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## THE WORK OF ART AS *FICTIO PERSONAE*

### ABSTRACT

The article investigates how and why we treat works of art as persons. From rhetoric to jurisprudence, various disciplines have dealt with the practice of attributing human features and abilities to insensate objects. The agency of works of art acting as fictitious persons is not only recognized at the level of aesthetic experience, but also outside it, because there have been cases in which they were subject to legal liability. Personhood is not reducible to individual human beings. However, since works of art lack senses and consciousness, there is ultimately a limit to the personifying metaphor.

### KEYWORDS

fictitious person, art, personification, rhetoric, law, aesthetics, Miguel Tamen, Maurizio Ferraris

Although the term “persona” is believed to have originated in the world of art, its meaning has transcended the narrow sense of play and mimesis. By becoming part of the legal vocabulary, it marked an individual who is not a thing, and continued to carry within itself the aspect of covering whoever is behind that designation or role. Today, persons are human beings, but also legal subjects, which means that the word does not have to correspond to a human or even a living being. It is enough for it to personify certain objects due to features recognized in them.

There seems to be no one who has not felt, standing before a work of art, as if they were in the presence of a person, in at least one of the possible meanings of this claim. In a museum, cinema and similar private and public spaces, meeting people who only exist there fictitiously can further intensify the experience and real emotions resulting from the inextricability of the effect that works of art produce and form our attitude towards them. Sometimes they make us happy and content, completely fulfilled, giving us a feeling of something that verges on intimacy, like good companion conversation. Finally, after a museum visit or watching a movie, it is not an unusual sight to find passers-by addressing pets while walking around the city. As soon as the effort to establish verbal communication exceeds the level of the obedience command, which happens often, a strong affection for the animals we live with becomes apparent. In both cases, one participant is not a human being but the difference between them is far from insignificant and negligible.

To begin with, paintings, novels, sculptures, buildings have no senses, and thus do not react to stimuli that come from the world around them or the changing circumstances in which they find themselves. However, artistic creations definitely share intentions with us and are able to act in a very subtle way. Given their particular limitations, the following observation by Maurizio Ferraris from the book *La Fidanzata Automatica* will be a starting point for investigating the genealogy of the idea which it presents:

Like the Automatic Girlfriend, works of art are things that pretend to be persons, but only pretend. (Ferraris 2007: 200–201)

The suitability and effectiveness of this metaphor are supported by the fact that in Italian the word “work” is a feminine noun (*opera*). This, of course, is not the case with all languages, but it is with those that originate from Latin. If we move from a strictly linguistic level to the domain of sexual differentiation, it is possible to imagine a work of art not only as a girlfriend or fiancée but also as a boyfriend, depending on the subject taking pleasure. The question remains as to why the masculine and feminine gender are assigned to entities that are not living beings or to things that do not have the biological characteristics of “natural” persons.

There is a thesis about the archaic nature of the tendency of human beings to project their qualities outwards in order to take over the encountered phenomena, things or their surroundings. The ultimate goal of such attempts would be to establish oneself as the ruler of the world and all of life, someone who could subdue the universe. In the *New Science*, Vico formulates an axiom on the basis of which he notices that man “makes things out of himself and becomes them by transforming himself into them” (§ 405) (Vico 1948: 117). Those objects that are part of his everyday life are perceived and understood according to his own image. There is a spontaneous humanization of what is not in itself human. In that sense, Freud’s remarks in *Totem and Taboo* on the attribution and extension of life and soul to inanimate entities, as well as the efforts “to obtain mastery over men, beasts and things”, which once strongly characterized the psychic life of “primitive” peoples, are also instructive (Freud 1958b: 77–78). Everything, including impersonal forces, must be systematically subordinated to human will. Such a position was interpreted as a consequence of the narcissistic attitude. Reflecting on the development of humanity or one person, both Vico and Freud include at least three successive stages, the first of which is related to the attitudes and acts in question.

The intention to make the still largely unknown world more familiar and to subjugate it takes place through giving life to insensate objects.<sup>1</sup> What lies

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1 Vico observed an inclination that occurs spontaneously at an early stage of an individual’s development, namely, “it is characteristic of children to take inanimate things in their hands and talk to them in play as if they were living persons” (§ 186) (Vico 1948: 64). According to the proposed axiomatic point, the childhood of an individual and the childhood of humanity, revealed in poetry, actually coincide. Is the continuation of

at the bottom of this kind of projection? Ignorance, narcissism or perhaps something else? Two inventions made an initial contribution to enabling such attempts – animism, as a system of thought, and metaphor, as a linguistic device. The animistic way of thinking implies the existence of spirits that inhabit all things, as well as the principle of analogous transposition of the soul into living and non-living entities. A number of remnants and traces of that conception of the world have remained to this day, “either in the debased form of superstition or as the living basis of our speech, our beliefs and our philosophies” (Freud 1958b: 77). The psychoanalyst notes that the main manifestation of animism, associated with the accomplishment of wishes and infantile in nature, is still evident in the arts.

On the other hand, the use of metaphors is a feature sought in the primeval poetic impulses of civilized communities. One type of this trope is especially emphasized: “in all languages the greater part of the expressions relating to inanimate things are formed by metaphor from the human body and its parts and from the human senses and passions” (§ 405) (Vico 1948: 116). The same paragraph further lists some words used in a figurative sense, such as “mouth” for openings, “lip” for the rim of vases or “handful” to denote a small number or quantity of something, or the wind “whistling”. Such a list could go on almost indefinitely. Regardless of whether it is an animistic or metaphorical gesture, the ability to make images – real or verbal – is what enables their emergence.

Appropriation of objects through linguistic acts, which at the level of perception carries the risk of their deformation, does not always have the same degree of justification. If we focus our attention on physical objects, there is a difference between those classified as natural and artificial. While the human race has no role in the creation of the former, but finds them given, the latter are still its product.<sup>2</sup> Artists are even ready to look upon their works as their “children”. Based on this causal relationship, artistic creations are somehow “more natural” and closer to us than mountains, rivers, etc. From this point of view, the anthropomorphizing of product of human hands and mind seems justifiable. The facade of a building, for example, is seen as its face, as evidenced

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using what is subsequently designated as a poetico-rhetorical figure in adults a trace and a distant echo of their early behavior and intense experience of reality? It is certainly true that both old and young treat insensate objects around them *come si fussero... persone vive*. And that they often do it out of pleasure or fascination.

2 There are, of course, natural objects of large dimensions, which humankind, having encountered them, sought to conquer and “civilize” – mountains that are extremely high, seas that occupy large areas. Humans have not, therefore, been choosing and determining their size, which is not the case with their creations. It has been rightly noted that a novel of hundreds of thousands of pages, a sculpture several tens of kilometers high, or a musical composition that lasts longer than the average age of an individual would be completely meaningless from a human standpoint (Ferraris 2007: 43–50). It is possible to make a house whose front door would be ten centimeters wide, each stair leading to the first floor five meters high. The argument from hyperbole indicates that human measure is normally required of such works. Their size, length or duration adapts to whoever makes, uses and enjoys them.

by the word's etymology. It follows that buildings look like people and they are perceived in that way. However, one should be cautious regarding the imposition of oneself on non-human entities: even if such an act occurs spontaneously, it does not mean that it is neutral in nature.

Personification is closely tied to the metaphorical utterance. The reason for their relatedness can be found already in Aristotle's *Art of Rhetoric*. A metaphor is when one "speaks of inanimate things as if they were animate" (*Rhet.* 1411b) (Aristotle 1926: 407). Through such a tropological act, any lifeless object gets what it does not have and becomes *ἐμψυχος*. The examples given are arrows and spears, which are breathed life into through poetic images as if they were things that fly and feel like birds and people.

Roman rhetoricians take this definition of metaphor in their manuals, but rather than use the Greek, employ the word *translatio*. Both technical terms basically contain the idea of transfer – a word that signifies one object or action is taken over and applied to another according to a certain similarity observed by the one who connects them. The Latin corpus also notes that this trope is used on *pro animali inanima* principle. In the *Institutio oratoria*, the power of this technique manifests "when we give action and soul to insensate things (*rebus sensu carentibus*)" (Quint. VIII, 6, 11). Of course, transfer is not limited exclusively to establishing the relationship between an object that does not have a soul or life and one that does, but this combination is decisive in the constitution of the idea of works of art as persons and therefore we place it here in the foreground.

Vico's *Art of Rhetoric*, written many centuries later, testifies to how long such a formula has lasted in the European tradition, gaining canonical status. The huge temporal distance did not prevent the adoption, preservation and continuation of the basic rhetorical definitions, thus ensuring and confirming duration and stability. Now, the focus is not on Vico's originality but on the claims that were recorded and further transferred by his work. In the immediate wake of the classical heritage, this rhetorical treatise emphasizes the special value of metaphors "which give to inanimate things animation and movement" (§ 40) (Vico 1996: 139). Then, the very same section points out that it is metaphors based on verbs or adjectives and not nouns that achieve a special effect. There is a reason for such a claim and in order to grasp it more comprehensively, it is necessary for us to return once again to the origins of rhetoric as a discipline.

According to Aristotle, a particularly strong impression and memorability is the result of a metaphor that signifies a certain *act*. In other words, one that does not express a similarity through static images. This opinion is illustrated by a series of verses dominated by participles, which refer in a figurative way to the qualities of living beings. The power of metaphors by which the *acti* are expressed is pointed out in the Latin register as well. Vico's observation, formulated more on the level of linguistic terminology, is complementary to that of the ancient writings because, by the nature of things, verbs are the most suitable modality for showing the actualization of potency and action.

When discussing the use of this trope, Aristotle gives an example that refers to a process of trial in Athens. As the accused is a person to whom a statue was previously erected in the city as a public expression of gratitude, his advocate wisely refers to that monument. The publicly displayed figure was given the role of a defense witness who points to the defendant's virtues. With regard to the posture of the unpreserved bronze figure of the accused – according to one source, with his knee resting on the ground – it is said that he was expressing an appeal to judges. The statue “pleads” for the one it represents (*Rhet.* 1411b). Is a statue actually able to do that? No, since a non-living object has no soul. Moreover, the choice of how the body of the distinguished citizen will be represented has nothing to do with the act of a plea, even if it, by all accounts, recalls it.

Simply put, the potential of the kneeling figure was used by erasing the basic meaning of his posture, with which the Athenians must have been familiar. It is the lawyer who makes an inventive turn, aiming to stir the emotions of the listeners, effective only in this one specific occasion, which as such must be spatio-temporally limited. Instead of representing a defensive act on the battlefield, an image of a call for the release of the accused military leader is made by another person. The lawyer or the statue? *Someone's* plea belongs to the court scene until a final verdict is reached. The statue was erected because of what the military leader had achieved and, in doing so, the city thanked him during his life. It can be said that this monument “testifies” to his accomplishments, which would be a yet another personification introduced in the already started chain of sequences and multiplications.

Aristotle's illustration from the *Rhetoric* undoubtedly affirms the idea of the art work as a person. However, it should be added that the cited example of the trope from judicial oratory here primarily refers to a mimetic representation of a man, who, as such, in fact has the ability to speak and make codified gestures, and not so much on the strategy of attribution to a physical object of an act that distinguishes human beings. Indeed, the free-standing statue, apart from the pedestal or accompanying accessories such as a shield in this case, corresponds in a strong sense to a human figure, which is a coincidence that enhances the strength of the analogy that is the subject of this exposition.

The desire for things to speak like persons need not only be realized metaphorically. The attribute of “speech” was attached to non-living figures directly by the words written next to them. Such practice appeared in the relatively early stages of the development of Greek sculpture, at the origins of European art and culture. The literal attachment of sentences to physical objects is evident on funerary monuments. Graves with artistic representations were made either in the form of a statue or a plate containing a relief. Many were discovered in Athens, especially in the area of the ancient Kerameikos cemetery. Inscriptions follow and complement the figures they stand next to, as if speaking, even though their words are actually the work of someone else.

Not all funerary objects were conceived and made in that way but some significant examples were. Within this group, epitaphs above or below the persons represented include phrases such as “I am the grave of...”, “my name

is...”, “here I rest...” (Peek 1960). Sometimes such sentences of epigrammatic character only have an informative function and do not require the presence of another person in a strong sense, while there are those that involve an act of addressing. Even dialogue, complete with questions, can be found.

Athenian stelae with the representations of Ampharete and Nikarete, created around Aristotle’s time, are very impressive and famous. The inscriptions, formulated in the first person singular, accompany both female figures made of marble. These epitaphs are structured on the basis of the antithesis between life and death. The abrupt transition from one world to another is accentuated by the sharpness of the contrast that at the same time separates and connects the beginnings and ends of the verses. However, the statue of Phrasikleia, excavated in the region of Attica and today kept at the National Archaeological Museum in Athens, stands out due to its good condition and age. The special strength in her posture comes from the right hand that grasp the dress. What exactly does this visually marginal but striking gesture express? In addition to explicitly “informing” us about her name and the artist who carved it, the figure, revealing herself, says the following:

I will always be called maiden,  
because instead of marriage  
the gods gave me this name. (ibid: 61)

In the preceding paragraph, I intentionally did not put the verb “say” in quotation marks, because the piece includes a synthesis of the art of language and space, in addition to the physical connection of the three-dimensional human form and the base with the funerary inscription. In this type of epigram, we can often encounter the phrase “mute stone” (*κωφή πέτρα*), whose silence the accompanying words tend to overcome. In this way, we get the impression of a person who does not address the observers but the listeners.

For at least two reasons, Ferraris cites a famous sentence that Michelangelo allegedly uttered in front of another statue: “Why do you not speak?” The imagined scene ends with a furious strike on Moses’ knee, as he did not respond to his question. Putting these words in the mouth of the Renaissance artist probably indicates the preoccupation of men of letters with the problem of the relationship between art and nature, reality and fiction. In any case, it is the work of art that is in the foreground and not the one who made it, because it generally seems that it is the former that “wants to say something”, “and not the author” (Ferraris 2007: 58). Artists can always act as advocates for their work but their products are autonomous objects. Moreover, in comparison with the obsession of forcing something that is not alive to speak, connecting the verb *parlare* to such entities only makes sense if it is done figuratively or if words are written next to them. The very question posed by Michelangelo implies that the marble refuses to do so. Whether it was his or someone else’s question does not really matter for the argument.

We will stay for a moment with this statue. One analysis demonstrates the phenomenon and limits of the “behavior” of an art work. In this case, the

statue entirely corresponds to a human figure, more precisely, a certain person. Freud's "The Moses of Michelangelo" is worth returning to for several reasons. The author of the study, fascinated by the mystery of the statue from a Roman church, seeks to provide a meticulous description of it and discover the intention of the artist who carved it. The text does not hide reservations about the thesis proposed, and it indicates cyclically, in waves, that it does not have absolute certainty, although it is defended all the time.

A large part of the essay is dedicated to a review of previous interpretations of Michelangelo's Moses. They are often opposed to each other, which is not only the result of incorrect observations, understandings or descriptions, but also a consequence of the fact that it is a work of non-discursive nature. The sovereign figure in a sitting position welcomes every word with equal indifference, in silence that does not settle his gestural ambivalence. And I am aware that I am here adding another metaphorical utterance.

In that sense, art works have been viewed as agents from the very beginning of Freud's text. Literary works, paintings, musical compositions and the like are treated as entities capable of affecting those who read, look, or listen to them: "Nevertheless, works of art do exercise a powerful effect on me, especially those of literature and sculpture, less often of painting" (Freud 1958a: 211). However, in the field of the spatial arts, the work whose name is in the title of the text takes special place: "For no piece of statuary has ever made a stronger impression on me than this" (ibid: 213). From that aesthetic judgement, colored with admiration, arises, therefore, the interest in deciphering it. What do the facial expressions of the prophet and the gestures of his body refer to? What does he "say"? Yes, the very verb is used: "There have even been some for whom the Moses of Michelangelo had nothing at all to say, and who are honest enough to admit it" (ibid: 215). If this statue does not express anything significant, then such an opinion represents an end point; on the opposite side of which is the position that carries the risk of overreading or excess, the surplus added by interpreters. What is important in the context of this analysis is precisely the choice of that word.

Particularly striking and instructive are the sections describing the scenes of the direct encounter between Freud and the statue that would become the subject of his study. The visitor of the church has the impression that Moses is really looking at him from one of the aisles, that he feels his gaze full of rebuke, as if he were an idolater. Elsewhere, the impression gained after facing Michelangelo's work is shared with the reader. Two people sitting opposite each other:

And, indeed, I can recollect my own disillusionment when, during my first visits to San Pietro in Vincoli, I used to sit down in front of the statue in the expectation that I should now see how it would start up on its raised foot, dash the Tables of the Law to the ground and let fly its wrath. Nothing of the kind happened. Instead, the stone image became more and more transfixed, an almost oppressively solemn calm emanated from it, and I was obliged to realize that something was represented here that could stay without change; that this Moses would remain sitting like this in his wrath for ever. (ibid: 220–221)

Relying on the psychoanalytic method, Freud focuses on details which may seem irrelevant in order to arrive at the overall meaning of what is viewed as one scene from the life of Moses. Here too, he emphasizes – seemingly without rhetoric – the dilemma of whether the applied method is correct, that is, whether attention is paid to something that could be trivial. Looking at the elements, such as the tablets and the right hand of the prophet, specifically the index finger, he finally reaches a conclusion about Michelangelo’s goal – to portray the moment of suppression of anger and rejection of the violent action that should follow. It is truly a “moment” from the life of Moses because, by its nature, a sculpture can only present a single moment. This does not prevent Freud from recalling the events preceding it, the movements that lead to the one that still lasts.

It is pure coincidence that this statue, like the one representing Phrasikleia, is intended for a tomb. Although both funerary figures are made of cold marble, it has not prevented their introduction into a world governed by words – as if they were alive. In the case of the Greek decedent, it is certainly more visible and material than in the scenes with the Jewish prophet but this nuance does not violate the basic intention. One could think that a piece of carved stone acquires personhood through speech or at least its imitation.

As mentioned before, Aristotle’s treatise contains the postulate for the constitution and shaping of personification as a figure. More precisely, it can be found in his consideration of metaphor, which contains the potential for extracting or generating the separate poetico-rhetorical device, as dependent on the former as it is different from it. According to the corpus of ancient rhetorical and pedagogical writings, what is called *προσωποποιία* in ancient Greek applies to human beings as well as things. This trope attributes *orationes fictae* to both. In other words, a person or non-personal object starts to talk, when they are in fact not talking.

In the first case, the speaker lends his body and voice to another person who thus speaks through him. Gender or age does not matter – a man can identify himself with a woman, an old man or a child. Both real and fictional people talk through this kind of transference. The absent becomes present, even the radically absent one – in the case of the dead, who appear or return through an idolo poetic act. This type of prosopopoeia is recommended for court proceedings and is used in forensic oratory, because it enables one to make an emotional impact on one’s audience, to be persuasive. In resolving a legal case in court, the lawyer turns into his client through his discourse. In the second case, personification in the strong sense, speech is given to *res muta*, an entity incapable of speaking, but which thus acquires this ability. There is a well-known and repeated example that through the mouth of a speaker, for example, the country is given voice, as a subject who can express itself. The city is not excluded either. In the *Etymologies, or Origins*, an attempt at a synthesis of classical heritage, the following exemplary definition of personification is found: “Prosopopoeia occurs when personality and speech are invented for inanimate things” (*Etym.* II, 13, 1) (Isidore of Seville 2006: 74). Therefore,



unlike metaphorical expression, it is not enough to figuratively vitalize things, phenomena or ideas, but they should also be given a certain human quality.

Within the world of social reality, different kinds of objects are therefore spontaneously given human characteristics and this tendency in rhetoric has a name and definition. However, this practice is not just present in everyday speech and literature, deriving from the originality of an individual or simple reproduction of existing phrases. Treating non-human objects as persons is also an institutionalized phenomenon. Evidence of this can be found in the legal discourse and laws that are currently in force.

According to philosophy of law, a person does not necessarily correspond to human individuals. However, even when we ascribe personhood to one thing – for example, a temple – it cannot be done without their presence and involvement (Gonella 1959: 201–202). Certain entities do not literally have to have a head, eyes, hands, consciousness; it is enough for them to be declared subject of rights and obligations in order to have personhood. The fact that historically not all individuals automatically had this status further proves that human and person are not synonymous in this domain. As we know, systems in which certain people were not holders of legal personhood are found in ancient societies. In the *Institutes* of Gaius, slaves were included in the *ius personarum* (*Inst.* I, 9), although they were not persons in the legal sense of the word, but rather *res corporales*, someone's property (II, 13). The same text informs us about the second century constitution that restrained masters from treating their slaves extremely inhumanely. In these cases, the slaves escaped to temples and sought protection from statues of Emperors, as if beseeching the rulers themselves for help, and not their images (I, 53). Certainly, persons have also been viewed as things, and not just the other way around.

At the level of regulating the forms of social interactions, Roman law offers an indication of what will be developed later, namely, the attribution of personhood to something that is not in itself a human being. A decisive contribution to the consideration of this problem are the opinions of the medieval jurist Sinibaldo Fieschi, which he formulated as Pope under the name Innocent IV. There is a comment related to the tractate *Apparatus* according to which it is possible to imagine a corporation as a person (*fingatur una persona*) (*Appar.* II, 20, 57). At the same time, remaining in the domain of the ecclesial, Fieschi claimed that this type of organization is not subject to certain sanctions, because it does not possess the main characteristics and abilities of individuals, and it is only a *nomen iuris* (V, 39, 52). At the same time, such reasoning has provided material for their treatment as fictitious persons. The application of this formula has gone beyond the scope and subject of canon law. The fact is that corporations have long been recognized as entities that have will, intentions, interests, ability to engage and act, even if, at the same time, they have been viewed as legal fiction.

Unlike humans, corporations and works of art as fictitious persons do not have a limited lifespan or duration. To speak of their “life” is to speak metaphorically of their own histories, which can be extremely long. By their structure,

they have the potential to transcend the finitude of the participants in their creation or maintenance. Just as corporations are able to survive through the centuries, there are works of art thousands of years old, which have therefore far outlived their authors. The transgenerational functioning of corporations provides a smooth and necessary replacement – the arrival or departure – of the individuals involved in their functioning. In the case of art, proportional to the temporal remoteness of the epoch they belong to, the names of those who made them are less known, to the point of their complete oblivion.

One issue in particular regarding their similarity is subject to discussion, namely, the status and limits of their responsibility. If we start from the premise that they are capable of doing something wrong, then the question arises as to who is ultimately responsible for the consequences of their actions? Personification both reveals and hides the real culprit. If a corporation commits a crime, who bears the burden of liability – the organization or its legal representative? A similar circumstance is found in the world of art. If an artistic creation violates the moral rules of a given society or insults the feelings of a certain group, either the work or its author and patron will suffer sanctions. Does the intention lie with the work of art or one who made it?<sup>3</sup> Through a metonymic transfer, it is possible to direct guilt in one of two directions, towards both social actors – the fictitious and natural person. From there, various dilemmas and answers arise. In any case, the corporation within which the illegal act was committed and the institution within which the work is exhibited, such as a museum or gallery, will also suffer damage.

The terms *fictio personae* from rhetoric and *persona ficta* from law are linguistically very close. However, this is not the end of the attempt to establish a relationship between these two, for it is not of a purely external character. These terms actually refer to the same figure applied in two different disciplines, between which there is strong affinity. The thesis according to which this legal term is taken directly from the rhetorical register should not be ruled out in advance as unconvincing. Further, the way of looking at things called “personification” is not a theoretical invention. It is a matter of a natural or at least a very old and nurtured human inclination.<sup>4</sup> Works of art and corporate bodies are non-humans, but the mentioned impulse to count them as such because human qualities are noticed in them, and the fact that they cannot exist

3 Michelangelo’s mural “The Last Judgement” is one example of the target of such attacks. On the eve of the Council of Trent, the monumental fresco from the Sistine Chapel was criticized for its abundance of nudity, and during the Counter-Reformation obscene parts were covered by painted draperies. The Catholic Church could accuse the Popes who initiated and supported the project or even itself, which would be absurd, but this institution certainly shares with the artist the responsibility for the creation of the composition. Yet, the work remained the primary object of condemnation.

4 Phrases that come from rhetoric, law, and aesthetics and belong to different historical epochs, such as *inanimalium et persona et sermo fingitur*, *collegium in causa universitatis fingatur una persona*, *personam facimus e non persona*, *le opere sono cose che fingono di essere persone*, contain the same operation or formula, because it is a matter of the capacity of the human mind and not the exclusive property of any single discipline.

outside society as we create these objects for our own enjoyment or benefit, are reasons in favor of perceiving and treating them as humans.

Over a long period of time and within multiple civilizational frameworks, history has provided many cases in which insensate objects have been legally recognized as persons. In this regard, in his book *Friends of Interpretable Objects*, Miguel Tamen reflects on cases that have emerged from a very tenacious tradition that manifests itself through hostility, destruction and punishment of works of art. The crucial criterion is the way society experiences artifacts, not some intrinsic characteristic. Relationality is the condition by which their features are constituted.

The fact remains that objects endowed with intentions (but not with a soul), and, presumably, with language (as they were considered to be in a certain sense nonmute), used to be sued, tried, convicted (but probably not acquitted), exiled, executed, and rehabilitated. (Tamen 2001: 79)

If we focus on sculpture, the book tells of a second century statue in Thassos of an athlete convicted for falling on his rival and thrown into the sea as punishment. According to an autobiography from the beginning of the Renaissance, another statue was “lacerated” in mid-fourteenth century Siena and buried outside its territory as a result of the belief, presented at a meeting of the city council, that it brought misfortune in war. In both cases, the punishment was the maximum physical distance of the dangerous objects from the communities of which they were part, that is, the depth of water or earth. Those were places where they could no longer be seen and from which they would not be able to do any harm. Therefore, not only was it normal to look at a statue as if it really had flesh and skin, but the institution of idolatry or a remnant of animism led to the belief that it could do something beyond giving an aesthetic experience. A piece of bronze was capable of committing murder, but we can also see, *inter alia*, that they were indeed considered to be quasi-persons on the basis of law and not merely in the consciousness of individuals.

Who, then, and – even more polemically – *what* can have the status of a person? Obviously, works of art as well, which, along with corporations, show that the reduction of legal subjectivity to human beings is not always valid, although such definitions of tangible or intangible entities still carry the echo of anthropomorphism. Here the classical distinction between *res* and *personae*, established at least since Gaius, is again problematized and relativized, although from a different perspective. While the slave is seen as a thing, identification now takes place in the opposite direction. A statue is capable of committing a crime, something that ordinarily characterizes only human behavior. In both cases, legal reality is no different from fiction, but as such it remains in force and governs intersubjective relations within a particular society.

Artifacts do not only have to be subject to criminal liability, but are also rights holders. Can a soulless object suffer? Outside of Europe, such a practice has been documented in relation to what conditionally corresponds to a “work

of art". An example would be a well-known case in Calcutta from the first decades of the twentieth century (Duff 1927). Namely, the issue was whether one family idol could be transferred from one place to another. In accordance with Indian customs, the sculptural image had legal personality, meaning that its interests, and even its will, had to be respected. Of course, a judge "would have been surprised if the idol had moved a hand or nodded its head to express its will; and would have put down to indigestion any dream in which this *persona* appeared to him and explained what it wanted done" (ibid: 44). Putting aside such an impossible scenario, the High Court chose a *prochain ami* of this house idol, who would speak and act on its behalf. It is clear from the opinion of the Council that the position of such an object of worship oscillates between being the master to be served and a child to be cared for.

That the question of the parallelism which is the subject of this text is not only a matter that falls within the domain of the practico-normative and law, but also within reflections that tend more towards theoretical philosophy, can be seen from the article by Virgil Aldrich entitled "Pictures and Persons: An Analogy". The two share at least one similarity: at the ontological level, they significantly surpass the corporeality or thingness of their, let us say, "vehicles". Both are something more than physical objects that can be dealt with at a glance.

"Picture" is a word that can have two meanings, and the choice between one of them is contextually conditioned. The question "Did you see the picture?" refers either to the physical thing or to what it represents. When we think of its content, then it is a configuration that transcends the material traces left by the artist on a certain surface, just as we do not see the letters as we read sentences, but the meaning obtained by their sequence. And vice versa – letters and words come to the fore when we do not understand the language in which they are written. In an analogous way, when an unknown man or woman is seen, it is natural to notice at first glance his or her appearance, distinguishing characteristics of their bodies, or the clothing they are wearing, but that first and superficial impression is not yet sufficient to understand their personalities. It is necessary to look deeper into someone's eyes, words or gestures in order to have a fuller understanding of who they are. The difference between "look at" and "look into" turns out to be crucial:

You are *then* in one another's presence, in the strictest sense. Then you see and share her "inner life". That is, you see how she feels, her intentions; and her speaking bodies forth and details all this, including what she is thinking. Thus does her body come alive with her soul, as the picture comes alive for you when you see what is *in* it, or what it expressively portrays. (Aldrich 1975: 600)

One thought experiment shows two meanings of the term "picture", that is, the distinction between the perceptual and aesthetic experience. In order to perform it, we need to introduce an animal into the scene. A dog, beaver, cat, ox, both domestic and wild animals, are able to perceive a painting only as a physical object; they do not see it as a piece of art, and its artistic nature

goes unnoticed. This also supports the claim made by Ferraris, that the work of art is a social object and therefore exists only in the human world, and by no means outside it, where it is degraded to a mere thing among others.

Aldrich's descriptions and analysis are illustrated by a perhaps imaginary painting. It is a portrait of a man sitting on a stone, with his head bowed and staring at his folded hands.<sup>5</sup> The philosopher's choice of illustration implies an analogy between a person and the content of the painting, and not the work of art as such. So, the last step in this phenomenologically intoned metaphysics, which would lead to their further connection, is missing.

This article does not miss the opportunity to make a distinction between paintings and persons. In the everyday sense of the words, the former is artificial, while the latter is natural. The relationship between painted pictures and what is represented in them is arbitrary. It should be added that if a photograph were chosen instead of an oil painting, it would raise the question of stability of the thesis. Any given object could be artistically treated in an almost infinite number of ways. No solution would be better than any other. This observation, of course, does not correspond only to the art of painting. However, human individuals are inseparable from the bodies through which they express and manifest themselves. The embodied soul is always someone's, mine is not yours. At the same time, the portrayed figure is not able to move the painting to whose space it belongs, since for this to happen it would require some kind of external causality, whereas the human person, as long as he or she is alive, does not need it. Phrasikleia did not walk into the museum or make a decision that her statue should be placed there. Moses will not rise angrily, as Freud expected or imagined.

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5 Mimetic representations in the arts, as has been said, support, but also deform, the view of works as persons. If a human or some other figure occupies the largest or most important space of the composition, then such centrality of the subject functions at the expense of everything else. The identification of the main character with the whole work happens easily with biographical novels or autobiographies. When some part is taken instead of the whole, it is a metonymical approach. This trope also allows for a different naming strategy – moving from the efficient cause to what is produced. When I say: "I saw Michelangelo in San Pietro in Vincoli," it, of course, does not mean that he met me *en personne* or that I saw his spirit floating in the Roman church. That works of art are a paradigm of the metonymical reduction is explicitly stated in Vico: "Again, the name of the thing signified is given to the signifier, as a statue or picture is named for the person which it represents" (§41) (Vico 1996: 141). Portrait is a genre in which the substitution is evident, in that the title of the work corresponds to the *nomen* of the person portrayed.

The analysis of the polysemic phrase "my picture" is particularly instructive for demonstrating the distinction between a work of art and a person related to it. In itself it can have three meanings: I possess the picture, I am portrayed in it, or both (Aldrich 1975: 601). A picture that is "mine" is the one that I bought, received as a gift, or inherited, and in that sense, it should be understood as something I own on the basis of relevant papers. In the second sense, I am only represented in it. Hypothetically, after making the portrait, the painter or photographer decides not to give it to me, as he has the right to keep it for himself. If we return to the animistic conception of the world, it can be said that the picture possesses me, not the other way around.

Why such things do not happen can suitably be explained in the following manner. In his treatise *On the Soul*, Aristotle describes the internal relationship between a living being and the soul through an analogy with the eye and the power of seeing. Essential to the eye is that it is an organ of sensory perception. If it were hypothetically considered as a separate living being, then this power would be its “soul”. Without this source of life, it would be reduced to a pupil or a mere body that cannot move by itself and perform its function – “if seeing were absent, there would be no eye, except in an equivocal sense, as for instance a stone or painted eye” (*De An.* 412b) (Aristotle 1935: 71). In other words, being soulless, it would not be able to visually perceive anything or anyone around it and respond to stimuli, because its potentiality would not be realized. That is why we have the impression that a sculpture or painting looks at us with its “dead” eyes, which from an artistic point of view does not mean that they are empty, lifeless and inexpressive. Lines, surfaces and volumes form a configuration through the synthesis of imagination and appear as something that actually does not exist. Painted or carved eyes share only their name and shape with real ones.

Explaining the problem of movement or causation between body and soul, the philosopher illustrates a claim by referring to a comedic play (*De An.* 406b). A piece of fiction mentions a statue of Aphrodite moving, as if she were alive. In a certain way, the soul is breathed into this physical object, and because of that injection it behaves like an *automaton*. The motif of the moving statues was already a part of Greek literary and philosophical discourse. How did this “vivification”, or rather “animation” come about? Quicksilver was poured into the wooden figure of the goddess of love. So, the invention is based on the mechanistic principle.

To what extent have dichotomies such as natural and artificial, living and dead, spontaneous and automatic, lost some of their force today is shown in Ferraris’ book *Anima e iPad*. Were the emphasis not placed on a metaphor of the epoch we live in, a tablet, the book could easily bear the more elementary title “anima e automa” (Ferraris 2011: 8). In the mechanics of social systems as such, structured on the basis of abstract and impersonal relations, not only does the individual have to have a pre-arranged place for society to continue to function, but on a more immediate level, our daily life is full of repetitive acts and verbal automatisms. We often sound like a broken record, one that is constantly being played from the beginning or from some other point. This common phrase, which, being exactly what it is, is mechanically transmitted and used, carries an analogy from the world of technology and indicates the fact that in such moments, not at all rare or exceptional, we resemble automata or even become them. This is not negative in itself, but rather a necessity of the rhythms of existence.

For a person who likes to go to the theater on a regular basis, practicing that affinity takes place primarily through acts of repetition. If there is a preferred theater, they most often take the same way from home to that place and back. When leaving, they lock the door or say goodbye to someone and,

while travelling to the destination, regularly follow certain rules that transport requires. As usual, they buy the tickets at the box office, in an impersonal exchange with the ticket seller. And all this without any special consideration of each step or move. On the other hand, the actors themselves have had to repeat sentences, movements and gestures that the roles they play require, almost countless times. If it is a premiere, then at least at rehearsals. Answering the question, “How did you like the play?” how many times have we said the most conventional expression, like “Nothing special.” or “It really moved me.” There is, therefore, no alienation in all these, quite normal, situations. These are just some of the things we do almost every day and in the same way, but when one play or performance makes a special impression on us, that day or event remains in our personal memories.

Our attitude towards works of art really includes some kind of love and a sense of happiness. Paintings, novels, sculptures, poems evoke certain feelings in those to whom they mean something. Such affection leads us to look at them as friends and partners. However, when I say “our relationship”, I underscore that such an attitude does not apply to this class of insensate objects’ relation towards us. Not only to us as art lovers, but also simply as humans. In other words, it is a question of reciprocity. Do these objects share and respond to what we give them, or do they, asymmetrically, offer no answer.

A person cannot marry themselves, since law does not recognize self-marriage. An intimate relationship, whether or not legally registered, requires two persons. The problem, however, remains as to what the designation of “person” can entail, because, as has been shown, this term does always correspond to individual human beings. The wife of an artist or writer could be jealous of his works to the point that she begins to hate them, because her husband spends most of his time working in the atelier or at the desk. She perceives them as her competition, as if they were real women.

An objection to the claim that works of art love or care for us as unique beings would be that in their automatism or lack of interest they do not distinguish our individualities, while we are able to make a distinction between each work based on formal or other characteristics. So, we react to a piece of art in its uniqueness. It does not have the same effect on all the people who face it, but there is always an individualized interaction. Since works of art are insensate, in dealing with them, we have to count on the phenomenon that can be called “responding-without-receptivity”. As such, artistic creations do not know who is addressing them, but they will play their part whenever the opportunity arises.

The beginning of *Friends of Interpretable Objects* and the end of *La Fidanzata Automatica* make pivotal and opposing claims about whether some kind of love relationship is possible between works of art and human beings. One position is more Aristotelian than the other. The introduction to the first book points to the indubitable existence of the “affection for notoriously unresponsive objects, splendidly instanced by many kinds of contemporary societies of friends (from art critics to animal-rights activists)”, that is, groups or professions

that make them “in places such as churches speak” (Tamen 2001: 4). The last pages of the second book, however, emphasize that in such friendship, a person “must recognize me”, which works of art do not do, and, no matter how much we love books, for example, they end up behaving like “the most monstrously ungrateful friends one can imagine”, while we, in turn, often treat them as “slaves” (Ferraris 2007: 200, 201). The scope of these remarks goes beyond the realm of art: what applies to animals and books is also true for artistic creations.

Unlike Aldrich, Tamen and Ferraris seek a point of convergence between works of art and persons in a linguistic act. The starting point of both positions is that such artifacts seem to be able to say something and this feature contributes to the recognition of them as actors, at least in the experience of the individuals. The meaning of the verbs “to say”, already noted in Freud’s essay, or indeed “to answer”, turn out to be decisive in trying to understand the effect that the products we make leave on us. These are not persons who are our interlocutors and their language does not always consist of words. Even when they imitate everyday speech and include phrases that we use in the most common situations, something hidden or unspoken remains incorporated in them that provokes further thinking.

In the case of works of art and insensate objects in general, we still speak of attribution, empsychosis, metaphorical transfer of uniquely human ability. According to one classical remark, since works of art lack senses and consciousness, while still possessing the quality of aestheticity, they are nevertheless characterized by the absence of spontaneity. They always act in a direction set in advance, which does not tolerate any meandering or turning conditioned by opportune moments and the flow of exchange. Although they are deaf, communication with them is not one-way, but they repeatedly provide a response-without-receptivity. They can be very talkative, since certain meanings and intentions are sedimented and inscribed by the hand of the artist, poet, or writer.

In order to determine how good a metaphor is, it is necessary to list the risks that arise in its making and use. According to the rules of rhetoric developed and transmitted from Aristotle to Vico and beyond, the basic defect is imprecision. Simply, a metaphorical expression fails to reach the essence of a thing. In that case, the desired mark is either not reached or is overshoot, and a discrepancy between the intention and its fulfillment occurs. The transfer, characterized by a far-fetched analogy, also turns out to be a failure. The desired effect is also not achieved when the reader or listener finds that the trope is random, inappropriate or too general. Although revealing a similarity between two objects or acts is necessary, what is required is lucidity rather than triviality.

Is the claim that works of art are able to “say” something a defective metaphorical utterance? Works of art – this is evident – cannot literally behave like persons. And yet, such a verb is found both in everyday conversations and in theoretical writing. The statues of Phrasikleia and Moses *tell* us about ancient Greece and Renaissance Italy. This, of course, also applies to literature. A novel tells us something about a certain historical epoch, a poem about the state of the author’s soul, his experience of the world and the like. Is the power



of metaphors in not being noticed by the reader or listener? The affinity between “saying” and “being about something” is indeed indisputable, and thus overlooked. Ultimately, the difference between them seems to be lost for better or for worse.

Whether works of art are seen as a source of emotion or knowledge, the economics of aesthetic experience show that they give back as much as is invested in them, and perhaps even more. Of course, the exact measure is hard to determine. Their indifference always brings us back to ourselves, which is why we respond in their name. It takes ventriloquism to “hear” them. That does not mean we do not get what we want.

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## Umetničko delo kao *fictio personae*

### Apstrakt

Članak istražuje kako i zašto tretiramo umetnička dela kao osobe. Od retorike do filozofije prava, različite discipline bavile su se praksom kojom se neživim objektima pridavaju ljudske osobine i sposobnosti. Moć delovanja umetničkih dela kao fiktivnih osoba nije prepoznata samo na nivou estetskog doživljaja, već i izvan njega, jer su zabeleženi slučajevi u kojima su bila podvrgnuta krivičnoj odgovornosti. Ličnost nije svodiva na pojedinačna ljudska bića. Međutim, pošto umetničkim delima nedostaju čula i svest, na kraju krajeva personifikujuća metafora ima granicu.

Ključne reči: fiktivna osoba, umetnost, personifikacija, retorika, pravo, estetika, Migel Tamen, Mauricio Feraris

