Knowledge, Science, and Literature in Early Modern Germany

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2. The Protection of Invention:  
Printing Privileges in  
Early Modern Germany  

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For at least a century after the invention of movable type, numerous features of the traditional manuscript culture of the Middle Ages continued to inform the ways society managed the circulation of information and the ways it thought about the information that it managed. Some of the inherent possibilities of the new print medium were immediately obvious to both members of the new printing fraternity and to authorities who defined the circumstances under which printing could take place. But much of the potential—and many of the difficulties—implicit in the rise of print culture emerged only gradually over the course of a century or so.

An evolving awareness of the distinctive possibilities of the print medium, for example, can be documented in the changing look of printed books from the age of the incunable into the early sixteenth century, long before printers, publishers, and authors began to articulate their notions of a printed book as something different from a manuscript. Similarly artifacts from both the new print culture and the continuing manuscript culture of the late fifteenth and the sixteenth centuries in Germany preserve evidence of concerns about the very nature of printed information and its resistance to conventional mechanisms of control, long before such concerns are actually formulated as problems. The conservative manuscript culture of the late Middle Ages and the emerging print culture of the modern era run headlong into each other in German chanceries throughout the sixteenth century. In fact, the manuscript and print cultures literally intersect in one contemporary chancery instrument, the so-called printing privilege, privilegium or freiheit, which preserves with surprising vividness traces of contemporary thinking about the nature and control of material that was published. That instrument is the topic of this essay.
A great new little book that teaches arithmetic for business (*Ayn new kunstlich Buech . . . welches lernet . . . rechnung auff kauffmanschaft*) (fol. Ar)

In 1521 a certain Henricus Grammateus, a scribe from Erfurt and a master of the seven liberal arts, published a little handbook on, among other things, the new Italian method of bookkeeping that was revolutionizing business practices throughout Europe. The story of this little book—a small octavo that fits nicely in the hand—is one that modern academics will be quick to recognize. Henricus Grammateus was a not-yet-acclaimed mathematician at the University of Vienna, who had nevertheless achieved some modest recognition in the academy as the proctor (*procurator*) of the university’s Saxon Nation and, as such, was one of those who voted to elect the rector. But when it came to publishing his book, he looked to senior colleagues to smooth his way into print. Specifically he turned to the architect Johann Tscherte, a senator of the city of Vienna, who was also a bridge builder for the emperor. Henricus reminded Tscherte that he had been the one to encourage him to publish his mathematical rules, and he dedicated the book to Tscherte, asking him kindly to take it “under his protection.” In making this appeal Henricus also asked Tscherte to convey his greetings to his “teacher and lord, Jörg Tannstetter, doctor of the seven liberal arts and of medicine.” Tannstetter, who is better known to us by his humanist Latin name, Collimitius, was *ordinarius* for mathematics at the University of Vienna, where he had served as rector, and he was a member of the renowned Danubian Sodality. He was also one of Maximilian’s court physicians. In brief, Henricus had friends in high places, and his *rechenbuchlein* was indeed published under an imperial privilege, executed by Jacob Spiegel, and granted to the Vienna bookseller Lucas Alantsee. The book was printed by Johannes Stüchs in Nuremberg.

Almost all of this story can be read directly from the book itself. Printed at the foot of the title page is the terse announcement: “With Imperial grace and Privilege; this book is not to be reprinted within six years.” And the flipside of that folio is filled completely by Tscherte’s coat of arms. The second folio, recto and verso, is taken up with Henricus’s dedication of the volume, in which he reviews the history of the project and appeals to Tscherte to protect the book. All this prefatory material is in German (figs. 1–3). At the end of the volume, Henricus offers his labors to “all friends of the liberal arts”; he asks brotherly correction for any flaws in the work that may have occurred due to his lack of diligence; and he warns printers again—on pain of considerable
damages, as specified in the imperial privilege that follows—not to reprint the work within six years. Henricus’s apologia for the book and his summary warning are also in German. They are followed by the full Latin text of the letter of privilege. The original privilege is, according to the text reproduced in the little volume, a charter under seal issued at the behest of Emperor Maximilian (with the “per regem pro [se]” and the “ad mandatum Cæsaræ” formulas), over the signature of Jacob Spiegel in Augsburg on July 20, 1518. In this edition of the *rechenbüchlein* Johannes Stüchs prints Spiegel’s name where the signature occurs on the manuscript original of the privilege, and he closes the book with his own printer’s colophon and device (figs. 4–6).

By comparison with ambitious illustrated folio imprints from the period—works like Maximilian’s *Theuerdanck* or Leonhard Fuchs’s herbal—the little accountancy treatise of Henricus Grammateus looks unremarkable. A sober, finely executed project, it belongs not among the sumptuous “coffee table books” of the sixteenth century but rather to that fascinating and underexplored group of early modern do-it-yourself treatises, which achieved unprecedented status and circulation during the first century of print culture in Europe. As the first German work on bookkeeping, however, and as an early German imprint published under fully documented imperial privilege, Henricus’s *rechenbüchlein* provides perfect testimony to two key vectors of the information explosion that occurred in Europe following the invention of movable type. The first of these vectors is the absolute increase in the amount and variety of information that becomes accessible publicly in the first century or so after the invention of printing. The second is the attempt to manage that knowledge in the emerging print culture, where mechanical reproduction facilitates the dissemination of information in unprecedented amounts and at unprecedented speed.

In the rest of this essay I will pursue these two considerations by looking first at how the medieval German *privilegium* was adapted to manage this flood of information. Then, from the character and application of the privilege itself, I will attempt to derive some sense of what that legal mechanism was employed to foster and protect. Finally, I will look at the compatibility of the information to be managed and the mechanisms designed to manage it in the emerging print culture of German-speaking Europe before 1600. In doing so I will also consider briefly the effectiveness of the privilege system as an instrument for controlling information in this period. The *rechenbüchlein* of Henricus Grammateus will be my vade mecum to the privilege system, and the privilege system in turn my guide to the notions that informed some of the legal attempts to manage information in sixteenth-century
Germany. I will use J. L. Austin’s theory of performatives to raise questions about how well the privilege system worked and why.

To explore further in this art (weiter jnn sulcher kunst zu speculirn) (fol. Q2r)

Before turning to the question of privileges or freiheiten as such, let us pause for a moment to remind ourselves of the enormous increase in both the kinds and quantities of information that were becoming available to even semiliterate audiences in Europe in the early sixteenth century. One thinks of the rediscovery of whole areas of classical scholarship, of the navigational advances that contributed to the discovery of the Americas, of the previously unimagined knowledge that encounters with New World cultures contributed to European thinking. One thinks of the technological advances in metallurgy, of the new challenges to medicine, of new systems of reckoning and banking, of dramatic new ways to make and lose fortunes. There were the bold attempts to reconcile science and wonders, some of which were heralded and rewarded as laudable contributions to the common good, some of which were suppressed as threatening to the social order. And then, of course, there was the new printing technology itself, which offered all this information to audiences within the population who even a century earlier would have had little or no access to the scientific, intellectual, and theological advances made in their time.

Printing transmitted the inherited wisdom of many established fields of learning, and it established new fields of endeavor by publishing their technical methodologies. The coincidence of advances in so many areas that produced new information on the one hand with the rise of print culture on the other makes it very little surprising that people at the beginning of the sixteenth century were thinking about their ideas as never before. Authors high and low, practical and philosophical were self-consciously concerned about publishing their new revelations, their new sciences and ways of doing things, for the good of audiences who would pursue them. This latter concern is even expressed in the rechenbüchlein of Henricus, who says finally of his text, “I have written solely for the young beginners in the art of mathematics, [and] I believe that I will have given some of them a reason to explore [speculirn] in this art.” Similarly in Maximilian’s Weißkunig we find this posture of seeking, speculation, and pondering recommended as the attitude required of a responsible prince; it is what the young White King must learn to do in order to be a fit ruler. And, of course, there is
Faustus who remains emblematic for the age. He enters his pact with Mephostophiles precisely because neither the gifts bestowed on him from above nor the teaching of men can give him the skill to fathom the elements (literally "die Elementa zu speculieren"). We will come back to Faustus and his problems a little later.

**Take this my book under your protection (solch mein buech vnnder ewer schuotz . . . annemen) (fol. A2v)**

The dramatic increase in information and the advances in transmitting it stimulated an enthusiasm for learning and exploring, but these developments also threatened to inundate Germany with a free flow of uncensored and unattributed print materials of the most various kinds. As Michael Giesecke has pointed out, two complementary instruments of legal control were adapted from their medieval antecedents to deal with the spate of information in this period. Existing censorship mechanisms were expanded and made more aggressive, and the privilege instrument was applied to protect various links in the chain of mechanical information reproduction and dissemination. It is this second mechanism that affords such interesting access to early modern thinking about the nature of the material that was becoming public by means of the print medium.

