nor would they be later) considered authors, a fact that, as I widely expose, is configured as a mistake from the philosophical point of view. Not only for a fair sharing of rights for performers in those ages, I insist, but because once new technologies were developed, rights linked to new forms of exploitation were considered. This is because the logic of copy and author's rights should be: since a significant part of the cultural industry is waged, everyone must also be waged, including the creators.

The greatest gravity, therefore, is not due to a discussion (which would then be pointless) about the creative process of each of these categories, since there was a different nature for its development, but from the same source: part of the ticket office profit would go to authors (when this right is consolidated) and part of the box office would pay the performers, the company, etc. The question of other types of payment as a consequence of the plurality of commercial exploitations would arise later, when the modalities of commercial exploitation were imposed and the

[28] In the specific case of Brazil, this would occur in an effective and organized way only from 1917 with the foundation of the Brazilian Society of Theater Authors (*Sociedade Brasileira de Autores Teatrais* – SBAT).

performers were considered mere holders of second category rights. But this lessening of importance, it should be noted, is not due to any action from the part of the authors to the detriment of the performers. In other words, if the authors did not propose the inclusion of performers as creators (it seems that is the case), it cannot be said that they had deliberately excluded them during the consolidation of rights, at least in general terms and with respect to the first laws from nineteenth-century liberal copy and author's rights.

At the time, as is well known, author's rights were based on the possibility of compensation by multiplying access to works, which, technologically, was characterized at the time by a mere activity: reproduction. Therefore, at that historical moment, there was no clarity as to the figures of the authors and creators, there were no rights specific to each category and even the necessary distinctions between patrimonial and moral rights (not even the eminence of such concepts), and copy reproduction was the idea to prevail. It was often seen from the perspective of a technological issue, and not really a legal matter. Hence the system was based on the concept of copy reproduction for all its purposes. And, obviously, it represented 100% of the possibilities of acts of commercial exploitation, a fact that proved to be totally outdated once what I call the *technological-legal continuum* ended. Here, a note: the *technological-legal continuum* is the historical circumstance that identifies that there was no technological development of new technology devices, tools or instruments since the appearance of the press until the end of the 19th century that implied an expansion of the legal concepts which could influence the copy and author's right system (see Table 1) [29]. An author's right, therefore, meant the right to make copies as, moreover, in the eighteenth century, the English law well named. Therefore, copy reproduction would therefore come from one of two hypotheses: creation (in a more personalist look) and investment (in a more commercial look).

[29] With the honorable exception of lithography, which was invented between 1796 and 1798 by Johann Alois Senefelder, exactly because his texts were not printed by the then typographers / printers.

The discussions, however, would take place between one or the other position, without other variations[30].

In general lines, therefore, there is an evident legal development granting rights to authors without any consideration of performers, from the point of view of the concept of authorship, and this is already evidenced. As there was another form of payment, there would be no reason to establish a full discussion within the scope of the Law to guarantee the emergence of rights to the interpreters and, therefore, they

[30] Here is a brief note about the beginning of the press. In other words, about the development of the press in Europe as a result of the inventive deeds of Gutenberg and his company, which also included the investor Johann Fust and the scribe and engraver Peter Schöffer. The press developed in this historic moment was made possible by the assimilation of a series of concepts, such as the possibility of producing quality types in large numbers; that the metallic alloy used could allow greater durability, that the use of ink could be well applied to the paper, that there was enough paper in Europe, and finally (among other possible factors) that there was a possibility of making use of pressing mechanisms already applied in wine production. A side note is that it is important to remember that there was a lawsuit dated 1455 in which Fust demanded from Gutenberg the return of the amount of more than 1,600 florins borrowed and indicated, as one of his witnesses, Schöffer himself. Then Fust and Schöffer would be partners in the most prestigious undertaking in Mainz (Mc Murtrie, 1982). On the other hand, it is common knowledge that inventions are a consequence of a series of individual or collective acts that, at a given moment, allow the transition from mere ideas into practice. Hence, the intellectual property system does not protect ideas through exclusivity, but it does so in the form that an author / inventor can give to ideas – in a very synthetic way. Gutenberg's intention was to produce books, but before that, he had looked at the opportunity to produce the so-called "pilgrim mirrors" so common in the city of Aachen (Aix-La-Chapelle, for the French), considering the historic opportunity of h the local market. Gutenberg, with the participation of Fust and Schöffer, promoted the impression, initially, of Donatus's Latin grammar, of indulgences (quite sharply) and of propaganda leaflets against the Ottoman Turks after their taking of Constantinople in 1453. Only after this period the most relevant of the challenges began, the impression of the Vulgate, the bible of St. Jerome. From there, in fact, Gutenberg began the greatest attempt that would transform the press as a major modifying factor in the direction of humanity. And it wouldn't be long. Perhaps the first among the historical facts of great relevance is directly connected to the development of the press and is, about 60 years later, bluntly evidenced. At the beginning of the 16th century, around 1517, Martin Luther began to question the Catholic Church about the sale of indulgences, which at the time were marketed systematically. First at the door of the castle church, as the publication of writings from the University of Wittenberg was considered. Having no effect, he started writing sermons, first in Latin and then in German, and with that, his texts began to be printed. In establishing this change of axis, Luther made use, for the first time, of the press as a vehicle against already established institutions. As Puchner says: "Luther realized that the press could be a powerful weapon for a writer like him, without institutional power, but with public opinion on his side" (2017, p. 211). Luther, with this, was the first author to have popular texts published under his name, especially with several prints and reprints. In other words, in one stroke, the historical development of the press promoted the use of new technology as a tool against oppression, allowed a position contrary to an institution such as the Catholic Church, paved the way for the development of the Reformation and led authors to benefit from the new technological form for the publication of their texts.

were not considered, at the time, as interpreters with specific rights (differentiated may be a better word), nor as authors for their participation in the creative process. And, as a consequence for the effects of authorship, they have not been considered authors since then.

