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No territory, no profit:

The pirate organization and capitalism in the making
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No territory, no profit: The pirate organization and capitalism in the making

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Abstract

Organizational and management research focuses extensively on topics of legitimacy and competition. At center-stage lie for-profit organizations, which are often assumed to operate in economically turbulent environments embedded in stable sovereign institutions. Our goal in this short essay is to envisage a broader picture that takes seriously other types of organization that gravitate at the periphery of capitalism's territories and redefine the norms of competition and legitimate profit. Rehearsing the punch line of our recent book (Durand & Vergne, 2010, 2013), we advocate for a line of research that explores the boundaries of capitalistic expansion by examining the interactions between three types of actors: sovereign states and their monopolies, which map and impose norms upon the new territories of capitalism (a process we call "normalization"); legitimate for-profit corporations, which generate a profit in the wake of sovereign normalization (we call them "organizations-of-the-milieu"); and pirate organizations, operating from the fringes of capitalism to contest the sovereign's norms in the name of a "public cause". We are especially attentive to the convergent patterns of interactions we observed across time and space on the high seas (17th century), on the airwaves (early 20th century), in cyberspace (since the 1980s) and at the heart of living species in the form of DNA research (since the 1990s). This leads us to assert that sea pirates, pirate radio stations, cyberpirates and biopirates have a lot more in common than prior research on piracy typically assumed.

Key words: piracy, capitalism, monopoly, legitimacy, norm, industry evolution

1. A textbox at the end of the paper gives more information about the broader project called "The Pirate Organization".

2. This definition is that of Durand, 2006, *Organizational Evolution and Strategic Management*, p. 13.

WHAT IS THE PIRATE ORGANIZATION? ¹

By organizations, we mean social groups that control resources, work toward objectives, transact with other social entities, and develop strategies to reach their goals². An organization is polymorphous. It can be focused on making profit for its shareholders (listed corporation); it can be not-for-profit (association); it can be local or international (club or union), completely exclusive or inclusive (co-opting social networks). The pirate organization (Durand & Vergne, 2010, 2013), like other types of organization, is a social arrangement that controls men, resources, communication channels, and modes of transportation. It maintains trade relations with other communities, other entities, sometimes other states, and often legitimate companies (Gosse, 2007; Heller-Roazen, 2009). Unlike other organizations, though, to reach its objectives, it develops original strategies where speed of execution, the effect of surprise, and adaptive adoption of the appropriate means to deal with the enemy of the moment play a major role. In order to protect itself, it operates from the outskirts of sovereign territory, out of low-visibility, temporary bases (Johns, 2009). To grow, it appeals to a desire for discovery, pre-empting parcels of territory and claims certain rights without further ado. To attract recruits, it cultivates the identity of a life on the fringe of society, and locally makes it legitimate to breach the limiting standards set out by the current sovereign.

The pirate organization is the marker of the floating limits of capitalism. It defends a public cause by promoting values that go against the will of the state, and focuses its action on the most deterritorialized fringes of capitalism—the gray areas wherein sovereign states have yet to reach a consensus regarding what constitutes legitimate ownership and control of territory. The high seas in the early 17th century, the airwaves in the early 20th century, cyberspace since the 1980s, genetic material nowadays, and extraterrestrial spaces in the coming decades are all gray areas where pirate organizations proliferate. Sea pirates in the 17th century fought against the monopolistic East India companies in the name of the freedom of the seas. Pirate radio stations fought against monopolies such as that of the BBC to promote freedom of expression on the airwaves. Cyberpirates have been fighting against monopolistic corporations such as AT&T (1970s), IBM (1980s) or Microsoft (1990s), and often defend principles such as Net neutrality—the counterpart, in cyberspace, of the freedom of the seas ideal. Similar struggles are taking place in biogenetic territory, where biopirates have been operating for at least two decades.