In simplest terms a privilege or freiheit is a law designed to treat the individual rather than the general case. It is a legal instrument that was used in Germany from the period of the Hohenstaufens right on into the modern era to confer sovereign favor on individuals without establishing a general precedent. The fact that a privilege could be conferred arbitrarily by a ruler on an ad personam basis, however, in no way precluded its systematic use for entire categories of legal issues. Privileges were used regularly, for example, to confer fiefs on individuals or raise them to the nobility, and in the early modern period the privilege became the chancery mechanism of choice for dealing with the legal issues that began to emerge around the new printing industry.

Despite the inherent flexibility of the privilege as a legal instrument, virtually all early privileges related to printing have a few features in common. They are basically limited monopolies conferred by authorities in response to petitions submitted by individuals involved with some aspect of the printing trade. The privileges confer on the grantee exclusive rights to some property related to printing for a specified amount of time. They simultaneously prohibit the infringement of the protected right for the period specified in the letter of privilege, and

Mit Kayserliche gnaden und Privilegien das buech nicht nach zu truccé in sechs jare.
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this on pain of a specified penalty, usually a rather significant one.\textsuperscript{18} They almost invariably prohibit reprinting \textit{(nachdrucken)} of one or more aspects of the property protected for the duration of the privilege. These are just about all the features that early modern German printing privileges have in common. If we look, however, at the many usual ways in which such privileges differed from each other, the obstacles to studying them systematically become apparent.\textsuperscript{19}

Both clerical and secular authorities conferred privileges. Within the German-speaking realm bishops, archbishops, cities, princes, electors, and the emperor all issued privileges. Elsewhere in Europe the pope, the Italian city-states, and the kings of France and Spain conferred privileges. The jurisdiction of a privilege extended only as far as the authority of its grantor, however, with the result that some petitioners sought multiple privileges for the same property, particularly where the project in question represented a major financial investment.

The categories of property protected by privileges were surprisingly various. Some privileges were granted to protect physical aspects of the printing process such as Greek, italic, or musical type fonts. Privileges were occasionally conferred to protect a specific technique such as chiaroscuro printing.\textsuperscript{20} Some were awarded for entire categories of texts or fields of knowledge, such as all works in classical languages, all \textit{Reichstagsakten}, all philosophical, medical, historical, or mathematical works. And occasionally a blanket privilege was conferred to protect all the works produced by a given printer. Images were often mentioned separately in privileges because they were expensive to produce originally but cheap to reproduce or pirate. And, of course, privileges were given to protect a single work or the works of a specific author living or dead. Sometimes privileges were even awarded "on spec"—that is, not only for the works that an author had already written but also for all those that he might write in a given field.\textsuperscript{21}

From a modern point of view the diversity of the petitioners who got these monopolies is quite as noteworthy as the overlapping categories for which privileges were awarded. Essentially anyone who had a vested or vestable interest in a printing project might apply for and, if successful, receive a privilege that, depending on its terms, protected the project as a whole or some aspect of the project. Thus the artist who designed a woodcut series, the printer who wanted to print the text of an author living or dead, the living author of a text, or, interestingly, the publisher or editor-proofreader \textit{(verleger or kastigator)}\textsuperscript{22} working with a printer might receive a privilege. And to make the picture more varied still, the privileges were in many cases transferable. So if an author had secured a privilege protecting his own text but happened not to be a
printer, he could specifically assign his privilege to a printer for one or more editions of the work in question. In our original point of reference, the *rechenbüchlein* of Henricus Grammateus, we see that although his treatise does appear under imperial privilege, neither he the author nor Stichs the printer is the privilege holder. It is rather the Vienna bookdealer Lucas Alantsee who is holding the privilege that the anxious Henricus invokes twice in the edition (fig. 5). And the privilege itself, which was executed in 1518 under the aegis of Maximilian I, is being applied to a work that was not published until the reign of Charles V.

I am compelled to have printed (*Bin ich geursacht... in den truck zugeben*) (fol. A2v)

Before proceeding to other aspects of the privileging process, we should perhaps consider the implications of those parts of the system already reviewed. The early modern German privilege system is often mentioned in passing in discussions of, among other topics, more recent European copyright law. In this context it is sometimes characterized as a sort of regional precopyright mechanism driven by economic motives, uninformed by moral scruples, regulated by inadequate legal instruments, and lacking any notion of what the post-eighteenth-century world has come to think of as intellectual property. Such characterizations tend to designate all privileges as “printer’s” or “reprinting” privileges, and to argue that no meaningful notion of authorial rights (*Urheberrecht*) developed in the age of privileges. Although we have not yet examined enough pieces of the privilege puzzle to deal with all of these assertions, we can begin to clear away some of this underbrush.

First of all, it is important to note that early modern German privileges are awarded for *kunst*—art, invention, knowledge, industry—in the widest sense of this term. A new system of bookkeeping, a new translation of Pliny, a new method for casting gun barrels or printing chiaroscuro, not to mention the creation of a new text or a set of woodcuts—all these things are protected alike by the same legal instrument in the sixteenth century because they are all, despite their different media, valued forms of invention. The sixteenth-century notion of the creator or *Urheber* would seem then not to be underdeveloped or incipient, as has been alleged, but easily as inclusive as the modern concept. In the early modern period the privilege system treats inventions in all media with the same legal instrument, and the various media and kinds of invention are not ranked hierarchically. The fact that Roman law, which was being adopted increasingly in Germany in the sixteenth
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century, was not well suited to dealing with intangible property does not mean that it did not recognize and protect such property.

A second important feature of the privilege system, which was established irrefutably by the work of Hansjörg Pohlmann in the early 1960s, is that privileges systematically protected the property of authors, artists, and musicians in the early modern period just as they protected the property of printers and publishers. Pohlmann documented more than 250 privileges before 1600 granted just to Urheber and just through the imperial chancery. If we remember that this figure represents only one category of individuals who received privileges through a single sixteenth-century German chancery, it becomes clear that our modern notion of Urheber is certainly represented among the recipients of early modern privileges but that it in no way defines the total group of sixteenth-century German privilege holders. That group included a significantly more varied range of individuals involved with the production of print projects than just the artist and the printer. The sixteenth-century notion of the inventor-creator, like the sixteenth-century notion of invention-creation, was larger and more flexible, and not necessarily less sophisticated, than the more recent concepts through which some modern scholars have attempted to approach these phenomena.

To publish for the ignorant and the particular enthusiasts of the art (den vnwissenden vnd sondern liebhabern der kunst an den tag zubringen) (fol. A2r)

The considerations expressed in many of the German petitions and privileges relating to print property in the early modern period were as much shaped by these contemporary notions of investigation (speculirn) and invention (kunst) as they were colored by the purely commercial considerations that many modern scholars have used to characterize the privilege system. Giesecke’s penetrating analysis explains that early modern authors did not seek privileges for personal advantage but rather because they wished to make their previously private, secret knowledge accessible to a wider public. But it could only become standard practice for private individuals to make their knowledge public if they were not too severely disadvantaged by making their revelations. It was thus, he continues, in the public interest to strengthen the rights of the individual by means of the privileging system.

We see this logic demonstrated over and over again in the surviving evidence that documents individual applications for and conferrals of privilege. The petitioner generally refers to a new invention or creation
that he has produced at some expense of energies or resources. He expresses to the privileging authority both his desire to share this *kunst* with some greater audience and his regret that he cannot do so without some legal assistance or protection. The privilege grantor in turn acknowledges both the value of the invention to some larger public audience and the inventor’s investment of intangible or tangible resources or both. The grantor in conferring the privilege expresses both his assumption that the common good is served by the publication of the new invention and his willingness to compensate the inventor for his efforts by awarding him a limited monopoly on the rights to that invention.

Again the handbook of Henricus Grammateus provides a good set of examples. The dedication of the book to Tscherte may, for the purpose of this analysis, be seen as the equivalent of a formal application through a chancery for a privilege (figs. 2 and 3). In it Henricus reminds his patron that Tscherte had admonished him to publish his handy rules for arithmetic and geometry for the sake of the ignorant as well as the particular enthusiasm of mathematics, so that “not only the knowledge, but also the usefulness of it [mathematics], can be learned and received.”26 It is on the basis of his willingness to follow Tscherte’s suggestion that he make his knowledge available to a public audience that Henricus appeals to him for protection. In the closing material at the end of volume, Henricus declares his public-spiritedness by explaining that his book is published to give “young beginners in the art of mathematics . . . a reason to explore further in this art” (fig. 4).27 The imperial privilege at the end of the volume is a little more difficult to read out because it is a multipurpose document that protects a number of the printing projects with which Lucas Alantsee was involved, and it does not name specifically the work of Henricus Grammateus (figs. 5 and 6). Nevertheless, the logic of the document responds to the kind of plea expressed by Henricus to Tscherte. The privilege grants to Alantsee a limited monopoly on various publishing projects because he has been willing to make available to the public the result of his labors.28

**With imperial grace and privilege (Mit Kayserlichen gnaden vnd Privilegien) (fol. Ar)**

The actual process of securing a privilege was initiated, as I have mentioned, with a petition from the privilege seeker to the granting authority.29 This application from below for protection represents an early modern modification of the medieval *privilegium*, which was tradition-
ally conferred as a benefaction or prerogative from above. If the petition was approved, the granting authority executed the privilege in the form of a manuscript charter, usually both signed and sealed, frequently with a hanging seal. Fees were charged for the privileges; in some cases they seem to have been rather high, in others, within the range of what chanceries normally charged to execute charters.

What recipients did with the privileges they secured varied considerably. In most cases the printer announced somewhere on a protected work (usually on the title page in the case of books) that the imprint appeared “with the grace and privilege” of the granting authority. In many cases that is all the publishers did, so that neither the duration of the privilege, the specific prohibitions articulated in it, nor the penalty for infringement could or can be read from the imprint itself. Some privilege holders printed separately the texts of their letters of privilege and displayed them in their printshops or on the doors to their exhibits at the Frankfurt book fair. And some of them, as we saw in the case of the *rechenbüchlein* of Henricus, reproduced the full text of the privilege, right down to its chancery notations, as a part of the work for which its protection was claimed.

With the imperial chancery it is sometimes possible to trace an entire process of privileging from the original application or *Antragsurkunde* (some of which are preserved), to the copy of the privilege granted as it may have been recorded in the *Reichsregister* (not all of them were), to the actual work. Reference to the privilege, if not also a summary of its text, is usually printed somewhere on the work itself. More often than not, however, the actual work printed under privilege contains all the evidence that survives from the entire privileging process. If, as in the case of Henricus’s *rechenbüchlein*, the designers of the project decided to publish along with the work itself, the full documentation of its privileging protection, it may include summaries or full texts of both the original petition and the privilege granted. In such cases, as we have seen, it may be possible to reconstruct much of the application process that precedes the publication. On the other hand, if the publishers of a book under privilege did no more than announce on the title page that the imprint was published “Mit Kayserlichen gnaden vnd Privilegien,” it is often impossible to determine the exact terms of either the petition or the privilege. The inability of the reader-consumer to get behind this sort of mechanically reproduced chancery shorthand—the *cum privilegio* formula—to the original circumstances and the actual terms under which a work was privileged is not just an inconvenience to modern scholars. It was also, as we shall see, a source of considerable unease in the print culture of early modern Germany.
Fig. 2. Left: Johann Tscherte's arms (fol. Av). Right: Henricus Grammateus's appeal for patronage and protection (fol. A2r). Courtesy, The Bancroft Library.
Dem edlen fürsichtigen, wessft Johannsen
Tschemt aler des Senats zu Wien, von
Hospitalmeister daselbst, meinem günstigen lie-
ßen herin. Erbeort ich, Heinrich Grammateus
von Erfurt, der sieben freyen künstten Muster
mein vngesparr willig dienste zuobare.

D er fürsichtiger lieber herin, die weich ich
vil mal euch in subaten künstte berunst
gehort, hab ich mich als liebhaber und
emstger erlerer euch züterkenne beslyssen, vi-
nit allain dermassen, wie ich berichte, sonder vil
scherpsen eurch darinne beunied, da wu wir zum
merern mal gerede vui disputirt, die jin grund be-
wert. Als aber ich ain zeyt in der künst arithme-
tica, xii. geometria, elich schöne und behende re-
geln in villerlay sachen dienstlich zusammen ge-
zogen, die selben euch züubere체 furgetragt er-
monet ja mich solche de vntvoisend vui sonders
liebhabern der künst an de tag zubunge, damit
nit allain die künst sond auch der nugs darauf
vernommen vui entpang ein duke/ Die veyl ich
euch als ainem milden gegen mir entpfundet,
der do nichts vor mir (wes ich begere) verbo-
gen, das ich beherzig und dar durch beroeg,
dyse mein arbait auch miliglich darzugehers,

A ij
So ich aber bedenck daz die kunst allain de aben liche verstendighe auch liebhabende gemute sol len zugeschrybe werde/ daz die vo jungen beschütz vni in vorben gehalten. Dennach hab ich dyse bûch mit seiner iňhaltung euch als meynen günstige herrenzuo getolget in die werckstat der truckerey dardurch die jungeliebhaber ausser ern begent in meren grôssern verstandt (damit sie dester höher lieb in den vni andern kunsten ge roißen) komme möchte. Bittend roûlet solch mein bûch vnder erer schütz günstlich von mir annotet vni mich veyer (wie jr stîßer ges than) besolhen haben/Wo ich das (als ich an) zweystîel spûre wurde/Bin ich gesacht ander kunst d Artizmetic vni Geometrie (als die übrige regen Cosse) welche daß nicht alle in disse bûch sein beschrybe/ darinne wunderbarliche vporz gne ding begrisset/ auch vo wog vni gewichte in den truck zugebë/de jr auch nit kline dack von den liebhabende entspäh voret Beulhe mich hienit. Und grôffet meine lieben precepto ren vni hert Jürgen Tansketer/ der stîbet freyen kunsten vo erzney doctor/ dass ich mûß yezund eylent gen bade daz ich zu im nicht mag kommen Gëbbe zu Wien in österreich im iar nach der ges pûrde unsers seligmachers, MDXVII. 

Fig. 3. Left: Henricus Grammateus’s appeal to Johann Tscherte (fol. A2v). Right: Students learning arithmetic for business (fol. A3r). Courtesy, The Bancroft Library.
And I admonish all bookprinters not to reprint this book within six years (Auch vormain ich alle buchtrucker sulches buch nicht nach zu trucken in sechs jaren) (fol. Q2r)

The privilege system promoted the development and publication of new invention or new knowledge by protecting the investment of the inventor, a part of which was the fee he paid for his privilege. The penalty fines for infringement were generally split evenly between the privilege-granting authority and the injured party. The infringement with which virtually all these privileges are concerned is nachdrucken, a concept that I have to this point glossed rather neutrally as "reprinting." I have done so because, although the German term is used only pejoratively in the privileges under examination, the kinds of unauthorized reprinting that may be covered by this concept in the sixteenth century are more various and differentiated than I can address in an essay of this length. Let me just say in passing that traditional notions of imitation, interpretation, translation, and copying (in the sense of manuscript reproduction) survive alongside differently conceived notions of print piracy, forgery, and outright theft at this time. There is evidence that some authors were concerned about what knowledge was actually in the public domain and what might be fair use of another's creation. And there are dramatic cases in which inventors protested that their literally "privileged" published creations had been treated by nachdrucker as public-domain shareware.

Instead of pursuing the implications of individual reprinting practices in this period, however, I would like to consider how the larger phenomenon of reprinting, which is the major preoccupation of virtually all printing privileges awarded before 1600, affected early modern German attempts to manage information and to control the quality of information that was published. To this point I have described the privilege system exclusively from the standpoint of information production, that is, in terms of what this legal instrument did for inventors and publishers of information and for the authorities that at once protected and profited from the new inventions. The privilege is a guarantee to the authorized publisher of his rights to the property it protects. To the would-be printing pirate, it is a warning to refrain. But to the consumer of printed materials, it is something else again. The appearance of the words cum privilegio or mit Priuilegien on a print artifact said to its buyer, reader, or viewer, "This imprint is authentic; it is the authorized version; it is the genuine article."

The authenticity of information became a matter of increasing concern as print culture expanded and the wider implications of mechani-
cal reproduction, both authorized and unauthorized, became more apparent. Printing changed the proximity of the inventor to his work, and it produced artifacts whose characteristics were not immediately intelligible in terms of the standards of manuscript culture. When a medieval manuscript copyist reproduced as exactly as possible the model he imitated, he was creating with his own hand a unique original artifact. In the world of printed artifacts the notions of uniqueness and originalness (not originality) gradually underwent significant revision. Whether one takes a case like Dürer, who had his own press and supervised his own printing projects, or one like Henricus Grammateus, who was but the first link in the chain that eventually resulted in the printing of his book, there is at the very least the medium of print itself between the hand of the inventor and his invention; and the invention, whether a woodcut or a rechenbüchlein, is produced in multiple copies. What then came to constitute originalness and uniqueness in a medium in which the hand of the inventor may not ever have touched his invention in the form in which it was published or sold, and when inventions were sold in multiple exemplars that were for all intents and purposes equivalent? Who was the inventor of an artifact that passed through the hands of a writer, an editor-proofreader, and a printer on its way to the public? And what constituted authenticity in the print medium that made pirating so easy, so profitable, and so little apparent to the unsuspecting consumer?

Giesecke has looked at some of these questions primarily from the standpoint of the author. He demonstrates that, precisely during this period when the circumstances of the printing trade were such that authors were likely not to have had control over various aspects of the publication of their texts, the relationship between the author and his text in many cases became as close as that of a father and child (Giesecke's simile). Authors looking for a way to maintain publicly their connection with their published works had recourse to the time-honored validation mechanisms of the chancery world—seals and signatures. Using typographic equivalents to invoke these traditional chancery mechanisms, authors and artists like Luther and Dürer, not to mention printers, created printed symbols or monograms to identify those print artifacts with which they wanted to be associated personally or which they wished to have published as authorized. Some of these devices, like the stamped version of Emperor Maximilian's signature, which was in restricted use in the imperial chancery after 1507, were actually translations from the manuscript to the print medium. Others, like the Luther rose, were designed originally for the print medium and have no specific antecedents in the manuscript tradition,
Fig. 4. Left: “The end of the entire book” (fol. Qv). Right: Dedication of the volume to young beginners in the art of mathematics. Admonition to printers
Ditz Buch sey geschenckt allen liebhabern freier kunst von hit früt lich so etw3 wirt funde streflichts von wegen untsleif/ wullen d5 sel- big bruderlich corrigirn und bel sern den ich hab allayn geschribe vor die jungen ansenger in d küst mathematica/ ich meine auch wer de etlichen geben ain wrlach wei ter inn sulcher kunst zu specularn yedoched ist mein hoffnug hab auff sulche zeyp genug gethan. Auch vormain ich alle buchtrucker sul- ches buch nicht nach zu trucken in sechs jar3 nach seyné ausgang bey grosser pen behalten in Kap- serlichen privilegien wie deß her nach wirt gesehen in dem latein.
although they depended for their effectiveness on the larger authenticating practices of the chancery world from which they derived.36

These documents are secured with the stamp of our seal (Harum...literarum Sigilli nostri impressione munitarum) (fol. Q3v)

If we shift our focus back now to the privilege system and back to the consumers of printed materials at this time, it becomes clear that mechanically reproduced inventors' seals and signatures have to do with more than an inventor's desire to retain some control over his invention even as he releases it for publication. These symbols point to a much more fundamental feature of the relationship between the manuscript and print cultures that coexisted and interacted with each other in sixteenth-century Germany. The privilege system provided, among other things, a mechanism by which the authenticity of multiple mechanically reproducible artifacts could be verified. The authenticity or authorized status of printed artifacts emerged as a significant issue as both producers and consumers of printed materials in this period gradually came to realize that an authorized imprint was the closest equivalent in the new print culture to the original or unique artifact that had played such a central role in the manuscript tradition. It would be difficult to overemphasize the extent to which the characteristics and possibilities of the emerging print technology were for the first several decades of its development understood in the terms of the manuscript culture that preceded it. The privileging system that was applied to print property is an excellent case in point. It depended in all of its essential features on the conditions and practices of manuscript culture. The petitions for privileges were handwritten letters. The privileges themselves were manuscript charters, signed and sealed by hand. When they were registered, the privileges were recorded by hand in manuscript codices. Their authority depended on their utterly unique status. But this was not immediately clear to the various parties concerned with managing information in the first century of printing.

Returning again to the handbook of Henricus Grammateus, we can see how early printers attempted to solve the issue of authenticating printed materials and how their ad hoc solutions instead exacerbated the problem in a way that echoed down through the sixteenth century in Germany. As you remember, Henricus, after telling his reader twice that his little book was protected by an imperial privilege, reproduced the privilege in full at the end of the volume. The text of the privilege
The Protection of Invention

closes with the statement that the document at hand is executed with Maximilian’s seal, at the instruction and on behalf of the emperor himself. Below the text come the chancery formulas, and below these the printed name of Jacob Spiegel. Maximilian’s seal, however, is nowhere in sight, nor is Spiegel’s calligraphic signature (fig. 6). The printed text then is not quite the privilege it claims to be; it is rather a reproduction that reports the circumstances or terms of that privilege; and it is a symbol or representation that invokes the authority of the original handwritten document.

The appearance of such printed representations undermined the authority of the very chancery privileges that they invoked. As soon as publishers began to approximate and reproduce mechanically the unique authenticating mechanisms that validated their otherwise all too easily reproducible artifacts, the procedure that was intended to protect invention in print property was effectively subverted. The printers’ own products demonstrated that authenticating devices themselves could easily be replicated. And this demonstration, however involuntary on the part of the printers, created the need for a more secure procedure for authenticating the status of printed information than the simple mechanical imitation of devices that belonged to the chancery culture. These printed symbols signified by invoking the authorities they cited, but they were not identical with the elements that they represented. Original seals, signatures, and charters of privilege were, like speech acts, performatives. They simultaneously executed and represented authority. Printed reproductions did not.

The imperial privilege that was supposed to protect Henricus’s *rechenbüchlein* proclaims confidently that “these documents are secured with the stamp of our [Emperor Maximilian’s] seal.” It is not clear, however, that contemporary consumers of printed texts like the little accountancy textbook were either reassured or deterred by claims of this kind. Modern speech-act theory may help to explain the relationship between original letters of privilege, seals, and signatures and their mechanical representations in early modern imprints. It may suggest how sixteenth-century consumers of printed materials reacted to these new representative forms of authority. And it may also clarify how forms like printed seals or signatures (including those appended to the privilege in the *rechenbüchlein*), which entered the Western tradition as curiosities during the first decades of printing and immediately contributed to a crisis in information control, have established themselves as authenticating conventions in modern print and legal culture.

Fully executed manuscript privileges were, like speech acts, performatives. As distinguished from descriptive or constative statements,
performatives simultaneously articulate and accomplish an action. Speech acts are a special class of performatives, which at once state and execute an action through the spoken words of the actor (e.g., "By the power vested in me, I now pronounce you man and wife"). Other performatives, like the sealing of the privilege that governs Henricus's rechenbüchlein, have the same dual nature as speech acts (i.e., they simultaneously accomplish and bear witness to the performance of some action), but they are enacted in some medium other than the spoken word. Endorsing signatures and authenticating seals are performatives of this less specific kind. Printing privileges belong to this latter more general category of performatives. A privilege at once spelled out the terms of the benefit that was to be awarded the recipient named in the charter, and it also conferred that benefit on him. Central to the concept of performative, as it was originally articulated by J. L. Austin, are the underlying notions of intention and of a community within which given actions are recognized and accepted as having performative status. Performatives are only effective within communities that recognize them, and they do not function if they are not recognized.

Privileges in Germany before the age of printing were executed in accordance with cultural conventions and chancery prescriptions that conform to Austin's requirements in almost every respect. Even though the privilege was, as we have seen, a relatively flexible legal instrument, it had by the High Middle Ages already become the regular device that ruling authorities used to deal with certain kinds of legal situations. If we consider, for example, how the emperor raised an individual to the nobility in medieval Germany, we see that this action was governed by several conventionalized steps that closely parallel those conditions identified by Austin as necessary for the successful performance of speech acts. As noted earlier, it had become customary in medieval Germany to use the privilege rather than some other legal mechanism as the means of raising someone to the nobility. Charters of privilege, like other standard chancery documents, were written (rather than spoken) according to traditional formulas that were handed down from one generation of scribes to the next either through direct instruction or by means of Kopialbücher. To ennoble an individual by means of a chancery privilege then involved the writing of certain words, by chancery scribes (certain persons) at the direction of the ruler (in certain circumstances). The issuance of such a charter required that the text be accurate in terms of both the standard chancery formulas and such specific details as the name of the individual to be ennobled and the date on which the privilege was conferred; and it required the handwritten signature and/or the seal of the ruler or his authorized
agent (particular persons in particular circumstances executing the procedure correctly). Another requisite feature of a performative is that it be an expression of intention. In the conferral of a medieval German patent of nobility, the manuscript charter may be seen as evidence of the emperor's intention to ennoble his subject, and the subject's subsequent conduct in the manner of a nobleman as evidence of both the subject's intention to participate in the convention governing the procedure of ennoblement and also of the successful execution of that performative.

Taken together these individual steps in the act of ennobling—the selection of the privilege as the legal instrument, the preparation by chancery scribes of the manuscript charter with correct formulas and data, the signature and/or seal of the ruler, and the subsequent behavior of the subject as a member of the nobility—reflected and confirmed the cultural convention that underlay the procedure in medieval Germany and that allowed the performative of ennobling to function within that society. The preceding review of this procedure in terms of Austin's definition suggests that his requisite conditions for the execution of a successful performative may be further reduced to two. First, there must exist an underlying cultural convention whose characteristics are sufficiently unambiguous to permit members of the culture to recognize individual realizations of the convention as belonging to the performative category of that convention. Second, any individual realization of a performative convention must exhibit enough recognizable features of the convention for members of the culture to identify it and assign it to the same.39

Bearing in mind now that privileges were performatives in medieval German society and that, in order for a performative to function successfully, its features must be recognizable to the members of the culture in which it is a convention, let us return to the question of printing privileges and printed privileges. Briefly stated, they correspond much less closely to the requisite conditions for successful performatives than did their medieval manuscript antecedents. The most obvious difference between the manuscript privileges of the Middle Ages and the printed representations of early modern printing privileges is, of course, the print medium itself, but this is by no means the only difference. The conventional chancery procedure for executing a privilege, like the one that protects the rechenbüchlein, appears to have been much the same as the one that governed the execution of a medieval patent of nobility. But the very extension of the use of the privilege to protect the new aspects and varieties of invention that developed along with print culture introduced new circumstances into the convention governing
this performative. In addition, the advent of the new technology caused new words to be introduced into the privileging procedure so that the traditional chancery formulas associated with this performative no longer sounded like they used to. Printing privileges articulated prohibitions (e.g., *nachdrucken*), described occupations (e.g., *kastigator*), and aimed to protect certain kinds of property (e.g., Greek or musical type fonts, all works by a given author or in a given subject area), none of which were mentioned in privileges written before the rise of print culture. Different from their medieval precursors, early modern printing privileges were generally executed in response to an application or petition from the prospective privilege holder. And printing privileges, once issued, were published by means and in ways unimagined in earlier centuries.

The "privilege" appended to Henricus's *rechenbüchlein* demonstrates these new developments. That privilege, as I have noted, is actually not a privilege but a reproduction, and it is used to protect a property (Henricus's book, including tables, illustrations, and the like) that is not even named in the text of the instrument. Printing privileges and their printed representations differed then from earlier medieval privileges in terms of the procedure by which they were secured, their specific formulations, the medium in which they were published, and the kinds of properties to which they were applied.

**In the power of this letter** (*in Krafft difs Briefs*) (p. 854)

Individuals involved with all phases of the new printing industry attempted to safeguard their interests in printing projects by reproducing on the imprints themselves some features of the privilege that protected their publications. They imitated in print the traditional authenticating mechanisms that belonged to the conservative manuscript world of the chanceries. The attempt to transfer these mechanisms from parchment, ink, and wax into the medium of print was not altogether successful, however, since it did not obviate the continuing need for the original artifacts in their original forms. The printed reproductions seem rather to have reinforced that need in ways that we have not altogether outgrown to this day. The feature of the original signatures and seals that did not transfer with uniform effectiveness into the print medium was their uniqueness and, hence, their authenticating authority. At this moment of transition between manuscript and print cultures, notions of authenticity and legal authentication were, as I have mentioned, very closely tied to notions of uniqueness and originalness.
As pirated editions of all kinds vied in the marketplace with authorized imprints, the owners of legitimate privileges could only assert their claims in increasingly shrill tones to an audience that was in large part not listening. It soon became clear that these new privileges were not working the way the old ones had.

Perhaps the new privileges were not perceived by all early modern readers as bearing the same authority that handwritten privileges did. We have seen that printing privileges differed in significant ways from the kinds of privileges that chanceries had executed throughout the Middle Ages. One wonders whether, given so many modifications, the printing privileges bore sufficient resemblance to their medieval antecedents for early modern German audiences to have recognized them not just as allusions to the chancery privilege of old but as authentic and therefore effective realizations of the same underlying cultural convention. Was a printing privilege—or its printed imitation—still enough of a privilege in its sixteenth-century German context to function as a performative? The flood of unauthorized reprinting that early modern printing privileges attempted to contain suggests that the answer to this question must have been, "Not altogether," or "Not at first."

Privilege holders and consumers of print materials alike seem to have been uncertain about the authority of printed privileges and about their effectiveness as guarantees. Printers were anxious to assert the authenticity of their imprints and the authority of their printing privileges, but many of them soon discovered that it took more than a modest allusion on the title page—cum privilegio or mit Kayserlichen gnaden vnd Priviligien—to secure the monopolies to which their privileges entitled them (fig. 1). As printed privileges proved to be of limited effectiveness, publishers came to realize that printed imitations, like the Latin text of the privilege protecting Henricus's rechenbüchlein, did not fully replace unique handwritten charters of privilege or personally executed authenticating mechanisms. Though they continued to make reference to their privileges on the imprints themselves, publishers began to treat these references to privilege protection as representative of rather than equivalent to the original manuscript charters of privilege. Later in the century, for example, some printers would state specifically on an imprint just where the original manuscript privilege that protected the edition might be examined; some even noted that the original charters of privilege are written on parchment.41 Statements of this kind, which invoke the authority of the original manuscript privilege, suggest that for at least some early modern privilege holders, the site of authority in the privileging procedure remained
Fig. 5. The imperial privilege granted by Emperor Maximilian to Lucas Alantsee in July 1518 (fols. Q2v–Q3r). Courtesy, The Bancroft Library.
in terris nostris hereditarijs constitutis, sub poena infra scripta districtius inhibem?, ne praefatas Tabulas, & insigne etiam PLYNII opus quod tuis accepimus impensis, a Thoma Anshelmo diligenti admodum Calcographo, in Municipio nostro caesareo Hagenogin. ad Hermolai Barbari castigationem, vna cum CAMERTIS nostris, vt laboriosissima, ita maxime vtili Tabula, in priscis, nec non alia opera, quae iuxta pruillegium & gratiam nuper tibi factam post praeventi datam sub nole, & signis tuis edes, per Sexennium a data editionis cuiuslibet talium Tabularum, operum, seu librorum imprimere, aut alibi impressa, intra Imperij & ditionis nostrarum limites, & in eorundem locis venundare praesumatur, adeunt seu attentet. No obstantibus quibuscuius in contrarii emanatis aut concessis. Mandantes omnibus & singulis nostris & sacri Imperij fide libus dilectis, cuiuscungo status, conditionis, & dignitatis etiam si Archiepiscopalis, Pontificalis, Archiducalis, Ducalis, Marchionalis, Baronalis, Nobilizaris, & alterius cuiuscungo praeminentiae Magistratus seu officij, sive ecclesiasticij, sive secularis extiterint, sub poena indignationis nostre & sacri Imperij grauisimae, atque decem Marchzauri puri, pro vna Fisco nostro imperiali, & pro Q iii
altera medietatibus tibi LVCAE totiens quoties huic inhibitioni, voluntati, & gratiae nostræ costrafactum fuerit, applicandarum vt in præmissis tibi oportuno fauore adisistat, ac omnes & singus eos contra hanc gratiam, & inhibitione nostram quicquam facere præsumiés huiusmodi indicationis nostræ & poenæ sententiam nostro nomine incurrisse protinus declarent, & cohbeant sub artificio impressorum non vtendi, amissiōis quoque talium librorum sic (vt præmittitur) costra hanc nostram concessionem, gratiam & pristineum impressionem & adductorum Teg ybi eos per te vel tuos requisieris, tenore præsentium, aut harum transsumpti autētico, cui eam fidem adhiberi volumus. Quæ his nostris præsentibus adhiberi solet & debet, præfata nostra Gratia & Privilegio frui & gaudere finant, & ab aliis pariteroobserviari faciant, in quantum & ipsidictas poenas euitare maluerint. Harum testimonio literarum Sigilli nostrī impressione munitarum. Date in ciuitate nostra Imperiali Augusta, die viceīmā Mensis Iulij, Anno domini Millestimo quingentesimo decimo octavo. Regnorum nostrorum Roma. XXXII. Hungariae vero. XXXIX.
Per regem p.

Ad mandatum Cæsaræ Maiestitis proprium.

Iacobus Spiegel.

Gedwicft zu Nürnberg durch Johannem Stūchs für Lucas Alantse Büchsurer und Bürger zu Wien.
inextricably bound to the unique artifact that, in modern terms, functioned unambiguously in that society as a performative. Ironically the proliferation of printed privileges and the ambiguity of their performative status enhanced rather than diminished the role of the original handwritten privilege in the new system that attempted to control printed information.

A couple of literary examples document how the anxiety over the control, protection, and authentication of information increased in Germany during the first century and a half of the interaction between manuscript and print cultures.

The first example occurs in the 1474 edition of Thüring von Ringoldingen's *Melusine*. The passage I have in mind is one of Melusine's first instructions to her prospective bridegroom Reymund. He has accidentally killed his uncle, and Melusine tells him not only how to save his life but how also to make their common fortune. She tells Reymund to request a fief from his uncle's heir, Bertram. As if anticipating later challenges to the authenticity, if not to the legitimacy of the transaction, she has Reymund request "a well-sealed letter, which will include what the bequest has been or why it has been made." She urges him further to make sure that the letter includes "the day and the year with the proper date written in" and then to withdraw "when the bequest was made, registered, and sealed." Melusine's stipulations match in surprising detail a standard chancery procedure that is documented in the *Reichskanzleiordnungen* from the end of the century, ordinances that prescribe how imperial scribes should execute charters authenticating legal transactions. They also conform nicely to Austin's notions of the particular procedures that underlie performatives. Reymund follows Melusine's instructions to the letter and is awarded the desired fief. In a second passage a little farther on in the text, the execution of the charter is described with additional detail that is entirely in accordance with late fifteenth-century chancery practice in the empire. Bertram has the letter of fee prepared, and he authenticates it not only with his own hanging seal, but also with the seals of several counts, lords, and knights. The date, year, and day are also written on the document, and all this before witnesses.

I have cited these passages from *Melusine* because they reflect wonderfully through the prism of fiction what sort of awareness there was in late medieval Switzerland of both the need to authenticate certain kinds of information and the mechanisms that were available for doing so. They also show that the individual features of the authenticating convention were well enough known in this culture to find their way even into the narrative stream of a novel. Melusine demands her letter of fee "sealed and delivered," if not authenticated by a signature. And
the nobles in Bertram's entourage insist that unless each one affix his own hanging seal to the document, it will be invalid. Apparently Bertram and his company (or their creator) know that hanging seals, one of the most ceremonious forms of chancery authentication, obviate the need for signatures, particularly when witnesses endorse the document. And in the world of the novel this meticulously executed document does the trick. Despite the unusual circumstances under which Reymund requests his fief and the exceptional way in which he claims his territory, the text records not so much as a murmur of doubt about the authenticity of his charter. This text captures many features of a late medieval procedure for authenticating information, including the specific chancery mechanisms (seals, dating formulas, etc.). The procedure shows no influence of the rise of print culture, even though it happens, by coincidence, to be preserved in one of the early monuments of printing.

The situation a little more than a century later looks very different indeed. For a second example I return now to the problem of Faustus. In the *Faustbuch* published in 1587, the pact letter that Faustus signs with Mephostophiles is for all intents and purposes, and allowing for the quasi-fictional nature of the text, a perfect chancery document. The circumstances of the Faust plot, like those in the tale of Melusine, require the execution of a document that can stand up to any scrutiny and equivocation. In each of these narratives a contract with an otherworldly dimension is secured in the natural world of the text by using the legal mechanisms of chancery. The fictional situations are similar, but the scenes are written under different circumstances. A century of printing, reprinting, pirating, and all kinds of other disquieting interruptions to the control of authenticated information has occurred in the meantime. The need for something that is utterly genuine still exists, and so does the need for a means to authenticate it. But what is now the site of authority, and how can it be established when seals are represented, signatures reproduced, and privileges themselves pirated?

The text of Faustus's letter, like Reymund's letter of fee, includes a number of the elements specified in the great *Reichskanzleiordnungen* of the late fifteenth century, elements that reflect the underlying convention of the performative. The name, the circumstances, the terms, and the date are all spelled out in detail. But these traditional chancery elements are no longer of themselves sufficient to guarantee the authenticity of so weighty a legal contract. Authority in this situation, as in the medieval chancery tradition that shapes it, still lies, as the old legal formulation states, "in the power of this letter" (*in Krafft diß Briefs*)—so long as the charter remains unique.

In the age of nachdrucken, however, the preservation of uniqueness
has become a challenge. Mephostophiles nevertheless contrives to have Faustus produce a charter so unique that it seems virtually proof against any possible reproduction and hence any refutation. The charter is written in Faustus's own blood—a truly irreproducible substance—and in his own hand. But even these extraordinary measures taken to insure the authenticity of the document are not quite sufficient to protect its authority from challenge. Indeed seventeen years after executing the pact, Faustus himself is able to renegotiate the terms, and Mephostophiles allows him to sign a second letter like the first, framed with the appropriate chancery formulas and signed with his own blood. In the end the authority of the contract written in blood does prove sufficient to guarantee the damnation of Faustus, but the fact that the pact has had to be reaffirmed points to the extent to which traditional systems of authentication have been undermined in Germany by this time. A century of printing has had its effect. It hasn't made it impossible to verify the authenticity of information. But it has made it a good deal more difficult to do so.48

In the more than four hundred years that have passed since the publication of Henricus's rechenbüchlein and the Faustbuch, many of the inherent possibilities of the print medium that were only beginning to be recognized in the sixteenth century have been fully explored and developed. The mechanisms for protecting invention in the realm of print property, however, appear at first glance not to have changed much in all that time. As in the early modern period, print property today is still ultimately authenticated or secured by mechanisms that continue the manuscript tradition of the medieval chanceries. The permission to publish with this essay reproductions of pages from Henricus's handbook, for example, was granted, in response to a handwritten petition from me, by the head of photoduplication services of The Bancroft Library, who signified his consent by affixing his handwritten signature to my request form. This unique original document accompanied my manuscript to the press. The procedure was not terribly different from the one that Lucas Alantsee followed in 1518 to secure the privilege that was ultimately used to protect Henricus's handbook a few years later.

The copyright symbol that protects the essays in this volume can be seen as a direct descendant of the cum privilegio or mit Kayserlichen gnaden formulas discussed earlier. Like the early modern announcements of print privileges, the copyright symbol on present-day imprints declares that the rights to the invention represented by the individual print artifact are protected; and like the cum privilegio tag, the modern copyright warning rarely spells out in complete detail the pre-
cise terms of the printing monopoly or the penalties for its infringe-
ment. The modern symbol, like its early modern antecedents, repre-
sents or refers to unique original documentation that is the basis for the
authority claimed in the symbol.

Another early modern mechanism for authenticating print property,
which appeared as a novelty in the first decades of printing and has
come to be a standard feature of certain parts of modern print culture,
is the mechanically reproduced signature, either calligraphic or type-
set. The authority of these printed signatures today—whether on pay-
roll checks, paper currency, or the like—still depends ultimately on the
unique handwritten original that is on file somewhere, just as the au-
thority claimed in the rechenbüchlein privilege published with Jacob
Spiegel's printed signature depended on the existence of the original
manuscript charter that he had signed by hand.

Yet for all these formal similarities between the early modern and
modern mechanisms used to manage and authenticate print property,
there are significant differences between the two systems. These have
to do with the way that Western society has gradually come to regard
printed material more in terms of the inherent properties of the print
medium and less in terms of the manuscript tradition. While the execu-
tion of legal performatives in modern Western society continues to re-
quire some sort of interaction between the manuscript and print cul-
tures that we have considered in detail with regard to early modern
German printing privileges, the site of authority in this procedure has
shifted as society has come to regard print artifacts differently.

The deconstructionist critique of speech-act theory points up this
shift without attempting to account for it historically. Building on
Jacques Derrida's notion that iterability is the fundamental character-
istic of performatives,49 Jonathan Culler has argued somewhat per-
versely that "imitation is not an accident that befalls an original but its
condition of possibility," and that "the iterability manifested in the in-
authentic, the derivative, the imitative, the parodic, is what makes pos-
sible the original and the authentic."50 In terms of the mechanisms of
authentication that we considered earlier, this would mean that it is
the printed version of Lucas Alantsee's privilege or of Jacob Spiegel's
signature that makes the original manuscript version of each possible.
Or it would mean that because the fictional Reymund in Thüring von
Ringoltingen's Melusine received a properly executed privilege (his let-
ter of fee), it was possible for actual letters of fee to be written.

Culler's explanation fails to explain the fundamental relationship be-
tween the "original" and the "imitation." Both are specific realizations
of an underlying cultural convention. Neither makes the other possible;
they are both made possible by the underlying convention; and the existence of both confirms the underlying status of that convention. In terms of Alantsee's privilege, the medieval German convention of using the *privilegium* as an all-purpose legal instrument makes possible both the handwritten original charter of privilege and the printed imitation of that privilege that appears in Henricus's *rechenbuchlein*. But this is a modern assessment of the sixteenth-century problem we have been considering. The fact that printing privileges and printed privileges were not taken seriously by numbers of people involved with the printing industry in early modern Germany suggests that they may not in fact have accepted these new privileges as reflexes or realizations of the medieval convention of privileging.

Culler's discussion of modern printed signatures elaborates his notion of the relationship between the "original" and "imitative" iterations of performatives, and it demonstrates a modern dislocation of authority in certain mechanisms governing the control and authentication of mechanically reproduced information:

It is tempting to think of checks signed by a machine as perverse exceptions irrelevant to the fundamental nature of signatures. . . . But such cases could not occur if they did not belong to the structure of the phenomenon in question and far from being a perverse exception, the check signed by machine is a logical and explicit example of the fundamental iterability of signatures. . . . we can . . . cash checks signed by a machine and receive a salary even though the signatory never saw the check nor entertained a specific intention to pay us the sum in question.51

The implication of Culler's remarks is that in contemporary Western society the printed or imitative realization of the cultural convention of the personal signature has achieved a performative status equal to that of the original handwritten realization. This is in fact true, not only of payroll checks, but also of paper currency (e.g., United States federal reserve notes bear the mechanically reproduced signatures of the treasurer of the United States and the secretary of the Treasury), of academic diplomas, and a host of other modern printed performatives.

This was not yet the case, however, in early modern Germany. Printed privileges, signatures, seals, and monograms were not yet uniformly accepted as performatives. These new printed mechanisms of authentication won their performative status only gradually as information technology began to develop away from the conditioning premises of manuscript culture and realize the potential of the print medium. In terms of the physical indications on the volumes them-
selves, the copyright that protects this book and the privilege that
governed the *rechenbüchlein* of Henricus Grammateus appear to be
virtually equivalent. They would appear to be specific realizations of
the same underlying cultural convention. But this is not so. Sixteenth-
century German printing privileges were as often as not ineffective.
Modern copyrights have, on the other hand, until the most recent wave
of software, video, and photocopy piracy, been relatively stable performatives in Western society for more than a century. Although the protection of invention in modern print culture continues to be secured by archaic legal mechanisms in which manuscript and print culture intersect much as they did in the early sixteenth century, these mechanisms today are realizations of different cultural conventions that have accommodated features of mechanical reproduction not yet fully appreciated in the age of privileges.

**Notes**

ten durch das zornal/ Kaps/ vnd schuldbuch Visier zumachen durch den quadrat vnd triangel mit vil andern lustigen stuecken der Geometrey. Gemacht auff der loeb-
lichen hoen schuol zuo Wienn in Osterreich durch Henricum Grammateum/ oder schreyber von Erfurdt der sieben freyen kuensten Maister* [Nuremberg: Johannes Stüchs, 1518–21]. The copy of the text that I have used in preparing this essay is a part of the collection of The Bancroft Library at the University of California at Berkeley (call number HF 5644 S4). Section titles throughout the essay are take from this edition of Henricus's *rechenbüchlein* except for the last one, which is taken from the *Faustbuch* (see n. 13). Early New High German and Latin abbreviations have been resolved; marked vowels are presented as di-
graphs. The translations are my own. Phrases cited from the *rechenbüchlein*
may be seen in their original contexts in figures 1–6.


3. See Franz Unterkircher et al., *Maximilian I. 1459–1519. Ausstellung*, Biblios-


7. Several coats of arms were designed for Tscherte, including one in 1519 and one, attributed to Dürer, which has been dated variously between 1521 and 1523. Concerning the latter, see items 456 and 457 in Unterkircher, *Maximilian I.*, p. 143; and H. Tietze and E. Tietze-Conrat, *Kritisches Verzeichnis der Werke Albrecht Dürers*, vol. 2.2 (Basel: Holbein-Verlag, 1938), pp. 45, 190 (item 900). The arms from the *rechenbüchlein* (fig. 2) appear to be a rather rough adaption of the design attributed to Dürer. In the *rechenbüchlein* woodcut, Tscherte’s name has been substituted for the Legend “Soli Deo Gloria,” which appears in the Dürer arms. I agree with others who have dated the *rechenbüchlein* to 1521. See, for example, A. F. Johnson and V. Scholderer, *Short-Title Catalogue of Books Printed in the German-Speaking Countries and German Books Printed in Other Countries from 1455 to 1600 Now in the British Museum* (London: Trustees of the British Museum, 1962), p. 796. The latest date that appears on any part of the book itself is 1521. The chapter of the volume that is devoted to commercial bookkeeping includes examples of three different kinds of ledgers that businessmen should know how to maintain. Each of these sample documents, the Zornal, the Kaps, and the Schuldt Buch, is dated 1521 (fols. Nr, N6r, and Or). If this dating of the *rechenbüchlein* is correct, and if the Tscherte arms included in it are in fact derived from the design attributed to Dürer, then Dürer’s arms for Tscherte must have been completed by 1521.

8. “Ditz buch sey geschenckt allen liebhabern freier kunst vnd bit fruntlich so etwas wirt funden strenglichs von wegen vnfließ/ wullen daz selbig bruderlich corrigirn vnd bessern dann ich hab allayn geschrieben vor die jungen anfenger jn der kunst mathematica / ich meine auch werde etlichen geben ain vrsach weiter jnn sulcher kunst zu speculirn yedoch ist mein hoffnung hab auff sulche zeyt genug gethan. Auch vormain ich alle buchtrucker sulches buch nicht nach zu trucken jn sechs jaren nach seynen außgang bey grosser pen behalten jn Kayserlichen priuilegien wie dann her nach wirt gesehen jn dem latein” (fol. Q2r).


11. “dann ich hab allayn geschrieben vor die jungen anfenger jn der kunst mathematica / ich meine auch werde etlichen geben ain vrsach weiter jnn sulcher kunst zu speculirn” (fol. Q2r).


15. Before describing what a privilege was and how in general terms the privileging system worked, I should note in passing that all discussions of printing privileges before 1600 in Germany are in some measure anecdotal and will probably continue to be so. For reasons that will become clearer, there is no comprehensive inventory of imprints that were published under privilege before 1600. Nor is there a comprehensive register of the privileges that were issued to individuals involved with the various aspects of the printing trade in this period. Much less is there a single comprehensive collection of the actual texts of individual charters of privilege that were issued. These gaps in formal bibliography and diplomatics are likely never to be closed. This does not mean, however, that we do not know a good deal about how the privilege system functioned with respect to print culture in early modern Germany. Intermittently over at least two hundred years various scholars have made investigations and partial inventories of works printed under privilege in German-speaking Europe in this period. Particularly useful with regard to the issues under consideration in this essay are Karl Schottenloher, “Die Druckprivilegien des 16. Jahrhunderts,” *Gutenberg-Jahrbuch* 8 (1933): 89–110; Hansjörg Pohlmann, “Neue Materialien zum deutschen Urheberschutz im 16. Jahrhundert,” *Archiv für Geschichte des Buchwesens* 4 (1961): 89–171, and “Der Urheberrechtsstreit des Wittenberger Professors Dr. med. Kaspar Peuker mit dem Frankfurter Verleger Sigmund Feyerabend (1568–1570),” *Archiv für Geschichte des Buchwesens* 6 (1965): 593–680; and Giesecke, *Der Buchdruck in der frühen Neuzeit*, chap. 5.5, especially pp. 445–52.

zu tragen schien und auch überwiegend der Eigenart einer gunstweisen Ertei-
lung von Stadt- und Lehnsrechten oder Adelserhebungen u. ä. entsprechen
mochte.” See also Heinrich Otto Meisner, Urkunden- und Aktenlehre der Neuzeit,
17. In Venice privileges were granted to printers as early as 1469; the first
German municipal printing privilege may have been as early as 1488; and one
of the earliest imperial privileges was granted to Conrad Celtis for his edition
of Hroswitha in 1501. See Rudolf Hirsch, Printing, Selling and Reading (Wies-
18. The fine announced in the privilege that protects Henricus's rechenbüch-
lein, for example, is ten marks of pure gold (fig. 5).
19. The following summary derives in large part from the list of abstracts of
some 159 sixteenth-century printing privileges that Schottenloher published
in 1933 (in “Die Druckprivilegien des 16. Jahrhunderts”), the lists of more
than 200 imperial Urheberprivilegien from before 1600 that Pohlmann pub-
lished in 1961 and 1965 as well as the texts of a number of those privileges re-
produced in the first of these essays (“Neue Materialien zum deutschen Urhe-
berschutz im 16. Jahrhundert”), and on my own experience with various
sixteenth-century imprints from German-speaking Europe that are now a
part of The Bancroft Library collection.
item 50.
22. For the implications of these terms see Lore Sprandel-Kraft, “Über das
Verhältnis von Autor und Druckherr in der Inkunabelzeit,” Archiv für Ge-
23. Pohlmann’s review of the misinformation that has proliferated about the
privilege system remains, I believe, the most thorough and telling (“Neue Ma-
fact that Giesecke was obliged once again in his 1991 analysis of the privilege
system (in Der Buchdruck in der frühen Neuzeit) to correct many of these as-
sumptions, this despite Pohlmann’s impressive revisionist work on Urheber-
privilegien, is a testimony to the hardiness and longevity of scholarly misinfor-
mation. My own pastiche draws on Pohlmann’s summary as well as on hasty
remarks by Hirsch (Printing, Selling and Reading, p. 81) and others. See, for ex-
ample, Monika Toeller, “Die Buchmesse in Frankfurt a. Main vor 1560. Ihre
kommunikative Bedeutung in der Frühdruckzeit” (Ph.D. diss., University of
25. See Giesecke, Der Buchdruck in der frühen Neuzeit, p. 461: “Diejenigen Au-
toren, die um Privilegien nachsuchen, tun dies gerade nicht aus Eigennutz,
sondern weil sie ihr bis dato noch oft höchst privates, geheimes Wissen der
Allgemeinheit zugänglich machen wollen. Die Vergesellschaftung von pri-
vatem Eigentum braucht die Rückendeckung der Gesellschaft bzw. ihrer
Repräsentanten. Nur wenn der Privatperson aus dieser Offenbarung eines
Teils ihrer selbst keine allzu schwerwiegenden Nachteile entstehen, kann die Sozialisierung der Informationen zu einer selbstverständlichen Gepflogenheit werden. Eine Stärkung der 'Rechte' der Privatperson lag insofern im wohlverstandenen Interesse der Gemeinschaft.


27. "Ditz buch sey geschenckt allen liehabem freier kunst vnd bit fruntlich so etwaz wirt funden streflichs von wegen vnfleiß / wullen daz selbig bruderschlich corrigirn vnd bessern dann ich hab allayn geschreiben vor die jungen anfenger jn der kunst mathematica / ich meine auch werde etlichen geben ain vrssach weiter jn sulcher kunst zu speculirn yedoch ist mein hoffnung hab auff sulche zeyt genug gethan," (fol. Q2r).

28. "Que ut nobis mirum in modum placuerunt Ita vehementer cupimus, ut ea forma ad omnium bonarum literarum studiosorum vsum publicentur. Quod & si te haud grauare nostri gratia etiam impensis magnis facturum sciamus. Ne tamen priuata res tua incommodetur, quandoquidem indignum censemus laborem, impensas, & officia tua pari aliorum opera secundariae editionis defraudari, . . ." (fol. Q2v) ("Inasmuch as these please us wonderfully, we emphatically desire that those copies be published for the use of all students of good letters. We acknowledge that you should in no way incur great expenses on our account, lest your private affairs be inconvenienced, and because we consider it unworthy that your labor, expenses, and services should be defrauded by a second publication done by others, . . .").

29. While some of these applications survive (see Pohlmann, "Neue Materialien zum deutschen Urheberschutz im 16. Jahrhundert," p. 115), the traces of many of them are preserved only in the references to them that occur in the copies of the privileges that were recorded in registers, reproduced separately by the privilege holders, or reproduced in the actual imprints under privilege.


31. On the significance of hanging seals used to authenticate chancery documents of this kind, see Tennant, The Habsburg Chancery Language, pp. 73, 105–12.


35. Concerning the silver stamps that were used in the imperial chancery to
produce Maximilian's signature as well as various chancery validation formulas, see Tennant, *The Habsburg Chancery Language*, pp. 109–10.

36. Giesecke, *Der Buchdruck in der frühen Neuzeit*, pp. 445–49. The printer's device of Johannes Stüchs (fig. 6) is an example of an authenticating symbol, like Luther's rose, that was designed originally for the print medium.

37. Printed imitations of chancery signatures and formulas as well as new authenticating devices that were designed specifically for the print medium were easily forged or copied. Both the Luther rose and the Dürer monogram were used on pirated and unauthorized imprints during the sixteenth century, although the Luther device seems generally to have been more widely respected and thus less often copied than some devices of this kind that were in use during the period. See Jane O. Newman, “The Word Made Print: Luther's 1522 New Testament in an Age of Mechanical Reproduction,” *Representations*, no. 11 (Summer 1985): 109.

38. J. L. Austin, *How to Do Things with Words*, 2d ed., ed. J. O. Urmson and Marina Sbisa (Cambridge, Mass.: Harvard University Press, 1975), pp. 14–15. In his classic discussion of what we have come to call speech acts, Austin outlines the conditions that are necessary to bring off a successful performative:

(A.1) There must exist an accepted conventional procedure having a certain conventional effect, that procedure to include the uttering of certain words by certain persons in certain circumstances, and further, (A.2) the particular persons and circumstances in a given case must be appropriate for the invocation of the particular procedure invoked. (B.1) The procedure must be executed by all participants both correctly and (B.2) completely. (C.1) Where, as often, the procedure is designed for use by persons having certain thoughts or feelings, or for the inauguration of certain consequential conduct on the part of any participant, then a person participating in and so invoking the procedure must in fact have those thoughts or feelings, and the participants must intend so to conduct themselves, and further (C.2) must actually so conduct themselves subsequently.

39. In linguistic terms the underlying convention and its individual realizations could be said to stand more or less in the emic/etic relationship to each other. The convention (the emic construct of the performative) is never evident in the culture to which it belongs except as it is realized in individual or specific (i.e., in etic) manifestations.

40. There may also have been some question about the validity of original manuscript privilege that is invoked by the printed text appended to the *rechenbüchlein* since Maximilian had been dead for three years by the time the book appeared. It was established custom in the chancery culture of both the empire and the Vatican to break or cancel the personal seals of the emperor or the pope when he died; but the custom was as often as not observed in the breach. See Erich Kittel, *Siegel* (Braunschweig: Klinkhardt & Biermann, 1970), p. 159. It is impossible to know from the imprint of the *rechenbüchlein* which of
Maximilian's various seals was used to execute Alantsee's privilege in 1518 (i.e., whether the charter was authenticated with one of Maximilian's personal seals or with a corporate seal from one of the Habsburg chanceries). Given the relative newness of printed privileges like the one appended to Henricus's handbook, one can only speculate about whether contemporary German readers would have accepted either the authority of a printed version of the handwritten privilege or the authority of the original privilege that had been issued under the auspices of a ruler already deceased.


42. "So soltu yegedencken auff die stund vnd on verziehen/ das dir darumb des selben tags guott versiglet brief werden/ darinn begriffen sey was die gab oder warumb sy dir sey gegeben/ vnd den tag vnd das iar mit rechttem datum darinn geschriven Vnd wenn die gab also geben/ verbrieft vnd versigelt wirt/ so soltu dich denn ein klein enthalten vnd dannen geen/ ..." (Müller, Romane des 15. und 16. Jahrhunderts, p. 27, lines 5–10).

43. The Reichskanzleiordnung of 1494, for example, stipulates, in a section describing the duties of scribes and secretaries, that no letters, particularly those written on parchment, may be corrected "in sensitive areas" ("an argwonigen stetten"), namely in the places in the text that specify "names, amounts, dates, and the like" ("im namen oder zunamen in der suma der zall im datum tags oder iars und derglichen sachen") without being copied over. See Gerhard Seeliger, "Die älteste Ordnung der deutschen Reichskanzlei. 1494. Oktober 3. Mecheln," Archivalische Zeitschrift 13 (1888): 4. This stipulation allows us to identify those features of a chancery charter that had to be executed correctly in order for it to be accepted as authentic and therefore as an effective performative by an early modern audience. For a more general description of the chancery procedures for executing charters, see Tennant, The Habsburg Chancery Language, pp. 72–73.

44. "Also lieB er jm ze stund einen brief machen/ der auch gar meýsterlich gestellet ward/ das ir yeglichen bedaucht/ hienge sein insigel auch nit daran/ es waer nichts vnd waren all willig Vnd da nun der brief also wolgestellet und versigelt ward mit des graffen meren jnsigel/ mit sampt der anderen herren vnd Ritter jnsigel/ vnd das datum des iares vnd tags schon ward auch darinn geseczt mit den gezeuBnen" (Müller, Romane des 15. und 16. Jahrhunderts, p. 31, lines 8–14).

45. "ir yeglichen bedaucht/ hienge sein insigel auch nit daran/ es waer nichts" (ibid., p. 31, lines 9–10).

46. Thüiring von Ringoltingen would certainly have known these contemporary chancery practices well from his long career in public service in Bern (as a member of the GroBer Rat, as Schultheiß, etc.). For the details of his biography, see ibid., pp. 1020–22.

47. One of the often-repeated and well-documented anecdotes from the age of privileges recounts how two citizens from Strassburg, a publisher and a printer, forged or "reissued" their own lapsed privilege in order to avoid
having to pay for its renewal. They were found out but saved by legal niceties from punishment. See Schottenloher, "Die Druckprivilegien des 16. Jahrhun-
derts," p. 92.

48. The author of the *Faustbuch* did not, of course, invent the devil's pact signed in blood as a response to the emerging print culture of sixteenth-century Germany. But his elaborate reformulation of this venerable plot ele-
ment does reflect contemporary procedures and concerns that are related to the control and authentication of information. The transformation of the tradi-
tional pact into a correctly executed chancery document causes Faustus’s signature and the blood in which it is written to evoke new meanings in this early modern text, which was created in a period when traditional mecha-
nisms for authenticating legal documents and other texts were being under-
mined. In addition to his transformation of the pact into a chancery letter, the author's reduplication of the pact scene calls into question the effectiveness of the legal contract (the first pact letter), which is presumed to be absolutely binding within the world of the text. Mechanisms of authentication have been seriously eroded when even the legendary pact signed in blood must, despite its utter conformity to contemporary chancery conventions, be renewed in or-
der to maintain its efficacy.


50. Jonathan Culler, *On Deconstruction: Theory and Criticism after Structural-
ism* (Ithaca, N.Y.: Cornell University Press, 1982), p. 120: "Imitation is not an accident that befalls an original but its condition of possibility. There is such a thing as an original Hemingway style only if it can be cited, imitated, and par-
odied. For there to be such a style there must be recognizable features that characterize it and produce its distinctive effects; for features to be recogniz-
able one must be able to isolate them as elements that could be repeated, and thus the iterability manifested in the inauthentic, the derivative, the imitative, the parodic, is what makes possible the original and the authentic."

51. Ibid., p. 126.