Grasping at Bits -- Art and Intellectual Control in the Digital Age: Version 1.1

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Editors Note: This essay was originally written in 2000 to address then current issues in net.culture and globalism, and updated in 2004. In its original form, G@B was written in an 'associative' fashion, using The Brain technology to draw associations between the more or less associated, semi-independent lexia. This linear version is the first time this essay has been seen in print. The original version was the recipient of an Honorable Mention at Ars Electronica 2000.

Introduction

At the turn of the millennium, the international art community has begun to recognize the significance of the Internet as a milieu for expression and critical inquiry of issues such as the globalization of capitalist culture. The increasingly Blade Runner-esque role of corporate culture, 'big money' in global society, and cyberspace in particular, raises questions about freedom of expression and the controlling influence over intellectual property by multinational corporations. Artists who critique the expanding role of corporate power make visible the cultural terrain of this power relation, frequently through subsequent litigation by the very institutions under scrutiny. In addition, events such as the Leonardo and etoy controversies have brought to light how corporations enforce their brand identity over artistic groups that predate them through the exertion of legal force.

In a 'Golden Age' of global capitalism, brand names and corporate culture are nearly ubiquitous within Western society. The centrality of the media image as identity pervades the whole of our cultural milieu, and calls into question the linkages between the material and the aesthetic as symbols of exchange. In a society that increasingly centers itself on the production and consumption of symbolic information, what are the issues of control over the aesthetic object arising from such a paradigmatic shift? Can any freedom of aesthetic expression be assured in a climate of the increasing capitalistic expansion in a 'free' market economy or will such influences signal a cyberspatial '*Tragedy of the Commons*' (Hardin)? This essay attempts to provide a critical perspective on the matrix of issues surrounding the questions of corporate influence and control of intellectual property. Subsequently, I will speculate on the possible implications of the intersection between the aesthetic and the material in the age of the Internet.

Colonization of the New World (DOS Kapital)

The new colonizing force of the 21st Century is all-pervasive, a Hyper-capitalism [1] that fulfills all desire by inventorying, quantifying and exploiting the 'need' to create a homogenous mass culture of the production and consumption of corporate signs. It is an extension of 20th Century materialist culture, spurred on by the explosive forces created by the confluence of globalization, international capitalism, and fin de millennium technological expansion. This cycle of production permeates all aspects of society from the cradle to the grave, due to the necessity of the complete development of unchecked capitalism within the international milieu. Multinational conglomerates construct complete consumer cultures enabling the mass consumption of their brands of food, entertainment, art, clothing, or transportation without requiring the consumer to leave the safety of the corporation's influence. Thus, coordinated marketing strategies homogenize the market and the audience by channeling signs through the combined experience of consumption and reinforcement of the company's signifiers. The creation of a 'pure' experience of production and consumption systematically unifies global economies of symbolic and material exchange. Producer and receiving audience of the interchange of material and aesthetic property are combined into a 'New World Order' of a single consumer community. But then, 'It's a small world after all,' isn't it?

The Transparence of Hypercapitalism

Hypercapitalism, in its all-pervasiveness must seep into every aspect of global culture so that it may saturate its markets to maximize its productive potential. Jean Baudrillard, in *The Transparency of Evil* [2], posited that in a society inundated with media, cultural attributes of different genres expand to ubiquity throughout a given milieu. In a media-saturated society, sports become politics, politics become pornography, art becomes war, war becomes a video game, and capitalism becomes sport, ad infinitum. This is not to say that all aspects of culture within the mediated society cannot become one another, as they do. However, it is the way in which the cultural aspects combine that is of particular interest. The transparence of culture is evident from American television ads, which tout the excitement of day trading on Ameritrade, the tribal identity sold by Nike and The Gap (EVERYONE in vests!), and the remote-control titillation of the CNN coverage of the Gulf War and all subsequent events. And it should be no different that after the end of the Cold War, that Western society would bask in its victory by allowing capitalism to pervade all aspects of life through the culture of consumerism.

The Potential of the Object

The potential of the object, material or symbolic, must be reduced to that of commodity use value. By definition, corporate culture strives towards the maximum utilization of all resources to obtain the greatest profit regardless of the mode of exchange -- regardless of whether the symbols of exchange are durable goods or aesthetic content. All content is potential product, and must be exploited to its fullest extent. We want to not only see the touring Monet (Mon-ey?) exhibition, but we want to take home the print and buy the T-shirt as well, go to the chat room on monet.com, and then wear the shirt to the Rivera exhibition, so that we can buy its bag and screensaver. As all aspects of the object become fetishized symbols of commodification, it is no surprise that the local branch of the art museum is at the shopping mall. Museums are placing their shops at the entrance, and The Museum Store has become a potent signifier of the hypercapitalistic reconfiguration of aesthetic cultural forms. The cyclical commodification of signs is most prevalent on the Internet, where all information is a potential symbol of exchange, and reifies the homogenous cult of commodity.

Intermezzo: Mondo and WIRED

There are few examples that illustrate the cultural colonization by capital as well as the stories of the two magazines *Mondo 2000* and *WIRED*. [3] In the first half of the 1990s, there was a plethora of well-produced fringe maga-'zines' that epitomized the burgeoning cyberculture of the Bay area, and the best known of these was arguably Mondo. Slick and highly aestheticized, Mondo focused on the culture of the tragically hip at the bleeding edge of contemporary culture. It featured visionaries such as Brenda Laurel, Jaron Lanier, and astrophysicist Fiorella Teranzi, among others. Mondo was the operating manual for the silicon Haight Ashbury of the early 90s.

Enter *WIRED*. At its inception, it was the geeks' answer to *Mondo 2000*. Similarly slick and polished, the difference was that it focused less on the aestheticization of possible futures and more on the culture of places like Silicon Valley research communities and MIT. The difference in ideology is similar to that of the Shaper and Mechanist clades in Sterling's *Schismatrix Plus* [4], and relates to those cultures' desire to remake humanity through genetic manipulation or technological augmentation through prosthetics. The contrast was between wetware and hardware, the soft versus the hard.

WIRED, in its alignment towards Silicon Valley research and prognostication (R&P!) gained in strength through the support of writers such as Negroponte and coverage of institutions like the Media Lab. This sort of institutional legitimation quickly made *WIRED* the key publication for the mapping of the digi-

tal revolution. Such strategies of legitimacy and verisimilitude (as *WIRED* became 'the source' for the future of technocracy) drew the attention of mega-publisher Conde Nast, which purchased the magazine. And, without surprise, the homogenizing effect of capital was seen immediately in the pages of the magazine. Less coverage about research and prognostication, and more about CEOs, entrepreneurs, and their high-tech products. The channel for the high-tech culture had been appropriated and controlled, assuring efficient delivery of product to the consumer every month, while Mondo still appeared to be produced on a schedule that was quite erratic. Assessing the two magazines and the shift in journalistic strategy after *WIRED*'s multinational buyout, it seemed that, in the latter case, capital had expanded to fill the space allotted.

The Centrality of the Image

As capital colonizes cyberspace, we are reminded of Negroponte's prognostication of the shift from systems of exchange based on atoms (material) to one of bits (information). [5] This follows Baudrillard's assertion that the media, and especially digital societies, are based on the simulacrum of the object that translates into the double for the thing itself [6] and exhibits full equivalence for any exchange of use value. In fact, the image itself has now become a symbol of exchange, as many societies shifted from hard coin to promissory note. Western society is changing from an economy of symbols of exchange to a system of symbols for exchange. The material becomes less of an issue as the real is increasingly placed in the realm of the informational object.

Paradigm and Spasm

With regard to Negroponte's writing [7] on the conversion from the material to the informational society, paradigmatic schisms become evident if one considers material and information-based systems of exchange. For the past two hundred years, Western society has been dominated by the materialist capitalism that built it since the Industrial Revolution. The initial response of corporate culture was to apply the materialist principles of mid-20th century industrial consumerism to electronic realms of intellectual capital. Wall Street has shown that the info-culture operates on substantially different principles than the previous industrial society, as investments and returns from the tech sector are frequently not measured in terms of actual holdings and performance, but through speculation and expectations based on shareholder consensus. Like mice placed in a jar of oxygenated fluid, capital's shift to non-material symbolic systems of exchange locks it in a series of spasms as it learns to stop breathing air and begins to breathe bits.

The shift to the ephemeral has caused similar shudders in the art world. Galleries that once hesitated at the prospect of displaying digital prints, which have

been problematic with regard to materialist discourses on collecting and archiving, enter logistic spasm when confronted with net.art. Genres such as net.art do not fall into antecedent paradigms of material commodity, and present issues surrounding not only Warholian / Fordist mass-production, but also Benjamin's thoughts regarding the potential of the object as being infinitely reproducible. [8] Using Benjamin's terms, what is commodified is the 'aura' of the object [9], and not the data itself. The experience of image, or verisimilitude (implication of truth) of the artwork becomes the symbol of exchange. What is for sale, or at contention, is not the object itself, but the representational practice that governs it, creating a marked shift from traditional materialist discourse.

The New Verisimilitude

The Net is the new verisimilitude. (The) image is central, and any obfuscation of the image disrupts the system of truth that has been inscribed in digital culture, as the representation of the real in that milieu now supplants any possible material referent. The brand name is the aestheticization of the real; as any megacorporation such as Disney has taught us. And such practices reify the homogenizing effect of capital, as any dilution or disruption of brand identity also creates breaches in the cycle of consumption. Efficiency is lessened, and maximization of profits not realized. In the economy of symbols, any deviation from the mass-produced image is the denial of 'truth,' or irruption of the product, or the 'aestheticization of the truth.' This is the necessity for control of content in a cyberspace dominated by agendas of capital.

Control of the Object

One may argue that information wants to be free, but dissemination is not. Capital demands the control of the flow of resources to maximize productivity. And in a culture that is based on the production of signs, the key point is to control the flow of symbolic representation (cultural capital) to the proper consumers. As Barbara Krueger wrote, "*There's something about categorizing things, about putting things in their place. Maybe it's about a kind of comfort.*" [10] The necessity for control is the illusion of the market's 'freedom' [11], as one is placed in a position of laissez faire, but only under the rules defined by the oligarchic institutions of power. Seemingly 'free' services on the Net, such as a GeoCities homepage, are automatically 'branded' (as is the user) with a small banner stating that this is a GeoCities website. The proliferation of branding thus propagates throughout the mediascape -- as a categorization and quantification of all symbolic relations -- for easy recognition and recoding into the program that is the cycle of production and consumption.

Intermezzo II -- The Agora

The origins of the Internet as a primarily academic and military medium did not make it an attractive commer-cial space by default. Before the 1990s and the advent of the World Wide Web, it was not a widely explored venue for aesthetic inquiry. During the 1980s, the wider online community consisted of privately-owned bulletin board systems, and isolated providers such as Delphi and Compuserve (now part of AOL), which are significant in that they did support large, active forums for the discussion of digital art. It was not until 1991, when Tim Berners-Lee would create the basis for the World Wide Web, that distributed networks would prove viable as a widely available social space. In 1992, there were only 100 web sites, which is a far cry from current numbers, and it is safe to say that at the time only the pioneers of net.art were considering the medium.

Liberty and Bits

Berners-Lee envisioned the Web as a public space for the free and fluid exchange of ideas and information. [12] This attitude was reflected in the writings of other net.visionaries, such as Nicholas Negroponte, and was attributed the slogan "*Information wants to be free.*" Such sentiments were memes that ran deep through the cyberculture of the early to mid 1990s. However, with the wild skyrocketing of the Dow Jones Index, companies such as Microsoft took notice of the rising popularity of the Web, and the halcyon days of E-Utopianism gave way to the E-Goldrush, and the entry of Big Capital into cyberspace.

Manifesto Destiny

Terms like the E-Goldrush, which has been mentioned in numerous financial trades, hearken back to the era of 18th Century America and the westward expansion under the banner of Manifest Destiny. Popular stories of settlers standing at the side of the Mississippi firing shots westward to determine the location of their plot of land parallel the excitement of cybersquatters hoping to get rich by finding the properly attractive (and profitable) intellectual property. The formative years of the global Internet culture signal the digital land rush for the proverbial "Forty acres and a mule." But in an environment where property is not measured in hectares but conceptual acreage, ideologies are territories of contention. Ideologies such as libertarianism, capitalism, and almost every conceivable '-ism' litter the landscape, creating a form of "Manifesto Destiny." In an information-based society, memes are like blind shots into the wilderness by visionaries, with the hopes that they take root in the fertile soil of the digital culture. In societies of distributed networks, capitalism is frequently on level ground with culture jamming and fringe media. In fact, the power inversion that allows the rush of capital into cyberspace also allows for the production channels that subvert the flow of production and consumption of symbolic use value. Some of these event-sites of culture are unintentional, but others are open critiques of the oligarchic power structures established by corporate concerns, and frequently take the form of obfuscations, appropriations, and identity wars.

Obfuscation and Tactical Engagements

The milieu of the Internet affords the widespread proliferation of economies of symbolic exchange. These informational systems of meaning and exchange are less tethered to the traditional relations of politics, material wealth, and social status since the centrality of the media perception of image (corporate, personal, social) defines the power discourse of the Net. The perceptions of legitimacy that the media image confers -- identity and use value -- define the intellectual capital of the Internet that is caught in the endless cycle of symbolic production and consumption. However, on the 'level playing field' of the Net, tactics of confusion and obfuscation of that identity by groups performing critical inquiry into corporate power disrupt the cycle of intellectual capital and make those oligarchic structures evident.

The Temporality of Signs

The centrality of the image as object of exchange (such as the brand name) in combination with the necessity for the image's perceived legitimacy, or 'aura,' introduces a temporal component in which the borderland of legitimacy relates to its date of inception. These issues of temporal primacy and symbolic legitimacy are at the crux of controversies that involve international disputes over electronic identity, net.memory (in search engines), and brand placement. This should not be confused with the power relations at work when multinationals attempt to enforce their branding over supposedly less powerful groups, since this is more closely related to the colonizing forces of capital. A key component in many branding conflicts that raise questions in Internet law are late entrants into the electronic environment that claim retroactive rights to electronic identities or domains. The disputes mainly relate to the practice of 'cyber-squatting,' or the purchase of large numbers of domain names with the intention of profitable resale.

SLAPP Me, Baby…

However, legal disputes and other tactical engagements like SLAPP (Strategic Lawsuit Against Public Participation) have not limited themselves to confrontations between business and the profiteer. Multinational corporations have pursued litigation against antecedent groups on the grounds that the existence of the other entity, although unambiguous, obfuscates their singular brand identity, thus harming profitability. Under the capitalist agenda, the market must be homogenized and exploited to its fullest extent without any possibility of ambiguity. It is interesting to consider whether the electronic sphere is witnessing an effect similar to Hardin's "*Tragedy of the Commons*" [13], in which the fate of capitalism is to exploit the available resources regardless of sustainability until the system collapses. The resulting crisis after the fact then necessitates a profound rethinking of strategies. The issues of corporate abuse and exploitation of informa-

tional practices are being addressed by artists such as ®TMark and plagiarist.org, who make visible the terrain of E-culture and give insight into the questions of the cyber-commons.

Sainsbury

A number of projects have used strategies of confusion as a method of critical inquiry, including *Sainsbury*, *7-11.org*, *gatt.org*, and *plagiarist*. Each of these projects differs slightly in its mode of delivery, but they all still play with legal ambiguity and brand recognition in regards to 'fair use' and parody in their critical strategy. The *Sainsbury hoax* [14] created by Irational.org, a collective of artists including Heath Bunting and Rachel Baker, played on the image of that company's customer "Reward" card system. The commercial site itself was not hacked, but mirrored with slight modifications to reflect logos of the various artists while still maintaining the 'feel' of the online catalog. Internet users logging onto search engines would find the site, and promptly applied for the card without any inkling of the hoax. In response, Sainsbury filed a Cease and Desist order to addressing the issue of the mock site. The notice is amusing not only in its awkward grammatical execution, but the letter from the legal firm alludes to forms of intellectual content abuse itself. The company had difficulty in pursuing litigation against the artists, whose identities were often in a state of flux. The site was still online in archive form as of the year 2000.

7-11

Another example of the tactics of obfuscation, Vuk Cosic's *7-11.org* [15] mimicked the popular American convenience store's website structure as a framework for a 'convenient' place for artists to exchange information. *7-11.org* was intended as an agora for artists to communicate through, much as the local 7-11s in the States were frequently neighborhood focal points of social interaction. The site included thinly modified attributes from its progenitor, including a link to address customer complaints to a customer service representative, Keiko Suzuki (herself an appropriation). In similar fashion, the Southland Corporation failed to see the irony in Cosic's parody, and still cried foul for diluting the 7-11 brand identity. The sensitivity of the Southland Corporation, and corporate culture in general, to derivative parody signals both the necessity for homogeneity in the production of signs within the informational mediascape, and the use value of the image in the economy of bits.

gatt.org

Similarly, *gatt.org* [16] -- a play on the acronym of The General Agreement on Tariffs and Trade -- was a site designed as a lens for online dissent with the World Trade Organization summit in 1999. Sponsored by the anonymous corporate subversion group ®Tmark [17], the site mirrored the look and feel of the wto.org site

[18], but reflected 'alternative' views that did not paint the organization in glowing terms. In response, WTO Director General Mike Moore protested the mock site, citing its tactics of confusion. However, when confronted with such statements, the gatt.org staff rallied back that it was, in fact, the real site. In its claim, *gatt.org* accused the wto.org site of actually being guilty of obfuscating the real issues of corporate abuse, as the thousands of documents contained at the WTO were of a number and nature that only corporate interests could glean any meaningful information whatsoever. *Gatt.org* declared that such an informational opacity denied any freedom of information to the public. Probably because of the short duration of the summit, the anonymous nature of the website's architects, and riots confronting the Seattle summit, little or no threat of legal action was reported in the popular media.

Plagiarist.org

Sainsbury, *7-11.org*, and *gatt.org* disrupted the transparent culture of the symbolic economy of signs and identity in the Net by undermining the smooth cycle of production and delivery of intellectual product. An interesting appropriation of corporate identity that made no pretense of masquerading as a mirror of an existing corporate site was plagiarist.org [19], hosted by artist Amy Alexander. Plagiarist's *ACQUISITIONS* project attempted a tongue-in-cheek investigation into the ubiquity of corporate takeovers by appending the prefixes of over twenty-seven corporate names to the domain of *plagiarist*, an example being *dupont.plagiarist.org*. The work differed in its lack of pretense, clearly announcing its intention as an aesthetically-based spoof on opening pages of the *plagiarist* site, but still disrupting the homogenous milieu of corporate identity. Subsequently, legal agents of DuPont Corporation contacted CalArts (the institution Alexander was affiliated with), and faxed a complaint of over twenty-two pages in length, which obviously constituted the threat of a SLAPP suit. Within the FAX, DuPont failed to include a formal complaint, but did include unrelated material from another website where a "person described as a 'plagiarist'" [20] was criticized for the production of anti-Semitic death threats. CalArts then requested proper documentation for a possible action, to which the DuPont lawyers responded that "they would get back with them." Such action by 'big capital' against parody shows the need for the maintenance of the homogeneity of signs in corporate (commodity) E-culture, underscoring the unacceptability for any form of ambiguity in such a milieu.

Appropriations and Attacks

Appropriation is another mode of aesthetic inquiry that questions the role of capitalist power within the information society and makes the control of information or intellectual property (another term couched in terms of materialism) its point. Although popular in the 80s and early 90s, this form of tactical engagement still actively challenges the role of materialist territoriality and intellectual content. Daniel Garcia Andujar's "*Video Collection*" [21], part of his Irational.org "*Technologies to the People®*" initiative, is a critique of the increasingly prevalent database-like archives and opaque seas of 'help' information. In this project, the reaction to the piece may have been more interesting than the piece itself. The responses to Andujar's project ranged from queries for technical help to livid outrage about his audacity in creating such a database. Perhaps the latter response was more from a economic perspective, as Andujar was so bold as to break the material link between the systems of exchange (material) and the systems for exchange (information).

Deconstructing Beck

Deconstructing Beck [22], although not a net.art piece, brings into play issues regarding the encoding and distribution techniques that are controversial in net culture. An ®TMark-sponsored work, Deconstructing Beck challenged the practices of artists like Nine Inch Nails and Beck who have been suspected of illegally sampling the work of other artists in their own compositions. The result was a CD by Illegal Arts containing 'songs' by various artists who created music comprised ENTIRELY of samples from Beck's music, which understandably infuriated the legal department at Geffen Records. Such inversion of artistic practice brought into play three key issues. It raised the question whether artists have rights to the receipt of royalties or are subsumed by corporate influence, whether the artists' rights are in play at all in the realm of consumer production, and whether intellectual capital can be completely controlled in the singular culture of mass market culture. In light of technologies like MP3 sound file recording programs and concerns of the MPAA over the DeCC Linux-based DVD de-encrypting software [23], the transmission channels of intellectual capital are likely to become increasingly porous, despite additional layers of encryption technology.

Border Wars: Branding and Primacy

After the year 2000, there is an increasing number of legal conflicts that question the ability of corporate interests to express their sovereignty over cultural capital through legally claiming the right to supersede previously extant institutions. These conflicts center on the ownership and unambiguity of key domain names and recognizable identities, as well as the temporal primacy of such identity in the Net's memory (in the form of its search engines). From a theoretical perspective, these issues make clear that not only can't there be ambiguity in the system of symbolic production, but capital desires that there also be no proximity in space (cyber or other) or time. Primacy of the identity must be assured. More pragmatically, the legal battles reveal the matrix of political, institutional, and legal powers that define the landscape of the information society. Two examples of international litigation that

illuminate the issues of branding and primacy are those of etoy and the International Society for the Arts, Sciences and Technology's journal, Leonardo.

ETOY

For over six years, the anonymous agents of etoy [24] have explored the role of corporate power in Western society through the construction of an intellectual product based almost entirely around the corporate image. Bald-shaven and clad in orange jackets, the Teutonic quartet uses a large orange container called '*The etoy.TANK*' as a base, and mirrors corporate culture through the issuance of shares and the interchange-ability of its 'Agents.' Illustrations of this cultural critique were interviews where etoy.AGENTS switched places during commercial breaks and continued the conver-sation, frequently with no awareness on the part of the on-air personality. The etoy.ANTICS have been the fodder for discussion and controversy throughout Europe's e-culture, including high-profile technological arts festivals like Ars Electronica. These tactical engagements fit with the information culture's narrative of economies of symbolic exchange, and mimic the inflated perceptions that surround stock markets based on expectations.

The etoy.LAWSUIT

At the outset of this discussion, let it be said that the battle between California-based toy reseller Etoys and etoy was well documented in press such as the New York Times and WIRED [25], and a complete recount of the suit does not serve the purpose of this discus-sion. In 1999, the three-year-old multi-billion dollar cor-poration Etoys.com filed suit in California for the sus-pension of the etoy.com site, despite the fact that the etoy.CORPORATION (etoy frequently refers to aspects of their work in nomenclature borrowed from various programming syntaxes) predated the toy company by over three years, and was active in a completely differ-ent market sector. Etoys' pursuit of the suit centered on alleged complaints that potential customers were accidentally entering the etoy.com website and the Eurpoean art group had been inadvertently jamming their brand recognition. The Christmas buying season was fast approaching, and the potential of brand dilu-tion caused the Etoys legal department to consider the legal action. After refusal of an offer to buy out the etoy.com domain name, Etoys pursued and obtained an injunction restraining the etoy.com name. The result was the freezing of the Swiss-based art corporation's domain name in the databases of Network Solutions, Inc., an American-based corporation. Etoy could not operate the etoy.com website or even receive e-mail though that domain name. Thus heralded the start of the TOYWAR.

Toywar

The global technological art community came to the aid of their prominent colleague, with proponents such

as the Electronic Disturbance Theatre EDT), Rhizome, and ®Tmark. Numerous sites along the lines of etoy-sucks.com sprang up and various electronic sit-ins were arranged, which even caused a CNN-televised visit to Thing.net by the FBI to resolve concerns about the EDT's *FloodNet*, alleged denial of service actions against Etoys. News traveled quickly through the Internet and via media events like a MoMA press con-ference sponsored by ®Tmark that assured coverage throughout the world's media infrastructure. The etoy.TOYWAR had become a hot cultural topic, and Etoys was being labeled as "the bad guys." After the shutdown of the etoy.com domain name, etoy set up toywar.com to continue their efforts without breaking strict legal sanctions. As a result of the populist actions combined with competition from toy giants such as Toys 'R Us and the passage of the Christmas season, Etoys' stock value dropped sharply. Etoys November 29 high of $67/share had fallen to a January 2000 low of $19/share. [26] Shortly thereafter, Etoys dropped its lawsuit against etoy, but at the time of the first publica-tion of this essay in February 2000, etoy had not yet re-established their rights to the domain name. Etoy was able to capitalize upon the TOYWAR concept through *toywar.com* [27], and secured exhibitions of installations based around the continuing legal conflict.

Leonardo

Leonardo is the journal (founded 1968) of the non-profit International Society for the Arts, Sciences and Technology (ISAST) and its sister organization, Association Leonardo, which is itself is a French non-profit organization dedicated to the study of the inter-face between the arts and sciences. Entering the word 'Leonardo' into a search engine, one is likely to obtain listings for sites associated with the organization. However, a multinational corporation named Transasia Corporation (based in France), had registered a num-ber of trademarks that incorporated the word Leonardo into their name, and the dilution of the brand name by ISAST was felt to be a capital liability. Transasia owns the brands Leonardo Finance, Leonardo Partners, Leonardo Experts and Leonardo Angels. Due to the fact that users get ISAST web pages when using Internet search engines as a portal, TA claimed to have lost over one million dollars in revenue, and filed a suit for that amount plus the removal of all ISAST/Leonardo-based references in all Internet search engines. [28] The suit resulted in the search and seizure of numerous documents from the home of Frank Malina, former editor of the journal, but did not result in any electronic restraining injunction against any of the Leonardo/ISAST Internet sites.

The question that arises from this suit is whether a corporate interest can exercise brand domination over a relatively common name, but also whether one entity can exert temporal sovereignty over a piece of intellec-tual property. It would only be logical that Transasia

should also seek injunctions over the da Vinci estate, as it would only make sense that Leonardo da Vinci is a further infringement upon their trademark, and must be stricken from the memory of the Net. As media commentator Douglas Rushkoff said at the etoy press conference, "In 1999, commerce takes precedence, and an artist can be booted off line illegitimately, illogically, and illegally." [29] If this progression is followed to its logical conclusion, primacy of identity, both spatial and temporal, will be based upon economic might.

On May 29, 2001, a three-judge panel in Nanterre, France, issued a preliminary ruling against Transasia, stating that the two entities offered no competing services. [29a] Leonardo was ruled as not infringing on any Transasia trade name, and was allowed to retain its identity. No compensation for either party was awarded, and although an appeal could have been filed within 30 days, this appeal apparently never materialized.

The Leonardo/Transasia case is another clear case of a SLAPP suit in which a defendant could prevail if that defendant can afford to spend a few tens of thousands of dollars for the privilege of retaining their identity. Although the prevailing opinion is that most defendants in e-identity lawsuits can win, given time and resources, corporations also realize the inability of smaller entities to withstand a sum that might constitute a couple of years' wages, and some are engaging SLAPP suits in a predatory fashion.

Terrains of E-War

The similarities and differences in the cases of etoy and Leonardo reveal the agendas that capital is inscribing upon the landscape of the digital domain. In the case of etoy, an American company sued for identity rights against a Swiss entity and secured that intellectual property for a period of time. Even when Etoys dropped its suit, NSI hesitated to release the freeze of the domain until its receipt of an additional court order. Conversely, the entities related to Leonardo are largely US-based, although the Association Leonardo is based in France, and are in addition non-profit. The prosecution of electronic identity adds the temporal primacy of the brand name if the suit requires the erasure of the competitor's name from the Internet search engines' cultural memory. On the Internet, the dominance of American interests is evident, which creates certain ironies when contrasted with the popular media image of the Internet as McLuhan's 'Global Village.' The underlying power relations begin to suggest a 'New World Order' of an American technocratic control of intellectual / cultural capital in the electronic sphere. Actions such as those exercised by Etoys and Transasia again illustrate the homogenizing effect of capital, and the reification of agendas of temporal legitimacy through the superceding and / or erasure of entities that disrupt the flow of capital or resources. And lastly, these events make visible the finiteness of

the Internet's intellectual terrain, since controlling entities are fighting with increasing frequency for scarcity of symbolic and intellectual property. The issues of control that arise from the intersection of the economy of signs and capital herald a time when the promise of the endless expanses of the digital prairie are vanishing, and cyberspace begins to resemble an analogue of the Gibsonian Sprawl. The development of this aspect of the info-cultural terrain is reminiscent of Hardin's "The Tragedy of the Commons," which is oddly fitting if one applies the model of translating the agendas of materialist culture to electronic space.

Tragedy of the E-Commons?

The colonizing effects of capitalism combined with the transparence of media society, put in contrast to the conflict of capital with any perceived threat to its cycle of production, leads to the question whether the Internet is experiencing a cyber-"Tragedy of the Commons." In Hardin's essay [30], the reader is presented with the allegory of a shepherd and a flock of ten sheep on a plot of land that allows sustainable maintenance of the stock. Another herder, upon seeing the prosperity of his neighbor, wishes to secure his own stock and adds his own lamb to the pasture. Due to the fact that the original flock of ten has now lessened its productivity due to the shortage of resources, actions are taken to add more sheep in order to make up for losses introduced by the second herder's addition. The process continues, until the resources are destroyed and the end result is an entirely unsuitable environment for production of any kind.

Translating Hardin

Although Hardin's fable is imperfect, it aptly illustrates his contention that capitalism in a free market economy may by definition be unsustainable and results in the complete exploitation of finite resources until crises occur. The question is whether a principle that was originally posited for a system of material exchange is applicable to an environment of symbols in which intellectual content and symbolic identity are the resources of trade. One attribute of cyberspace is the illusion of its infinitude. As the settlers of antebellum America saw the West as a vast resource for settlement and capitalization, so contemporary society sees its own Manifest Destiny in the realm of the Internet.

Manifest E-Destiny II:
Limits and Exceptions

Similar to the seemingly boundless nature of the Old West, the irony of the Net is its finitude. This limitation stems both from the limitations of the possible number of Internet Protocol (IP) addresses available, and from sources related to taxonomies of desire. The most limiting parameter of the informational terrain lies in the fact that there are only so many easily recognizable domain names, which defines the battleground of the cybernetic sheep for the best informational fodder. If

one can find some similitude in the words of Frank Zappa, reason states that the cyberspatial equivalent to the vast unpopulated expanses of Montana is www.zirconiumencrustedtweezers.com, an understandably undesirable identity. Returning to the parallels between the expansion of 18th Century America and the rush to the Internet, it is evident that the actions of artists make visible trajectories of cybernetic culture as it expands toward the Internet's Malthusian limits of intellectual property. This is not to say that, as in previous days, emerging infrastructures may (or may not) be opened (such as the Internet II informational network), so that the public might access their predecessors. Such an action could alleviate some of the technical limitations intrinsic to the present system, but the metaphorical creation of a new continent does not address the questions of the sustainability of information density in the environment of the Internet.

At the turn of the millennium, a plethora of additional top-level domains, the suffixes following the 'dot,' as in dot.com, dot.net, dot.org, and the likes have opened up, but this does not replace the auratic primacy of the first three domain names. Regardless of the suffix appended to a domain name, browsers typically search on these three TLDs and, while opening up territory for new Internet-based real estate, leave the others as poor cousins of the first settlers of the digital frontier. The recognition of being a dot.com is still strong in the private sector, even though the cultural connotations of this distinction have been diluted somewhat by the Internet stock crash of 2000. Until widespread usage of the new TLDs becomes more common, the old domains, and especially the dot.coms, will be the valued sites of online identity property, and the impetus for more border wars between cultural enclaves and the private sector.

The issues at play in the conflicts arising from the cultural colonization of the Internet reflect power discourses employed by dominant hegemonic / oligarchic forces that repeat throughout history. However, the mode in which the politics of control are unfolding in cyberspace, especially those relating to intellectual content, reveals the paradigm shift from the atom to the bit (tangible / intangible) as foretold by Negroponte. [31] Furthermore, the current exercise of considerable influence by the corporate sector exposes the framework of power that strives to dictate the nature of the information society and possibly control the nature of expression through quantification and commodification. Traditional logic would assume that present trends may continue until the occurrence of an ethical or economic crisis, mandating the legislation of moral standards like liberty or freedom of expression. This reflects Hardin's position that such traditionally materialist stances would exploit available resources until restrictions become a necessity.

The attempts to simply map methodologies that were previously successful under materialist mindsets do not accurately represent the fundamental paradigmatic shifts caused by the Internet's rise to prominence. Changes in the modes of communication, symbolic exchange, and expression challenge global culture to create new mindsets that run contrary to previous cultural forms of human interchange. The power discourses made visible by artists who question the role of intellectual control, especially as it is exercised by the corporate sector, reveal a bricolage of reinscribed cultural borders intermixed with glimmers of different, if not new, models for human interaction. Judging from the current epistemological trajectory of conflicts between various sectors of society in their quest for establishment of the New World on the Internet, it would be logical to assume that the trend of reasserting the cycle of capitalist consumer culture into E-space will continue. In contrast, a critical dialogue about the formation of the global electronic culture must be shaped through the continued use of tactical inquiries, such as those employed by artists like plagiarist, etoy, irational.org, and ®TMark. It is through such topical engagement that insight into the social and power relations of the developing electronic world can be gained. As part of a larger dialogue, aesthetic interventions could hopefully influence the shape of our cyberspatial milieu. But then again, the current level of comfort with the First World techno-economic expansion could inscribe the apathy inherent in global shopping mall culture, which will then only map itself to the electronic realm. If so, I should look into printing up a few thousand Lichty T-shirts and keychains.
See you at the mall. I'll be at the Museum Store.

DISCLAIMER
The events and opinions outlined here express only one vantage point in a complex matrix of social, cultural, political, and economic relations. This essay was written as a critical analysis of events and concepts, and the speculations throughout fully acknowledge the complexity of the milieu under consideration. Therefore, I defer to those with a deeper understanding of matters such as Marxist theory and corporate law. The essay intends to further an awareness of the issues discussed, and to spur a dialogue on the topics covered. In short, the opinions contained within this essay are based on an analysis of my personal experience and understanding of the events as they transpired around me, and any discussion of those viewpoints is encouraged.
Patrick Lichty 2000-4

Production Notes on the Online Version
This is officially the fifth foray into a series of discursive 'sculpture,' the lineage of which was as following: (re)cursor (1994), Histories of Disappearance (1997) Navihedral Poetry (1999), Metaphor and Terrain (1999).

This work is the first one that was originally written in a completely modular style. *Metaphor and Terrain* was considered for this style, but was originally written as a conventional scholarly essay which was then converted to the modular form.

This composition also differs from its predecessors in that the online version incorporates no less than four layers of informational trans-architecture. First is the typed word, and second is *The Brain* mindmap metaphor that will lead you though my interpretation of the linkages between the modules of this essay. For selected links within the text, pop-up annotations will show themselves, creating side notes, rather than footnotes. Lastly, considering the nature of certain ideas in the theoretical section of the essay, passages are color-coded when I felt that they were strongly associated with particular concepts. It is my hope that -- through the layering of these representational practices -- I will create a critical work that surpasses previous works in depth of structure, context, and execution.

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