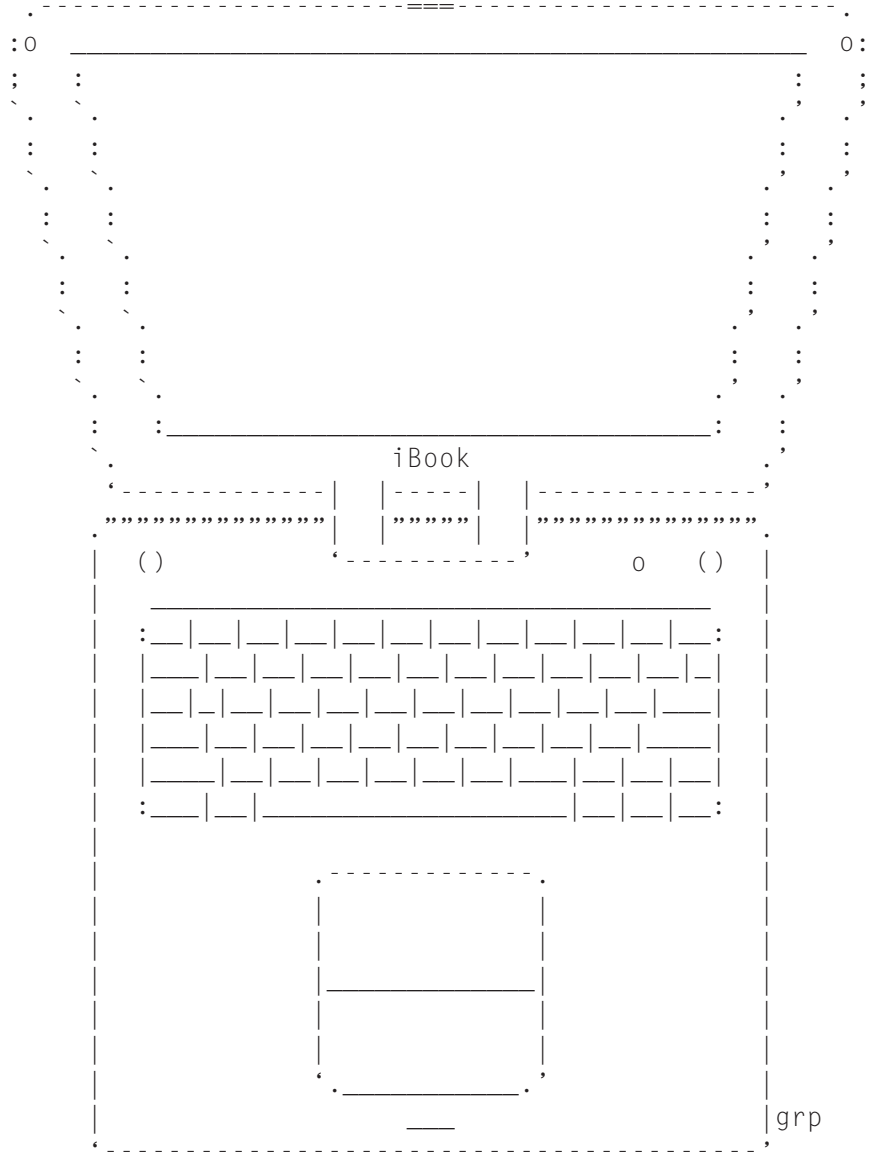




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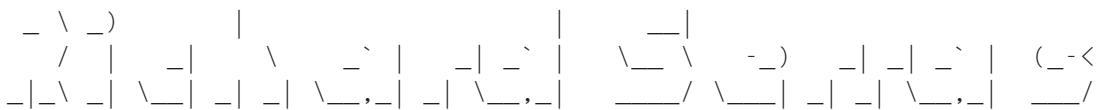
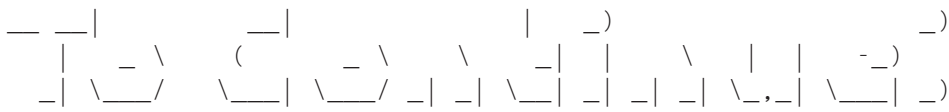
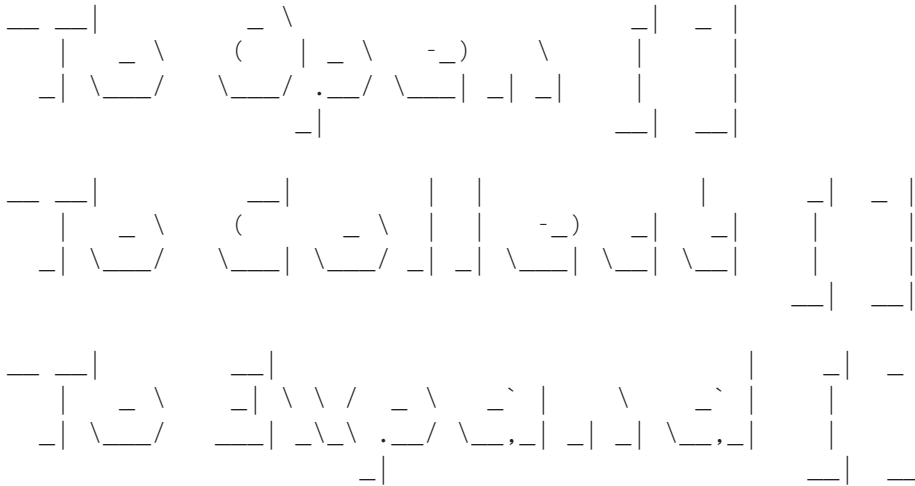


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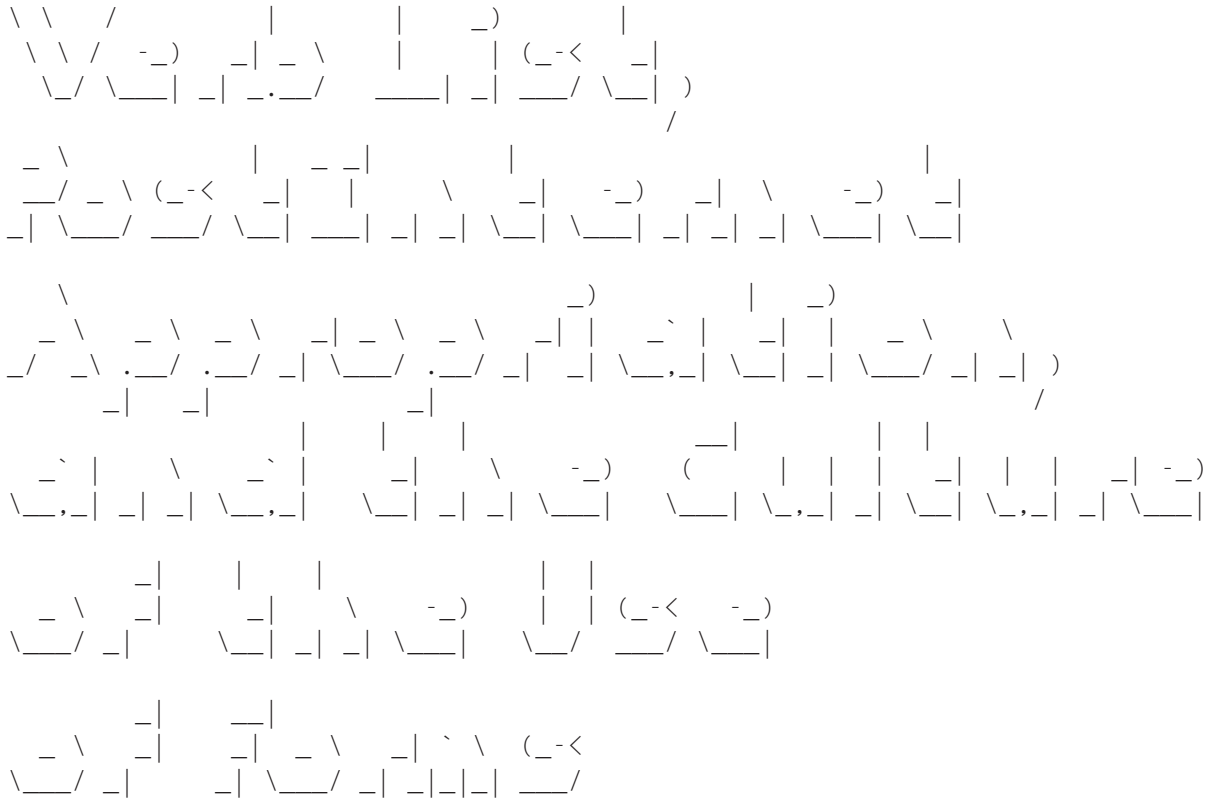
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- Brandon Bauer

