BETWEEN ANXIETY AND HOPE? HOW ACTORS EXPERIENCE REGULATORY UNCERTAINTY IN CREATIVE PROCESSES IN MUSIC AND PHARMA

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ABSTRACT

Uncertainty about Intellectual Property Regulations (IPR) is prevalent in today's knowledge-based and creative industries. While prior literature indicates that regulatory uncertainty affects creative processes, studies that systematically analyze the effects of IPR on the experiencing of involved actors in creative processes across fields are rare. We ask how core professional actor groups including creators, legal professionals and managers involved in creative processes experience regulatory uncertainty in the fields of music and pharma. By studying practices of engaging with, circumventing *and* avoiding *regulatory uncertainty about IPR, we show how creative processes in both the music and pharma fields are entrenched with emotional-cognitive experiences such as anxiety, indifference and hope that vary by professional group. Our findings point toward managers and legal professionals observing, exposing and cultivating*

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emotions by ascribing experiences to other actor groups. We conclude that comparing regulation-related emotions of involved actors across fields helps to develop a deeper understanding of the dynamics of creative processes.

Keywords: Creativity; regulation; professions; emotions; uncertainty; intellectual property

INTRODUCTION

Looking at creativity as a social phenomenon (Fortwengel, Schüßler, & Sydow, 2017), the usage of prior ideas is pivotal for novel and valuable creations. While historically, Intellectual Property Regulations (IPR) have sought to provide incentives for creativity and innovation, more recently they have been increasingly portrayed as a source of regulatory uncertainty, particularly when it comes to the use of inputs for further creative processes (McLeod & DiCola, 2011; Silbey, 2014). The manifold sources of regulatory uncertainty include the complexity and ambivalence of law, vagueness of legal terms, as well as an increasing mismatch between social practices on the one hand and law and standards on the other (Ortmann, 2010). As a result, laws and regulations usually associated with generating orientation, security and certainty instead seem to produce disturbance, insecurity and uncertainty in creative processes (Ortmann & Sydow, 2018). In this paper, we suggest that the actual emotional-cognitive experiences of core actors involved in creative processes when dealing with regulatory uncertainty arising from IPR need to be examined to better understand this apparent paradox.

Regulatory uncertainty, in our understanding, refers to situations in which actors cannot predict or foresee whether acting in one way or another will conform to legal and regulatory obligations. This definition is in line with debates in economic sociology and organization theory that distinguish uncertainty from risk on the basis of undeterminable rather than predictable future states (Dequech, 2011). As such, uncertainty is empirically hard to observe, so we choose to study it indirectly by identifying practices through which actors in creative fields address and deal with regulatory uncertainty. *Engaging with*, *circumventing*, and *avoiding* regulatory uncertainty are practice categories that we identified from both the literature (McLeod & DiCola, 2011; Silbey, 2014) and our empirical analysis as relevant to creative processes in music and pharma.

In this paper, we seek to overcome the neglect of feelings and emotions in existing literature on uncertainty in organizations and the economy (for a critique, see Bandelj, 2009). To address this research gap, we examine emotional-cognitive experiences associated with the three aforementioned practice categories of dealing with IPR-related regulatory uncertainty. Following Thoits (1989), emotions involve appraisals of a situation, changes in bodily sensations, and free or inhibited displays of expressive gestures, but they are also socially constituted through cultural labels that are applied to one or more of these components. We build on the sociology of emotions literature that has analyzed the intricate relationship between the social and experienced emotions, particularly

on recent research in organizational studies and economic sociology exploring the links between emotions, and social and institutional relations (Bandelj, 2009; Zietsma, Toubiana, Voronov, & Roberts, 2019).

In order to address our research question, namely how core actors involved in creative processes experience regulatory uncertainty, we take into account the social embeddedness of emotions. This includes analyzing how the experiences reflect what has been described in the literature as the *feeling rules* of specific professions, industries and institutional domains (Zietsma et al., 2019). Empirically, we explore emotional-cognitive experiences of regulatory uncertainty for three key professional groups (artists/scientists, managers, and legal professionals) involved in creative processes in music and pharma that fall into the domain of IPR, with copyright law prevailing in music and patent law in pharma. This allows us to study a wide range of practices and emotions in two fields with a reportedly high salience of IP-related uncertainty (e.g., Silbey, 2014).

CONCEPTUAL FRAMEWORK

Research on regulatory uncertainty so far has mostly been concerned with corporate strategies in fields characterized by rapid or contested legal change (Engau & Hoffmann, 2011). For example, Engau and Hoffmann (2011) identify a diverse set of potential response practices, subsumed under the four categories avoiding, reducing, adapting, and disregarding. In our understanding – and as we will show in our empirical analysis – regulatory uncertainty does not only arise in relation to future legal or regulatory changes, but also in respect to existing regulations.

Previous studies have revealed how actors regularly experience uncertainty related to IPR. In the realm of copyright, for example, McLeod and DiCola (2011, p. 167) report that "[e]ven veteran musicians who sample face uncertainty over what they might owe for sample licenses – or even if it is possible to clear a sample." With regard to patents, firms in the pharmaceutical industry devote increasing efforts to "threatening, initiating, responding to, pursuing, and settling litigation" (Heller, 2010, p. 73), which is one source of uncertainty throughout all phases of patent-related activities. Hope (2008, p. 44), in turn, observes that the complex dynamics of biotechnology patenting have inserted an "irreducible uncertainty" into the research process. As a result, we conceptualize regulatory uncertainty not as something that actors encounter in one singular or exceptional situation but rather as a continuous feature of the creative processes (Ibert & Müller, 2015).

However, most research concerned with actors' experience of uncertainty has focused on the cognitive or the perceptual dimension of such uncertainty. Uncertainty is either seen as something that can be objectively ascribed to a given situation or organizational environment, or it has been described as the state of a person or a group of people. Cognitive approaches are found in economics in particular, but also in economic sociology, emphasizing the absence of information to foresee or predict the future (Knight, 2012). Perceptual approaches to uncertainty, prominent in social-psychological research, foster a perspective bound to the individual actor (Zinn, 2008). In both streams of literature, work on perceived

uncertainty has prioritized cognitive dimensions when studying uncertainty in the eye of the beholders. The focus is typically on the lack of information about the future or the lack of computational ability (Dequech, 2011).