TABLE 1 – Technologies invented during the technical-legal *continuum* of author's rights

Technology	Inventor	Creation / invention date
Press (movable types)	Johannes Gutenberg	1450 (c.)
Lithograph	Johann Alois Senefelder	1796 / 1798
Phonoautograph	Léon Scott	1857
Vibroscope	Thomas Young	1857
Phonograph	Thomas Edison	1877
Cinematograph	León Bouly	1895
Cinematograph	Lumiére Brothers (Auguste Marie Louis Nicholas Lumière e Louis Jean Lumière)	1895
Radio Transmission (Tesla hypothesis)	Nikola Tesla	1894
Radio Transmission (Marconi hypothesis)	Guglielmo Marconi	1896

Considering the historically real fact that in fact the performers could not actually be participants of copy reproduction as was then understood, therefore, it follows from the historical evidence that the reproduction would not include their participation in dramatic works. But taking for example the Law of Portugal of 1851 (see Table 2), the exclusion of performers from the list of beneficiaries is evident, but in this particular example, at this precise historical moment, it is fair and due. There was no creation to be reproduced in copies. This logic is correctly processed up to the present and is not questioned by the interpreters as to the possibility of printed reproduction or its current variations (by other forms of written transmission of the word).

Note that Portugal's 1851 National Law is a historical continuation of the 1839 bill (proposed by Almeida Garret), but, in the course of the preceding period, it did not constitutionally guarantee copy and author's rights in the nineteenth century constitutions. What is more closely observed is the guarantee of the rights of inventors in the constitutional texts of 1826[31] and 1838[32], a circumstance that did not occur in the text of

[31] The 1826 constitution also established the right to property (art. 145, paragraph § 21) and the right to property to inventors. There was not a constitutional form of rights (of any nature) to authors. (art. 145, § 24- Inventors will have ownership of their discoveries, or of their productions. The Law will ensure a temporary exclusive

e 1822[33]. Regarding the validity of the Portuguese constitutional texts, there is some complexity whose specificity could not be described in this text, but which deserves, by the most interested reader, to be later examined.

The fact is that the 1839 bill (proposed by Almeida Garret) and the 1851 law, due to the evident temporal proximity, correspond to the same historical context. This same historical context, moreover, corresponds, even from the point of view of technological development, to the same continuous line after the emergence of the press that I have named (as indicated) as a technological-legal *continuum*. Garret's project, which moved slowly in the period for various historical reasons, established in general terms the same foundations of the law that ended up being approved in 1851 and which was the first Portuguese law to exclusively govern the matter.

Article 1 of the Garret bill established an exclusive right of exploitation for all authors of any writing, music composers, painters, designers who wished to print, lithograph or record their works, that is, always involving the act of copy reproduction. It extended the same rights to recognized corporations or societies and established terms of protection and other circumstances in its 11 articles.

In other words, there was no technological development from the fifteenth to the nineteenth centuries that could influence new legal needs, and that could, therefore, fundamentally interfere in the discussions of what came to be called author's rights or copyright.

Privilege, or remunerate them in compensation for the loss they may suffer from vulgarization).

[32] Also, in the 1838 bill, there was no inclusion of rights specifically related to the protection of copy or author's rights, with only the maintenance of the elements already indicated regarding the protection of private property (art. 23), freedom of thought and the press (art. 13, § 1 and § 2), freedom of office and craft (art. 23 and 3) and, finally, the right attributed to the inventors, following the 1826 constitution (art. 23, § 4). The discoveries are the property of their inventors, and the writings are the property of their writers, for the time and in the form that the Law determines.)

[33] The 1822 constitution established the right to property (art. 1, 6) and the free communication of thoughts (art. 1, 7), establishing a specific court to protect press freedom (art. 1, 8).

TABLE 2 - First national copyright or author's rights law in Portugal in 1851. Right holders, granted rights, and works corresponding to the rights.		
Holders	**Granted Rights**	**Corresponding Works**
Authors of literary works.	Right to publish or authorize the publication or copy reproduction of the work and the right to edit (variation of the reproduction right) (art. 1 to 9).	Literary works or any other written reproducible works.
Playwrights (authors of theatrical works).	Right to use theatrical works, specifically the right of representation and performance (art. 10 to 16) with the expansion of the copy reproduction right (art. 17).	Theatrical works, therefore, also capable of written reproduction.
Visual artists ("products of the arts of drawing" authors – according to the title of the law).	Right to reproduce the work and authorize the reproduction (art. 18 to 20), with the guarantee of the property right to the author.	Works of "drawing, painting, sculpture, architecture, or similar works" as described in article 18 of the law.

As can be noticed in a careful reading of the Portuguese law of 1851, the list of rights is based on the only technological projection possible at the time, which was (I'm repeating myself): copy reproduction! In other words, tracing the same common road since the advent of printing privileges in the sixteenth century until the middle of the nineteenth century, the only possibility of multiplication of works to be implemented would be reproduction. Author's rights, until then, would universally correspond, in fact, to the name given to it by the English: *copyright*. As I have said, despite any criticism that can be made of the British from a systemic point of view, especially because of the predatory consequences that ended up being developed by the copyright system, the truth is that semantically, at least on occasion and in practical terms, they were much clearer than the French and other intellectuals who sought to define the system as author's rights (derived from the French *droit d'auteur*)[34]. For a simple reason, the hypothesis of transferring rights provided for in the legislation, which ended up becoming legally developed in the historical process, completely frustrated any and all efforts to guarantee a protective logic of the creative core of the arts. In other words, the very naming of a system by the name of the subject that is dominated by it demonstrates how the subject-creators (from French playwrights to contemporary times) could not face the domains of the industry. The chapter referring to

[34] Although, obviously, it must be relevant to take into account the French revolutionary ideology, whose objective was, among others, to re-signify the condition of the subject before the State and before the laws.

the actors is just one more among them, although with bigger exclusion refinements, as can be seen.