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+ How does a rethinking of Richard Serra's Verb List relate to the Post-Internet  
+ use of forms? Taking one selected verb from each column of Serra's original list  
+ we find:

To Open [...]  
To Collect [...]  
To Expand [...]  
To Continue (1)

Drawn from a list of more than one hundred proposed actions, these four terms speak directly to our cultural situation. Created at that point in time in which the waning influence of the Greenberg school of Modernist thought was eclipsed by the ascent of conceptualism, one can read both positions simultaneously: the heroic lone Modernist studio artist, wresting control over his materials in self-imposed isolation, and the cool intellectual embracing the performative models of conceptual art. We are currently in a similar moment; the Internet and its cultural impact have become at once totalizing and quotidian, and the philosophical position of the previous era-overlapping and commingling, both in agreement and in opposition-is informing the next critical development.

+ "Post-Internet Art" (2) in the context proposed by Marisa Olson - and expanded  
+ on by Artie Vierkant in *\*The Image Object Post Internet\** (3) - does not merely  
+ imply *\*after\** the advent of the Internet, the term "post" *\*can\** have the dual  
+ meaning of something performed; e.g. *\*posting\** one of the most ubiquitous  
+ acts online. It also implies the Internet is now imbricated in our everyday  
+ experience, and affects our culture in ways both subtle and radical. We are  
+ beyond the parameters of Postmodernism and into what Nicolas Bourriaud calls a  
"culture of use." (4) This shift brings the culture of activity within the reach  
of anyone possessing an Internet connection, and a moderate skill set that is  
translatable across a wide variety of online platforms. Empowering one to take  
part in culture rather than being its passive consumer creates the potential for  
a more engaged and empowered social body.

+ In his preface to the second edition of *\*Postproduction\**, Bourriaud discusses  
+ how appropriation "infers an ideology of ownership," and how that culture of  
+ use is directed toward the goal of sharing. (8) This is a notion echoed in  
+ discussions surrounding the idea of a Post-Internet, and in which the culture  
+ of use that it intrinsically supports is now less of a novelty. Appropriation  
+ in our era is not the outright theft or questioning of authenticity as it was  
+ during the height of Postmodern theoretical development. With the rise of the  
+ Internet, and in particular with the rise of the many current social platforms,  
+ appropriation is now our reigning cultural condition. We cut, copy, paste,  
+ post, forward, like, tweet, and share pre-existing content continually. This has  
+ relevance and ramifications far beyond mere artistic and philosophical debate.  
+ It has an effect on how we understand the procession of cultural innovation,  
+ as well as having direct practical, ethical, and legal implications throughout  
+ society. The most recent example of this clash can be seen in the two bills  
+ currently under proposal in the US Congress: the Stop Online Piracy Act (SOPA)  
+ in the House of Representatives, and the PROTECT IP Act in the Senate. These  
+ bills are the newest legal challenges in a string of copyright extensions and  
+ acts attempting to create a restrictive form of clearance culture with far  
+ reaching social implications. (10)

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+ Given the world wide web's development over a relatively short period of  
+ time into increasingly user friendly platforms-with appropriation now a  
+ cultural condition, and with these continuing challenges presented by the  
culture of ownership-what role can artists play in furthering the debate,  
and facilitating the shift into a more empowering living culture for the use  
of forms? Both Bourriaud and Vierkant offer some interesting perspectives.  
Vierkant positions the role of the artist in the Post-Internet environment as  
that of the "interpreter, transcriber, narrator, curator, architect," (11) and  
states that his or her goal should be to "create propositions for arrangements  
or representational strategies which have not yet been fully developed." (12)  
This is a similar notion to Bourriaud's conception of artists as "semionauts"  
who "produce original pathways through signs." (13) Vierkant argues otherwise,  
believing that that the Post-Internet artist relies on the visual, independent  
of language, "[marking] an abandonment of language and semiotics." (14) Others  
would argue that investigating semiotics in the Post-Internet era has become  
more important than ever. It was precisely the development of these new tools,  
and their embedded symbolic systems, that prompted theorist Lev Manovich to put  
forth a systematic critique in his book, \*The Language of New Media\*. For as he  
states:

\* A Western artist sees the Internet as a perfect tool to break down all  
\* hierarchies and bring art to the people. In contrast, a post-communist  
\* subject,I cannot but see the Internet as a communal apartment of the Stalin  
\* era: no privacy, everybody spies on everybody else [...] (15)

+ Manovich wrote this quote on the eve of the 21st century, in a posted message  
+ to the Rhizome e-mail list under the title "On Totalitarian Interactivity."  
+ This was before Web 2.0, and before the ubiquity of social media. Similar to  
Manovich's view of the early Internet, current social media platforms contain  
both emancipatory and dystopian potential. Social platforms like Facebook and  
Twitter were lauded, and in some cases even directly credited, for the downfall  
of dictators during the Arab Spring. While these platforms did play a role in  
those democratic uprisings, they are far from inherently democratic. A prime  
example is the experience of the activist collective, Anonymous, who were kicked  
off a number of social media platforms due to their campaigns. This eventually  
led the collective to launch their own independent social networking site.<sup>16</sup> The  
original architecture of the Internet encouraged openness and decentralization,  
but in our era, the web is becoming increasingly centralized and controlled by  
large corporations. This consolidation is being supported by the increasingly  
restrictive legislation attempting to wall off cultural commons as we see  
currently under proposal in the US Congress. Manovich for one felt that artists  
employing newer technologies must also be critical of the structures that  
facilitate their practice.

+ Both Bourriaud and Vierkant see the artist in a unique position for interpreting  
+ the deluge of fragmented cultural data existing in this Post-Internet  
+ environment, but to differing ends. Whereas Vierkant initially calls for an  
+ ambitious project to create "propositions for arrangements or representational  
+ strategies," he settles in the end for a transient art that shifts between the  
+ virtual and the real. As he states, this art is "a constellation of formal-  
+ aesthetic quotations, self-aware of its art context and built to be shared and  
+ cited." (17) In essence, he argues for an art of mere quotation and citation,

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+ existing for its own sake, and less critical of the structures it depends upon.  
+ This is not to say that an art of digital citation cannot also be critical;  
+ Scott Kildall and Nathaniel Stern's 2009 \*Wikipedia Art\* project (18) staged a  
critical performance out of Wikipedia's standards for quality and verifiability-  
which at once exploited and critiqued the process of legitimization through  
citation-and thereby exposed the structure.

Bourriaud posits an active view for the role of art in the era of the use of  
forms, and argues for a critical look at the deluge of images and embedded  
narratives in our culture. He reverses the standard critique that insists we are  
oversaturated by images, and instead states:

\* [W]e are not saturated with images, but subjected to the lack of certain  
\* images, which must be produced to fill in the blanks of the official image of  
\* the community. (19)

Bourriaud revives the Situationist strategy of détournement, appropriation for  
a critical purpose, as a way of reinterpreting the images and narratives we are  
immersed within. He argues for a use of pre-existing material in the service of  
creating the emancipatory narratives we are lacking. It is disappointing that  
Vierkant merely advocates for an art of self-conscious quotation which relies  
on accepted notions of what art is, and whose goal is to become a footnote in  
an attempt to legitimize itself. Given the immense cultural, global, and pro-  
democratic shift the Post-Internet era anticipates, it is time for art to be  
+ more engaged.

+ Returning to the selected verbs from Serra's list, how do we interpret these  
+ actions in relation to a Post-Internet cultural situation? The use of verbs  
inherently suggests action, and creating a list of them serves as a reference  
to the philosophical debates of action painting, which stimulated dialog in  
the late 1960s. Gianfranco Gorgoni's famous 1969 photograph of Richard Serra  
throwing lead in a warehouse was in essence an update of the Hans Namuth  
photographs of Jackson Pollock produced a decade earlier. Thus, Serra's choice  
to create a list, with its focus on the performance implied through verb use,  
signaled the next evolution in the interpretation of the Modernist philosophical  
position. As before, these two positions overlap, merge, inform, and depart from  
one another within the actions described.