Those approaches neglect any consideration of emotions when dealing with uncertainty in economic and organizational contexts. This disregard is quite surprising, given that some of the classical studies already referred to gut feelings or judgment in their writing about entrepreneurial decision-making under uncertainty (Knight, 2012). The irrational (such as gut feelings, emotionality or intuition) is not simply a hindering and irritating side effect in decision-making processes but, to the contrary, a necessary condition for reaching legitimate decisions (Brunsson & Brunsson, 2017). Research on emotions emphasizes that uncertainty can arise and intensify feelings (Bar-Anan, Wilson, & Gilbert, 2009), and that feelings and cognition mutually shape each other (McGeer, 2004).

Economic sociology's emphasis on the social embeddedness of economic action is helpful for conceptualizing experiences of uncertainty as historically and socially situated, shared by a set of actors and shaped by institutional devices, social conventions and cultural values. In this context, emotions have gradually received more attention in the study of economic processes. Zelizer (2000) has shown that the separation of emotions into intimate relations and economic rationality is misleading. DiMaggio (2002) has argued that sentiments should be included in the study of the economy rather than being treated separately. Bandelj (2009, p. 354) in particular underlined the need to overcome individualistic and atomistic conceptions of the link between emotions and the economy, suggesting a relational perspective to unveil the emotional embeddedness of economic action:

> Because actions are interdependent, market actors are not only uncertain about the future states of the world, but they are also uncertain about the *other market actors' beliefs about* the future states of the world, that is the socially constructed expectations about the future. These expectations will be related to sentiments, feelings of confidence (or doubt) in market activity that will shape actors' economic decisions.

Hence, feelings and thought are closely intertwined. Socially shared states of emotions can thereby help to overcome situations of perceived uncertainty, but they can also generate new and additional uncertainty. An emotional-cognitive perspective on regulatory uncertainty, as suggested in this paper, encompasses such a relational understanding of socially interlinked and shared intuitions that combine emotions and cognition.

Over the last two decades, a rich body of studies in the sociology of emotions has emerged, with some studies addressing uncertainty in economic and organizational settings (Bandelj, 2009; Zietsma et al., 2019). In addition, literature on emotional labor and institutional logics has depicted how the display of emotions is shaped by the *feeling rules* of specific professions, organizations and sectors (Cascón-Pereira & Hallier, 2012; Coupland, Brown, Daniels, & Humphreys, 2008; Wright, Zammuto, & Liesch, 2017). Given the status and power ascribed to them, such feeling rules can be restricting as well as enabling for the actors and projects involved (Hochschild, 1983; Humphrey, Ashforth, & Diefendorff, 2015). How people feel about and respond to uncertainty, according to this literature, is constituted through

social relations shaped by the rules, conventions and institutions prevailing in their context (Zietsma et al., 2019).

In this paper, we use a broad definition of feeling rules understood as explicit and implicit rules that regulate what displays of feelings are considered desirable and/or acceptable in specific areas of societal life.[1] While originally conceived as a structurally determinant control mechanism (Hochschild, 1979), later work suggests that feeling rules can also be understood as registers or repertoires that actors can mobilize for situated action (Humphrey et al., 2015). We follow this later use of the term and apply it to the study of emotional-cognitive experiences of three key professional groups, namely artists/scientists, managers and legal professionals, involved in creative processes in two fields strongly shaped by IPR, including its two sub-regimes of copyright and patent law. The literature discusses a wide range of emotions, some of which are seen as stabilizing and others as destabilizing. After clustering groups of emotions in our data, we focus in this paper on three emotional-cognitive experiences that appeared to be particularly prominent and also offer interesting theoretical overlapping with uncertainty: *anxiety, indifference* and *hope*.

Anxiety can be understood as a "physically embodied state involving mental and emotional distress" combined with a more or less diffuse sense of uneasiness about something in the environment that is perceived as threatening (Jackson & Everts, 2010, p. 2793). Experienced individually or collectively, anxiety ruptures everyday life in ways that threaten individuals, groups or organizations. There are close links between anxiety and fear, with the former often being related to unknown or diffuse and the latter arising from more specific objects of threat. In creative processes, negative emotions stemming from IP-related regulatory uncertainty can take both forms. Whether triggered by an awareness of diffuse or more concrete possible threats, anxiety, worries and fear are feelings that are likely to be experienced with an intensity that stands out from the normal flow of activity in the creative process.

Indifference refers to people not caring about something, for example not taking into account the risks associated with infringing against IPR in their creative endeavors. In its emotional aspects, indifference can be described as emotional ambivalence that leads people to temporarily postpone action (Gordon, 1986). Indifference, understood as such an emotionally triggered nonresponse, can be the "result of socially organized *denial*," for example, the active but rarely conscious organization of information that keeps a problem in "the sphere of everyday reality" (Norgaard, 2011, p. 60). By showing no concern, actors might seek to reject and resist regulatory uncertainty in everyday life situations.

To *hope* for something means to wish (or aim) for something to occur while harboring a belief that there is a possibility for it to occur. With McGeer (2004), we understand hope as an imaginative engagement with the limitations of one's own power. While the expectation for something to happen in the future implies confidence that it will occur, the hope that it will happen carries uncertainty with it. Active hope, particularly when shared with others, has a very strong motivational component and has been shown to be an important driver of collective mobilization (Jasper, 2011). In comparison, passive hope favors a 'passive

waiting for the desired outcome to [be] "spontaneously" obtain[ed]' (Miceli & Castelfranchi, 2010, p. 267). In creative processes, both active and passive hope are likely to be experienced as something that keeps the process going during challenging periods.

In sum, emotional-cognitive experiences of uncertainty represent an understudied field at the intersection of economic sociology and organizational theory. We argue that a sociological perspective on how actors experience uncertainty as emotional-cognitive states provides a promising perspective for the analysis of regulatory uncertainty. While emotional-cognitive experiences of uncertainty are highly situational, we assume that possible patterns can be explained at the nexus of IPR domain and professional role in the creative process.

