Copyright: A Collage

David Pocknee

January 2018

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No warranties are given. The license may not give you all of the permissions necessary for your intended use. For example, other rights such as publicity, privacy, or moral rights may limit how you use the material.

If you never cross the line you'll ever know where it is.

Communications with The University Repository



David Pocknee (Researcher) Thu 31/08/2017 14:38 To:

🖢 🛛 😓 Reply all 🛛 🗸

Sent Items

Hello, I'm currently a PhD student at Huddersfield and am soon going to submit my thesis. I am not sure if you are the correct people to contact about this - if not, my apologies.

As part of the submission I have been told I have to put a copyright statement at the front of the thesis, primarily because it will be placed in the University repository.

The statement is:

- 1. The author of this thesis (including any appendices and/or schedules to this thesis) owns any copyright in it (the "Copyright") and s/he has given The University of Huddersfield the right to use such copyright for any administrative, promotional, educational and/or teaching purposes.
- Copies of this thesis, either in full or in extracts, may be made only in accordance with the regulations of the University Library. Details of these regulations may be obtained from the Librarian. This page must form part of any such copies made.
- 3. The ownership of any patents, designs, trademarks and any and all other intellectual property rights except for the Copyright (the "Intellectual Property Rights") and any reproductions of copyright works, for example graphs and tables ("Reproductions"), which may be described in this thesis, may not be owned by the author and may be owned by third parties. Such Intellectual Property Rights and Reproductions cannot and must not be made available for use without the prior written permission of the owner(s) of the relevant Intellectual Property Rights and/or Reproductions

I have a few questions about this, just because I want to understand what exactly it does to my rights as an author and the ability of people to access the document

1. It says that "Copies of this thesis, either in full or in extracts, may be made only in accordance with the regulations of the University Library" - which regulations are these?

2. Seeing as the main purpose of the statement seems to be to assert my rights as an author, allow the university to use it as they wish, and protect the authorship of those whose work I have quoted in the thesis; could I replace this statement with a Creative Commons Attribution-NonCommercial 4.0 International (CC BY-NC 4.0) Licence which would protect intellectual rights through attribution yet be less restrictive in terms of possible uses of the work? (https://creativecommons.org/licenses/by-nc/4.0/)

Thanks for your time,

David Pocknee





David

Your email is very timely as we are about to start updating the policy regarding theses and the Repository, and I think some of the points you make will be very relevant to these changes (however given the need to formal approval of any changes this may take some time).

The regulations would I think be the thesis policy on the University repository <u>http://eprints.hud.ac.uk</u> /<u>Thesis Policy September 2009.pdf</u> I think the main concern was to ensure that any third party copyrights were adhered to.

The thesis policy also states that you can specify an alternative CC licence. Our default is a CC-BY-NC-ND, but if you indicate on submission that you want us to use CC-BY-NC then we can do that

Does that help?





David Pocknee (Researcher) Thu 31/08, 16:31



Thanks so much, that is really useful. Just to be clear, does this mean I can substitute the existing copyright statement for something like:

"This work is licensed under the Creative Commons Attribution-NonCommercial 4.0 International License. To view a copy of this license, visit <u>http://creativecommons.org/licenses/by-nc/4.0/</u> or send a letter to Creative Commons, PO Box 1866, Mountain View, CA 94042, USA.",

or would I have to include the entire legal text of the creative commons license?, or am I not allowed to do either as I have to wait until the policy has officially changed?





David

I'll reply with a caveat that I'm not an expert on all the details of the PhD regulations, but I suspect you'd still have to follow the existing rules, but personally I can't see an issue with adding the CC text you pasted in below.

Once the thesis is passed and put on the Repository it will be being released under the licence you chose, and I'm not sure that the copyright statement restricts people from doing anything they would otherwise do under a CC-BY-NC licence (eg you own the copyright, and they need to follow our regulations which actually say we'll use a CC licence which can be selected by you)





David Pocknee (Researcher) Fri 01/09, 14:52

🖕 🗦 🗸 🗸

Thanks for the reply - I'll have a check with my school office and see what the official specifications are. I think you're probably right that the existing copyright notice wouldn't affect the copyright status if the repository itself is already defining what the license is when people access it; although, it being a digital file, it can end up in all sorts of places online, without people necessarily getting it through the repository.