Below, I will demonstrate how Serra's verbs translate into our Post-Internet  
age.

\* To Open: "Opening" is the initial action when one interfaces with the virtual  
environment. To Open can also be interpretive and exploratory, "to open" oneself  
to new possibilities.

+ \* To Collect: Collection speaks to us on a range of levels, each with immense  
+ cultural ramifications. Big Data is constantly accumulating on the minutiae  
+ of our lives. As we move in physical space, GPS pings emanate from handheld  
+ devices. In virtual space, our actions online are tracked, cataloged, and  
+ responded to by those with access to our data patterns, and the algorithms to  
+ parse them. Beyond the dystopian vision of nameless entities collecting large  
+ data sets on unknowing individuals, collection has also become an aspect of the

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+ everyday. The Internet facilitates collecting, storing, exhibiting, and sharing  
+ photographs, music, moving images, and documents from a vast array of producers  
+ (both professional and personal) for incalculable purposes. Whether it is user  
updated content about holocaust survivors, family photos shared on a closed  
network, or digital file sharing for fun, piracy, or collegiality, we are in  
the midst of a great collection and shuffle of data from one person to another  
without cease.

\* To Expand: The notion of expansion may be interpreted on a number of levels:  
the expansion of media and platforms in art, technology, and our daily lives,  
or as the continual expansion and manipulation of images and ideas online.  
All manner of material that makes its way online becomes posted, re-posted,  
re-mixed, and recontextualized. In turn, these reconfigurations result in new  
physical and virtual forms. To Vierkant, they become the Post-Internet objects,  
referencing both the lived and the virtual. To Bourriaud this expansion and  
recontextualization by artists produces original pathways through the forest  
of mass-cultural signs, and expands the meanings of these forms in new and  
potentially emancipatory ways.

\* To Continue: Finally, "To Continue" speaks to the ongoing nature of these  
processes, and the increasing collapse between the physical and the virtual.  
As the forces propelling the culture of ownership continue their attempt at  
walling off the public domain, it becomes ever more important for artists and  
activists alike to push back and assert a vibrant culture of use and activity.  
+ These processes will continue. The struggle is far from over, and has great  
+ ramifications for our culture now and into the future.  
+

The Post-Internet use of forms implies a merging of categories, philosophical  
positions, and a changing relationship to appropriation. It bridges the  
positions between formal aesthetic forms, conceptual, and critical models. It is  
in this spirit that I have adapted and re-presented Serra's verb list.

\* PostInternet Verb List (after Serra) \* (21)

To Open / To Search / To Copy / To Merge / To Bitmap / To Encode / To Loop /  
To Crack / To Rotate / To Collage / To Feed / To Randomize / To Download / To  
Store / To Interface / To Clear / To Appropriate / To Cite / To Manipulate /  
To Aggregate / To Import / To Screen / To Print / To Abstract / To Mask / To  
Document / To Delete / To Return / To Hybridize / To Grid / To Populate / To  
Plot / To Scrub / To Crowdfund / To Generate / To Analyze / To Problematize /  
To Narrate / To Critique / To Collect / To Remove / To Retrieve / To Datamosh  
/ To Hack / To Cut / To Paste / To Splice / To Cycle / To Broadcast / To Layout  
/ To Communicate / To Publish / To Draw / To Stylize / To Downsample / To  
Montage / To Animate / To Erase / To Stitch / To Index / To Lock / To Select /  
To Fill / To Transform / To Extract / To Link / To Hype / To Network / To Mash-  
up / To Perform / To Collaborate / To Project / To Interact / To Pixilate / To  
Microcast / To Build / To Process / To Arrange / To Expand / To Edit / To Undo  
/ To Program / To Control / To Surveil / To Composite / To Detourn / To Access  
/ To Archive / To Sort / To Tag / To Crop / To Chat / To Group / To Participate  
/ To Update / To Insert / To Layer / To Compress / To Preview / To Rasterize /  
+ To Clone / To Hide / To Heal / To Trash / To Map / To Markup / To Immerse / To  
+ Systematize / To Stream / To Send / To Receive / To Remix / To Export / To Save  
+ / To Post / To Share / To Continue

\*\*\* To Open [...] To Collect [...]... / Brandon Bauer

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- + (1) Richard Serra, Verb List Compilation: Actions to Relate to Oneself
- + [1967-1968], From The Ubuweb :: Anthology of Conceptual Writing, [www.ubu.com/concept/serra\\_verb.html](http://www.ubu.com/concept/serra_verb.html).
- + (2) Régine Debatty, Interview with Marisa Olson, We Make Money Not Art, March 2008, <http://www.we-make-money-not-art.com/archives/2008/03/how-does-onebecome-marisa.php>
- (3) Artie Vierkant, The Image Object PostInternet (2010), <http://jstchillin.org/artie/vierkant.html>.
- (4) Nicolas Bourriaud, Postproduction (New York: Lukas & Sternberg, 2007). 19.
- (8) Nicolas Bourriaud, Postproduction, 9.
- (10) For a more in-depth discussion about copyright law, clearance culture, and the cultural ramifications of these issues see the work of Lawrence Lessig, Free Culture: The Nature and Future of Creativity (New York: Penguin, 2005), Remix: Making Art and Commerce Thrive in the Hybrid Economy (New York: Penguin, 2008), and the work of Kembrew McLeod, Freedom of Expression: Resistance and Repression in the Age of Intellectual Property (Minneapolis: University of Minnesota Press, 2007)
- (11) Artie Vierkant, The Image Object PostInternet. 8.
- (12) Ibid.
- (13) Nicolas Bourriaud, Postproduction, 18.
- (14) Artie Vierkant, The Image Object PostInternet. 9.
- (15) Lev Manovich, The Language of New Media (Cambridge: MIT Press, 2001). x.
- (16) Mark Brown, Anonymous Unleashes Social Network AnonPlus After Google+ Ban, WIRED.CO.UK, July 2011, <http://www.wired.co.uk/news/archive/2011-07/18/anonplus-announced>
- + (17) Artie Vierkant, The Image Object PostInternet. 10.
- + (18) Scott Kildall and Nathaniel Stern, Wikipedia Art: A Collaborative Performance and Public Intervention, <http://wikipediaart.org/>
- (19) Nicolas Bourriaud, Postproduction, 52.
- (21) Updated from New Media Verb List (after Serra), Originally published in RCP.ML2K.PDF Issue #10 Extended Dance Remix, Fall 2011, <http://www.masterlist2000.com/rcp-ml2k-pdfzine/posts/rcp-ml2k-pdfzine-issue10.html>

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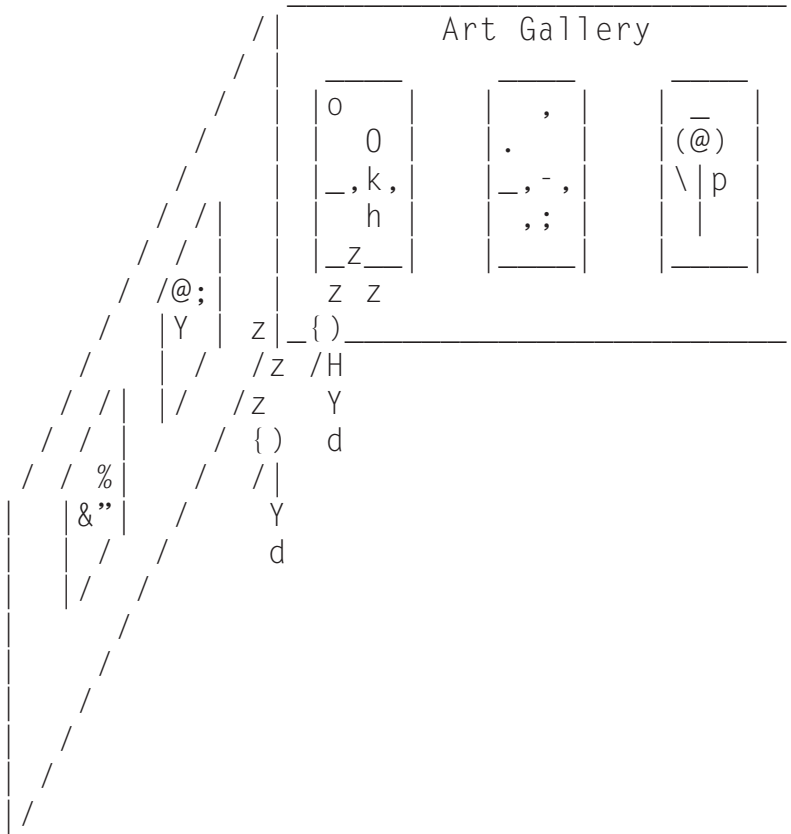


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+ In much the same way as any person worth their chips will sniff out a zeitgeist  
+ only to rebrand it with their own self at the helm (what Elvis and Eminem were  
+ to black music, what Jeff Koons is to kitschy artifacts made by little known  
plebes, what Google and Facebook are to the broad, populist lust for increased  
sharing and communication between people and organizations alike, etc), so  
has Jay Jopling grabbed hold of the coat tails of an art world terminology  
made famous by Brian O'Doherty in the seventies, and ran for gold. In 1993 he  
started a gallery under this term. In December of 2008, he trademarked it. His  
registration for "white cube" ends in December of 2018.

