

CULTURE'S OPEN SOURCES

Rhetorical Virtues: Property, Speech, and the Commons on the World-Wide Web

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Property, Propriety, and Appropriation

Our comments extend our mutual scholarly interest in the articulation of discourses of property in contemporary capitalist culture and how these are deployed in the narrative conjuring of capital as “salvific” moral virtue in global neoliberalism (Comaroff and Comaroff 2001). We are interested in how narratives of property and propriety, ownership, and entitlement come to be embodied and performed as moral stories in digital environments (Coombe and Herman 2000, Coombe and Herman 2001). As Marx argued “capital” is a “very strange thing, abounding in metaphysical and theological niceties” (Marx 1976[1867]:163). Capital is strange for Marx because it can apparently morph into so many different forms—as commodity, as debt, as labor, as knowledge, as brand image, and, underlying these, money as the universal, impersonal standard of value that makes these commensurable. Yet these strange and magical qualities of capital rest upon a foundation of metaphysics and theology—a particular set of ethical values that construe lifeworlds into monetary forms and human beings into autonomous individuals.

We offer here a small slice of our ongoing work on the rhetorics of intellectual property in the age of digital media and information-based capitalism.¹ We use rhetoric in the strong, Nietzschean sense of the term—as the “act of ordering the chaos of life” (Witson and Poulakis 1993:16). In this reading, rhetoric is a social and material practice of the pragmatics of power that punctuates the world with meaning and thereby renders social action possible. To use Barbara Biesecker’s words, “it is in rhetoric that the social takes place” (Biesecker 1997:50). Indeed, it is rhetoric that makes the social a place of meaningful habitation. We do not mean “rhetoric” in the vernacular, pejorative sense as when someone says, “Oh, that’s just mere rhetoric,” thereby connoting a fount of frothy words without real consequence (McGuigan 2003:1); nor do we restrict it to discourse with persuasive force or intent.

One of our favorite moments in teaching is when we ask students to explain what the word “property” means. Given that the word is a fixture of our everyday language and speech, students are remarkably perplexed when this question is posed. Their reticence to give voice to their understanding of property clearly doesn’t have to do with their lack of knowledge of the word or the concept. Rather, it is rooted in the seeming obviousness of the answer. “Property,” one student will venture after an uncomfortably long silence, “is when I own something.” This rhetorical statement is what legal scholar Jack Balkin (1998) calls a hegemonic *meme* in an argument that transports the concept of the meme from evolutionary biology to a critique of legal and political ideology. In brief, a meme is an idea or rhetorical construct—a “packet” of coherent information—that is passed on from generation to generation through the cultural transmission of communication, imitation, and replication called *memesis* (which should not be confused with the anthropological concept of mimesis). Cultures (Balkin shares none of the anthropologist’s qualms about using the term as a noun) integrate such memes into quotidian ideologies because of their pragmatic utility in making sense of the world and allowing human groups to adapt to changing social environments. Through the memetic process of informational replication, to paraphrase Balkin, human beings become information made flesh.

We have many reservations about Balkin’s evolutionary theory of ideology. Aside from the conceptual overlay of evolutionary biology and the language and tropes of information science and technoculture, there is not much in what Balkin has to say that hasn’t already been said by Gramsci, Stuart Hall, Karl Mannheim, Berger and Luckmann, Foucault (especially), and even Marx himself. But the idea that the social power of ideology resides in its corpore-

alization, in how it is embodied and performed, and how it makes the world habitable in the Heideggerian sense as an *ethos*, is one worthy of further exploration when the location of this embodiment and performance takes place on the World Wide Web (the Web).

The problem with ideological memes, whatever their practical efficacy, is that they become incorrigible—resistant to revision. Property is not simply or even primarily a relationship between persons and things (as first year law students are swiftly taught). It is a social relationship between socially recognized persons with respect to real and intangible things (and between peoples who as nations may hold cultural properties) that is authorized and legitimized in particular cultural contexts. It is also a relationship of profound social power. The generalized failure to see the social relationships that produce the value of the things we consider property—the constitutive misrecognition that Marx referred to as commodity fetishism—is one manifestation of this power.

The cultural determination of property as a social relationship—and the ambivalences that are embodied in the commodity fetish—are inscribed in the etymology of the word itself. “Property” is derived from the Latin *propius*, which itself has two meanings: 1) that which one owns and 2) a standard of behavior or correct conduct that is “proper.” The latter meaning of property is linked to *proprietas*, which means both propriety as well as the proper signification with words (Jones 1992:118). The ability to claim something as one’s own is ritually performed in social interactions which operate to render the owner suitable and fitting to appropriate that from which he or she claims the right to exclude others. In the intrinsic alterity of claiming property as a function of propriety, the non-owner is a person who is not appropriate. In other words, the capacity to appropriate is contingent on being appropriate (Herman 1999).

The governmentality of property and propriety, although always central to the *logos* and *ethos* of capitalism, has assumed even greater significance in the age of globalized neoliberalism. Analyses of the scope and dimensions of globalization and neoliberalism abound, but for our purposes we will invoke a single statistic that will stand as a metonym for the dimension of the phenomenon we are exploring. Between 1983 and 2003 the value of assets of the Fortune Global 500 increased by over 300% (Henwood 2003:56). This increase in value is unprecedented in the history of modern corporate capitalism. Much of this enhanced value takes the form of intangible, symbolic, or informational capital that is protected as intellectual property: bits, bauds, and bytes of ‘digitalia’ that include patented business models, accounting methods, pharmaceutical formulas, and gene sequences; copyright protected soft-

ware, imagery, and music; trademarked jingles, logos, advertising slogans and branding strategies (Coombe 2004, Rifkin 2001).

At a time when corporations increasingly subcontract out the actual production of commodities—whether material production of X-Box gaming consoles to Mexico or intellectual production of software code to India—maintaining control over these intellectual properties is both crucial to profitability and central to corporate identity. For example, the most important assets that Nike owns as productive capital are its logo, brand name, and marketing persona (La Feber 2002). The deployment of the brand image as an avatar of the corporate persona is itself dependent upon the rhetorics of intellectual property law that bestow corporate investors with the authority of authorship.

One of the functions of intellectual property law (trademark law especially) is to construct and enforce particular notions of corporate identity as a property right. Intellectual property laws structure a field of semiosis and memesis and thereby shape forms of symbolic practice and performance (Coombe 1998). They create proprietary rights over intangible assets—the patented formulas, the copyright protected works, and the trademarked signifiers of corporate self-representations—and thereby create legal rights and obligations to control their appropriations and interpretations. Through intellectual property law, symbolic practice is transformed into symbolic capital—a “strange” sort of alchemy that even Marx couldn’t imagine.

We can illustrate this by considering the social dimensions of trademark law. Its rhetorical performance involves signifying activities that connect the product (assume a computer operating system), the brand name (Windows XP), the corporate source (Microsoft), and positive feelings in the mind of the consumer towards these.² This performance constitutes a closed circuit of meaning and desire the law understands as ‘goodwill’ (an increasingly important form of intangible asset in and of itself within informational capitalism). This in turn provides the basis for the intellectual property owner’s legal entitlement to fully exploit and appropriate the multi-faceted value of the commodity/sign in the market and to manage its social circulation.

The corporate persona is strengthened through strategic proprietary activities designed to constrain surplus meaning and prevent the dilution of symbolic value (Coombe and Herman 2001). Unauthorized appropriations of corporate intellectual property and alternative forms of signification that disrupt this closed circuit must be monitored and, ideally, strictly prohibited. The law functions as a form of governmentality by enabling corporate owners to manage the appropriate use of symbolic capital in mass-mediated commercial cul-

ture, but they can never wholly control the conversations in which their symbolic signifiers become enmeshed. We will illustrate this here by recounting one particularly animated dialogue about property and propriety on an internet website and then consider the adequacy of the dominant competing ethos of digital governance for addressing the issues it poses.

Whose Commons? Corporations, Consumers, and Cultural Others

In early 2001, the Lego Corporation (Lego) launched a new line of building toys called “Bionicle” in consumer societies. Lego has long been famous for its line of construction toys. Those of us with young children know how deeply embedded these have become in their lifeworlds. What is distinctive about the Bionicle line of toys is that they come with an imaginary lifeworld of their own—the Island of Mata Nui, home of the Toa, characterized by a unique cosmology, origin myths, a clan system, tribal alliances and rivalries, ritual practices of storytelling, and sacred iconography. All of these are capable of being held as the intellectual properties of Lego if and when they become associated with the corporation as their source (and given their extensive publicity, this is more than likely). The Bionicle line of toys (along with films and internet-based games) has become the most successful product in the Lego Corporation’s history.

Soon after Bionicles made their appearance in New Zealand’s toy stores, Maori lawyers representing indigenous NGOs wrote a letter of complaint to Lego. Asserting that much of the symbolic universe of Bionicle—from the origin myths to the names of spiritual powers and leaders—had been appropriated from Maori and other Polynesian cultures, they objected to the fantastic hybridizations of living cultural traditions and to inappropriate use of religious and spiritual terms (Holloway 2001). Rather than demand an instant end to the practice and a recall of the products (like the cease and desist letters that lawyers representing intellectual property owners send when their protected works are appropriated without consent), Maori groups offered instead to gather a number of indigenous peoples’ experts to consult with Lego so as to develop a standard of practices that would enable more appropriate use of traditional knowledge in the manufacture and marketing of toys. Lego sent representatives to New Zealand to meet with the Maori, and they jointly agreed to develop a code of conduct for toy manufacturers. The corporation also agreed to stop misappropriating Maori language in the Bionicle toy

line. At this point, then, Lego appeared to be enhancing corporate goodwill through its expression of a desire to manage its intellectual properties in a fashion that went beyond building bonds with consumers. It seemed to affirm that corporate propriety with respect to cultural forms must also be grounded in social relationships of trust and responsibility.

Unfortunately, this creative rapprochement between first peoples and a representative of the digital culture industry never came to fruition; for reasons that are opaque, Lego never carried through on its promises. In response to this betrayal, a group of web-savvy Maori declared a form of “cyber-war” (Holloway 2001). They appear to have decided that if they could not compel the corporation to act with respect towards the integrity of their culture, they would compel Lego consumers to consider the propriety of the corporate appropriation of Maori cultural heritage. In short, they intervened to break the closed circuits binding consumers to the corporation by introducing alternative understandings of the meanings of things in Bionicle lifeworlds.

The locus of the Maori “hack attack” was a website called BZ Power run independently from Lego by Bionicle fans (www.bzpower.com).³ In order to get consumer attention, Maori activists brought down the site with a series of sophisticated denial of service (DOS) attacks. This in turn brought retaliation from BZ Power partisans. They in turn hacked into one of the principal Maori activist sites (www.aotearoalive.com) and brought down its server. These attacks and counterattacks precipitated a lively and often angry discussion between Maori activists and Bionicle fans about the nature of intellectual property, the propriety of cultural appropriation, the scope of the public domain, and the constitution of the cultural commons.

The issue of ownership of language and possession of culture is foregrounded in the beginning of the debate by “Kataraina” one of the most vocal of the digital avatars of the Maori community in this contact zone who exclaims:

I am angered and disgusted to see so many Maori words used for nothing other than a kids’ game, pretending to teach others how to pronounce our language, and looking to a Maori dictionary to make up new names to role-play. What right do you have to abuse our tongue? Who of you here are actually Maori?

Some of you have said in response to our anger about the use of the Maori language, such as the so-called “Kanohe Power Webmaster,” “what gives you the right to use my English language in your post?”

Permission: your site makes it clear that this is the language to use communicating here—and everyone is allowed to post. That’s fair enough isn’t it? If this was a French site and only French were to be used I would use that. A people have a right to say what they want done with their heritage. In this particular forum—a mini-culture if you like—the administration has made certain rules to abide by. Respect would be to abide by those rules because I am on “your turf” as it were. And I think how you can understand how that is fair.

But when you use our culture—you are on *our* turf. You don’t get to play with our heritage, culture, and spirituality or even to try to re-interpret and teach falsehoods about it to literally thousands of others without literally thousands of Maori challenging you on that score. Because we are the authors and creators of that not you or any other non-Maori. Your rules don’t apply to that which you didn’t author [BZ Power Forum, Kataraina, 12/05/01].

As the discussion unfolded, members of BZ Power resisted the Maori claim of collective and situationally specific conceptions and practices of property and propriety. Although some responses were more sophisticated and articulate than others, all rested upon a liberal individualist view of how language could properly be claimed and used. For many, the moral ground upon which they built their argument of propriety was simple: as individuals they possessed the ability to use the Maori language however they wanted “because the American constitution [*sic*] says we have the freedom of speech to do so” (BZ Power Forum, Pickle, 12/07/2001). In a fascinating if unintentional post-structuralist rhetorical move, other contributors argued that freedom of speech was itself contingent upon the arbitrariness of the sign. They argued that the Maoris were trying to claim possession of just “a bunch of words” that have no particular ground or firm anchoring of meaning and value. According to one of the more articulate contributors to the debate:

To the non-maori, maori words are *just words* that hold no intrinsic value, either positive or negative. Therefore, the decision to use a particular word or translation is *mine*. As much as someone else is offended by what they consider to be improper or demeaning use of any given word or phrase, I still retain the right to use those words in any context I desire. This is a fact and it is the founding principle of the country in which I live. [BZ Power Forum, Binkmeister, 12/07/2001]

In a similar vein, one member of BZ Power argued that the Maori language, like all languages, was the common property and culture of all humanity. Any language, be it Spanish, Italian, or the Te Reo of the Maori, “are languages that any person can use or speak, not personal possessions” (BZ Power Forum, Bionicle Rex, 12/06/2001).

In a rejoinder to this logic Kataraina argued that from the Maori perspective, language was not a “personal possession” but “a cultural possession. It is, in fact, our people’s treasure.” Moreover, she claimed:

Our language is not just about communication, it is about the activity of life... And given that our whole culture is built into the language, our spirituality is tied into the words. The language has a design to it that has many levels according to the context of the conversation so that words have both a prosaic meaning but also refer to a spiritual principle. I know it is difficult for outsiders to understand. That, however, is why our culture is unique. *It is not property or product—it is our life.* You are not only abusing our means of communication, but you are trivializing our spirituality. Why not make a Lego Jesus? *We* are the authors and keepers of our culture and determine what is good for us, not outsiders using our cultural and intellectual property for their entertainment [BZ Power Forum, Kataraina, 12/09/2001].

There are many noteworthy aspects to this exchange. It is remarkable how quickly commentary on the propriety of corporate behavior became expressed and construed as an attempt to curtail the creative activities of fans which itself builds corporate goodwill. It is also telling that Kataraina is compelled, ultimately, to express Maori claims in the language of property immediately after disavowing that Maori hold a proprietary relation to their language and expressing the relation as one of safekeeping. It is, perhaps, the failure of the dominant models of world wide web governance to accommodate any rights of collectivities, public goods, relations of trust, obligations to others, or respect for any integrities save for those of corporate personalities or individual creators that accounts for this. Our means for negotiating proprieties in cyberspace remain tied to notions of property and freedom more appropriate to a libertarian than a culturally pluralist public sphere in the digital environment.

Competing Ecumemes for Governance of the Web

Intellectual property law territorializes cultural practices in the form of a proprietary ecumene. The word and concept of the ecumene is an old one. In Classical Greece, it referred to geographical space that was inhabited and civilized (which, for the Greeks, only meant the Hellenic peninsula itself—everyone else being a barbarian). In early Christianity and then under Catholicism it gradually came to refer to the universal Kingdom of God that was coterminous with members of the faith, wherever they might reside. In both senses, ecumene referred to a particular place of morally legitimate habitation, a Heideggerian *ethos* with distinct boundaries. Those who lived within its boundaries, whether juridico-political or theological, had meaning, purpose, and moral value; those outside were marginal and abject. In classical and contemporary geography, the concept of the ecumene is more descriptive: it simply means land that is inhabited for a particular purpose. Within anthropology, Ulf Hannerz has deployed the concept of the “global ecumene” in order to evoke the complex processes of the hybridization and transnationalization of “local” cultures in the context of globalization (Hannerz 1992, 1996).

We have found it useful to coin a neologism, combining meme with ecumene to produce *ecumeme*. An ecumeme is a rhetorically constituted “habitat of meaning” (Hannerz 1996), a moral space to use Charles Taylor’s (1989) term, the territory and boundaries of which are mapped and marked by particular notions of property and propriety. Two imaginary persons are the principal inhabitants of the dominant ecumeme of informational capitalism (or “the new economy”)—the sovereign corporation and the sovereign consumer. Other possible inhabitants such as citizens, workers, and cultural communities are increasingly pushed to the margins and rendered invisible or irrelevant. This ecumeme is a veritable [Adam] Smithian world characterized by individuals whose primary social interaction and relations are constituted by the practice of market exchange. The ecumeme, in other words, is the global market place of exchange where corporations (legally constituted as individual persons) and persons constituted as individuated consumers, give full reign to the primordial Smithian desire to buy and sell. Intellectual property law provides the principal rhetorical means by which this territory is invoked.

The juridical expansion of this ecumeme over the past decade, especially into digital contexts such as the World Wide Web, has been dramatic and disturbing. In the United States, a series of laws have been enacted such as the Digital Millennium Copyright Act, the Anti-Cybersquatting Act, and the Sonny Bono Copyright Extension Act as well as interpretations of federal trademark

and patent laws that preserve and expand the entitlement of corporations as the proper owners of intellectual property. With the increasing transnationalization of a neoliberal regime of intellectual property law through the WTO administered Trade-Related Aspects of Intellectual Property Rights Agreement (the TRIPS Agreement), numerous bilateral trade agreements between the United States and countries hoping to access its significant consumer markets, and the patent harmonization treaties propounded by World Intellectual Property Organization, one can well imagine a time when this ecumene will become truly catholic in the original Greek sense of being boundless and universal. This, in any case, is the fear expressed by those who would prefer to see the world of cultural production in cyberspace constituted differently.

The alternative ecumene proposed by critical legal scholars in the U.S., such as Lawrence Lessig in his influential books *Code* (1999) and *The Future of Ideas* (2001) and deployed by digital intellectual property activist organizations such as the Electronic Frontier Foundation and the proponents of the Creative Commons invokes a rhetorical binary between two essentialist tropes: the “enclosure” on the one hand and the “commons” on the other. This binary is not a new one. As Karl Polanyi argues in his classic work of historical sociology, *The Great Transformation* (2001), the enclosure movement of early modern Britain—through which common lands were increasingly fenced off from public use and privatized—was one of the foundations for the emergence of modern capitalism. Those associated with the so-called “Copy Left” and the Centre for the Public Domain such as James Boyle argue that we are witnessing a “second enclosure movement” (2003). Today, capital seeks to fence off not the material landscape as private property, but rather the symbolic landscape of ideas and cultural creativity. The enclosure is thus the space territorialized by corporate capital where all cultural products and processes are transformed into fungible properties—commodities to be bought and sold in the marketplace—whose circulation is governed by the propriety of the proprietary.

In opposition to the second coming of the enclosure, these activists (they have been known to refer to themselves as a priesthood) promote a “commons of the mind” or an “informational commons” (Boyle 2003:41,42) inhabited by cultural creators whose ownership of what they create is strictly bounded, whose social relationships are characterized by collective sharing, and whose principal objective is to protect the individual’s freedom of creative appropriation. The ethos of the informational commons is characterized by the creative collective effervescence of the sharing of ideas ruled by the

logic of the non-proprietary—the empirical exemplar here being the free or open source software (FOSS) movement.

Although the ecumeme of the commons has considerable political and emotional appeal, we have reservations about a few of its assumptions. Our primary critique of this particular articulation of property and propriety is that it assumes the identity of the ecumeme's inhabitants and its mode of governmentality. At one level, it certainly seems like a viable alternative to the dominant ecumeme: it encourages us to understand the Web as a space where cultural creators, rather than corporations and consumers, are the principal actors in a virtuous cycle of exchange that produces an excess of value that will return to everyone—a vision exemplified in the FOSS movement. It is important to recall, however, that historically the enclosure movement did not merely cut people off from livelihood resources; it also prohibited, disabled, and denied significant cultural practices that embodied and performed other forms of communication and sociality.

In many ways this digital counterculture is very much like the Romantic movement (Streeter 2003a, 2003b) that emerged in reaction to capitalist modernity. They share many significant features—a privileging of the expressive activities of autonomous creators and a quixotic romance of the medieval, the primitive, and the “indian” as generalized figures of alterity. Take the potlatch, often invoked in progressive techno-culture discourse as the Ur-text of the Internet “gift economy” (Barbrook 1998, Werschler-Henry 2001). Through symbolic exchange, the potlatch created relationships of respect and reciprocity that constituted enduring social ties and affective community. The ritual also served to establish and maintain social hierarchies of prestige and power. These social aspects of gift economies are conveniently ignored when these rituals are so casually evoked.

Indeed, the ecumeme of the creative commons appears to have more in common with the deterritorializing practices of global neo-liberal capital than it does with any of the primitive and aboriginal social rituals it claims as models. It celebrates informational environments precisely because they generalize the distinctive disembedding mechanisms of modernity (Giddens 1990). This enables them to negate the substantive qualities of texts and, as the Maori example suggested, their place in an ethos lived in practices of community.

The rhetoric of the digital commons also privileges a particular positionality with respect to cultural artifacts. Within this ecumeme we are, first and foremost, always individuals—independent authors and cultural creators projected (but never acknowledged) as privileged Americans with indisputable

First Amendment freedoms (Coombe 2003b). This unfettered individual appears to adopt the same limited liability, responsibility, and accountability that his corporate nemesis traditionally assumed. Although these critical partisans have created another ecumeme, they are not in fact “ecumemical.” Alternative forms of personhood cannot be performed, and substantive communities characterized by social obligation rather than individual freedoms cannot be countenanced. As the comments by BZ Power fans suggest, because the individual’s rights of expression by definition trump all others in this ecumeme, interlocutors who come with other values to engage in dialogue are pushed into positions that are likened to corporate censorship. This belief in the creative individual’s own decontextualized disembeddedness is characteristic of an implicit cosmology found in the same fundamentalist faith in the metaphysics of globalizing flows (Perry 2003:331) held by proponents of neoliberal globalization.

Ethos and Ecumemes for Digital Futures

The Maori activist/Bionicle fan dialogue suggests that there are different responses to the corporate territorialization of the Web which entail different embodiments and performances of property and propriety in digital contexts. Rather than simply dividing the world of culture into the ecumemes of the enclosure and a global cultural commons, we want to suggest that there is much to be learned—and much to be hopeful about—in the liminal shadow lands in-between them, a place that is more ecumemical. The point of the Maori intervention in the symbolic economy of corporate goodwill was not necessarily to destroy the consuming pleasure of the Bionicle fans, but to recontextualize the semiotic meaning of the toy-object, reterritorialize the desire of the consumer, and redirect the memetic practice of the act of consumption. In other words, it sought to conjure a rather different ecumeme for the performance of cultural ownership and appropriation.

One of the more intriguing features of this dialogue is the manner in which it embodied a digital performance of what Mary Louise Pratt (1992) has famously termed the “contact zone” between cultural worlds of meaning brought together by the flows and mobilities of globalization. In Pratt’s classic formulation of the concept, contact zones are “social spaces where disparate cultures meet, clash, and grapple with each other, often in highly asymmetrical relations of domination and subordination—like colonialism, slavery, or their aftermaths as they are lived out across the globe today”

(1992:4). Not only are social relations between cultural frames of reference previously separated by spatial distance asymmetrical, Pratt notes, they are also interactive and improvisational. In other words, the contact zone is a performative space for the negotiation of emergent identities.

In the case of this particular contact zone, the negotiability of identity revolves around the intertwined dynamics of the property and propriety, authorship and ownership, embedded in language as a source of collective self-understanding. The figure of the author performed in both the ecumemes of the enclosure and the commons is the romantic, autonomous individual who is the creator of culture and the consumer of its artifacts. One of the principal features of the contact zone between the Maori cyber-activists and the BZ Power virtual community of Bionicle fans was the rhetorical stratagems through which this romantic notion of authorship was provoked, invoked, and challenged.

For Maori activists, there was a profoundly positive moral valence given to the relationship between authorship and the propriety of ownership. However, the power of ownership is vested in the Maori community—"the literally thousands who will challenge" the improper use of their language—not in individual authors. Those who are not Maori cannot properly claim rights to the unbridled use of the Maori language; it is the Maori who have created the language, and it is the Maori who bear responsibility for its use. To the Maori, the Te Reo language is the very medium of their epistemology and ontology, their way of knowing and their way of being, which are inextricably linked. They bear a moral responsibility to future generations to preserve the indexicality of their language as a matter of cultural survival.

Kataraina's intervention also sought to disclose the collective social conventions by which the BZ Power virtual community (a "mini-culture" in her words) established rules of communication and interaction that governed their speech. Ownership of property and the sharing of culture is not only socially produced and recognized, it is also contingent upon the specific rules of sociality, reciprocity, and respect that are characteristic of a particular culture's social space or, to use Kataraina's term, the norms and values that are embedded in a particular community's "turf" upon which visitors are greeted and embraced. These cannot be established solely by corporate authors, consumers, or individual creators but will require new forms of collectivity and the negotiation of new forms of digital sociality.

Maori activists ultimately encouraged the users of BZ Power to consider their Lego toys not simply as things to be manipulated, commodities to be

consumed, and fantasy objects around which to build imaginary worlds, but as a portal to learning about Maori and other Polynesian cultures, the real faces behind the mask of the commodity fetish Lego had provided them. They linked BZ Power to a number of sites devoted to the preservation and celebration of Maori spirituality. The real point of the dialogue was to introduce an ethics of contingency (Coombe 1998) into cultural circulation. From the Maori point of view, non-Native peoples should recognize the contingency and peculiarity of their own concepts of property and propriety.

The abstraction, commodification, and separation of language and culture from peoples' social lives and from the active performances through which we express meaning and value in human communities represents only a partial, limited, and peculiar way of mapping and inhabiting the world of digital communications. Partial also are fictions of markets populated only by corporate authors and consumer citizens, or creative commons populated only by corporate censors and individual creators. More imaginative ecumemes with richer visions of sociality and more convivial relations between them must be envisioned and inhabited as we move forward into new phases of digital cultural practice.

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ENDNOTES

¹This comment is drawn from a larger work provisionally titled *Dancing Masks and Toy Wars on the Web of Virtual Capital: Intellectual Property and Digital Governmentalities*.

²There is a case to be made for using the concept of performativity in this context but the elaboration of the theoretical scaffolding necessary to make it adequate for our purposes is too extensive for the space allocated here.

³Relations between the cultural industries and the fans of their products are complex and ambivalent as owners of intellectual property try (not always successfully) to maintain control over cultural texts of value while diverting the excess symbolic value.