METHODOLOGY

We present our methodological proceeding in three steps. First, to contextualize our two-dimensional comparative analysis, we provide a short description of the two fields, music and pharma, as well as the three professional groups, creators, managers and legal professionals, that we study in respect to IP-related practices and emotions. Second, we present our data and indicate how we identified the core actor groups under study. Third, we present a detailed account of our analytical framework and coding schemes for the IP-related practices of engaging, circumventing and avoiding as well as the emotional-cognitive experiences of anxiety, indifference and hope, as they emerged from and guided our analytical process.

Field Description: Comparing IP in Pharma and Music and Regulatory Uncertainty

The music and the pharma industries both aim to create novel and useful artifacts. Despite fundamental differences, the creative process is shaped by regulatory uncertainty in both industries (Silbey, 2014). On the one hand, the music business is one of the centerpieces of the creative industries that are understood as based on exploiting Intellectual Property (IP). Its traditional production practices have been contested through the alleged democratization of music production coming along with digitalization (Leyshon, 2009). Digital practices profoundly question the regulatory framework in a novel way (Brauneis, 2014) that goes beyond uncertainty regarding musical borrowing connected to music creation throughout different music genres (Arewa, 2006). Regulatory uncertainty is reported to change what music is created, which is particularly relevant to music sampling (Sewell, 2014). Creativity in music is based on the collaborative efforts of different actors within a music studio (Watson, 2014). Yet, producing music collaboratively in virtually connected network studios (Théberge, 2004) or digital music practices like sampling (Behr, Negus, & Street, 2017) change the integrity of materiality and space in music creation, which also relates to questions about emerging or distributing IP in collaborations (de Laat, 2015).

Pharmaceutical research and development are similarly driven by close collaboration, often across disciplines, especially in front-end research (Otto, Schüßler, &

Zangerle, 2021). Similarly to the music business, the pharmaceutical industry comprises a small group of big multinational players and an increasing number of small firms. Both are depicted, despite emerging open innovation models (Fabrizio & Di Minin, 2008), as highly dependent on IP in general and patents in particular, contributing to regulatory uncertainty (Heller, 2010; Silbey, 2014). Pharmaceutical research and development is a risky, costly, lengthy and highly regulated and yet still a very uncertain process (Styhre & Sundgren, 2011). Criticism of rather closed drug development approaches (Dutfield, 2009) refers to market exclusivity as a hurdle for social justice and public health (Sonderholm, 2014), innovation and creativity (Geradin, Layne-Farrar, & Padilla, 2011). Research practices in pharmaceutical R&D have fundamentally shifted in the last decades as biotechnology has been revolutionized by molecular biology and genetic engineering, contributing to uncertainty about patent-related questions (Dutfield, 2009).

While in pharma, patent law protects scientific inventions, in the music business, copyright protects pieces of music. Both rights grant creators the ability to exploit their creation exclusively (Bently & Sherman, 2014) and rely on similar concepts to justify protection. While creations in pharma need to be novel, nonobvious and useful, and music creations build on individuality and originality, both have to surpass thresholds to be considered protectable. Regulatory uncertainty arises from existing IPR hindering novel creations from emerging (McLeod & DiCola, 2011), the ambiguities of IPR (Silbey, 2014), the need for actors to fill the written law with mutually shared interpretations (Ehrlich, 1989), as well as possible unforeseeable future changes of regulations (Birnbaum, 1984). Uncertainties are fostered by the expansion of IPR (Braithwaite & Drahos, 2000) and the introduction of new technologies used for IP enforcement (Thielmann, 2005). Others point to the legal system itself and its institutions as a centerpiece for IP-related uncertainty (Eble, 2013). While IP laws may set incentives, they also discourage future inventions and creations (Hall & Ziedonis, 2001), since they raise the bar for access to prior art such as scientific and artistic inputs (Heller & Eisenberg, 1998). IPRs and related uncertainties thus reportedly have both incentivizing and hindering effects in the development of artistic and research artifacts (Heller & Eisenberg, 1998; Menell, 2015). Against this backdrop, however, we argue that besides incentivizing or hindering effects, IP-related uncertainties are part of practices in both music and pharma (Silbey, 2014) and influence creative processes beyond dichotomous effects (Dobusch, Hondros, Quack, & Zangerle, 2018).

In both fields, a variety of professional groups are involved in creative processes. Professions are characterized by a specialized, often academic training that provides them the necessary expertise for an autonomous professional judgment, and they are typically organized in professional associations that represent their interest toward the public. In music, artists are probably the professional group with the most porous boundaries, because university training is not required to become a musician. In addition to musicians, managers are a key professional group when it comes to organizing its production, marketing and sales process. Both groups often consult with legal professionals to deal with IP-related uncertainty throughout the creative process. In the

pharma field, scientists comprise academics from the natural sciences and engineering who are involved in the process of research and development. Managers are again central to organizing the creative process as well as the commercialization of the product. As in the music field, both groups consult with legal professionals who, in the field of pharma, have a double training in both patent law and science/engineering. In both fields, other professional groups, such as sound engineers or technical laboratory assistants, are equally essential for creative processes. However, for reasons of clarity, we confine our analysis to creators, managers and legal professionals as three professional groups that perform functionally different yet interrelated roles in the organizing of the creative process. Studying the practices with which these three groups address the regulatory uncertainty and related emotions arising throughout the creative process also allows us to discern similarities and differences in practices and the feeling rules between and across professions and fields.

Data

Our analysis of creative processes in the fields of music and pharma is based on semi-structured interviews conducted during the period from September 2016 until January 2019 with actors from Germany, Switzerland, and Austria. The interview guideline, which was concerned with the role of IPR in creation processes, served as an orientation during the interview process and allowed for spontaneous narrations (Lueger, 2010). Thus, we encouraged a narration about creation processes at the beginning of our interviews and subsequently asked our interview partners IP-related questions such as, "In which situations do you encounter IP-related issues?" or "How do you deal with IP-related issues?". As we did not explicitly ask for emotions during the interviews, our analysis is based on the experiences that were uttered during the interviews without instigation. The interviewees themselves brought up emotional-cognitive experiences and attached relevance to them. Thus, emotional-cognitive experiencing emerged inductively as a central topic from the data.

Besides official requests, we used snowballing for acquiring interviewees, most of whom we were able to assign to one of the three main professional groups involved in creative processes: artists/scientists, managers and legal professionals. Though we are aware of the structural differences especially with respect to the group of artists/scientists – for instance, the number of self-employed artists in contrast to typically employed scientists – we stress the functionally equivalent roles these actors take in creative processes.