As a consequence of this historical development, the actors were isolated from the condition of authors because of the form of commercial exploitation actually excluded them, that is, in the act of copy reproduction their performing creation did not count. It would not be different, but the condition of creator on stage, in the performance, should have been clearly defined as creation, but it was not. As a consequence, subsequently, their activity was not considered to be significantly sufficient to be named as creation, and thus, performers were excluded from the recognition as creators of work, which they fundamentally also create.

Is this exclusion a consequence of the historical development of reproduction as the only way to multiply access to works from the fifteenth to the nineteenth centuries? Initially, yes, but not only that. Subsequently, with the advent of audiovisual arts and their non-participation in the scenario of national and international representation and for economic, political and other reasons, the right that was assigned to them, in a second moment, would be considered minor. At this point, it was too late to consider the actor as a creator, at least for the copyright or author's right system that had become universal since then. However, to reduce their condition from an economic point of view is another serious moment and matter[35].

There are many other relevant issues, but for the purposes of the discussion that I intend to present regarding the non-consideration of conditions of protection by the act of creation, this is what matters most to indicate. Hence the idea of a "non-creator actor", or the "unrecognized creator", or the "unnamed creator (in the sense of not receiving recognition)". This subject is, tautologically, in all these possible versions of nomination, excluded from the condition (even potentially) of an art "creator".

[35] The disqualification of the rights of performers, however, did not occur historically only in the eighteenth century, but spanned centuries to the point that, in the 1990s, Spanish law named the moral rights of interpreters as "other rights".

In order for the understanding to happen in an indisputable way, I will try to expose basic foundations about the creative process of the actor, so that what has already become evident at this point in the text can be seen from these pages directly by the minds and hearts of the reader.

5 THE UNRECOGNIZED CREATOR OR THE NON-RIGHT OF THE UNNAMED CREATOR: HOW THE LAW FORGOT ABOUT A CREATION FORM WHEN TRANSPOSING REALITY TO NORMS

Now that the main historical reasons for the exclusion of actors from the author's rights system are clear, it is important to highlight the motivations for stating that the law is mistaken in is interpretation.

Art creators, especially actors and actresses, have been seen as marginalized artists, and, to this day, such prejudice is still alive in many societies. Actually, in many countries, the profession of actor is not even regulated[36]. It means that acting is barely seen as a profession, which is an offense against the freedom of such an ancient profession. Actors are thus excluded not only from the legal system that should support them, but from society as a whole.

Coming from ancient times are both the legal exclusion and the general lack of consideration about the function and the importance of actors and actresses. On that specific matter, Barrientos (2019, p. 140) brings strong justifications:

> The disqualifying testimonies of the comedian[37], *both artistically and personally and as a group, are repeated in a continuum*. Throughout the eighteenth and nineteenth centuries, the criticism goes back to Greek and Roman authors and the holy fathers of the Church, accumulating authorities that condemned attendance at theaters and those they represented. The opinion is not only Spanish; The same was thought throughout Europe, despite the exceptions that are always remembered in the comedian's vindictive writings. [...] *When eighteenth century intellectuals begin to reflect on the value of the scene as a*

[36] Especially in countries where the activities of artists do not receive due consideration as a profession, taking the Portuguese-speaking African countries as an example. Brazil, in turn, had this profession regulated through the Law 6533/78.

[37] Although the expression "comedian" can be better related to the act of doing comedy, it is also used in the sense of actor, one who does theater.

> *transmitter of messages and, therefore, of comedians as mediators of them, they start to wonder how it is possible that those who collaborate to the education of the citizen are so badly considered* (translated, emphasis added).

The last sentence of the quote deserves continued reflection and shows not only the lack of understanding of the actor's craft but also the lack of understanding of their role in society. And the most amazing thing: these ideas about the craft and the function of actors have changed little since then. Ignorance of the actor's craft and their social function has become a dominant narrative over the years due to pressure on the author's right system, whose domination – it never hurts to remember – is the cultural industry. Within this narrative lies the (mistakenly widespread) idea that the actor's greatest difficulty is to memorize lines. The same occurs, equally astonishingly, with the myopic prejudice on jurists, whose greatest difficulty is supposed to be "memorizing laws and articles".

On the other hand, as Smith, Parussa and Halévy (2014, p. 22) point out: "Man is the first news vehicle. No information can reach a recipient without his help". I venture to go further and more precisely to the theme of artistic creation: *man is the primordial vehicle of art, and the artforms that in essence manifest themselves through the use of one's body and mind, they are the most obviously linked artforms to the creative process. Performance, therefore, is the only artform that does not use any level of technology. Pretending to be someone else does not imply any technological use of resources*!

This makes the performing arts, at the same time, perhaps the most primitive of creative crafts, and consequently the most universal and democratic of them. *In other words, when considering the "act of telling stories with parts of the body and voice" a creative process, humanity becomes practically and integrally inserted in the context of this creation*. Otherwise, to stop considering acting as a creative act is to say that humanity is not creative, which is absurd. If humankind had not been creative, it would not have survived

However, storytelling can take place in different ways. It should be noted that in many historical moments, considering the different notions

of culture, the figure of the storyteller has been intrinsically related to what it represents. Vargas Llosa (2013, p. 12) indicates that by pointing out some different meanings for the notion of culture:

> Throughout history, the notion of culture has had different meanings and nuances. For many centuries it was an inseparable concept of religion and theological knowledge; in Greece, it was marked by Philosophy and, in Rome, by Law, while in the Renaissance it was shaped mainly by Literature and the Arts.

What I observe is that especialy the areas of knowledge pointed out have inseparable links with different ways of storytelling, from preaching, through Greek philosophical lectures and Roman tribunes, to the Renaissance's "pictorial accounts" or the most evident of all, literary written forms. In one way or another, narratives are there and, in many of these cases, they become effectively possible as such through orality and performance. It is the evident case of Religion, Law, and Philosophy. Now, in these three areas of knowledge, the presence of the storyteller through orality means that the stories can, in fact, reach their final recipient.

