

Editorial

Ruminations on Freedom

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While putting this issue together, I came across the concept of "freedom" on several occasions. When I first sat down to write this editorial, I considered contrasting the challenges to artistic expression that have arisen from intellectual property rights in the past few decades with social pressures caused by misinterpretations and overzealous enforcement of laws and policies. "Intellectual Property" is the focus of one of the threads in this issue of *Intelligent Agent*, which includes Joy Garnett's report of the conflicts surrounding one of her paintings and the transcript of a panel discussion at Eyebeam in New York featuring Lawrence Lessig. Draconian issues of control over artistic expression revealed themselves in the case of Joy Garnett's large-format "Molotov" oil painting [1], derived from a detail of a photograph registered in the Magnum archive and taken a number of years ago. The photographer, with assistance of legal counsel, threatened with an injunction. Obviously, there are still many individuals in the net art community who ascribe to the values of altruism and freedom of expression that spawned events like *etoy's ToyWar*; a grassroots webbing of derivative works of Ms. Garnett's derivative painting sprang up, naming itself "JoyWar."

Incidentally, far more compelling (and disturbing) cases of how civil liberties are being systematically dismantled in favor of disjointed agendas of national security (especially in the United States) are unfolding. One could argue that the events occurring in the US are merely "case studies" for other parts of the world where fear is inducing even more draconian measures, causing even deeper rifts within societies; or that the spreading tide of fear in the US could bring even more oppressive changes to the rest of the world than those that are happening now. A "martial culture" is imposing itself upon parts of the world, drawing desperately needed monetary resources from education, health, and human services -- resources that might prove to be a much more effective deterrent to the seemingly rising tide of global violence. A comprehensive analysis of the effects of militaristic control within the "free" world is beyond the scope of my discussion, but the dismantling of civil liberties for the sake of national security can be traced in the case of the Critical Art Ensemble's investigation by the FBI.

Anyone who had access to the US news media during the late Spring of 2004 should be aware of the plight of Steve Kurtz and the Critical Art Ensemble. On May 11th, 2004, Steve found his wife Hope unresponsive, and called emergency services. When the police arrived

on the scene, Hope Kurtz was declared dead (from a heart attack, as was later determined), but this was only the beginning of Kurtz's problems. Apparently, those who arrived on the scene also noticed the equipment for DNA analysis that was to be part of the Critical Art Ensemble's work for the MassMoCA exhibition "The Interventionists" and called in the FBI. Events escalated to the point where the FBI cordoned off the street block in Buffalo where Kurtz lives, impounded his records, student work, equipment, wife's body (and, as rumors have it, even his cat). He was taken into custody for 22 hours and then released.

Since then, Kurtz and collaborators were arraigned before a Federal Grand Jury on charges of possession of biological agents and equipment (many of which are available to any high school biology lab) under provisions of the US PATRIOT Act. Artists who have worked with the CAE, such as Beatriz De Costa and Paul Vanouse, were subpoenaed to testify at the hearing on June 15th in Buffalo, where a group of supporters of over 200 people protested the proceedings. The charges relating to bioterrorism were dropped. However, Kurtz and Robert Ferrell -- Professor of Genetics at the University of Pittsburgh's School of Public Health -- still face charges under allegations of breaching part of Title 18, United States Code, sections 1341 and 1343 on account of the way in which Dr. Farrell assisted Professor Kurtz in obtaining bacteria (worth a couple hundred dollars) for one of the CAE projects through mail order. [2] The problem here is that it seems to make no sense that further proceedings occur under circumstances that could be easily worked out civilly (but in the year 2004 in the US, this may make a great deal of sense).

You can keep abreast of the situation at <http://www.caedefensefund.org>. It should be obvious that this is a watershed civil liberties case, endangering the freedom of expression and experimentation for (technological) artists in the US and having potential ramifications for creative expression in other parts of the world. In case you are (re)reading this a considerable amount of time after its writing, I hope that you will have already seen the complete acquittal of Kurtz and Ferrell (or even the repeal of the USA PATRIOT Act as unconstitutional).

I am not saying that the US has lost its moral compass; that is a value judgment I would leave for others to make. I would rather consider that we are currently facing severe imbalances in ideology and policy. What is

germane to the pains that various societies are currently feeling is that they are being gripped by agendas of fear and control in the face of socio-political change. In times of conflict and change, artists and intellectuals often find themselves at the cultural front lines. Media outlets like to put these issues in neat sound-bite binaries -- liberal / conservative, patriot / terrorist, artist / pirate, and so on.

What becomes obvious in the light of current events is that a Gladwellian "tipping point" [3] is taking place, and at least US culture is in a process of reconfiguration that has not been seen since the late 1960s. There is the old axiom "nothing changing but change itself," and it appears that even the most politically conservative elements claiming preservationist ideologies are creating sweeping changes within society. The events in the first years of the third millennium seem to make obvious that many areas of "global society" have broken into flux and that significant changes (in whatever fashion) are under way. From this, a panoply of issues arises. How wide-ranging will these changes be? Will the agendas of fear borne of the unknown (political, social, and economic) and the increasingly centralized control of the engines propelling industries' flows of capital drive certain societies into a form of "totalitarian capitalist democracy," in which any form of expression is commodified?

I agree with Lawrence Lessig that we are moving from a culture of freedom to one of permission. [4] If freedoms of expression in the world are to be preserved as electronic culture spans the globe (and this obviously goes beyond issues of US First Amendment rights), other strategies need to be devised. And this is the brilliance of the initiatives considered in the "Share/Share Alike" panel discussion featured in this issue -- among them *The Pool* [5], Creative Commons [6], copyleft, the GNU license [7] and the Open Source movement (even though corporate interests are trying desperately to restrain these efforts in one way or another). Much in the spirit of Hakim Bey's idea of the Temporary Autonomous Zone [8], electronic culture is making some strides towards opposing the oppressions of intellectual control. Through these efforts, the online art culture is proving that alternate models of production can work in contemporary society and that the "bottom line" does not have to be the final arbiter of culture.

In the case of Kurtz and the CAE, the portents are far more ominous, and I am undecided about the overall ramifications for US culture. Perhaps the occurrence of this type of event is limited to the US but without conflating the latter with Western culture, their interrelation also cannot be ignored, and it is obvious to me that these are volatile times. Following from Baudrillard's ideas of cultural transparency [9], it is impossible to be apolitical since the actions of individuals (including artists) in every facet of life are now imbued with the political, in one form or another. The CAE is one of the canaries in the metaphorical coal mine. For anyone who

values civil liberties (American or not), there is a range of actions to consider: contributing to the defense fund or at least monitoring the case, researching its outcome after its conclusion and considering its impact on media art culture.

As Ben Cameron (President of the Theatre Communications Group) said at a 2004 address at Louisiana State University, creative practitioners have been forced into a politics of deciding what degree of complicity with or criticism of the status quo they will choose. This may be a continuum, but it is one without neutrality. The artist, curator, writer, dancer, scholar and any other creative practitioner is held accountable as agent of change in the global milieu as it is changing -- now. It is my belief that in the emergence of global nets, there is a potent tool for activism.

At the risk of being vernacular, things are "pretty screwed up" right now when it comes to the Enlightenment ideals of liberty and freedom. This is not the venerable cry for the romanticized "good old days;" it is pretty obvious that some of the democratic ideals and most cherished human experiments of the Second Millennium are endangered. The US, and possibly other regions of the world, are panic sites that risk becoming overt or subtle zones of oppression. The question is not whether to get involved but how to aid the reconfiguration of society in this era of change in order to create the most open, egalitarian, and humane one possible.

References:

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5. Lessig et al. Ibid.
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7. The GNU License, <http://www.gnu.org/licenses/licenses.html>
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9. Baudrillard, Jean, *The Transparency of Evil* (Verso: NY, 1993), p.8