Emerging in early 2011, whitecu.be was a critical experiment masquerading as an  
exclusive, invitation-only artist portfolio site. It ran for less than a year,  
and is now in the process of being shut down by Jopling and his high profile  
law firm. The base of their complaint is that the domain name ("whitecu" + the  
".be" extension for Belgium) is an infringement on Jopling's trademark, and  
that an artist portfolio site which shows up on page six of a Google search is  
capitalizing on the relevance of an established brick and mortar gallery through  
search engine optimization.

whitecu.be was given an opportunity to respond to the complaint. This response  
was written collectively, and without the assistance of lawyers, between  
November and December of 2011. It was never sent. The danger that Jopling's  
move represents for intellectual property and how far one is allowed to stake  
their claim on language, public content, or turns of phrase shouldn't need to be  
+ spelled out. whitecu.be's response, along with a copy of the initial complaint  
+ filed against them, follows.  
+

-ED

\* Answer to the Complainant \*

"[T]he assumption that domain name space is and should be an extension of  
trademark space . . . is both unwarranted and unwise [and] brings us perilously  
close to conceding that ownership of a trademark gives one the exclusive right  
to use the word on the Internet."

- Professor Jennifer Litman (Reed)

We ('The Registrant') reject all claims made by Jay Jopling and his  
representatives at Finer Stephens Innocent ('the Complainant'). We move that the  
Complainant has acted in bad faith in filing this complaint. Further, we move  
that Article 6(1)h of the First Council Directive 89/104/EEC of 21 December 1988  
(('the Directive')) to approximate the laws of the Member States relating to trade  
marks directly prevents the Complainant's infringement claims.

\* History of the term 'White Cube' \*

+ The history and origin of the term "white cube" and its many usages must be  
+ explored. An Amazon search for the term "white cube" (attached as Material  
+ One: [http://vwhitecu.be/slir/art/](http://vwhitecu.be/slir/art/MaterialOneA.png)

\*\*\* I trolled Jay Jopling... / whitecu.be

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+ MaterialOneB.png) does return one link relating to the Mark referred to by the  
+ Complainant. Every other result, however, refers to the broader meaning of the  
+ term, including book titles published in Europe. The Complainant must have been  
unable to defend their Mark rights to prevent the publication of these book  
titles, as they are still available for sale.

The first book in the search result is the most important. It is titled Inside  
the White Cube: The Ideology of the Gallery Space by Brian O'Doherty, published  
in 2000. The book contains a series of essays first published in Artforum  
magazine in 1976. From the Amazon description:

When these essays first appeared in Artforum in 1976, their impact was  
immediate. They were discussed, annotated, cited, collected, and translated-the  
three issues of Artforum in which they appeared have become nearly impossible to  
obtain.

The most important essay in the collection is where the title of the book  
comes from. Published in 1976, these essays had an enormous impact on the art  
world. Due to the success and influence of the term they introduced, it is now  
commonplace for people in the art world to use "white cube" colloquially and  
mentally when referring to and thinking of art galleries in general.

+ It is evident that the Complainant's initial choice to call itself 'White Cube'  
+ (established in 1993) makes direct reference to O'Doherty's concept and further  
+ purloins his book by calling one of their programs 'Inside the White Cube'.  
+ The Complainant, who has clearly borrowed this Mark from another source, did  
+ not originate the term, its concept, or usage and therefore cannot apply the  
privileges given to the Mark to usages referencing the prior, famous usage of  
the term.

The second book in the search result is titled \*New Media in the White Cube  
and Beyond: Curatorial Models for Digital Art\*. The book was first published in  
2008, well after the establishment of the Complainant and their Mark. There is  
no evidence that the Complainant pursued the author or publisher of this work,  
and if the Complainant did so, they completely failed. We hold this to be a  
pertinent test of the claims of the Complainant.

In addition to the Amazon search results we have attached search results for the  
phrase "white cube" from the Oxford Art Journal (Material Two: <http://vwhitecu.be/slir/art/MaterialTwoA.png>, <http://vwhitecu.be/slir/art/MaterialTwoB.png>). To  
add to this, on the University of Pittsburgh's PhilSci-Archive we have found  
a paper called White Cube and Black Box: Irwin, Turrell, and the return of the  
subject to art and psychology in the 1960s (attached as Material Three: <http://vwhitecu.be/slir/art/MaterialThree.png>). These results reveal the tip of the  
iceberg of a multitude of colloquial and academic usage.

+ For a recent instance of colloquial usage we refer you to an interview with the  
+ artist, Ofri Cnaani, published December 14th, 2011 (attached as Material Four:  
+ <http://vwhitecu.be/slir/art/MaterialFour.png>). Rhizome.org, founded in 1999, is  
+ a longstanding, prominent website that focuses on the preservation of net art  
+ and new media. In the final paragraph of the interview, the artist begins her

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+ response by stating, “A lot of the things I do are presented somewhere on the  
+ scale between the white cube and the black box”. Drove of examples of similar,  
+ casual usage of the term “white cube” are to be found in competent arts circles  
and publications. The phrase is extremely common as a generic term that refers  
to certain aesthetic circumstances of art galleries in general, and not to our  
website nor to the Complainant’s Mark.

For recent usage of the term by an art critic we refer you to a review of “Mon  
Winnipeg”, an exhibition that took place at La Maison Rouge between June 23rd  
and September 25th, 2011. The review was published August 7th, 2011 in the  
Parisian art journal, Œuvres (attached as Material Whatever: [http://vwhitecu.be/  
slir/art/MaterialWhatever.png](http://vwhitecu.be/slir/art/MaterialWhatever.png)). Toward the end of the text, the reviewer states,  
“On est passé du plongeon ethnologique à au regard distancié du white cube. La  
magie du musée est passée par là.”

It does not take any effort to find numerous other websites focusing on  
expanding upon on the term “white cube”. We refer you to [http://www.nyu.edu/  
greyart/exhibits/whitecube/patrickhome.html](http://www.nyu.edu/greyart/exhibits/whitecube/patrickhome.html), [http://www.societyofcontrol.  
com/whitecube/](http://www.societyofcontrol.com/whitecube/), [http://en.wikipedia.org/wiki/Brian\\_O'Doherty](http://en.wikipedia.org/wiki/Brian_O'Doherty), [http://www.  
thewhitecube.net](http://www.thewhitecube.net) and so on. A quick Google search reveals a plethora of websites  
on the subject considered as a significant aesthetic and art-historical concept  
with no relation whatsoever to the White Cube galleries in London.

+ It is clear, without a reasonable doubt, that the term “White Cube” has a  
+ longstanding and older use descriptive of a service. In other words, “White  
+ Cube” has meant ‘art gallery’ for 30 years longer than the most recent  
+ registration of the Mark in the Benelux Countries. This is a fact that all  
artists, gallerists, curators, critics, art journalists, academics and ‘informed  
consumers’ in the art world are aware of. The term has important artistic,  
colloquial, academic and journalistic meanings that are in wide circulation  
unrelated to the Complainant and the Mark.