It may seem like an exaggeration, but if we consider the history of humankind from the perspective of a collection of narratives, it can be understood that whenever someone tries to convince another that a story is true or worth listening to, they will be interpreting the world (and a sum of narratives together with their subjectivity) and acting, particularly with aims at convincing.

Put more simply, performance and acting are present in many abilities of human life, and in diverse and distinct areas of knowledge.

Law is, interestingly, an area of knowledge that makes use of performative sense as a condition of possibility, and yet it precisely neglects the protection of the actors, making their protection in the realm of the Law below the factual reality. In other words, *the Law does not recognize that the actors' creative act is even creative, since it diminishes and distances them from the creative-authorial conception*.

It is precisely because of this mistake in the Law that we must understand what it is to *act*, because this circumstance cannot be part of a lack of knowledge enclosed in the cave of the Platonic myth.

It is not easy to "become" a different person. It is not easy to transform oneself into somebody else. It is not easy to transitorily change one's essence to another's essence. This is, thus, the work of the actor. The work of a performer of the world he or she observes. *The essential hermeneut of the arts, for they are full body and soul hermeneuts!* Their observation is so fundamental that they can transform it into characters and tell stories. In the world of artistic expression, actors are the hermeneuts par excellence. The Law should, thus, be more sensible towards the actors, who are creators with a certain "transitory schizophrenia in the creative process". The transformation into a different personality should be allowed in the realm of author's laws, and these laws should be named after what they stand for: creation. But the system has done otherwise. It has promoted the exclusion of an entire creative category by enclosing them within a minor locus of legal importance. It is a kind of second category protective legislation, a minor set of faculties, due to a simple idea from the people who make the law, which is opposed to what those who understand the creative process think.

This alone should be a scandal. And it is!

As Schelling once said (quoted by Ruggero, 2008, p. 215): "an artist is one who shapes matter according to their own previous life". Or as Ruggero (2008, p. 437) also indicates, "they are the sculptors who carve themselves, who translate their attitude with an attitude, a gesture with a gesture, the smile with the smile, the tear with the tear". Metaphorically, an actor is both the score and the notes that compose them. Static scores then gain movement. Written notes and say nothing or do not mean anything when they are not being played. The same is true of letters and phonemes that, on stage, only exist through the creation of the interpreter.

Considering the fact that actors give themselves fully – engaging their body and soul into their art – it is not plausible at all to defend they are not part of a creative process. Their resource is not only their bodies, but also their souls, the very interpretation they accomplish of the world reflected in a way to cause feelings among the audience, generating a sense of reality. Recalling Strasberg (1990, p. 152): "One should draw attention to the fact that, in all performing arts, with the exception of theatrical representation, the artist has an instrument that is not part of

their body and that they learn to control". The necessary technique for the performing act is fundamental for the better development of the character, but it does not diminish in any way the delivery of the actors to the role and the compromise with the complexity of their resources.

Due to the nature of this art, there is not and there never will be one performance equal to another, which puts actors on a spotlight within the creative process. As a consequence, the performance of actors and actresses is so unique that it is immune to plagiarism. When Gompertz (2015, p. 86), in his work *Think as an artist* (originally, *Pense como um artista)*, attempts to stimulate all the people to use the creative process, he says "observe the beginner work of any novice artist, and you will see an imitator who has not yet found his / her own voice". From the point of view of a creator, there will always be, in fact, influences and previous elements that lead the creation to be this or that way. But there is no doubt that, in the case of the actors and actresses, it is impossible to deliver a servile copy or plagiarism identical enough to fully make people confuse the artists with another that preceded them. A novice performance may bring about memories, reminiscences, but never plagiarism, due to an impossibility resulting from the use of the actors' main resources: their own bodies.

I should add: an actor brings life to written lines. And it is no small thing. To say that one is able to bring life to another thing means a lot, because that is our reason to be in the world. If actors bring life to characters, there is no doubt that their work is a process of creation. Actors connect to written lines using their worldview. Back to the metaphor with the music scores, the static notes in a score are equivalent to the notes of a literary text, but they have no value if read without the sensory perception of their emotional complexity. The emotional complexity attributed by the actor goes through the coldness of their role and leads to a worldview that is immediately transmitted to the audience.

This does not mean at all that there should be a supremacy of rights to actors in detriment of other art creators. It means to say the obvious: if a person is able to perform an existential conviction, and does so with their image and voice, skin, body, emotions, desire, it is not reasonable to

hinder the thought that this is purely creative, even if sometimes it is technical, sometimes instinctive[38].

Aaron Copland, in a very important work named *What to Listen for in Music* (in Brazil, *Como ouvir e entender música*), brings to his readers hermeneutical conceptions about the creative process and seeks to teach in a timely manner how music can and should be listened to. There are many interesting elements in his book that are useful to understand the universe of the actors. Copland (2013, p. 29, translated) indicates that "in order to follow the composer's thought, one must know something about the principles of musical form. To understand all these elements is to understand the exclusively musical realm". Then, Copland (2013, p. 30, translated) makes a comparison with the theater: "In the theater you perceive the actors and actresses, the clothes and the scenery, the sounds and the movements. All of this gives us the feeling that the theater is a pleasant place to be. It is the sensory aspect of our theatrical reactions". He also states that "the expressive sphere, in the theater, comes from the feelings that are awakened in you by what is happening on the stage" (Copland, 2013, p. 30, translated). He understands that this feeling is equivalent to what he calls "expressive quality of music" (Copland, 2013, p. 30, translated). That is, the intrinsic capacity of creators that makes them create in the musical universe makes it possible for third parties to absorb and perceive their creation in order to receive their expression.