The scientists in our sample have diverse educational backgrounds including molecular biology, medical science, chemistry, and optics. They work on diverse topics ranging from cancer to diabetes research and cover different roles such as professors, working group leaders or PhD students. The artists, in turn, are engaged in a variety of music genres from indie-rock or hip hop to electronic dance music or jazz and classical music, and take on different roles like composers, songwriters, vocalists or rappers, instrumentalists and producers. Though we focus our analysis mostly on digital music practices and the regulatory uncertainty

Table 6.1. Overview of the Interview Partners by Fields and Professional Groups.

Field	Artists and Scientists	Managers	Legal Professionals	Total
Music	51	18	13	82
Pharma	17	16	11	44
Total	68	34	24	126

connected to them, we did not encounter a genre or actor role that does not experience regulatory uncertainty at all. Pharma managers in our sample have diverse roles including ideation managers, financial managers in big pharma and startup managers. In the music business, we interviewed label managers, managers in publishing houses, and managers in distribution companies. Finally, legal professionals include music attorneys, patent attorneys, and patent or music consultants who have legal expertise but might not necessarily have a law degree. While they typically collaborate with both managers and creators, they further interact with "external" parties dealing with regulatory uncertainty such as the patent office or courts. When we encountered actors with overlapping roles, we chose a category for an interviewee by weighing her engagements and identification with the respective categories against each other. The interviews were recorded, provided the interviewees agreed, and transcribed using the software oTranscribe. Altogether, we recorded and transcribed 44 interviews in the pharma branch and 82 interviews in the music field (see Table 6.1).

Deliberately, the heterogeneous composition of the interview sample includes actors that have been involved in the creation process for varying time periods, with largely different past experiences. While some creators are early in their careers, others have had long-lasting experiences. As those temporal differences in experiencing a field and its regulatory environment shape the perception because of gained knowledge, learning or habituation effects, we reflect on the temporal dimension in the interpretation of the data. To complement our interview data, we draw on memos written after the interviews to characterize the atmosphere during IP-related narrations.

Analytical Framework

Our analytical framework distinguishes between IP-related practices and emotional-cognitive experiences. In the following, we give a detailed account of how we coded IP-related practices and emotional-cognitive experiences and provide a quantitative overview of the distribution of the codes for each field.

IP-related Practices: Engaging, Circumventing and Avoiding

Based on literature on IP in music and pharma, as well as our data and prior analysis (Dobusch et al., 2018), we identify *engaging with*, *circumventing* and *avoiding* regulatory uncertainty as three practices prevailing throughout creative processes in music and pharma.

We understand the practice of *engaging* as *ways of dealing with regulatory uncertainty that lead to an exchange between actors, while pursuing the creative endeavor by addressing issues of prior art*. In music and pharma, actors actively engage with regulatory uncertainty. The *practice of engaging* usually includes pursuing a creative endeavor by addressing issues of prior art and is observable throughout the creative process. Engaging hence depicts an aggregate dimension including activities such as contracting (Caves, 2000), clearing rights and licensing (McLeod & DiCola, 2011), patenting (Dutfield, 2009), taking legal action against potential infringement (Heller, 2010) or using regulatory uncertain creative practices like sampling or remixing (Hondros, 2020). The following quote illustrates how a music manager typically engages with regulatory uncertainty concerned with rights clearing in a case of music sampling. Referring the task back to the artist as she might be in a better bargaining position, the manager expresses the *hope* that this approach could lead to a better outcome of engaging with the regulatory uncertainty at hand:

> Well, that's what's attempted most, of course, that the artist makes some contact with the artist after, afterwards, so to speak, and it is on an artistic level […] So that maybe somehow it still comes to an agreement between artist and artist. In the hope that the author then says: Come on, that's OK. We do not want to pursue this any further. (Interview Manager)

In pharma, we observe engagement in connection with patenting as a part of the creative process. The manager in the following quote indicates that she would typically consider patenting as late as possible during a creative process; however, regulatory uncertainty about patenting experienced in the form of *anxiety* might change this approach:

> So, for us: patent as late as possible. But there are also situations where I say I want to patent immediately. I have an immature idea, but I'm afraid that the neighbor will pull it off my plate. (Interview Manager)

When actors apply the practice of *circumventing*, they show *engagement with regulatory uncertainty within twilight zones and usually without exchange between actors, while pursuing a creative endeavor by making detours due to regulatory uncertainty related to prior art*. Thus, actors involved in creative processes seek to go around regulatory uncertainty. The practice of circumventing includes approaching ambiguous regulatory boundaries (Behr et al., 2017), replaying a music sample yourself (Sewell, 2014), finding a means to go around (technological) restrictions such as upload filters (Fischer, 2020) or adding chemical molecules, and transforming samples. In the pharma field, scientists circumvent regulatory uncertainty connected to already patented compounds by going around densely patented chemical areas.

> What the client doesn't know is that when a competitor changes a pH buffer, for instance, the competitor could produce the same results. Patent attorneys are encouraged to look at the invention and consider different conditions that would produce the same result. What are possible workarounds? (Interview Legal Professional)

In the music business, actors similarly circumvent regulatory uncertainty about the usage of music samples by transforming them to a degree they evaluate as sufficient so as to render the sample as unrecognizable.

> When I sample, it's about parts. (…) So it's really the smallest elements that I take out and if it's a bit longer, then, yes, that's maybe two seconds, three seconds at the longest and then I change the pitches partially, the key notes, so whether it is in minor or major, so nowadays you can really simply cut and change the pitch. That means I make new scales out of it. And in the case when I alter so much, I don't see it as in need of a clearing, because otherwise I would also go crazy. (Interview Musician)

Yet, actors do not always engage with or circumvent regulatory uncertainty. More often than not, they tend to *avoid* activities because of regulatory uncertainty in creative processes. The practice of *avoiding* shows *no engagement with regulatory uncertainty, no exchange between actors, by pursuing alternative creative endeavors or not using prior art protected by IP*. The practice of avoiding includes activities such as using another sample (McLeod & DiCola, 2011), avoiding certain compounds, processes or pieces of music (Schloss, 2004), deciding not to use a regulatorily uncertain creative practice at all (Sewell, 2014), not using ideas from a specific artists/label or scientists/firm or not doing the song/the prior art (Fischer, 2020), keeping research secret, signing confidentiality agreements, or making informal agreements. Sticking with the example of music sampling, the legal professional is *anxious* about the possible ramification of an uncleared music sample and advises musicians without a budget to clear samples to avoid the practice completely:

> Especially when these are lesser-known artists, where there is no budget, then unfortunately you have to say: okay, then better not do it because the attention is already there for everything that is buzzing around on YouTube and so on. If, contrary to expectations, it becomes successful due to the number of clicks, that also arouses desires. Then I'll definitely get a dissuasion, because that's also interesting for a lawyer colleague. (Interview Legal Professional)

In pharma, on the other hand, avoiding patenting might arise from a disinterestedness in economic gains, or *indifference* as we term it, usually connected to the realm of artists (Bourdieu, 1983), underlining a proximity of artists' and scientists' practices:

> And therefore, when you say "Ok, patenting" my first reaction to it is, I don't care about the money. If I cared about the money, I wouldn't be in science. What we do here in the number of hours we spend here, it's not because we wanna be paid. There are a lot of jobs in which people would get much more money. (Interview Scientist)

As we have seen in the quotes from our data until now, narrations of practices concerned with regulatory uncertainty show overlaps with the emotional-cognitive experiences of the practice. Thus, going from here, we add the perspective of emotional-cognitive experiencing to our analytical framework.

Emotional-cognitive Experiencing: Anxiety, Indifference and Hope

Text-based coding of emotions is a slippery, complex and difficult task, yet there have been several attempts at studying emotions with the help of text-based analysis (e.g., Ayers, 2007; Rowe, Fitness, & Wood, 2014; Smollan & Sayers, 2009), contrasting holistic approaches like that of Liu and Maitlis (2014) that include a bodily and auditive dimension. In Ayers' (2007, p. 255) study about women and their emotional experiences of birth, transcripts were "read repeatedly to identify all statements about women's thoughts and emotions during birth, cognitive

processing after birth, and memories of birth." First, the authors developed a coding schedule. In a team of two researchers, "codes and themes were discussed and agreed on by a second researcher, after which all transcripts were coded using the agreed-on coding schedule." This resembles our coding process, where we additionally discussed in detail the data and exchanged transcripts for re-coding between involved coders.

In a study about organizational change, Smollan and Sayers (2009) take a constructivist perspective on emotions as a culturally mediated phenomenon. Like Ayers (2007), they directly asked the interviewees about emotions, in this case about their emotional response to organizational change. Furthermore, Rowe et al. (2014) studied the role and function of emotion in feedback at a university. In their analytical process, the authors classified and organized emotions as they combined what they term discrete emotions such as anger and sadness into *emotional prototypes*. For instance, for these authors uncertaint*y* is a discrete emotion in itself and in their coding part of the emotional prototype of fear.

These authors develop knowledge about emotions through asking directly about them in semi-structured interviews. Especially for emotions, this possibly leads to biased results as there might be more or less socially acceptable emotional experiences or evaluations of certain situations. Applying a text-based, qualitative approach without explicitly asking about emotions should mitigate these biases discussed in previous studies (e.g., Ayers, 2007; Rowe et al., 2014; Smollan & Sayers, 2009). Specifically, we asked for regulatory uncertainty and hence addressed the sources, conditions or contexts of emotions.

Our own coding of emotional-cognitive experiences was guided by three main perspectives on the material: first, we coded direct emotional wording, which are explicit statements of the respective emotions; second, we coded indicative wording that subsumes related meanings; and third, we coded the context of a narration. Coding the context of a narration derives from the interplay of direct and indicative wordings prior or subsequent to the actual text passages. Furthermore, we coded both statements which are self-attributions (e.g., "I feel scared") as well as statements which are attributions of others (e.g., "He feels scared").

Similar to Rowe et al. (2014), our initial coding process, which covered parts of our material, revealed a broad number of emotions. Besides anxiety, indifference and hope, the actors experience regulatory uncertainty emotionally in terms of – among others – anger, discontent, frustration, exhaustion, confusion, ambivalence, but also joy, boredom, excitement or even disgust. Thus, experiencing regulatory uncertainty emotionally is rather common in our material. However, in order to handle the full text corpus from all our interviews, we narrowed down and clustered the emotions and decided to focus on three main emotions. We developed a codebook (Table 6.2) in order to guide our further coding based on the findings of the first coding phase combined with insights from coding emotions already applied in the literature.

We applied this analytical framework based on inductive coding, theoretical reflection, and field-related knowledge in an iterative and reflexive manner to our data material (Alvesson & Sköldberg, 2017), in a coding process described below.

Table 6.2. Codebook: Coding Anxiety, Indifference and Hope.

	Direct Wording	Indicative Wording	Context of Narration
Anxiety	fear, anxiety, anxious, scared	trouble; worry; worries; concern; feel threatened; feel afraid, feel hurt	stressful situations
Indifference	indifference; indifferent	don't care; don't mind; not interested in; whatever; not so important at the moment; no matter what happens; live out one's creativity, ignorance	expressing to not feel like doing something
Hope	hope; hopefully	belief; promising; possibly; wish; try to do/accomplish something; to manage something somehow	seeing opportunities, options and alternatives

Coding Practices and Emotions According to Professional Groups

Throughout the analysis of our empirical material, we followed an iterative logic, going back and forth between analyzing and theorizing practices and emotions (Corbin & Strauss, 1990). We took several steps to guarantee consistent coding across coders to assure the comparability of our results. A crucial feature of our content-analytical, interpretative approach was the intense exchange between the interpreters (Lueger, 2010). Two members of the research group, both using the software MAXQDA for the analysis, met online every week to discuss analytical or theoretical questions and exchange field knowledge. We discussed the coding process and the interpretation of interview passages to (possibly) re-code and re-interpret them, for example questioning whether the temporal dimension including learning effects related to the regulatory environment impacts actors' experiences. Throughout the process of analysis, we discussed in online talks and in written form unclarities in coding and diverting opinions, which is of particular importance given the contextual complexities of regulatorily uncertain practices as well as the multidimensionality of emotional utterings. We also checked for the reliability of coding by exchanging text passages for mutual coding and used differences in coding to further engage with the data material. We took into account the dual temporality of narrations and the associated entanglements of retrospective and anticipated IP-related experiences when we coded the text passages. We considered both the personal experiences reported by interviewees as well as their description of other people's experiences. Furthermore, we considered literal, explicit and indirect descriptions of experiences in which narrators paraphrased their experiences. Table 6.3 gives an overview of how our coding process identified emotional-cognitive experiences connected to IP-related practices, differentiated by profession, and whether or not an utterance was voiced directly or indirectly.

Throughout our coding process we coded the material in that manner, which, in turn, led to an overall number of 1,265 coded text passages in which practices and emotions were mentioned together, thereof 989 for the music and 276 for the pharma field. In both fields, and across all three professional groups, engaging was the most frequently reported practice of dealing with regulatory uncertainty, accounting for at least one out of two text passages (except for legal professionals), followed by avoiding and circumventing (see Tables 6.4 and 6.5)[2].

Table 6.3. Coding Emotional-Cognitive Experiences of IP-related Practices and Professional Groups.

Quote	Experience	Practice	Profession	Direct / Indirect
For us it's as late as possible. But there is also the situation where I say I want to patent immediately. I have an immature idea, but I'm afraid that the neighbor will pull it off my plate.	anxiety	engaging	manager	direct
Many artists are scared because they do not know what is going on. You do something and then you are scared: "Whoa. Such a huge publisher. Such a huge company may just want money from me at one point."	anxiety	engaging	artist	direct
I don't care how it works, the main thing is that someone picks it up in some form and brings it into the patients, so that we can see if it really works. Or does it only work in the mouse or in the culture dish or wherever?	indifference	avoiding	scientist	direct
There is also music that consists only of samples and no one would hear it, (...) where the source comes from, yes, then you do that. So, there are still a lot of gray areas and a lot of: just wait until the problem comes up, simply because it's really complicated.	indifference	circumventing	manager	direct
Or you do it very early if you are not ready with the development but want protection and hope that you will get protection.	hope	engaging	scientist	direct
There was a moment (...) when bands or artists said: This label die-off is actually good because the internet gives us opportunities. We can do a lot ourselves and we just do a lot of distribution deals ourselves. We make a label ourselves and make a distribution deal. I had a lot of that for a while and it subsided very quickly.	hope	avoiding	legal professional	indirect

Compared to similar distributions of practices, interviewees' statements about emotional experiences show more variation across fields and professions. While, for example, in the music field anxiety was the most frequently reported emotion, followed by indifference and hope, in pharma hope prevailed, followed by anxiety and indifference. Reported emotional experiences also varied between professional groups across and within fields. Further complexity arises from practices

Table 6.4. Coded Text Passages According to Field and Practice (in %).

Column Percent	Music Field	Pharma Field
Engaging	58.5	54.7
Circumventing	20.1	15.9
Avoiding	21.3	29.3
Total	100.0	100.0
N	989	276

Table 6.5. Coded Text Passages According to Profession and Practice (in %).

Column Percent	Artists/Scientists	Managers	Legal Professionals	Total
Engaging	53.4	65.5	60.5	57.7
Circumventing	20.2	15.0	24.7	19.3
Avoiding	26.4	19.5	14.8	23.0
Total	100.0	100.0	100.0	100.0
N	769	359	162	1,290

being charged to varying degrees with different emotions depending on the field context and the professional group involved. This leads us to use the descriptive data inspection as a starting point for an in-depth qualitative analysis of selected features of professional groups' emotional-cognitive experiences in the fields of music and pharma.

MAPPING EMOTIONAL-COGNITIVE EXPERIENCES OF REGULATORY UNCERTAINTY ACROSS FIELDS

Starting from the observation that more than one-third of text passages in which creators, that is artists in the music field and scientists in the pharma field, state indifference in relation to regulatory uncertainty, we discuss the cliché of the disinterested *indifferent creator* (Bourdieu, 1983) and contrast it with our own findings that also point toward these groups experiencing anxiety and hope. Furthermore, we present how managers and legal professionals experience and shape uncertainty, navigating *between anxiety and hope*. These professions thereby act as what we term *cultivators of emotions* as they observe, expose and ascribe emotional-cognitive experiences, particularly in relation to creators both in music and in pharma.

Indifferent Creators?

In both fields, creators experience indifference about IP-related uncertainty. Whereas in pharma, scientists publish their inventions early and show a disinterest in patenting, artists show indifference to regulatory uncertainty when they release a song without clearing samples, close contracts with handshake deals or calmly await possible infringement claims.

The picture of the indifferent scientist, who avoids dealing with IP-related uncertainties because this is perceived as either outside their competence, requiring

additional effort, or destructive, holds particularly true for those working in public research institutes. Even in cases in which it is not their explicit goal to patent, they might discuss potential avenues of inventions with patent attorneys, sometimes resulting in indifference to IP-related uncertainties.

> The patent attorney always communicates, "No, but we can still patent that." Even if we get this patent, I'm not interested in it in the slightest. (Interview Scientist)

Indifference on the side of creators is linked with a lack of economic and social resources. It can be a decision to focus on the creative artefact without being concerned about IP-related disturbance. Indifference as such can be interpreted as related to the professional ethos and ethical reasons inscribed in feeling rules.

In the music field, artists at different stages of their career tend to ignore regulatory uncertainty related to potential IP infringement during the creative process. This often leads them to postpone dealing with possible negative consequences because these are only relevant in cases of large economic success, which is considered unlikely. Yet major label artists are also indifferent particularly when it comes to the usage of very short samples.

> I don't really care. […] So, of course, there are all these rules and of course you have to be a little bit careful now than just imitating one-to-one or even sampling something from the track or something like that, that's very dangerous, you know? But so, as far as sampling and stuff like that is concerned, just don't give a shit. If that comes up or something that's just going to be dangerous anyway, if you're going to make big money. (Interview Artist)

The artist advocates an indifferent approach of "just do it," which might be understood as an ingredient of creativity in general or the artistic stance toward it in particular. The quote suggests that rejecting concerns about possible IP infringement provides leeway for experimentation with transformative creative practices that would not be possible if creators stuck to the letter of the law.

Both in music and in pharma, creators do not only express indifference toward regulatory uncertainty. In music, an important hinge is whether or not the possibly infringing piece is a single or part of an album. A single is usually only released online and can be taken down immediately. An album still has a physical form and regularly needs to be destroyed in cases of infringement, leading artists to avoid uncleared samples. Circumvention practices like replaying or transforming samples allow creators to approach regulatory uncertainty hopefully. What adds to anxiety, however, is already published material that might haunt creators for years, as in the following case where a single was already part of a rather successful physical album, but the denial for clearing a sample was definite. Though the creator avoids recognizing the track with the collecting society, he still expresses anxiety that one day severe problems may arise.

> I do not want to hope that I will be going to jail for this track one day. Actually, I have not earned anything from the thing. Nothing. Except a lot of experience and a lot of sleepless nights. Because at that time, when this refusal came from [company], that was already very official. Like, if [company] makes you aware explicitly that you have to keep your hands off it, then you keep your hands off it. [Company] sues you to death. [Company] is a load of filthy bastards. (Interview artist)

Scientists, on the other hand, might be hopeful in cases where they believe that they can patent very early in the process, which might be mitigated by the anxiety of other potentially similar applications. As this is particularly relevant in cases of pharmaceutical fields with a high patent density, circumventing regulatory uncertainty by finding space for a patent of their own is helpful, and as in music connected to hope.

> Or you do it [patenting] very early if you are not ready with the development but want protection and hope that you will get protection [...]. We knew that this group of substances concerns a chemical space that is heavy, tightly patented. (Interview scientist)

We see that creators tend to be indifferent, but that this indifference can turn rather quickly into other emotional experiences in cases where threats or opportunities concerning their own creation arise.

Managers and Legal Professionals Cultivating Emotions between Anxiety and Hope?

As indicated by our descriptive quantitative analysis, managers and legal professionals speak more frequently than artists and scientists about anxiety and hope in relation to regulatory uncertainty. But it should also be emphasized that these two groups speak much more frequently about the emotions of other professional groups than do artists and scientists. This is particularly the case for legal professionals in the music field and managers in the pharma field (see Table 6.6).

Hopes and anxieties of managers are repeatedly connected to the possibility of exploiting a creation economically. Here, the manager hopes that engaging with regulatory uncertainty and finding solutions between the artists might allow the creative artifact to be exploited economically.

Table 6.6. Coded Text Passages by Interviewee's Professional Group and Their Self- and Other-Referencing of Emotions (in %).

	Utterances referring to emotions of…. (*row percent*)				
Interviewees according to	Artists resp. Scientists	Managers	Legal Professionals	Total	*N*
Music Field					
Artists	**95.0**	4.1	0.9	100.0	575
Managers	14.7	**85.0**	0.3	100.0	306
Legal Professionals	42.0	12.6	**45.4**	100.0	231
Subtotal	*61.9*	*28.2*	*9.9*	*100.0*	1112
Pharma Field					
Scientists	**97.7**	1.2	1.2	100.0	86
Managers	48.3	**50.0**	1.7	100.0	180
Legal Professionals	24.6	4.2	**71.1**	100.0	142
Subtotal	*50.5*	*23.8*	*25.7*	*100.0*	408
N (Both Fields)	*58.8*	*27.0*	*14.2*	*100.0*	1,520

Note: Utterances in this table refer to all emotions mentioned in the interviews, i.e., also others than the three emotions studied in this paper.

> Well, that's what's attempted most, of course, that the artist makes some contact with the artist after, afterwards, so to speak, and it is on an artistic level […] So that maybe somehow it still comes to an agreement between artist and artist. In the hope that the author then says: Come on, that's OK. We do not want to pursue this any further. (Interview Manager)

Managers, being highly sensitized to IP-related uncertainties, plead for greater awareness and depict how "dangerous" this uncertainty can be, appearing as such again as organizers of emotions.

> And if they [inventors] don't have a patent, then we see that we can patent something, because a company without a patent, any product, that's dangerous. The next one can do the same and just imitate; we must avoid that. (Interview Manager)

Experiences of anxiety occur in contexts in which regulatory uncertainty becomes threatening. Potential infringements and associated litigation are experienced as an existential threat, particularly by managers. At the same time, legal professionals have a mediating role and hence can, as indicated in the following quote, appease creators' anxiety:

> The [inventors] are first of all very depressed when they get the first feedback from the patent office […]. When they [scientists] read something like that they think "Oh my God, the whole invention is down the drain" […] That's something about which we can often take away the worries from the inventors. (Legal Professional)

Thus, beyond their own emotional experiences, we find that in both fields, managers and legal professionals tend to ascribe emotions to artists and scientists, respectively, thereby seeking to become *cultivators* of distinct emotions. In music, legal professionals and managers report that artists feel frightened when they have to 'give away' their creations while not being sure whether they will be able to control what happens next, for instance when they enter contractual negotiations.

> This is the case with a lot of artists and they actually have, most of them have only such a general, diffuse fear of firstly being ripped off, secondly, that the rights to the music and to the songs are gone, that they cannot do anything with them anymore once they have signed and that they cannot decide for themselves anymore what they are doing. (Interview Legal Professional)

In pharma, the legal professionals ascribe anxiety to creators who might be afraid of losing their ability to work further on their ideas and are concerned about what will happen to them.

> There are clients who are perhaps more stubborn or unreasonable and want to know exactly why we are proposing this now and are perhaps rather skeptical or are anxious about giving something away. (Interview Legal Professional)

Legal professionals are in a position to deal with the worries of the creators by providing advice.

> The problem was that it really was this first record. A lot has been hanging on it for me, so I've been waiting a long time for this record to come out, because that did not work with the other label and I was scared that they would shit on it […] Then two years would have been for nothing […] Exactly, and I just talked to lawyers and they said yes, I'm right […] that was a breach of contract, so theoretically, in retrospect, I could have sued them for it. But then I did not want bad vibes either. (Interview Artist)

This quote indicates that anxiety is experienced by artists who worry about their artifacts' evolution, while legal professionals can influence the emotional experiences of creators. Whereas legal professionals in pharma act as cultivators of hopes by presenting alternatives to patenting (e.g., circumventing protected inventions) or possibilities in terms of patenting ("hopeful engaging"), managers in music act as cultivators of anxieties as they draw attention to possible dangers in terms of circumventing within legal twilight zones (e.g., transforming samples). In a similar vein in pharma, it is legal professionals who take on the role of cultivators of worries as they raise awareness and point to possible dangers such as infringements of protected inventions.

DISCUSSION

We highlight three interrelated contributions of our study that open up new perspectives and themes on the organization of creativity. First, practices of dealing with regulatory uncertainty extend beyond domains (e.g., IP domains copyright and patent law) and fields with rapid regulation changes (Birnbaum, 1984). By showing that IP-related uncertainty is a constitutive characteristic of creative processes in both music and pharma, we extend the understanding of regulatory uncertainty (Birnbaum, 1984). We add that regulatory uncertainty affects fields with rather stable regulatory environments and is entangled with fields concerned with the generation and exploitation of IP (Dutfield, 2009). Differences between the music and pharma fields (e.g., hope is more prominent in pharma than in music) arise from the fact that copyright is constituted at the moment of creation, whereas an innovation needs to be registered successfully with the patent office to be granted protection (Silbey, 2014).

Second, regulatory uncertainty is addressed by the involved actors with a variety of emotionally charged practices. This finding highlights the limitations of rationalist and information-based approaches toward uncertainty. It also adds to research on creativity that has depicted uncertainty as a relevant feature of creative processes (Ibert, Jackson, Theel, & Vogelgsang, 2018). Our analysis demonstrates how IP regulations are embedded in practices that are part of creative processes. IP regulations are not neutral but are rather enacted and performed through practices by different actors (Ortmann, 2010). By drawing attention to the relevance of emotions in dealing with regulatory uncertainty, we seek to address its emotional dimension (Zietsma et al., 2019).

Third, emotional-cognitive experiences of regulatory uncertainty depend on the involved professional actor groups and their field context (Hochschild, 1979; Wright et al., 2017). They are situated, relational and change over time. Similarities across the fields of music and pharma prevail over some field-specific specificities and differences, pointing to the rather general significance of IP-related regulatory uncertainty in creative processes (Silbey, 2014). Our study gives insights into how actor groups involved in creative processes feel about and respond to regulatory uncertainty and hence indicates relations between professions and emotional experiences. The literature about *feeling rules* (Hochschild,

1979; Wright et al., 2017) emphasizes that how people feel about uncertainty is constituted through social relations shaped by the rules of their profession and/or institutional domain (Coupland et al., 2008; Zietsma et al., 2019). Status professions, such as lawyers and medical professionals, have been characterized as mediating their clients' and patients' feelings while themselves displaying emotional detachment (Cascón-Pereira & Hallier, 2012). We, in contrast, show that status professions such as lawyers do actively engage as "cultivators" in the organization of emotions. We thereby stress the relational character of feeling rules, meaning that rules are constituted by practices such as cultivating emotions. This includes ascribing emotion to others, confirming, balancing, mitigating, emphasizing, strengthening emotions of others, and pointing out dangers and possibilities. Managers and legal professionals as cultivators can hence offer orientation, relieve others, show the limits and borders, but can also be a burden, shaping the self-perception of others.

Copyright and patent law practitioners operate within formalized professional codes of conduct that require them to act in an "objective" manner. Legal professionals are in a position to evoke or destroy others' experience of hope by referring to their legal expertise. At the same time, the professional background of legal practitioners is in marked contrast to the feeling rules in which the practices of creators unfold. There might also be differences in the emotional repertories that are enacted and allowed for musicians as expressive artists, as compared to matter-of-fact scientists. Managers have also been shown to be involved in emotional work and to be guided by feeling rules in the literature (Coupland et al., 2008). The manager's job is to organize the creative process in such a way that the commercial exploitation of novelty will be successful. To the extent that this requires rationalizing contingency and managing expectations throughout the entire creative process, at least in our fields, both legal professionals and managers emerged as cultivators of collective hope and shields against pessimism for the creators in their projects, while worrying themselves about the economic risks and opportunity of the creative endeavor.

CONCLUSION AND OUTLOOK

We explored how different professional actor groups experience regulatory uncertainties in the creation processes across creative fields. To do so, we studied how creators (artists and scientists), legal professionals and managers experience practices of IP-related uncertainty across the fields of music and pharma. We find that emotional-cognitive experiences of regulatory uncertainty range from anxiety to hope, depending on the field, the dynamic relation of actors with different professional affiliation and IP-related practices. This leads us to conclude that understanding regulatory uncertainty in creative contexts comprises drawing attention to the relational character and social embeddedness of emotional-cognitive experiences.

We leave it to subsequent research to explore how cultivators of emotions actually influence others' emotions and exert an impact on distinct phases of the creative processes and to include other emotions that were left aside in this study. While we have not only drawn on the self-experience of the interview partners,

but also on ascribed emotional-cognitive experiences by other actors, a different research design that takes sole and deep (e.g., through long, repetitive and reiterating interview techniques) account for narrations of the experiencer could help to exploit the theoretical and heuristic potential of a relational approach to emotions. Methodologically, the differentiation between how actors feel and how other actors think they feel is helpful to explore how displays of emotions (or lack thereof) contribute to understanding feeling rules, and how webs of emotional experience stabilize or destabilize the encompassing institutional logic of the IPR domain. Future research could expand the analysis to other emotions, such as anger or doubt, both having strong cognitive as well as emotional components, and explore how experiences impact different stages of the creative process, thereby bringing in a temporal perspective. Findings from our analysis that we could not report in this article for reasons of space indicate that in critical situations, doubt expressed by legal professionals can result in destabilizing responses to the IP regime. While legal professionals are bound to rationalize regulatory uncertainty, distinct experiences can shatter the legal professionals' attitude toward regulation. In consequence, they might doubt the whole legal system.

NOTES

1. This definition is both broader and narrower than Hochschild's (1983) original use of the term. It includes genuine expressions of feelings (and not only externally controlled ones) while focusing on displays (rather than inner states) of emotions (Humphrey et al., 2015).
2. The N of Tables 6.4 and 6.5 differ slightly (1,265 - 1,290). This is due to the possibility of coding single quotes to more than one professional group, but only to one field.

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