\* Breach of Article 6(1)h by the Complainant \*

“White Cube”, therefore, does not solely refer to the Mark. Rather, as defined  
in Article 6(1)h of the Directive, it refers to an ‘intended purpose’ and ‘other  
characteristic of goods and services,’ namely, a term for an art gallery. The  
colloquial and ‘informed’ nature of the term “white cube” is most succinctly  
demonstrated with the attached (Material Five: [http://vwhitecu.be/slir/art/  
MaterialFive.png](http://vwhitecu.be/slir/art/MaterialFive.png)). This is a review from an arts advocacy and public relations  
firm, Argot & Ochre, published on their website on September 12th, 2011. We  
did not pay for this review, nor did we ask Argot & Ochre to write it. We were  
not aware of the existence of Argot & Ochre prior to this review. From the very  
first paragraph:

+ Not to give a condescending art history lesson that most of us are all aware of  
+ anyway, I am nonetheless opening up today’s blog talk by reminding the audience  
+ that the term “White Cube” was coined in 1976 by Brian O’Doherty in an Art  
+ Forum article titled “Inside the White Cube: Notes on the Gallery Space.” This  
+ is that landmark kind of essay that your professors assign you so you can start  
+ ruminating on the ills of the modern gallery system and fling wise 21 year-old

\*\*\* I trolled Jay Jopling... / whitecu.be

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+ accusations at the way the commodification of art is eroding its inherent value  
+ and lament the general state of aesthetics in the post-modern apocalypse we all  
+ inhabit. In the same vein as that last sentence, I introduce Whitecu.be, an  
online visual arts platform for art-viewing that succeeds at bending my mind, as  
well as some of the rules. [sic]

The reviewer starts out with a disclaimer indicating just how common the term  
is, that “most of us are aware” of it. It is evident that the reviewer, an arts  
public relations specialist, considers an introduction to the history of the  
term “White Cube” condescending to her audience because its point of origin in  
the 1976 Artforum articles is commonplace knowledge in arts milieus. It should  
now be clear that the accusation of infringement is in violation of Article 6(1)  
h of the Directive, which states:

The trade mark shall not entitle the proprietor to prohibit a third party (we,  
the registrant) from using, in the course of trade, indications concerning the ...  
intended purpose ... or other characteristics of goods or services.

The Complainant’s accusation of infringement is a breach of Article 6(1)  
h because our sign, “whitecu”, both represents the intended purpose of the  
original term as a critical term for an art gallery, and is absolutely a  
characteristic of an arts ‘good or service’, because the “History of the term  
‘White Cube’” (see above) highlights the usage of the term “white cube” as an  
art gallery.

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+ \* Bad Faith on the part of the Complainant \*

The breach of Article 6(1)h is enough to dismiss this claim of infringement.  
However, we would also like to take the opportunity to point out the bad faith  
nature in which the Complainant is operating. In Case C-529/07 Chocoladefabriken  
Lindt & Sprüngli AG v Franz Hauswirth GmbH, the ECJ clearly states:

an intention to prevent others from using similar signs in respect of similar  
products may be incompatible with such standards [of good faith] if the trade  
mark owner was, or must have been, aware that others were already legitimately  
using similar signs, particularly if that use was substantial and longstanding.

The Complainant clearly acted in bad faith by not mentioning in the infringement  
claim the well known history of the term “white cube”, which has certainly had  
substantial and longstanding use prior to the Complainant’s registration of  
the Mark. The Complainant is fully aware of this prior use, having named one of  
their exhibition programs ‘Inside the White Cube’, a direct reference to the  
title of the aforementioned book by Brian O’Doherty.

The Complainant has acted in bad faith and broken Article 6(1)h of the Directive  
in accusing us of trademark infringement. The terms in which the Complainant has  
accused us relies on bad faith intent and on both ‘using an identical mark’ and  
a mark ‘that is likely to confuse,’ and are also false.

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+ \* Accusation of Bad Faith Intent \*

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+ The accusation of bad faith on our part is easily resolved. Attached (Material Six: <http://vwhitecu.be/slir/art/MaterialSix.png>, a tweetbackup.com backup of our twitter account @whitecu\_be) are twitter logs from February 11th, 2011. In these logs, through the twitter platform and not on the domain in question and therefore in no way pertinent to the accusations of Complainant, a user questions us. From these logs:

11/02/2011 01:26 @aboatlorry besides, I'm not "WHITE CUBE" - I'm "WHITE CU" from Belgium, nicca

11/02/2011 01:25 @aboatlorry "white cube" was slang for an art gallery long before some art bureaucrat gave it a building

In addition, hosted on our site is correspondence between an 'art insider' and us, dated September 13th, 2011 by our email logs (attached as Material Seven, email correspondence). The art insider never confused us with the Mark, but thought that other gallerists would not want to be associated with us because of our name, precisely because our identity as whitecu.be was unmistakably distinct from the Mark. The art insider thought that other gallerists would immediately recognize this obvious distinction and then choose, predictably, to defer to 'White Cube' over 'White Cu' out of conformism. The terms 'White Cube' and 'White Cu' are undeniably distinct apart from other considerations mentioned here, after all.

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+ Our response was clear.

why do you think other galleries won't use the site when there are already eight galleries using it (and more on the horizon)? Not all gallerists kowtow to White Cube in London.

A single building that houses art in London doesn't own the critical/slang phrase "white cube". That phrase was around long before Jay Jopling discovered it. Besides, we're "whitecu" with a .be extension - we've never once identified as "White Cube" at any point in the site's history!

We also refer you again to Material Five. In this case, there was no confusion between us and the Complainant by the reviewer, and if we were acting in bad faith, we would have encouraged confusion. Our intellectual and aesthetic interests lie in critically vamping on and further developing Brian O'Doherty's concept of the white cube. To us, the Complainant's galleries represent a failed appropriation of the term. Any further accusations of our supposed intent to benefit from the Complainant's reputation are completely rejected by us.

Furthering this point, we refer you to screenshots of a Google search for the phrase "white cube gallery" provided by the Complainant. You will immediately notice that there are no search results pointing to our website in these screenshots. It is clear from the search engine results provided by the Complainant that we have not been trying to optimize our website to benefit from their reputation. Our website does not appear in search results for the search keywords that the Complainant has submitted as important to their website

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\*\*\* I trolled Jay Jopling... / whitecu.be

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+ because we are not (and never were) competing with the Complainant for those  
+ search results to begin with.  
+

There was never a point where we intended to confuse anyone (more below), but when the issue of supposed similarity did come up, we flatly rejected any association, acting not only in good faith, but out of a strong desire to distance ourselves aesthetically and intellectually from the Complainant's shortcomings in relation to the term "white cube" when considered as a beacon of criticality and institutional critique.

\* Complainant's accusation of Identical Mark and Identical Goods and Services \*

It is clear that the Complainant does not truly believe this accusation, as they introduce 'likelihood of confusion' as a backup method for accusing infringement. But we will take this accusation seriously.

The Complainant, in another gesture of bad faith, misrepresents the findings of Case C-291/00 LTJ Diffusion SA vs. LTJ Diffusion SA Sadas Vertbaudet SA. While it is true that the emphasis on the particular is brought up in the case, it is only to balance the court's emphasis on the overall understanding of the mark. The ECJ says,

+ a sign is identical with the trademark where it reproduces, without any  
+ modification or addition, all the elements constituting the trademark or where,  
+ viewed as a whole, it contains differences so insignificant that they may go  
+ unnoticed by an average consumer

Therefore, the real question comes down to whether an 'average consumer' would or would not notice the difference between our website and the Complainant's. The suggestion that an average consumer would not notice the difference between our website and the Complainant's is frivolous and hard to believe on several points. In Case C-342/97 Lloyd Schuhfabrik Meyer & Co GmbH v. Klijsen Handel BV, the ECJ states concretely:

For the purposes of that global appreciation, the average consumer of the category of products concerned is deemed to be reasonably well-informed and reasonably observant and circumspect.

+ As demonstrated above, an 'average consumer of the category of products' in  
+ question (the arts), someone who is 'reasonably well-informed' and 'reasonably  
+ observant', is able to tell the difference between 1) the 'famous' White  
+ Cube Gallery, 2) the conceptual, journalistic, aesthetic, art-historical and  
+ colloquial meaning of the term "white cube", and 3) our website whitecu.be, not  
+ a gallery at all but a collection of portfolios for artists located entirely on  
+ the Internet. We find the Complainant's insinuation that an average consumer  
+ of the arts would not be able to tell the difference between our website and  
+ their Mark to be both disingenuous and highly insulting to the intelligence  
+ of 'reasonably well-informed' arts consumers. The current Internet user is  
+ sophisticated enough to understand that images seen on a tumblr or blog or  
+ Facebook, in certain circumstances, are not the work of the poster, but a  
+ 'curated' collection of that user's 'likes', and also understands that this



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+ person is not an art gallery. Clearly we are not to believe that a ‘reasonably  
+ well-informed and reasonably observant and circumspect’ consumer who can  
+ navigate these distinctions would suddenly lose this ability upon reaching our  
website.

In any case, if an Internet-illiterate person, and therefore not an average  
consumer of the category of products concerned, were to believe the  
Complainant’s Mark and our sign to be identical, this would still not be  
infringement. In Case C-59/05 Siemens AG v VIPA GmbH, the ECJ declares:

Article 3a(1)(g) of Council Directive 84/450 [as amended] must be interpreted  
as meaning that, in circumstances such as those in the main proceedings, by  
using in its catalogues the core element of a manufacturer’s distinguishing mark  
which is known in specialist circles, a competing supplier does not take unfair  
advantage of the reputation of that distinguishing mark.

Here, the bar of understanding is set even higher to “specialist circles”  
rather than “average consumers”. If one were to erroneously agree that the  
Complainant’s Mark and our sign are identical, the ECJ still states that because  
the term “white cube” has a specific meaning in specialist circles (as we  
demonstrated amply in “History of the term ‘White Cube’”), we are not taking  
unfair advantage of the reputation of that Mark. The reputation of the Mark  
sits on the coattails of over 30 years worth of historical dialogue on the term  
“white cube” based in specialist circles, and, of course, among a broader field  
of arts consumers as well.

+ We also dispute that we provide Identical Goods and Services as the Complainant.  
+ Services provided by the Complainant and services provided by ourselves are  
+ not even remotely similar in appearance nor in self-description. White Cube the  
art gallery and whitecu.be the Internet site are two different things entirely,  
both in respect to Marks and in respect to Goods and Services. No attempt to  
conceal this self-evident distinction has ever been made. Unless the Complainant  
is prepared to argue that working with images constitutes Identical Goods and  
Services, and is therefore prepared to ban all use of the word “White Cube”  
in any book, television show, film, home video, poster, photograph, postcard,  
greeting card, documentary, graffiti, doodle, etc., then there should be  
no serious discussion of Identical Goods and Services. The Complainant is a  
traditional art gallery. We host Internet portfolios of artists in a manner  
similar to companies like Cargo Collective. We absolutely reject Identical Goods  
and Services. In this case, again, if non-average Internet-illiterates do find  
our marks to be identical, in Case C-323/09 Interflora Inc., Interflora British  
Unit v Marks & Spencer plc, Flowers Direct, the ECJ first of all recalls that  
the use by a third party of a sign identical to the trademark for identical  
goods or services for which the trademark is registered (“double identity”),  
can only be prevented if that use will have an adverse effect on one of the  
“functions” of the trademark. Certainly an Internet arts-portfolio website  
does not have any relationship to, nor does it adversely affect, a brick and  
mortar gallery. Both have entirely different scopes and functions. Both are in  
different fields and could not ever compete or detract from each other by use of  
identical Marks, not to mention non-identical ones, as is the case here.

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+ \* Complainant's accusation of Likelihood of Confusion \*

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+ An aspect overlooked by the Complainant is the tenth recital in the preamble to the Directive, which states:

whereas the ways in which likelihood of confusion may be established, and in particular the onus of proof, are a matter for national Procedural rules which are not prejudiced by the Directive

Therefore, in addition to the ECJ ruling (see below), we must also defer to the Uniform Benelux Law on Trademarks. Article 13a of the Uniform Benelux Law on Trademarks adopts the concept of resemblance between marks, rather than that of likelihood of confusion, in defining the scope of the exclusive right conferred by a trademark. Therefore, Likelihood of Confusion concerns should not even come into consideration in countries (Belgium) adhering to the Uniform Benelux Law on Trademarks. With the Uniform Benelux Law on Trademarks, article 13(2) states:

... use of a mark or a similar sign shall mean, in particular:

- (a) the affixing of the sign on goods or on their packaging;
- (b) the offering, putting on the market or stocking of goods for such purposes under that sign;
- (c) importing or exporting the goods under that sign;
- (d) using the sign on business papers and in advertising.

+ Under the Uniform Benelux Law on Trademarks, which is to be referenced in these  
+ circumstances according to the tenth recital in the preamble of the Directive,  
+ the 'likelihood of confusion' test is replaced by a 'use of a mark or a similar  
sign' test. It can therefore be considered that the 'likelihood of confusion'  
accusation brought by the Complainant is not even valid. We have done nothing  
that resembles anything whatsoever near the meaning of similarity in article  
13(2), as we do not even have commercial goods for sale.

To further clarify, the ECJ ruled directly in Case C-251/95 Sabel BV v Puma AG about the Benelux notion of similar and associated signs. In Sabel v Puma, contrary to what the Complainant would have you believe, the ECJ held that a mere mental association between the sign and the trade mark was insufficient for there to be infringement under Article 5(1)(b), and confusion as to origin or source was necessary, and also clears up how the Uniform Benelux Law on Trademark is to be enforced. The ECJ states clearly:

the mere association which the public might make between two trade marks as a result of their analogous semantic content is not in itself a sufficient ground for concluding that there is a likelihood of confusion within the meaning of that provision.

There is no demonstrable evidence or proof of confusion of origin or source. Materials One, Two, Three, Four, Five, Six and Seven clearly show no confusion. Additionally, according to the ECJ in Lloyd Schuhfabrik Meyer & Co GmbH v. Klijsen Handel BV,

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+ account should be taken of all relevant factors, and in particular, of the  
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+ inherent characteristics of the mark, including the fact that it does or does  
+ not contain an element descriptive of the goods or services  
+

In this case, the term “white cube”, as amply demonstrated in “History of the term ‘White Cube’”, does indeed contain an element descriptive of the goods or services, a description of an art gallery. The fact that the Complainant’s Mark is simply a descriptive term enjoying high colloquial, academic, journalistic and art-historical use must be taken into consideration.

\* Conclusion \*

The Complainant has acted in bad faith and has breached Article 6(1)h of the Directive by claiming that we have infringed their Mark. Their accusations of bad faith, identical marks and likelihood of confusion simply don’t stand up to the test of common sense, not to mention legal precedent. Furthermore, as our epigraph implies, no logical court would support the move to domain name infringement on trademarks, especially in the circumstances of a term already ingrained in the common language of the audience. It would be as if the Weather Channel were to ban the use of the word “weather” on any other website in the world.

Please see Shiveh Roxana Reed, *Sensible Agnosticism: An Updated Approach to Domain-Name Trademark Infringement*, 61 Duke Law Journal 211 (2011). Available at: <http://scholarship.law.duke.edu/dlj/vol61/iss1/5>

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VIEW INITIAL COMPLAINT HERE:

<http://absis-minas.com/whitecube/White%20Cube%20FSI%20Complaint%20To%20CEPANI.png>

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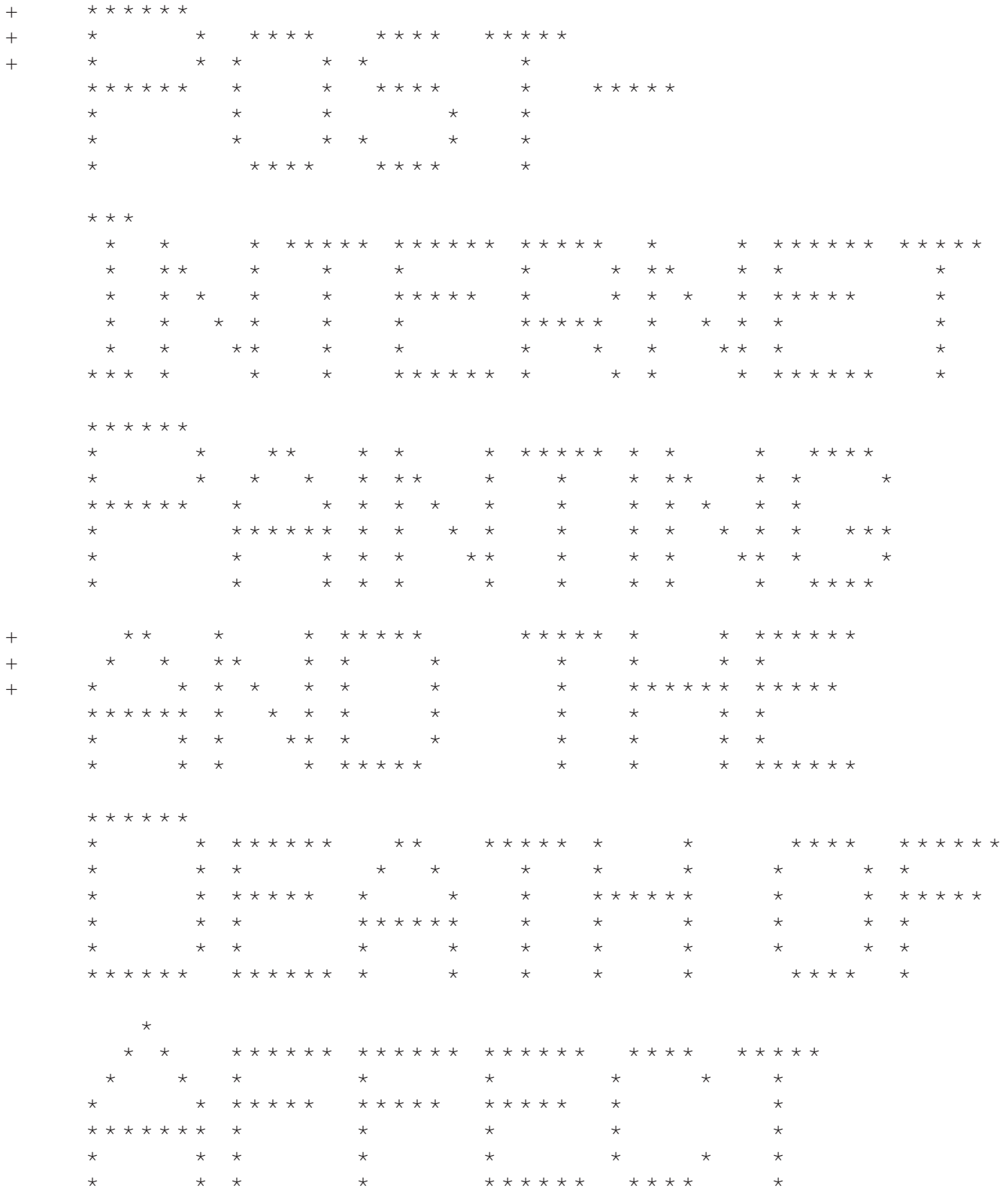
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+ \* 1. Art Blog, Art Blog \*

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+ What are the implications of taking a web-based project into reality? Painter Joshua Abelow, whose blog Art Blog Art Blog has been running since March 2010, was curious what his blog would look like in three dimensions. Taking curatorial residence in well-known Op artist Ross Bleckner's studio in Chelsea, Abelow chose curators to mount shows for two weeks at a time, keeping with the garrulous pacing of his website. He named it Art Blog Art Blog, intentionally conflating the blog with the gallery itself.

Last month, I asked Abelow about his project over gchat. He told me, "Initially the blog was a way for me to contextualize my own work alongside artworks and text by other artists and writers i was interested in, and it still is that," he wrote. "But it's also a way for me to curate in the simplest way possible[...]To call a gallery space a blog is something that had never been done before; and I think it generated a lot of interest because of that simple gesture. It created an element of confusion – like what is ART BLOG ART BLOG - a gallery, a blog, or a website? And, for a temporary period, it was all three." (1)

Abelow does not distinguish between these projects and his painting practice. The Internet functions as less of a subject matter for his work, but "a tool of empowerment. Since nobody else was going to put one of my paintings in a show next to a Francis Picabia i figured i would just do it myself." His paintings poke fun at the relationships between the curator, the collector, and the artist, sometimes assuming the roles of all three. He is prolific like Josh Smith and in a similar way, his practice is responsive to a technological context; his oeuvre, documented extensively on his website, constitutes a single work. He is Michael Krebber-ish, although Krebber interacts with blogging in his work differently. Krebber's paintings are networked, and appropriated, like the Internet itself. In a contemporary art world throttled by the Internet, painting is a special case, as it is uniquely suited for a slippage between representation, simulation, image, .jpg, and object. Abelow's projects engage this aspect.

On ABAB the blog, ([www.joshuaabelow.blogspot.com](http://www.joshuaabelow.blogspot.com)), paintings, poetry, and sculpture are liberated from their contexts, allowed to rub shoulders with each other and make conversation in a situation of the blogger's choosing, and in Abelow's case, sometimes to surprising or humorous ends. The blog's ability to level the playing field - create a horizontal, rather than vertical, relationship between the works - was an idea Abelow carried into his exhibition strategy. With the gallery, he "create[d] a situation where well known artists were showing alongside artists with very little or no public exposure." Art Blog Art Blog was a critical project, investigating the intersections between the real and virtual world, and especially the increasing reach of the virtual.

\* 2. JG Ballard's Death of Affect \*

+ The gallery's ninth exhibition, 'The Death of Affect' (2), seems to be a direct  
+ result of Abelow's critical agenda and technological preoccupations. It was  
+ curated by New York-based artists Jeffrey Scott Mathews and Fran Holstrom, who  
+ made their choices loosely based on JG Ballard's short story from 1961, \*The

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+ Overloaded Man\*. Ballard was greatly concerned with how our relationships to  
+ media in capitalist culture influence our ability to emotionally connect with  
+ ourselves and others. In 1974, Ballard coined the phrase ‘Death of Affect’  
to describe a condition where humans are incapable of experiencing feeling, a  
result of the crippling pervasiveness of media. Ballard’s text is ever more  
relevant in the Internet era.

In the story, the protagonist is (ironically) named Faulkner, a disgruntled  
husband living in a futuristic housing complex. One day he accidentally  
discovers a new talent: a way to contort his reality into abstract forms.

\* The houses opposite had vanished, their places taken by long rectangular bands.  
\* The garden was a green ramp at the end of which poised the silver ellipse  
\* of the pond. The veranda was a transparent cube, the centre of which he  
\* felt himself suspended like an image floating in a sea of ideation. He had  
\* obliterated not only the world around him, but his own body... (3)

Faulkner sets an alarm to jolt him back to reality, but each time, “a screen  
still separated them, its opacity thickening imperceptibly.”

As the story progresses, Faulkner descends deeper into madness. Object by  
object, he continues to drain objects of all until he exists in a “cubist  
landscape.” Finally, he abstracts his wife, erasing all subjective connotations:  
first, he “[forgets] her hands, forever snapping and twisting like frenzied  
+ birds” and promptly “[lets] her fall to the floor, a softly squeaking lump of  
+ spongy rubber.” (4)  
+

In the 1974 introduction to his novel *Crash*, Ballard describes the death of  
affect as symptomatic of 20th century’s media-driven culture: “the marriage  
of reason and nightmare which has dominated the 20th century has given birth  
to an ever more ambiguous world...” resulting in “the most terrifying casualty  
of the century: the death of affect.” (5) Critic Steven Shapiro elaborates:  
“[According to Ballard], thanks to the new electronic technologies, the world  
has become a single global marketplace. Universal commodity fetishism has  
colonized lived experience... Every object has been absorbed into its own image.  
There is no longer (if there ever was) any such thing as a single, stable self.”  
(6) When the protagonist in the story presents his discovery to his neighbor, he  
responds, “The subject-object relationship is not as polar as Descartes’ ‘Cogito  
ergo sum’ suggests. By any degree to which you devalue the external world so you  
devalue yourself.’ (7) There is much at stake.

\* 3. Death of Affect (exhibition) \*

The curators Holstrom and Mathews chose works that address the impact of  
technology on individual subjectivity. I chatted with them online at length  
last month about their decisions for the exhibition. (8) Wrote Mathews, “We  
thought this story, and the theory surrounding it was the perfect analogy for  
+ a condition of media saturation... I think our goal for this show, and of the  
+ artists whose work we included in the show, is to illustrate the possibility  
+ of the death of emotion.” (9) This death results from, to Mathews, the  
systemization of our relationships to “anything an everything, people, objects/

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+ forms,” the more they become more familiar, individualized, “the more they  
+ distance each person from their individuality... this is total media domination...  
+ when media seeps into your dreams, your subconscious, where else can you go?”

The works in the exhibition, all relatively recent (the oldest from 2005), and mostly traditional media (painting and sculpture), each explore the relationship between affect and image, and how it has developed since the 1960s.

Holstrom brought up Wilson’s work when we discussed the personal relationship we have with images on the Internet, and accompanying questions of authenticity, subjectivity and authorship. Wilson takes all the images she uses herself. They have a postcard like perfection. “Most of us assume they are lifted from the Internet, etc,” wrote Holstrom. “But she rustles about in the woods, desert, etc to get these perfectly sublime images of nature, and then she transforms them (not in color or tone) by drawing attention to their previous flatness as images, and giving them a new life.” Wilson’s subjective identity, interred in the photographs, is not immediately available to viewers, yet it is crucial to understanding them. The sculptures comment on the ubiquity of images and the stratification of one’s identity through photography on the Internet. “[It’s] like every sunset is a piece of stock photography even if you are alone on a cliff with the wind in your hair. we still experience it together....” Media affects how we experience \*life itself\*: “We almost don’t see the beauty of everyday life anymore, we are always thinking about how to maximize the experience via Twitter, etc.” The work recalls Don DeLillo’s “most photographed barn in the world” from *White Noise*; in a maze of representation, we go to the barn only to photograph it. Wrote Holstrom, “[it’s] as if there is no longer you or I but an expectation of shared experience.” Wilson seeks to recognize, and reenergize, the subjective identity of both the artist and the viewer. Her photographs, that would be ubiquitous on a Facebook page or Google image feed, are fleshed out into the real, reified, there for us to trip over like we would a rock on a hiking trip.

Dannielle Tegeder’s sculptural installation consists of objects swathed in black cloth displayed on a shelving unit. The objects are sometimes recognizable, but often elude association. Holstrom wrote of the piece, “the viewer is invited to participate in the display and then, then not allowed to fully engage in knowing the objects...very trippy, almost Pavlovian.” The movement of the forms between recognizable and non-, shapes in a composition and actual objects, resembles the transformations of Ballard’s character, the blurring between image and object. Tegeder very simply and swiftly transforms a well-known object into something unknown, mysterious – an effect also produced by the digital sublime.

Three painters in the show combine realism and abstraction. Halvorson’s painting, *Edging*, also touches on the uncanny, presenting objects that are at once exceedingly familiar yet frustratingly distant with a Surrealist bent. Minuscule details, results of fastidious plein air painting, describe the objects’ surfaces, but appear unrelated to their makeup or shape. As a result, the surfaces read more like ‘surface treatments,’ like digital ‘skin’ overlaid on the ‘mesh’ of an object to better describe it. These details alone are the identifiers to the objects. It is a representational painting, but Halvorson treats it like an abstract; each realistically painted, but completely unknown, object is flattened by lack of recognition into a shape. Similarly,



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+ JJ Garfinkel's paintings wrestle with figuration and abstraction, producing a  
+ puzzling image where space is distorted by folds in a pastel-colored veil. Gina  
+ Beavers' painting literally superimposes both methods, denying the illusionistic  
depth of a laundromat interior scene with a goopy outline of a neon sign,  
collapsing technological, painterly, and graphic representational strategies.

On the opposite end of the spectrum is Mike Cloud's \*Chicken with Two Stars  
of David\*, from 2005. Chicken Limbo is a plastic toy from a children's game  
with long orange legs and a dangling tail. Its feet are drilled to two square  
paintings of the Star of David. One struggles to identify the sociopolitical  
statement, if one exists; is it about the Jewish politics? Cloud appears to  
disregard any and all associations the objects might have. Like Albert Oehlen  
paintings from '04-'06, he investigates the weight of the empty signifier.  
Unlike Oehlen, he resourcefully elicits a nostalgic response from a certain  
type of viewer, one of middle-class, mid-90s upbringing, now the young twenty  
something. This surge of nostalgic affection and resulting humor is immediately  
suppressed by the specificity of the Star of David, and its heavy symbolism.  
Mathews summarized, "for something so cloaked in symbolic meaning, it seems  
overly symbolic... almost cancelling its agenda." The sculpture is like a tumblr  
feed (even though it was made pre-tumblr), or a Google image search, creating  
a bizarre juxtaposition. (What would the search term be?) Encumbered by its  
specificity, it collapses under its own symbolism.

+ For Holstrom, Cloud's sculpture represents a reinvigoration of individual  
+ subjectivity. The structure supports itself by way of a figure; the paintings  
+ wouldn't be visible without it. "It is about the necessity of a figural  
+ support[...] i think of the chicken as a comical stand-in for the potential  
viewer." In doing so, Cloud restores the authority of a subjective viewer, while  
simultaneously waylaying the sociopolitical and affective connotations of the  
paintings and toy. "its like a struggle, which is more important, the figure  
(toy/us) or the images?...We are mutually dependent."

What is the role of empathy in contemporary society subjugated to a constant  
deluge of images? We increasingly forge affective relationships with images,  
brands, representations, advertisements, media, rather than with our own images.  
We are 'just pagans engaging in idolatry.' (10) This is not anything new. Yet  
we find our subjectivities increasingly codified by powers outside our own. And  
why paint? A sort of anachronistic frisson exists in artists using traditional  
media to explore ideas around technological alienation. Digital media feels too  
correct, too close to what they're trying to critique.

+ In the 1980s, painters like Sherrie Levine, Ashley Bickerton, and Vaisman and  
+ Wasow explored similar themes, responding to the proliferation of television  
+ and advertising. \*In Signs Taken For Wonders\* from 1986, Hal Foster suggests  
that by combining strategies of both representation and abstraction, they  
created \*simulations\* in order to criticize the abstractive tendencies of  
late-capitalist society. "The duplication of events by simulated images  
is an important form of social control, as important today as ideological  
representations. In fact, simulation, together with the old regime of  
+ disciplinary surveillance, constitutes a principal means of deterrence in  
+ society...In short, more than this or any art, is the abstractive processes of  
+ capital that erode representation and abstraction alike." More than twenty years

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+ later, the artists in the \*Death of Affect\* struggle with the same issues. And  
+ “Death of Affect” isn’t the first exhibition to tackle Ballard’s themes—“Crash:  
+ Homage to JG Ballard” was at Gagosian in Spring 2010, with selected work which  
explored Ballard’s themes of “psychological effects of technological, social and  
environmental developments on humans.” (11)

I am not entirely convinced of the hierarchical relationship between our  
affective relationships to real objects and their counterparts, ‘evil’ media  
representations. We have always had images that we are emotionally connected to.  
We have meaningful experiences and connections online. Abelow’s Art Blog Art  
Blog project showcases the liberating and boundary-erasing power that images,  
used in the right way, can contain. In contrast, Ballard presents a dystopic  
world where representation has replaced the real.

At the conclusion of \*The Overloaded Man\*, the protagonist passively murders  
his wife and then drowns himself. Yet Ballard ends the story on a relatively  
positive note: freed from consumer culture, the weight of associations, history,  
he is unburdened:

\* “At last he had found the perfect background, the only possible field  
\* of ideation, an absolute continuum of existence uncontaminated by material  
\* excrescences...he waited or the world to dissolve and set him free.” (12)

+ (1) From interview with Joshua Abelow, November 20, and December 7, 2011  
+ (2) “affect” (aff-ect) in psychology, see also affect theory, is generally  
+ thought of as an emotion or feeling, but one that is subjectively experienced.  
(3) The Overloaded Man, in The Complete Stories of J.G. Ballard, hereafter  
referred to as ‘Stories,’ 247.  
(4) Stories, 253.  
(5) J.G. Ballard, introduction to the French Edition of Crash, 96.  
(6) Steven Shapiro, The Life, After Death, of Postmodern Emotions, in Criticism,  
Winter 2004, 126.  
(7) Stories, 247.  
(8) Disclaimer: I did not get a chance to see the exhibition in person but  
have seen some of the work by the artists before. Using the images, and the  
press release, as a form of visual research, I ignored how I might subjectively  
experience the work coming upon it in reality, and probably missed important  
details. