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Reviewed work(s):

Source: *Classical Philology*, Vol. 104, No. 2 (April 2009), pp. 229-232

Published by: [The University of Chicago Press](http://www.uchicago.edu)

Stable URL: <http://www.jstor.org/stable/10.1086/605347>

Accessed: 02/04/2012 07:36

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THE RIGHT OF AUTHORSHIP IN SYMMACHUS' *EPISTULAE* 1.31

A letter by the fourth-century C.E. Symmachus (*Ep.* 1.31) shows signs of a misunderstanding with his addressee, the poet Ausonius.¹ Symmachus devotes a good portion of the letter to answering Ausonius' complaint, now lost, that he shared with others a poem of Ausonius' that the author did not want to get out: in Symmachus' words, *libelli tui arguis proditorem* (*Ep.* 1.31.1).² One of Symmachus' responses is that Ausonius forfeited all rights to his poem upon sending it out. For when released to the public, he continues, a text is a free thing: *cum semel a te profectum carmen est, ius omne posuisti. oratio publicata res libera est* (*Ep.* 1.31.2). By these remarks Symmachus means that authors have no control over or say in how their material circulates once they have published it, which here is a matter of giving texts to members of one's circle, who then produce and disseminate further copies.³ Given this state of affairs, Symmachus implies, Ausonius' complaints are without justification.

Critics have noted that Symmachus' comments in *Epistulae* 1.31.2 offer a glimpse into a literary culture where audience members reproduced and shared works without any legal constraints, and consequently where authors lacked proprietary rights over the circulation of their texts upon publishing them.⁴ But as this article argues, Symmachus' letter also carries a second message about an author's relationship to his literary property. At the close of the epistle, Symmachus jokingly suggests a resolution to the impasse to which he and Ausonius had come over his treatment of Ausonius' poetry. This offer indirectly asserts the symbolic and conventional right of authorship, by which I mean an individual's right to have his identity as the originator of his

I thank Cristiana Sogno and the reader at *CP* for their helpful suggestions. All translations are my own.

1. I use the text of J. P. Callu, ed., trans., and comm., *Symmaque: Lettres*, vol. 1 (Paris, 1972), 93–94. On Symmachus' and Ausonius' relationship, see S. Cristo, "Quintus Aurelius Symmachus: A Political and Social Biography" (Ph.D. diss., Fordham Univ., 1974), 11–14; L. Cracco Ruggini, "Simmaco e la poesia," in *La poesia tardoantica: Tra retorica, teologia e politica* (Messina, 1984), 513–20; G. W. Bowersock, "Symmachus and Ausonius," in *Symmaque à l'occasion du mille six centième anniversaire du conflit de l'autel de la Victoire*, ed. F. Paschoud, G. Fry, and Y. Rütsche (Paris, 1986), 1–12; and C. Sogno, *Q. Aurelius Symmachus: A Political Biography* (Ann Arbor, Mich., 2006), 6–8, 69–70.

2. The actual seriousness and depth of Ausonius' pique are of course lost to us, as are the historical circumstances that sparked the controversy (on which see also Symm. *Ep.* 1.32.6). Which poem lay at the center of the dispute is also uncertain. P. Bruggisser (*Symmaque, ou, Le rituel épistolaire de l'amitié littéraire* [Fribourg, 1993], 268–71) argues for the *Protrepticus ad nepotem*, on the basis of Symmachus' exhortation to Ausonius to assign also (*quoque*) to his name a *didascalium seu protrepticus* (*Ep.* 1.31.2). I find this proposition intriguing, but follow R. P. H. Green ("The Correspondence of Ausonius," in *Ausonius*, ed. M. J. Lossau [Darmstadt, 1991], 363) in maintaining an agnostic stance.

3. R. J. Starr ("The Circulation of Literary Texts in the Roman World," *CQ* 37.1 [1987]: 215) discusses this means of releasing texts into the world. (Starr avoids using the word "publish," because, as he writes [215 n. 18], it "unavoidably bears a burden of modern implications." I feel freer to use the term, although Starr is right to point out the dangers of anachronism.) E. J. Kenney ("Books and Readers in the Roman World," in *The Cambridge History of Classical Literature*, ed. E. J. Kenney and W. V. Clausen [Cambridge, 1982], 19) also addresses this process of publication. Of course, the misunderstanding between Symmachus and Ausonius might have been that Ausonius had not wanted to publish his poem, but had only been circulating a draft, which he expected would be kept private.

4. See Kenney, "Books and Readers" (n. 3 above), 19; K. Ziegler, "Plagiat," *RE* 20.2 (1950): 1956–97 at 1968; K. Dziatzko, "Autor- und Verlagsrecht im Altertum," *RhM* 49 (1894): 573; L. Adam, *Über die Unsicherheit literarischen Eigentums bei Griechen und Römern* (Dusseldorf, 1906), 7; and T. Kleberg, *Buchhandel und Verlagswesen in der Antike* (Darmstadt, 1969), 56. Since no law existed in Latin antiquity to protect an author's works (whether published or unpublished) from improper reproduction and circulation, Symmachus' *ius* must signify a moral right, rather than a legal one, as Kenney notes (p. 19).

compositions acknowledged and preserved as those compositions moved about in the world.⁵ Symmachus' concluding proposition thus balances his preceding statement about how copies of texts became common property with the message that the credit for having written a text stood as private property. As Symmachus tells it, the mantle of authorship was not available for free appropriation by audience members, and should instead remain the actual writer's prerogative.

The relevant passage in Symmachus' letter reads as follows (*Ep.* 1.31.3):

ergo tali negotio expende otium tuum et novis voluminibus ieiunia nostra sustenta. quod si iactantiae fugax garrulum indicem pertimescis, praesta etiam tu silentium mihi, ut tuto similem nostra esse quae scripseris.

Thus expend your leisure in such business and relieve my hunger with new books. But if you, fleeing from display, are terrified of a blabbing informer, then give me your silence as well, so that I may safely pretend that the things you have written are mine.

Symmachus here proposes a way that Ausonius might overcome his modesty, which earlier in the letter he cited as a possible cause of the poet's displeasure at the circulation of his work,⁶ and continue to send him new compositions. According to Symmachus, even if Ausonius is averse to fanfare, it should not stop him from dispatching *nova volumina*, since he could conceal that he wrote his poetry by allowing Symmachus to pretend that he composed it. The understood result will be that Symmachus, embracing *iactantia*, will garner the renown due Ausonius.⁷

If things were to unfold as Symmachus recommends, his conduct would correspond to plagiarism, a literary transgression with which sources throughout Latin antiquity, including Ausonius,⁸ display familiarity.⁹ In ancient Rome, as today, a defining feature of plagiarism was that its practitioner received undeserved credit from an unsuspecting audience that he had tricked into considering him the author of material he had in truth taken from another. Symmachus' proposal has him getting just such fraudulent notice: in the scenario he lays out, he presents a false authorial self to others, so that he wins bogus acclaim from them.¹⁰

5. For an examination of the right of authorship in modern literature, from which I have benefited, see M. Randall, *Pragmatic Plagiarism: Authorship, Profit, and Power* (Toronto, 2001), esp. 80–81, 84–85, and 93–94.

6. See *Ep.* 1.31.1, *sed in eo mihi verecundus nimio plus videre, quod libelli tui arguis proditorem* ("But in this you seem to me overly modest, that you accuse me of playing traitor to your book").

7. Symmachus consistently treats Ausonius as a poet worthy of acclaim in *Ep.* 1.31. D. Amherdt (ed., trans., and comm., *Ausonius et Paulin de Nole: Correspondence* [Bern, 2004], 30) notes that the praise of an addressee's literary ability is a commonplace in Late Antique letters.

8. Ausonius mentions plagiarism in a letter to Theon, whom Ausonius accuses, seemingly in jest, of stealing poems from a certain Clementinus (*Ep.* 13.10–15, 103–4 Green).

9. *Furtum* is the most common Latin term for plagiarism. (The English word for the transgression comes from Martial 1.52.9, which describes the literary thief as a *plagiarius*.) It is of course true that plagiarism in antiquity was not the legal transgression it can be today (though it often fails to be, as Richard Posner observes in *The Little Book of Plagiarism* [New York, 2007], 12 and 33–39). It is also true that a more liberal definition of licit reuse obtained in Latin literature. But the ancient evidence (for which see, e.g., Ziegler, "Plagiat" [n. 4 above], 1956–91, and W. Kroll, *Studien zum Verständnis der Römischen Literatur* [Darmstadt, 1964], 145–51) amply shows that the concept of plagiarism precedes modernity and the advent of the printing press and copyright, as C. Ricks (*Allusion to the Poets* [Oxford, 2002], 226–32) recognizes. It bears mentioning too that both the wholesale misappropriation of texts, that is, the act of passing off another's entire work as one's own, and the misappropriation of limited material within a discrete text fell under the rubric of plagiarism in Roman antiquity.

10. Symmachus' actions would differ from garden-variety plagiarism in that Ausonius would be cognizant of them: a plagiarist's source customarily lacks the knowledge that another is appropriating his work.

The manner in which Symmachus' fakery dovetails with a recognized transgression in his historical era¹¹ and throughout Latin antiquity indicates that he saw his imagined behavior as an example of that offense.¹² Underscoring Symmachus' belief that feigning responsibility for Ausonius' poetry stood as an act of literary false dealing that contravened standard conduct is his appeal for silence, so that he may securely pass himself off as the author of Ausonius' work (*praesta etiam tu silentium mihi, ut tuto simulem nostra esse, quae scripseris*). Symmachus here seeks cover from the one person who could reveal him, so that concealment would be absolute. Escaping detection will of course enable Symmachus to receive credit for Ausonius' poetry. But the bid for silence so that Symmachus may safely (*tuto*) bring off his masquerade also supposes as a default position that the bluff would be risky, and that exposure would damage him. The tacit but unmistakable point is that he will set about to veil his deed because claiming as one's own another's literary property (note the *mealtua* [in *scripseris*] dichotomy) stands as an act of deception (*simulare*) upon which audiences would be expected to look askance, and thus as a practice that normatively falls into the category of the illicit. As it is elsewhere in Latin antiquity, including in passages sharing terms with Symmachus' letter, successful plagiarism is a matter not just of winning undeserved credit, but also of escaping blame for misconduct.¹³

Given that the Roman world lacked anything like copyright, and thus any statutory restraints on falsely claiming authorship of another's work, we can reasonably assume that Symmachus considered the restriction on what he proposes to do with Ausonius' poetry to be a conventional one.¹⁴ Legal formulations are only one way a culture sets the boundaries of the licit and the illicit; and Symmachus' remarks point to a situation in which he would transgress a norm without transgressing the law. In the

But Symmachus' offer to present himself as the author of Ausonius' work of course still equates to *furtum*, in that his claim to authorship is untrue, and in that he would plot to keep his audience in the dark about that fact.

11. Other roughly contemporary references to plagiarism come from Jerome *Contr. Ruf.* 2.21 and from Rufinus *Contr. Hier.* 2.18, 2.28.

12. I presume that Symmachus, rather than confining the concept of plagiarism to poetry, saw it as a phenomenon that encompassed literary texts more broadly—a way of thinking that would match up with other ancient evidence. Moreover, because Symmachus, in *Ep.* 1.31.3, is interested in works that Ausonius has yet to circulate, the conclusion emerges that he understood the precept that one should not claim authorship of another's compositions to extend to unpublished texts. For other references in Latin antiquity to the plagiarism of unpublished works, see Seneca the Elder *Controv.* 1 *praef.* 10–11; Pliny the Younger *Ep.* 2.10.3–4; Martial 1.66.5–12; Ausonius *Ep.* 13.10–15 Green; and Priscian (Keil, *Gramm. Lat.* 2: 2.16–20).

13. See Martial 1.66.13–14: *aliena quisquis recitat et petit famam, I non emere librum sed silentium debet* ("Whoever recites others' material and seeks fame ought to buy not a book, but [the author's] silence"). Martial's explicit concern is with how the plagiarist might secure bogus credit; but it seems reasonable that he was also thinking of how silence would allow the thief to escape censure of the sort that Martial voices to start the poem, where he labels his nemesis *meorum fur avarae librorum* (1.66.1). See too Seneca the Elder *Suas.* 2.19, where Seneca contrasts getting caught plagiarizing and plagiarizing *tuto*: *at nunc quilibet orationes in Verrem tuto dicit pro suo* ("But now anyone can recite Cicero's *Verrines* as his own"). Seneca's message is that plagiarists would not only receive credit for Cicero's work, but would also escape the disapproval that came with accusations of theft (a reaction implied by *maligni* in the description of past plagiarism hunters in *Suas.* 2.19 [*tam diligentes tunc auditores erant, ne dicam tam maligni*]). Ausonius' discussion of Theon, meanwhile (*Ep.* 13.10–15, 102–4), combines images of the plagiarist winning false credit and evading censure.

14. The only extant Roman law dealing with textual ownership has to do with the possession of the material text. The law states that what someone has written on paper or parchment belongs to the person who owns the paper or parchment, to which the letters accede (Gaius 2.77; see too Gaius at *Dig.* 41.1.9.1).

absence of any juridical sanctions for making off with another's text, Symmachus presumably imagined too that the punishment for the discovery of his misdeed would consist in private, informal shaming penalties.¹⁵ This position would align him with other Latin writers, including Ausonius, who identify disapproval and censure, and with them personal embarrassment and disgrace, as the potential costs of plagiarism.¹⁶

Symmachus' proposal to engage in such illegitimate behavior is of course a facetious one, which he expects Ausonius to dismiss as laughable.¹⁷ I would argue further that Symmachus' purpose in issuing his ironic offer was not only to amuse his addressee by suggesting an outrageous course of action, but also to end his letter by wittily deflecting the charge that he was a *proditor* of Ausonius' poetry. For in the logic of Symmachus' sportive special pleading, Ausonius' assumed rejection of the overture proves that there were limits to his modesty and to how much he cared to keep his artistic efforts hidden from the world. This in turn blunts the annoyance that Ausonius expressed at how Symmachus had displayed his work. The poet emerges as someone who, in not wanting another to obscure his authorship of his texts, shows that he ultimately wrote for and aspired to public acknowledgment, which is precisely what Symmachus provided in sharing Ausonius' *libellus* with others.

It is axiomatic that jokes can reveal much about cultural assumptions in how they play off them. In this case, Symmachus' tongue-in-cheek proposal to deviate from customary activity and to lapse into illicit practice discloses *ipso facto* the standard from which he imagined himself straying. What makes Symmachus' offer absurd, and thus what animates the irony through which, I would suggest, he defends himself to Ausonius, is the fact that an individual normatively maintained the conventional right to have his paternity of his texts, that is, the right of authorship, recognized and protected after sending out his poetry, rather than taken by someone else. By working from the starting point that an author's credit for his work was a possession (however intangible) that audiences should respect, Symmachus presents a different perspective on textual ownership from the one he offers earlier in the epistle, when he asserts that writers lose all rights to a *carmen profectum*, and that an *oratio publicata* is a "free thing." While audiences might circulate a work as they wished, they were also to uphold an author's proprietary claim to having written it; and this made a text *libera* on one level, but *possessa* on another.¹⁸

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15. My language echoes that of Posner, *Plagiarism* (n. 9 above), 34–35.

16. See Ausonius *Ep.* 13.102–4 Green; and, e.g., Seneca the Elder *Controv.* 9.1.13; Martial 1.52.8–9; and Suetonius (*Gram.* 3.3).

17. Nothing in Ausonius suggests that he permitted others to assume authorship of his work. The one potential challenge to this claim comes in a prefatory letter to the *Bissula*, where Ausonius exhorts Paulus to "use the poem as his own" (*utere igitur ut tuis*). But as R. P. H. Green (ed. and comm., *The Works of Ausonius* [Oxford, 1991], 515) notes, rightly in my view, Ausonius is simply inviting Paulus to circulate the *Bissula* as he pleases.

18. Relevant here is Seneca the Younger (*Ben.* 7.6), who contends that Cicero (and, he later adds, Livy) owns the content of his work, but not the physical copies of his work. (The latter, Seneca writes, belong to Dorus the bookseller; cf. n. 14 above.)