Put simply, gray areas are partially uncharted territories where pirate organizations and sovereign states struggle over norm definition. The pirate organization typically intervenes in the process of normalization at a time when the first topographic representations of partially uncharted territories are being established. Such periods include the early modern age, when the first maps of the oceans were drawn to navigate the globe; the early 20th century, when the airwaves opened up to radio broadcasting; and the last thirty years, as cyberspace emerges as a new territory for capitalist expansion, and DNA is being mapped to prepare the rise of the biotech economy (Sloterdijk, 2006). Thus, sea pirates, pirate radio stations, cyberpirates and biopirates are particular instances of a broad category of organizational agents we call

the pirate organization. They all worm their way into the sovereign state but navigate between borders. The existence of the pirate organization compels us to reassess the standard assumption that posits sovereignty as fixed and exogenously given, especially since piracy usually heralds the renewal of capitalism and the emergence of new industries and business models. Importantly, the pirate organization has proved very influential on several occasions—for instance, the radio broadcasting industry between the 1960s and the rise of Internet radio in the late 1990s functioned according to the norms proposed by pirate radio stations as a reaction to those of the BBC during the period 1930-1960.

The pirate organization does not seek to overturn the power in place to institute another form of state, but challenges the quality and quantity of the sovereign norm through the local and temporary superimposition of clashing norms that have a high potential for dissemination (Rediker, 1987). For this reason, the pirate organization proliferates in the presence of a state that has the means to weave the territory tightly into a normative fabric. That is why it must be differentiated from the criminal organization (e.g., the mafia), which thrives when the state does not have the capacity to enforce full sovereignty (Monnet & Véry, 2010). Unlike criminal organizations, pirate organizations typically appear in the most advanced societies of their time (think of WikiLeaks). As we understand it, therefore, the pirate organization does not necessarily correspond to the meanings given in everyday language for the term “pirate”, and must be distinguished from criminal organizations altogether.

CAPITALISM’S EXPANSION AND PIRACY

In the capitalistic regime, states and firms operate in their respective territories by establishing norms that exclude a certain number of renegades, some of which end up being recruited by the pirate organization (Deleuze & Guattari, 1972; Heller-Roazen, 2009). Courted and feared by states and organizations-of-the-milieu, the pirate organization breaks the existing codes and creates new ones, which can later be reappropriated by legitimate social authorities. This explains why the Pentagon and Microsoft track pirates in cyberspace in order to offer them a job, or why the sea pirate Francis Drake became a “corsair” and was knighted by the Queen of England at the end of the 16th century. Since the pirate organization is, because of its socio-political make-up, the one that can question the norms of the time, it is the most likely to upset the structure governing capitalism—for example, by accepting women for the first time as sailors on ships in the 17th century or by modifying copyrighted content to improve existing software or cyberinfrastructure (Rediker, 1987; Johns, 2009). There is unquestionable evidence of the pirate organization’s ability to unsettle certain aspects of neoclassical economic theory, most notably by calling into question a number of assumptions on the subject of intellectual property (Johns, 2009; Leeson, 2009). It is taken for granted that investors and firms receive a guarantee that the fruits of their willingness to take risks be protected by law. In other words, they require a certain degree of security and transparency. What should not be overlooked, however, is the role of creative minds operating out on the periphery of sovereign territories. In these gray areas, qualities such as speed, inventiveness, and agility are necessary for survival and used to reap

the allegedly undue profit captured by monopolies and organizations-of-the-milieu. Partially uncharted territories are the locus where the future boundaries of capitalism are tested, drawn, questioned, and bent.

The discovery of new territories is swiftly followed by state normalization and it is through the creation of codes of conduct that the groundwork for future legitimacy is laid. This allows the leading sovereigns to control the social and economic order and reinforce their position by levying taxes. When the capitalist economic model was still in its infancy, normalization was primarily achieved with the help of state monopolies, as exercised most notably by the several European East India companies (Vergne, 2006, 2008). Monopolies are centralized organizations controlled to a large extent by the sovereign, upon whom they depend to sustain their privileges. Direct, centralized control by the sovereign makes monopolies very convenient to establish new norms in a partially uncharted territory: with monopolies, there are no third parties with whom to haggle about norm definition.

The behavior of sovereign powers in partially uncharted territories is fairly predictable and with the benefit of hindsight can be broken down into two complimentary, and almost simultaneous, mechanisms. The first involves seizure of a territory along with its organic system of micro-exchanges (as when the East India companies settled permanent trade posts to enforce their claim to ownership of the trade routes). The second consists of redefining existing norms and boundaries (as when local trade networks created by indigenous merchants in the Indies suddenly became "piratical" as per the new norm imposed by the recently arrived European sovereigns). Entire territories are remapped according to the sovereign's will; capitalistic flows are recoded to suit the needs of those holding the reins of power (Deleuze & Guattari 1972, 1980). Out on the periphery of the reconstituted landscape the pirates find cracks to exploit and some margin for maneuver. Indeed, their actions could be viewed as a deliberate attempt to reclaim some of the ground that is lost as new norms are imposed. The East India companies claim ownership of the Spice Islands? Then pirate crews will occupy the Strait of Malacca. The BBC forces every listener to acquire the official radio receiving device and pay a yearly license fee to be able to use it? Airwave pirates will build their own receivers to listen to pirate radio broadcast from offshore platforms. The state tracks which files users are exchanging in cyberspace? Cyberpirates design programs to anonymize connections to servers. By operating on the lawless frontiers of society, pirate organizations are in effect acting in defiance of the state apparatus to control human endeavor with the help of monopolies, be they East India companies on the high seas, the BBC on the airwaves, or AT&T, ICANN and Microsoft in cyberspace.

It seems impossible to disconnect the pirate phenomenon from the advent of the sovereign state against the background of extended globalized capitalism (Bartley, 2007). The pirate organization is the historical subject that blurs the boundaries of capitalism by reshaping the normative fabric woven by the sovereign state onto the territorial fringes where the future of capitalism is being played out.

Often looked at partially or in a biased manner, piracy overall is an organizational form that introduces variations into the economic, social, legal and technological environment of societies. The pirate organization eludes the usual categories, from bandit to enemy of humanity, and the legitimate

businesses that fall victim to acts of piracy are left with difficult decisions to make. By examining the recurrence of transhistorical relations between the state and the pirate organization, we propose a simultaneous redefinition of both piracy and capitalism (Durand & Vergne, 2010, 2013). Far be it from us to particularly praise the merits of pirate ideas rather than those of more legitimate businesses. What we want to show is the very nature of the workings of the capitalism-coding machines, endlessly deterritorializing and normalizing social and economic exchanges and searching out the unknown for virgin territories to map, normalize, subjugate, and value.

ORGANIZATIONAL BEHAVIOR IN TIMES OF CAPITALIST EXPANSION

The production system based on the protection of private property rights can only pursue its expansion by nurturing the pirate organization from the fringes it draws around new territories. What determines the pace of capitalistic evolution is competition between organizations-of-the-milieu and pirate organizations. The former normalize trade based on legitimate property rights (Dobbin, 1994). The latter enact alternative principles with respect to value creation, value capture, and value distribution. They also express a different view of property as legitimate expropriation on behalf of a public cause.

Firms typically respond to the pirate threat by getting closer to the sovereign and seeking support from the state. By lobbying to disqualify and outlaw pirates, firms redraw the boundary between the normal and the criminal and can thus act upon and against the pirate organization. Sometimes, it may be appealing for firms to ally, tacitly and temporarily, with pirate organizations that contribute to the development of economic opportunities. Google, although sometimes suspected of monopolistic tendencies, may at times find it beneficial to take sides with Anonymous when the latter defend principles that are in line with their corporate strategy (e.g., anti-copyright protests by cyberpirates may fit nicely with Google's plans to digitize all the books ever published on earth). Meanwhile, the director of the very secretive National Security Agency recently gave a talk at DefCon, the largest annual physical gathering of cyberpirates, to see if he could convince some of them to come and work for the government. When pirates turn into corsairs—that is, when they start working on a sovereign's payroll—they bring with them all the socio-technical arrangements that characterize pirate organizations. As they change jobs, they disseminate piratical norms at the heart of the state (Jordan, 2008; Söderberg, 2008). This can spur innovation and trigger the renewal of capitalism.

The rise, and eventual downfall, of pirate radio provides a textbook example of the process. Free radio stations were eventually co-opted by the establishment through a licensing process that invited a few of their members to the state's table while permanently shutting the others out, precipitating their own extinction, as happened in France at the exact moment at which the licenses were distributed. Similar events occurred in the UK and led to the end of the BBC's monopoly in the late 1960s. As former pirates were hired by the former monopoly, their norms became dominant: religious programs and classical music lost air time to the new sound of be-bop and rock and roll, and multiple channels were set up so that the listeners could (finally!) decide for themselves

what they wanted to hear. This process is no different from the golden age of piracy on the high seas, when the sovereign had the power to disrupt any hint of subversion by drafting pirates into the service of the crown as privateers, simultaneously generating profit and crushing any revolutionary intent. These reactions illustrate the means by which firms, hand-in-hand with the sovereign, seek to alter the competitive rules and legitimacy principles that govern their environment. But as they do so, they also open the door to piratical norms, and aspects of the public cause advocated by pirate organizations are eventually integrated into dominant versions of legal and legitimate business practices.

We aim at dispelling the convenient yet sterile opposition between private interests and public goods that often serves as a theoretical shortcut in discussions about capitalism. These reassuring antagonisms lack validity. For instance, when the private corporation Celera Genomics announced its decision to compete with the public consortium "Human Genome Project" to establish the first complete map of the human genome, it was categorized by some as a "pirate organization" interested in looting DNA for private profit. Celera Genomics used the publicly available results of the Human Genome Project to catch up with its competitor and made a profit along the way by selling some of its intermediary findings to private investors, thereby raising the additional capital it needed to outpace the Human Genome Project. Finally, both organizations came up with a complete map of human DNA at the same time in 2000, and the National Institutes of Health, the main sponsor of the public consortium, now officially lists Celera Genomics as a co-discoverer of the map on its website. Since then, the U.S. government took legal steps towards allowing the patenting of genetic material by private entities (after opposing the Celera Genomics initiative in the first place), whereas European countries, less subject to the attacks of biopirates, have decided to oppose genetic patents. Thus, beyond the apparent opposition between private and public interests or between pirate and legitimate organizations, it is clear that states are influenced by the actions of pirate organizations and that the two symbiotically shape the territorial expansion of capitalism towards new industries and business models. This is a crucial feature of capitalist societies that current organizational theory should start taking into account seriously to understand industry evolution.

This perspective hints at an evolutionary theory of the formation of production systems (Bartley, 2007; Fligstein, 1996; Guthrie & Durand, 2008; Vergne & Durand, 2011). The states and organizations-of-the-milieu continuously work to capture what eludes them, namely what pirate organizations smuggle out of gray areas. The sovereign normalizes territory with the help of monopolistic organizations that define norms of exchange and trade. The pirate organization reveals what lies underneath a process that is conveniently ignored by many economists, who sometimes try to maintain the illusion that industries are shaped by the invisible hand of free trade rather than by the very visible hand of the sovereign. Pirates decipher the mysteries of capitalistic appropriation and introduce variations into the capitalistic code itself. Therefore, it is now time to consider the principles of rivalry as being evolutionary and contingent, typical of particular periods of time in economic, technical and social history where legitimate and pirate organizations confront each other every time capitalism expands.

Because of the peculiar dynamics of capitalism as exposed in this essay, we must conclude with a call to integrate the study of pirate organizations at the

heart of that slice of social science research interested in innovation, property rights, growth, and regulation. Pirates deserve a comfortable seat at the table of economic history and organization science.

The Pirate Organization is not just a book but a broad interdisciplinary project aimed at connecting the social sciences, contemporary artistic creation, and civil society. A first version of the book was published in French in 2010, accompanied by the release of an original musical composition by the experimental rock band Chevreuil. The production of the music was funded from the authors' royalties and the composition was published under a Creative Commons license to allow for broad dissemination. Tracks for each instrument were (and still are) available for download separately to facilitate the remixing—or hacking—of the song.

An extended and updated version of the text is forthcoming in English in December 2012. It is accompanied by a short animation movie directed by Daniel Wyatt and entitled What is the Pirate Organization? Also published under a Creative Commons license, the movie's soundtrack uses fragments from Chevreuil's original music as well as excerpts from remixes of the song sent to us by our readers.

The broad purpose of this project is to disseminate research findings beyond the traditional boundaries of the academic world. Links to the music and video can be found at <http://twitter.com/PirateOrg>.

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REFERENCES

- Bartley, T. (2007). Institutional Emergence in an Era of Globalization: The Rise of Transnational Private Regulation of Labor and Environmental Conditions. *American Journal of Sociology*, 113(2), 297-351.
- Deleuze, G., & Guattari F. (1972). *L'Anti-Œdipe (Capitalisme et schizophrénie)*. Paris: Les éditions de Minuit.
- Deleuze, G., & Guattari F. (1980). *Mille Plateaux (Capitalisme et schizophrénie 2)*. Paris: Les éditions de Minuit.
- Dobbin, F. (1994). *Forging Industrial Policy: The United States, Britain, and France in the Railway Age*. New York: Cambridge University Press.
- Durand, R. (2000). *Entreprise et Evolution Economique*. Paris: Editions Belin.
- Durand, R. (2006). *Organizational Evolution and Strategic Management*. London: Sage Publications.
- Durand, R., & Vergne, J. P. (2012). *The Pirate Organization: Lessons from the fringes of capitalism*, Boston: Harvard Business Review Press
- Durand, R., & Vergne, J. P. (2010). *L'Organisation Pirate: Essai sur l'évolution du capitalisme*. Lormont, France: Editions Le Bord de l'Eau.
- Fligstein, N. (1996). *Markets as Politics: A Sociological View of Market Institutions*. *American Sociological Review*, 61(4): 656-673.
- Gosse, P. (2007) [1932]. *The history of piracy*. New York: Dover Publications.
- Guthrie, D., & Durand, R. (2008). *Social Issues in the Study of Management*. *European Management Review*, 5(3), 137-149.
- Heller-Roazen, D. (2009). *The enemy of all: Piracy and the law of Nations*. New York: Zone Books.
- Johns, A. (2009). *Piracy – The Intellectual Property Wars from Gutenberg to Gates*. Chicago: The University of Chicago Press.
- Jordan, T. (2008). *Hacking: Digital media and technological determinism*. Cambridge (MA): Polity Press.
- Leeson, P. T. (2009). *The invisible hook: the hidden economics of pirates*. Princeton: Princeton University Press.
- Monnet, B., & Véry, P. (2010). *Les nouveaux pirates de l'entreprise: Mafias et terrorisme*. Paris: CNRS.
- Rediker, M. (2004). *Between the devil and the deep blue sea : merchants seamen, pirates and the Anglo-American maritime world, 1700-1750*. Cambridge: Cambridge University Press.
- Sloterdijk, P. (2006). *Le palais de cristal: A l'intérieur du capitalisme planétaire*. Paris: Maren Sell.
- Söderberg, J. (2008). *Hacking capitalism: The FOSS software movement*. New York: Routledge.
- Vergne, J. P. (2006). *Machinerie mercantiliste: Capitalisme et Piraterie. (Unpublished Master's thesis)*. Université Paris-I, Paris.
- Vergne, J. P. (2008). *The social construction of competitive advantage: The case of the Dutch East India company, 1602-1800*. Best Paper Proceedings, Academy of Management Annual Meeting, Anaheim, CA.
- Vergne, J. P., & Durand, R. (2011). *The path of most persistence: An evolutionary perspective on path dependence and dynamic capabilities*. *Organizations Studies*, 32(3), 365-382.