I understand that the same phenomenon happens to actors. Blatantly, those who do not want to see the obviousness of the creative process of acting and performing may say that the "expressive quality of theater and audiovisual works" (adapting the expression by Copland) is fully due to the author of the written plays scripts. However, the creative contribution of actors is not smaller at all – from a philosophical point of view – than that of a writer, who is equally a creator and an artist. What must not happen, clearly, is a deification of the textual creation process

[38] Very few authors in author's rights studies have expressly stated this condition in order to recognize, in fact, directly or indirectly, the existence of a right linked to the creation process. Eboli (2003, p. 34), for example, again defends such evidence, in a text in which he discusses the emergence and evolution, generically, of the so-called related rights: "Some actors lend such a very personal character to their performances, that they start to establish a symbiotic relationship with the roles they play, or with the characters they interpret".

considering the fact that there are many creations in the process. There are different transpositions of interpretations of the world and of the way of seeing life and that can take place in textual form or not, such as pictorial, musical, textual and, obviously, those that consider the body itself as an instrument of the result of creation. And why is it that, precisely in this case, where the body and perception of the world occur as a set of perceptions and attitudes that are able to convince third parties when it is obvious that it is fiction, why does the applicable law end up being diminished? Because it became politically and legally agreed, but not for logical-philosophical reasons! It is, therefore, the greatest absurdity of the author's right system for many reasons. As I indicated above: the audience, when entering the theater or in the cinema, is fully aware that it is facing a succession of acts of fiction and, even so, they become able to be moved and, primarily, to forget that they are facing fictional acts.

Copland (2013, p. 30, translated) adds:

> The ideal listener is both inside and outside the music, judging and enjoying it, wishing it to go one way and watching how it goes the other way – almost like the composer at the moment he composes, because to write music, the composer must be in and out of it.

Any average theater or audiovisual spectator would realize the implications of what Copland states and that help once again prove what is obvious: the fact that there is an evident creative process in actor's performances. If Copland sees a comprehension of the music audience and the perception that the listeners are at the same time in and outside of the composer, it is even more evident that the same process happens when watching an actor performing, with one specificity in favor of actors: not all music listeners do understand the musical technical aspects, but every spectator of actors acting can understand the technical usage of body, voice, and all the human aspects, plausible for all of us. That been said, if a music listener can watch a concert and never be able to repeat what musicians and composers do, *the same thing does not happen to the same extent with the audience of actors*. This happens because evidently the actor's equipment is available for every viewer: *their body, their voice, their physical attributes*.

Most spectators o factos who want to become actors themselves usually understand the job as less complex than other artistic forms, such as music, since, among other possible factors, they probably think that the only difficulty for acting is the memorization of lines, ignorant o what is really complex: character creation. There is a very interesting paradox: to prove how complex it is to develop the creative process of an actor, we can raise the fact that the audience usually thinks it is easy since it is very convinced (even if they know it is fiction, since the minimum distraction inserts audiences to another reality even if for some moments). This proves how this creative process is complex, and, at the same time, makes people think it is easy, probably because it does not involve exterior tools (such as the musical instruments of musicians and composers). The proof of this creative process is precisely the potentiality of each human being to convince third parties of the narratives they tell with their bodies and physical and psychological characteristics. But the public thinks that those attributes are less necessary than other activities (external instruments in music – with exception to the voice of vocalists, but that requires training; in visual arts; in photography; etc., they believe they can act. That is why they think that the obstacles are those minor ones (memorization, characterization, etc.).

Here I must return to Copland's ideas: if in music the listener needs to be in and out of music, in the dramatic arts the audience also needs to be inside it, and with more reason, in acting the viewers must feel the same feelings as the actors that are transfiguring themselves into the characters. There must be a positive or negative identification, the character must be accepted or refused. Therefore, the actor's work is not a "mere performance", but a condition of being in a world that can be convincing, because *the interpretation must be efficient enough to deceive the audience so that they forget that they are being deceived, even when they know they will be!*

Now, if the audience does not project themselves on the character, at any time, they were not convinced, and if they were not convinced, it cannot be said that there was a performance (from the point of view of a critical theory of the dramatic arts). It happens that the author's rights, in this case, bring the benefit of the doubt and protect the creation and the

performance regardless of the quality (merit) of the work, but that is a different discussion.

This whole process of comparison with the musical arts can be understood, also by analyzing the inspirational process, as Copland (2013, p. 31, translated) also correctly states: "for most people, the composer is a kind of magician, and his composition workshop, an ivory tower, seems strange and unaccessible". For the composer, as stated by Copland (2013, p.31, translated), "inspiration does not have the character of a special virtue".

I do not risk giving Copland full reason, nor do I fully transpose this statement to the universe of actors because I believe that, for some, yes, this idea about them may be very present. What needs to be analyzed, however, is that the material of the actor's interpretation is very susceptible to their use by means of the technique or even by other forms of triggering or performance. The form used does not grant much scope to the perception on the part of the audience, which seems to me an approximation with the musical arts. Technique, in this case, does not mean academicism, whether in one or another of the activities. The fact is that inspiration can come in a creative process or in permanent contact with music, as indicated by Stravinsky, who was also quoted by Copland (2013, p. 32).

And here is again the appearance of reasons for saying there is a creative process of actors (I am almost becoming boring): if contact with music is fundamental for a composer, *for an actor the main foundation is human contact*. The author always needs the human, but he may be distant of it, a prerogative not applicable to the actor, because if an actor is distant of people, he/she will never be able to convince and, therefore, will not be able to "deceive the audience at the appointed time".

The writing of a playable text is storytelling in theory, while performance and interpretation are the materialization of the possibility of the story in some areas of art, such as dramatic (or scenic) and audiovisual areas. *Performative interpretation is the empirical evidence that a story is possible to be seen and felt*. Interpretation is, therefore, the praxis. With the body, voice and other physical-psychic attributes that fit it. It is worth remembering, as a strengthening element of this idea, the

constant urgency of improvisation, since each actor has always needed to know that their capacity for convincing will necessarily pass through improvisation. And improvisation unites technical capacity, emotion and availability and the instant lack of reserve on the part of the actor. I mean lack of reserve in the sense that what was not planned by the actor is put to the test before everyone, including him/herself. Jara (2005, p. 85, translated), in an important work on the role of the clown, further values improvisation as a fundamental element of authorial creativity, when teaching that "(...) it is essential that (...) the discovery process takes place from improvisation, which is the most effective way to create from individuality, and, therefore, from the true uniqueness of each person".

This is not, I repeat, to establish any conflict with other creators, especially in the audiovisual sector, which, in turn, is composed of activities that allow the continuity of ideas and creations. The conflict was caused by the enemy of the subject-creator, who is precisely the legal system that gives it this name. In other words, the villain is the "author's right system". *In an archetypal construction, the subject-creator is obviously corresponding to the creator's archetype, and the author right's system, the autophagic archetype, devours it*.

It is important to recall what Lejeune (2014, p.225) states:

> An author is, by definition, an absent being. The author had previously signed the text I am reading – and is not present now. But if the text gives me questions, I feel tempted to transform it into curiosity and start thinking about the author and want to meet him or her, with uncertainty, or interest, brought to me by reading. It is what I call bibliographic illusion: the author is like an "answer" to the question made in the text. The author holds the truth: *we would like to be able to ask the authors what they meant*.

Indeed, in the type of text in which a performer is essential, the answer arises through the life of the character created by the actor. The question that, as Lejeune points out, is asked to the author, gets to be answered by the performer. *If the author is a question, the actor is the answer!*[39]

[39] This interesting excerpt from Jorge Eines' work indicates the misunderstanding that may be present in the isolated conception between text and performance, which ends up mistakenly separating the views on what the creative process is, especially in the theater, even though such ideas are fully applicable to the audiovisual sector: "We could

The absence of the author becomes a presence in the performance, which is creative, since otherwise there would be an infinite absence, and the eternal lack of answers. And for that, it cannot be forgotten that the actor is the one who makes the score of literature heard with its presence of pauses, speeches, spaces, phonemes, breathing and a number of acts and conceptions. The actor is speech and silence, just like music is notes and pauses. The actors are the authors of their views and their experience on the lines which are, in turn, the world view of their author (the playwright).

As Guitton (2018, p. 23) spectacularly states: "the essence of dramatic art [...] does not consist of spectacular gesticulation, but rather the ease of sympathizing the body and soul with the condition of the *other* person that the actor represents".

And why has the been actor granted with a lower legal status than that of the authors of the text that he or she brings to life? Bringing something to life is the beginning of everything, it would be better if this metaphor was no longer used, so as not to create yet another evident deficit of naming by the Law, semantically or essentially philosophically. And if this fundamental content of the existence of a complex creative process of acting as a process of building a character has never received a legal consideration of at least a similar level to that of the author, one must seek how the legal-philosophical misconception is imposed[40].

It is interesting to observe, under another point of view, but also referring to the participation of actors in the creative process, what Meyerhold (2010, p. 200) puts, about theaters in Ancient Rome[41]:

---

analyze the problems of the word in the theater separated from the reflection on the performance. *However, because traditionally word and action have been separated, we will try to unite them in the analysis, precisely to undertake the need not to isolate the word from the action and thus avoid a purely linguistic or literary approach to the word in the theater* (Eines, 2005, p. 37, translated.)

[40] As Fragoso puts (Fragoso, 2012, p. 236): "no matter how much creation there is in a given representation or performance, how much creative value is added to the work: it will always constitute the nucleus around which orbits the activity that is processed over it, whether it is theatrical performance, musical performance, choreography performance, etc. Performance, as an activity, rather, as an intervention by a subject – the performer – on an object – the work – establishes a dialectical relationship between both. This relationship involves a kind of modification of the work's own content, exposing it without a doubt, but in doing so, exposing a new reality, sometimes beyond what the author originally intended".

[41] "En Roma el gesto estaba separado de la declamación. Dos actores hacían juntos el siguiente juego: uno expresaba con gestos todo lo que el otro transmitía con el habla.

> In Rome, gestures were separate from declamation. Two actors played the following game together: one expressed with gestures everything that the other conveyed with speech. With this example we see that each drama exists in two planes. Each scene presents a complexity at the level of words and at the level of movement.

The analysis by Meyerhold makes it evident, again, the extent of the complexity an actor is able to create with the body and its intrinsic movements.

In order to ultimately prove the actors accomplish a creative process, try placing a written theatrical play at the center of a theater stage. After that, move yourself to the audience seats and enjoy the performance on stage. If nothing happens, if the absence of lines and pauses is not enough to convince you, wait until life appears. If life does not appear, the author's right system has failed when pointing out a lesser legal category for actors and actresses, who, on stage, do so much more than solely presenting lines, more than communicating or bringing a written play towards the audience, they make the play really come to existence. With no irony now, it is crucial to recall, as Castilho (2013, p. 44) states, that "the challenge for actors and directors is precisely to eliminate the written nature of the text, regulated by the vernacular, and to update it on the stage in a spontaneous condition, that of speech. This does not mean that the fluency that the text guides is to be completely ignored". When Castilho puts "regulated by the vernacular", I would add "paradoxically routed, however, concomitantly imprisoned". Regarding the collaboration of the director, it should be noted that it occurs in the form of a third party – such as a spectator, but with a technical-artistic vision –, who has an indirect sensitive perception when compared to the subjectivity imposed by nature on the performer, regardless the technique used or even regardless of the quality of the interpretation. I mean, even a bad actor is more intrinsically connected to the character than the best of directors, for a kind of biological reason[42].

Con este ejemplo vemos que cada drama existe en dos planos. Cada escena, si la analisarmos, presenta una complejidad en el plano de las palabras y en el plano del movimiento" (Meyerhold, 2010, p. 200).

[42] Even though it is worth remembering that the craft of directors is a specific knowledge that should be intrinsic to the activity of directing to enable that "... the actors can be the

6 FINAL THOUGHTS

In part of his lectures and books, historian Yuval Noah Harari emphasizes the fact that the history of humankind depended on the Homo Sapiens' capacity of telling stories. There are evidently other abilities that secured our survival in evolution, but this aspect is the one we highlight from his work[43]. Narrating is what makes us reach consensus without constant negotiation, even.

Harari mentions an example regarding money, which is perhaps the most widespread and well-told of stories. Almost all human knowledge is narrative, even religion, whose functions are evidently linked to answering deep needs and questions, such as our very existence, and including the possibility of the subject to reach success, well-being, and freedom, those are all different narratives.

Narratives are built step by step, and the history of humankind is the set of this huge and infinite storytelling. The Law is the system of rules that results from forces who promote the narratives in order to indicate, at certain moments, what is right and wrong. It is not the only register of its kind, since morality also does so. But the Law is not simply a media of narratives. It is the result of an equation in which the defenders of certain points of view end up victorious at the moment of the legislative creation. In more democratic countries, with more access to the legislative process, the result is usually fairer, with really democratic and efficient popular participation. In less democratic countries, the system has more flaws.

Indeed, the author's right system and the simple usage of the expression "related rights" and its universalization prove that there is not, in the cultural sphere, a balance of relations regarding the rights of performers in audiovisual arts, since this fundamental character creator is not even seen as a creator by the legal system. The narrative that the law brings and systematizes about it is absurdly inefficient and out of reality, and it does not stand five minutes of philosophical criticism. It is necessary to bathe it with constitutionality, paraphrasing Lenio Streck.

---

direct interlocutors of the viewer in a communication process that must necessarily be corporal" (Melendres, 2010, p. 52.)

43 To access the others, see Yuval Noah Harari (2017; 2018).

After Reading this paper, the apparently confusing title is deciphered. The seemingly lack of meaning hopefully received a lot of it during the text. The creative process of subjects who are supposedly protected by the author's right system should be understood by its name whenever it was used.

It is not the case of performers who play roles. Those performers – who do a lot, considering what Hermes carried with himself – should, therefore, be considered the creators in the most elementary sense of the original word *creation*.

Thus, this wrong and short-sighted author's rights system has granted a set of rights, faculties, and circumstances of lesser reach for the performer artists. It has even considered them at the same level of other modalities that are not at all creators of art, such as phonographic and radio companies, who are granted with the same "related rights".

It becomes evident, hence, that the creative process of performers is not duly contemplated, especially regarding the scenic and visual performing artists. Ant this is blatant when the system does not even consider actors and actresses as subject-creators (not even creative, so, "non-authors") of the audiovisual work.

This differentiation was probably not really necessary until the nineteenth century, when many laws of liberal nature were created. At those times, the discussion was different, since the reproduction of artistic works was accomplished by copies and copy rights (in the previously mentioned *legal-technological continuum* of the sixteenth century). So there was no possibility – from the patrimony point of view – to grant authorship rights for actors (a logical, historical, and agreeable fact).

However, history does not forgive those who are easily distracted and mistaken, and the philosophical justification to consider performers as art creators should have been absorbed by the system by now.

As it is not, the problem has been further delayed, especially the economical aspect and the discussion on audiovisual reproduction forms, the real matter of unbalance. But the Law has not reached this discussion yet.

As a result, the expression *related rights* proves the thesis and exposes the inadequacy of the solution brought by the system. It brings together those who finance works of art, and at the same time it sets apart those who are actively subject-creators of the performing arts from the core of author's rights, even though they do create – and are, thus, authors as well.

The understanding of this inadequacy is made clear by the evident deficits of author's rights: of legitimacy, semantic, and philosophical.

Looking at the system under this scope shows that there is no justification for defending the structural lessening of rights when comparing those who are considered authors and those who are seen as "mere performers", especially when there are other parties receiving forms of author's rights without creating art[44].

By mapping and analyzing the so-called related rights in the system and their semantic-philosophic inadequacy, there is no escape from the conclusion that its point of view is completely wrong regarding the importance of what an actor does.

The subject seems evident. It needs to be spread out.

And actors, meanwhile, are there, making audiences feel emotional, almost ignorant of how the legal system sees them, not asking questions. Creating feelings is their job and vocation, even though the system excludes them.

And, considering that vocations do not choose, but demand, they will follow their purpose, with the expectation that someday, the author's rights system may see the importance of their profession and correct its injustice.

REFERENCES

BAKHTIN, Mikhail. *Estética da criação verbal*. São Paulo: Martins Fontes, 2011. 512p.

BENJAMIN, Walter. *Sobre arte, técnica, linguagem e política*. Lisboa: Relógio D´água, 2012. 208p.

44 Abundantly mentioned before: phonographic record companies and radio broadcasters.

BUYDENS, Mireille. *La propriété intellectuelle:* evolutión historique et philosophique. Bruxelles: Bruylant, 2012. 494p.

CASTILHO, Jacyan, *Ritmo e dinâmica no espetáculo teatral*. São Paulo: Perspectiva, 2013. 232p.

DRAHOS, Peter. *A philosophy of intellectual property*. London: Ashgate Publishing Limited, 1996.

DRUMMOND, Victor Gameiro. Os mantras performáticos do direito de autor. *In*: BOFF, Salete Oro; FORTES, Vinícius Borges; Tocchetto, Gabriel Zanatta. *Propriedade intelectual e gestão da Inovação:* entre invenção e inovação; v. 1. Erechim: Deviant, 2018a. p. 10-35.

DRUMMOND, Victor Gameiro; LOURA, Renato Cezar de Almeida. O marco jurídico do direito de autor em Portugal: a doutrina da propriedade literária sob a ótica de Almeida Garrett e Alexandre Herculano. *Revista de Direito da Faculdade Guanambi,* Guanambi, v. 5, n. 1, p. 74-93, jan./jun. 2018b. Available at: http://revistas.faculdadeguanambi.edu.br/index.php/Revistadedireito/%20article/view/223. Access: 9 Dec. 2019.

DRUMMOND, Victor Gameiro, *Do círculo hermenêutico ao círculo criativo:* (as novas) perspectivas filosóficas do direito de autor. Tese de Doutorado em Direito – PPGD Universidade Estácio de Sá, Rio de Janeiro, 2014a, 724p.

DRUMMOND, Victor Gameiro. O combate ao esvaziamento semântico e ético de expressões utilizadas como mantras performáticos no universo do direito de autor. *In:* ADOLFO, L. A. G.; WACHOWICZ, M. *Direito da Propriedade Intelectual;* v. 2. Curitiba: Juruá, 2014b. p. 185-200.

DRUMMOND, Victor Gameiro. Por uma construção de um direito de autor imune ao esvaziamento semântico e ético de expressões utilizadas como mantras performáticos. *Revista Propriedades Intelectuais*, Lisboa, v. 2, p. 22-29, 2014c.

EBOLI, João Carlos de Camargo. Os direitos conexos. *In:* Seminário sobre Direito Autoral, Rio de Janeiro, 2003, *Anais*... Brasília: R. CEJ., 2003, n. 21, p. 31-35.

FISHER, William, *Theories of intellectual property*. Available at: http://cyber.law.harvard.edu/people/tfisher/iptheory.pdf. Access: 1 Apr. 2020.

FRAGOSO, João Henrique da Rocha. *Direito de autor e copyright, fundamentos históricos e sociológicos*. São Paulo: Quartir Latin, 2012. 256p.

GOMPERTZ, Will. *Pense como um artista... e tenha uma vida mais criativa e produtiva*. Rio de Janeiro: Zahar, 2015. 224p.

GRAU-KUNTZ, Karin. Tradução Sobre a ilegalidade da reimpressão de livros, de Immanuel Kant; Comentários à tradução. Revel - *Revista do IBPI*, n. 3, p. 229-231, 2011. Available at: https://ibpieuropa.org/book/revista-eletronica-do-ibpi-nr-3. Access: 4 Dec. 2019.

GUITTON, Jean, *O trabalho intelectual:* conselhos para os que estudam e para os que escrevem. Campinas: Kírion, 2018. 160p.

HARARI, Yuval Noah. *Sapiens:* uma breve história da humanidade. 30. ed. Porto Alegre: LPM Editores, 2017. 464p.

HARARI, Yuval Noah. *21 Lições para o século 21*. São Paulo: Companhia das Letras, 2018. 432p.

JARA, Jesús. *El clown, una navegante de las emociones*. Barcelona: Octaedro, 2005. 224p.

KANT, Immanuel. *On the Injustice of Reprinting Books* [original em alemão: *Von der Unrechtmäßigkeit des Büchernachdrucks]*. 1785. Available at: http://copy.law.cam.ac.uk/cam/tools/request/showRepresentation?id=representation_d_1785. Access: 12 Apr. 2020.

KANT, Imanuel. *Sobre a ilegalidade da reimpressão de livros*. Revel - *Revista do IBPI*, n. 3, p. 232-240, 2011. Available at: https://ibpieuropa.org/book/revista-eletronica-do-ibpi-nr-3. Access: 4 Dec. 2019.

KAWOHL, Friedemann. Commentary on Kant's essay "On the Injustice of Reprinting Books" (1785). *In:* BENTLY, L.; KRETSCHMER, M. (ed.). *Primary Sources on Copyright (1450-1900). 2008. Available at:* http://www.copyrighthistory.org/cam/tools/request/showRecord?id=commentary_d_1785. Access: 6 Sept. 2020.

LEJEUNE, Philippe. *O pacto autobiográfico:* de Rousseau à Internet. Belo Horizonte: Humanitas, 2014. 460p.

MELENDRES, Jaume. *La dirección de los actores:* dicionário mínimo. 2. ed. Madrid: Asociación de Directores de Escena de España (ADEE), 2010. 157p.

MERGES, Robert P. *Justifying intellectual property*. Cambridge; London: Harvard University Press, 2011.

MEYERHOLD, V. E. *Lecciones de dirección escénica (1918-1919)*. Madrid: Asociación de Directores de Escena de España (ADEE), 2010. 439p.

Mc MURTRIE, Douglas C. *O livro:* impressão e fabrico. 2. ed. Lisboa: Calouste Gulbenkian, 1982. 668p.

OIDA, Yoshi. *Um ator errante*. São Paulo: BECA, 1996. 168p.

PUCHNER, Martin, *O mundo da escrita:* como a literatura transformou a civilização. São Paulo: Companhia das Letras, 2017. 455p.

ROSE, Mark. *Authors and Owners:* The invention of copyright. London: Harvard University Press, 1993. 190p.

RUGGERO; Jacobi. El personaje en la escena. *In*: HORMIGÓN, Juan Antonio. *Del personaje literario dramático al personaje escénico*. Madrid: Asociacion de Directores de Escena, 2008. 646p.

SMITH, Darwin; PARUSSA, Gabriella; HALÉVY, Olivier. *Le théâtre français du Moyen Âge et de la Renaissance*. Paris: Éditions Lávant-scène théâtre, 2014. 544p.

STRASSBERG, Lee. *Um sonho de paixão: o desenvolvimento do método*. Rio de Janeiro: Civilização Brasileira, 1990. 240p.

TAVIRA, Luis de. *El espectáculo invisible:* Paradojas sobre el arte de la actuación. Madrid: Asociación de Directores de Escena de España (ADEE), 2013. 217p.

Original language: Portuguese
Received: 5 May 2020
Accepted: 23 Aug. 2020