I guess the only clause I wonder about is the one which says "Copies of this thesis, either in full or in extracts, may be made only in accordance with the regulations of the University Library. Details of these regulations may be obtained from the Librarian. This page must form part of any such copies made." If you're updating the policy on theses in the repository maybe it might be good for the copyright statements on theses to have phrasing that's a bit less opaque, so that if a reader has a digital copy of the file it is obvious to them from the file itself what they can and can't do with it without having to find a separate file on the library regulations or contact the university librarian.

Thanks again for your help,

Communications with The University Registry



David Pocknee (Researcher) Fri 01/09, 14:52 🖌 🧔 🖌

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Thanks again for your help,



David Pocknee (Researcher) Fri 08/09/2017 11:41

Sent Items

I'm not sure if you are the correct person to contact about this, if not, my apologies, and I would be grateful if you could point me in the correct direction.

I'm submitting a PhD thesis at the end of this month and I'm trying to find out some information about the copyright statement that is required to be placed at the front of the PhD Thesis. Essentially I'm trying to see whether it would be against the university regulations to replace this with a Creative Commons License. I think the existing statement is really bad at telling a potential reader what they can and cannot legally do with the document in terms of their rights to copy and I would like to make this clearer by replacing it.

According to the "Postgraduate Research Degrees: Guidelines for the submission of work for examination" (August 2015) document found on unilearn:

"The following notes on copyright and the ownership of intellectual property rights must be included as written below:

- The author of this thesis (including any appendices and/or schedules to this thesis) owns any copyright in it (the "Copyright") and s/he has given The University of Huddersfield the right to use such copyright for any administrative, promotional, educational and/or teaching purposes.
- Copies of this thesis, either in full or in extracts, may be made only in accordance with the regulations of the University Library. Details of these regulations may be obtained from the Librarian. This page must form part of any such copies made.
- 3. The ownership of any patents, designs, trademarks and any and all other intellectual property rights except for the Copyright (the "intellectual Property Rights") and any reproductions of copyright works, for example graphs and tables ("Reproductions"), which may be described in this thesis, may not be owned by the author and may be owned by third parties. Such Intellectual Property Rights and Reproductions cannot and must not be made available for use without the prior written permission of the owner(s) of the relevant Intellectual Property Rights and/or Reproductions."

I originally contacted **Exercise** in the University Repository, as I was not sure exactly what rights I would be asserting or giving away by placing this statement in the document and wanted to see if I could change the statement above to a less restrictive Creative Commons license.

One of the things that made my rights unclear was that the right to copy the thesis "may be made only in accordance with the regulations of the University Library. Details of these regulations may be obtained from the Librarian. This page must form part of any such copies made." I couldn't work out what these regulations were and where they could be found, as the document is unnamed. After consulting with the set is seems that this document is probably "Repository Policy: E-Theses" (http://eprints.hud.ac.uk/Thesis_Policy_September_2009.pdf). This document states that "Creative Commons Licenses are applied to all deposited theses to specify how others may use the work once they have access to it. The default license assigned to a thesis in the repository is a Creative Commons Attribution-Non-Commercial-No Derivative Works 2.0 UK: England & Wales. This license will be applied unless the author specifies that a different Creative Commons License is to be applied". So all theses are _already_ under Creative Commons rather than traditional copyright, despite the fact that the copyright statement seems to imply a much more traditional copyright. According to the regulations, I should be able to assert my desire to have my thesis distributed under a slightly different Creative Commons Attribution-NonCommercial 4.0 International (CC BY-NC 4.0) Licence.

According to **set of**, the repository itself should have no problem if I replaced the statement, as this would just be making what is already the existing policy clearer. However, it seems like the need for the copyright statement is a regulation imposed from elsewhere but I'm not sure exactly who is responsible and who to contact about this. Essentially, I want to make sure that if I change this statement, I'm not going to have my thesis rejected and sent back to me for breaking the regulations.

I have several concerns about the existing copyright statement:

- 1. It doesn't make clear to the author what rights they have. By making the rights contingent upon an unnamed document, and looking like a more conventional copyright statement, it can cause the author confusion about what rights they are asserting. For instance, I had a conversation this morning with an ex-PhD student who had graduated earlier this year who had no idea that their thesis was under a Creative Commons License, and instead presumed the University held all rights to it in a more restrictive way.
- 2. The statement doesn't make clear to the reader what rights they have. Contacting the university librarian to find out what you can and can't do with a document is a very obfuscatory way of asserting rights. Given that theses are available as pdfs on the internet, it often happens that, although the repository website itself is good at informing readers of their rights, should copies of it turn up elsewhere on the web, it will not be obvious what a reader can and cannot do.
- 3. And perhaps most importantly, because the rights of author and reader are not made explicit in the statement and are contingent upon the "regulations of the University Library", it begs the question of "what happens should the university policy on copyright of theses change? Do my rights then change?" By making rights explicit in the document itself, rather than in an external document, I would hope this could guard against any future changes to policy that would affect my work in ways I did not originally agree to.

Thanks for your time,

David Pocknee

🖕 😓 Reply all 🛛 🗸



Registry University of Huddersfield | Queensgate | Huddersfield | HD1 3DH

What follows is the copyright statement I included in the front of the first submission of my PhD thesis \dots

Correction #3: for UoH

When you submit a PhD thesis to a university, it has to fulfil a set of criteria. At the University of Huddesfield, this information can be found in a document called "Postgraduate Research Degrees: Guidelines for the submission of work for examination" (August 2015), found on the University's internal "Unilearn" computer network. This document states that, for any thesis submitted:

1 Asserts rights The following notes on copyright and the ownership of intellectual property rights of author must be included as written below:

2 Allows universities. to do whaleve. they want with if additional and/or teaching purposes. Consider the second purposes. The author of this thesis (including any appendices and/or schedules to this thesis) owns any copyright in it (the "Copyright") and s/he has given The University of Huddersfield the right to use such Copyright for any administrative, promotional, educational and/or teaching purposes.

University of Huddersfield the right to use such Copyright for any administrative, promotional, educational and/or teaching purposes. Copies of this thesis, either in full or in extracts, may be made only in accordance with the regulations of the University Library. Details of these regulations may be obtained from the Librarian. This page must form part of any such copies made.

What are

Why?

these ?

"regulations of the University III. Library" 4. Protects 3rd party copyright

3. Only allows copies

Made according to

The ownership of any patents, designs, trade marks and any and all other intellectual property rights except for the Copyright (the "Intellectual Property Rights") and any reproductions of copyright works, for example graphs and tables ("Reproductions"), which may be described in this thesis, may not be owned by the author and may be owned by third parties. Such Intellectual Property Rights and Reproductions cannot and must not be made available for use without the prior written permission of the owner(s) of the relevant Intellectual Property Rights and/or Reproductions.

(from pages 5-6)

"But wait!" you the reader exclaim "what am I actually allowed to do with this document? Can I make derivatives? Copy it without attribution? What are these "regulations of the University Library" which would give me the answers? And why do I weed to contact a librarian to find out?"

After emailing the University Repository, which stores and controls access to all submitted theses, it turns out that these regulations are found in the document "Repository Policy: E-Theses" (2009) (<u>http://eprints.hud.ac.uk/Thesis Policy September 2009.pdf</u>) This document states that:

Creative Commons Licenses are applied to all deposited theses to specify how others may use the work once they have access to it. The default license assigned to a thesis in the repository is a <u>Creative Commons</u> <u>Attribution-Non-Commercial-No Derivative Works 2.0 UK: England &</u> <u>Wales. This license will be applied unless the author specifies that a</u> <u>different Creative Commons License is to be applied</u>.

So your use of this document is actually under Creative commons, not traditional copyright, despite how the official copyright statement looks!

Now, when I contacted the Repository, they didn't seem to have a problem with me replacing the official copyright statement with an <u>actual</u>. Creative commons one to make the situation clearer, as this would simply be asserting the rights that will already be applied upon submission. But, of course they aren't the ones who set the guidelines for thesis submission. As I write this I'm still waiting for a conclusive response back from the Registry department, who said they "may need a little while to unpick this."

So, to hedge my bets, and prevent myself being in a situation where I either endorse a copyright statement that I don't believe in and which confuses authors and readers as to their rights; or ending up having my thesis rejected for broaking the regulations. I've included the original statement but with these annotations. Additionally, in accordance with the university's "Repository Policy: E-Theses" document, I am specifying that this thesis be distributed under a different Creative Commons License, namely a ...

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Under the following terms:

Attribution — You must give appropriate credit, provide a link to the license, and indicate if changes were made. You may do so in any reasonable manner, but not in any way that suggests the licensor endorses you or your use.



Maa

Similar

This

NonCommercial — You may not use the material for commercial purposes.

ShareAlike — If you remix, transform, or build upon the material, you must distribute your contributions under the same license as the original.

No additional restrictions — You may not apply legal terms or technological measures that legally restrict others from doing anything the license permits.

Notices:

You do not have to comply with the license for elements of the material in the public domain or where your use is permitted by an applicable exception or limitation.

No warranties are given. The license may not give you all of the permissions necessary for your intended use. For example, other rights such as publicity, privacy, or moral rights may limit how you use the material.

The Unexanian life is not worth

100 Youth

By making rights contingent upon an unnamed document, accessible only via librarian, the rights of reader and author are objuscated. None of the PhoD graduates or randidates that I spoke to about this had any idea that the licenses applied to Repository-held theses was Creative commons Similarly, for readers, although the Repository website is good at informing downloaders of their rights; as a poly file on the interact, this thesis might be downloaded without this context, should it find itself elsewhere on the web. But, most importantly, because the rights of author and reader are not made explicit in the text itself and are contingent upon the "regulations of the University Library", it begs the question of "what should happen if the university policy gon copyright of theses changes? Do my rights change too?" By making rights explicit in the document itself, I hope to quard against these problems.

I write this not to embarrass the university, but to highlight an approach used in this thesis: do not accept existing categories. everything is up for question; the mexamined life is not worth living. A thesis is not just a thesis it is a genre, a historical accruition of rules and regulations. And no rule is a historical.

Never do anything just because someone tells you to. Similarly, never refuse to do anything just because someone tells you to. We want neither the hellish bureaucracy of Kafka, nor the ignorant contrariouism of

And no regulation is non-ideological. Then the servant had to go back to the trolley for more evidence. By now it had run on of its own accord down the slight slope of the corridor, or he had to go after the gentleman who was claiming the files and exchange the protests of the gentleman currently in possession of them for a new set of counter-protests. Such negotiations went on for a very long time, and sometimes it was agreed that the gentleman would give back a part of the files, or would be given a different file in compensation, since they had only been mixed up -The Castle

... the club owner told me – I'll never forget – in Brooklyn – this 10 years - this longer – this 15 years ago - this is when DMX came out - and the owner of the club said "Khaled, do not play no DMX" - I look around, this man must be crazy! I DJ'd the club - first thing I did was play ten DMX's - the biggest fights broke out - it was a riot. I understand why he said it now ... " https://youtu.be/FDqaen32Di8?t=8m15s

I'm writing this on 18 September 2017, and, luckily, I seem to have been emailing the university Repository and Registry at a time when they are updating their guidelines and policies on theses and the submission policies so by the time you're reading this, these policies will probably have changed. But remember that any ruleset is a theoretical readymade waiting to be composed...

We be the side of the Chemical Bank near the Christ of Eleventh and First and is in print large enough to be seen troot the backet of the cab as it surches torward in the traffic 'nd Wall Street and ing as Timothy Price the second Post-Submission (28 September - 10 October 2017)

Communications with The University Registry

	•	🕨 🖏 Reply all 🛛 🗸
Thu 05/10/2017 13:14 To: O David Pocknee (Researcher)		
To: ODavid Pocknee (Researcher)	*	
Action Items		Ĵ
Dear David,		
We received your PhD thesis submission in Registry yesterday (4 O	ctober). I note that you have annota	ted the copyright
statement at the front of your thesis by hand in red pen. Unfortuna	ately we cannot accept your thesis fo	or examination like this.
Please could I ask that you resubmit with the required copyright sta	atement and without the annotatior	n. If you do not, we will
not accept your work for examination.		
You have had a response both from me and then from the	abo	ut the copyright issue
you raise. We are looking to update the copyright statement, which	h dates back to a time when theses v	were kept in the library
in hard copy, rather than as electronic copies in the repository. How		il such a time as it is,
candidates will be required to use the copyright statement as it sta	nds.	
You will need to resubmit the thesis by next Friday, 13 October. Ple	ase note that if we don't receive it b	oy this deadline, you risk
failing your PhD.		
Sincerely		

Note: "which dates back...". I do not think this is true. To check this, I went to the university library and looked at a large selection of hard copy theses from different dates from the 1970s to 2009. None of them had the copyright statement in. Instead, all had a copyright form. It appears that the policy for including the copyright statement was instituted in 2009 along with the other changes in copyright policy and was not a holdover.

TL 05/40/2047 45:20	
Thu 05/10/2017 16:39	
To:	
Cc:	*

Dear

Sorry to hear that I will have to resubmit - is this a result of the presentation (i.e. hand-written red pen) or a result of the content? If it is the presentation, I would be happy to re-type the whole thing and present the same information typeset instead. I did include the existing copyright statement and simply asserted my rights to a specific Creative Commons license as per the existing university policy, while clarifying the actual state of a potential reader's rights, in line with the communications I have had with yourself and the present of the content problem.

5 Reply all ↓

Either way, how would I go about re-obtaining the thesis so that I can re-bind it with whichever new pages you deem necessary, and where and how would the new version need to be resubmitted to?

David

...

				🕨 💲 Reply a
Thu 05/10/2017 19:19				
To: 🕏 David Pocknee (Researcher)				
Cc:				
Dear David,				
It's both really. You do need to resubmit	with the copyright sta	atement as it stands with	no amendment	t. If you call up to
Registry, or can give you	back the hard copies	to sort.		
Best wishes				
		1		
Registry, University of Huddersfield Que	eensgate Huddersfie	eia HD1 3DH		
•••				



Dear

As I said, I can re-typeset the handwritten content to solve the presentation problem - although, in my defense, the style is meant to reference a series of art works that I talk about in the thesis in which I

"correct" existing musical scores using red pen - but I understand why you might want this changed.

S Reply all ↓

When it comes to the content however, I am baffled as to how what I have done breaks any of the university regulations and what grounds there could be for rejecting it. In presenting the existing copyright statement and adding annotations to it, I don't invalidate it - in fact I make clearer to the reader what it actually means. I can imagine there would be a problem if I removed the statement altogether, which is why I did not do that and, instead, decided to supplement it with related information (i.e. the document on the university policy on e-theses). I can't see how pointing a potential reader to the documents pertaining to their rights, nor a public discussion of the meaning and shortcomings of this particular statement could be a reason for not accepting this thesis.

I am happy to re-typeset the pages but loathe to change their content, primarily because, as it stands, I don't believe the existing statement effectively protects my rights as an author. As I mentioned in my original email to you:

"because the rights of author and reader are not made explicit in the statement and are contingent upon the "regulations of the University Library", it begs the question of "what happens should the university policy on copyright of theses change? Do my rights then change?" By making rights explicit in the document itself, rather than in an external document, I would hope this could guard against any future changes to policy that would affect my work in ways I did not originally agree to."

Perhaps a suitable compromise might be the presentation of the original statement, with my annotations appended as a long , typeset footnote?

Also, once I have made the corrections, would these have to be submitted directly back to the registry, or re-submitted through the music office?



Fri 0	6/10/2017 08:46	
	David Pocknee (Researcher)	
Cc:		\$

Dear David,

I had understood that your comments at the start tie in with your thesis but there is no compromise available. You need to resubmit as I have requested or fail.

Sincerely



Registry University of Huddersfield | Queensgate | Huddersfield | HD1 3DH



Dear

It's unfortunate that there is no compromise available for this. But, as I have no choice, I shall replace the copyright statement as you have suggested. I shall be in the university on Wednesday, so shall do this then. Does this re-done thesis have to then go directly back to the Registry, or be resubmitted via the Music office?

Second Submission (11 October 2017)

This is the copyright statement included in the front of the second submission of the thesis, replacing the original

Copyright Statement

i. The author of this thesis (including any appendices and/or schedules to this thesis) owns any copyright in it (the "Copyright") and s/he has given The University of Huddersfield the right to use such Copyright for any administrative, promotional, educational and/or teaching purposes.
ii. Copies of this thesis, either in full or in extracts, may be made only in accordance with the regulations of the University Library. Details of these regulations may be obtained from the Librarian. This page must form part of any such copies made.

iii. The ownership of any patents, designs, trade marks and any and all other intellectual property rights except for the Copyright (the "Intellectual Property Rights") and any reproductions of copyright works, for example graphs and tables ("Reproductions"), which may be described in this thesis, may not be owned by the author and may be owned by third parties. Such Intellectual Property Rights and Reproductions cannot and must not be made available for use without the prior written permission of the owner(s) of the relevant Intellectual Property Rights and/or Reproductions.

This is the new appendix that was included at the back of the second submission of the thesis

You might look at the copyright statement at the beginning of this document and be surprised at the seeming lack of care that has gone into its presentation, especially given the meticulousness apparent in the rest of this thesis - Arial font, ugly, uneven, ragged-right alignment. This is because I did not want it to be there and have given it as much respect as I think it deserves. When you spend a year of your life deconstructing what a thesis is, or can be; creating a document in which semantics, lexicon, page design, syntax, even the fonts used, are tightly controlled; it becomes unconscionable that you would include in it anything which is not as rich in meaning or forethought. And so we come to the University of Huddersfield's *Copyright Statement*, and my attempts to improve it.

But first, let me make this very clear: what follows is *NOT* the copyright statement for this thesis. I originally submitted a version of this thesis with the copyright statement that follows instead of the one seen at the front of this document, only to have the thesis rejected by the University Registry. In fact, I was told by the University Registry that if I included what follows as the copyright statement for this thesis, they would fail me. So, let me re-iterate: *this is not the copyright statement for this thesis*. The actual copyright statement is at the front of this document and, even though it is opaque, confusing, badly thought-through and fails to effectively protect my rights as an author, I have included it because I have no other choice. The Registry told me that there was "no compromise" available for finding some middle-ground between my statement, and the one seen at the beginning of this document.

What follows was what I substituted for the University's copyright statement in that original version of this thesis; essentially a set of annotations and explications. And you might read the following and think "but if you have to include the University's copyright statement without addition, how are you supposed to assert your intention to use a different Creative Commons license, in line with the University's policy on e-theses?" and you know what - I have no idea. But here is what happens when bureaucracies fail to function, when the compulsion to follow rules usurps the intention of the rules themselves, creating counter-intuitive situations which do the opposite to what was intended. So, what follows is what *could* have happened if people thought a bit deeper, worked a bit better, had the leeway to compromise.

And maybe you think of all of those theses, submitted over the last 8 years, whose rights hang on the whim of an unnamed, unreferenced document and wonder why it took this long...

[This was followed by the rejected copyright statement from the first submission]

Post-Second Submission (11 October - 14 October 2017)

Communications with The University Registry

Reply all 🛛 🗸
nt.



🔹 🎝 Reply all 🛛 🗸

Dear David,

Thank for resubmitting your thesis. However, I note that you have added an appendix F in your resubmission. You are not allowed to change your submission at this point. Therefore, appendix F and any reference of it will be removed in the version that is sent to examiners.





Registry

University of Huddersfield | Queensgate | Huddersfield | HD1 3DH



David Pocknee (Researcher) Sat 14/10, 12:28 ♦ \$

Dear

Thank you for informing me about this.

Censored Thesis

A photo showing how the University Registry censored the additional appendix in the table of contents of the submitted document. The appendix itself was cut out of the document by the Registry and thus was not seen by the examiners.

Contraction of the	and a second	
	5 Process	205
	5.1 Design	. 206 . 209
	5.1.2 Font	. 212
	5.2.1 Quantized Divination: Using Random Numbers to Select Books in Huddersfield	
	University Library	216
	5.2.3 Unquantized Divination: Dérive for Journals in Huddersfield University Library . 5.2.4 Information Found	. 217
	5.2.5 The Sortes and Random Quotations from Greek Dramaturgy and Shakespeare . 5.3 Syntax .	. 219
	5.3.1 Clauses	223
	5.3.2 Words: Tenses of Verbs 5.3.3 Words: The Sortes and Random Dictionary Words	233
	Chapter 5 Bibliography	235
	Conclusion: Constraints	236
	Non-Divinatory Bibliography for Chapter 4 and Conclusion	277
	Quantized Divinatory Bibliography for Chapter 4 and Conclusion	281
	Unquantized Divinatory Bibliography for Chapter 4 and Conclusion	283
	Appendix A Optimal Quantization Methods	291
	Appendix B Code For Generating All Possible Structures	297
	Appendix C Completist Structures	301
	Appendix D List of Possible Morphological Vectors	307
	Appendix E Analysis Of Footnote	311
	Word Count: 74,065	
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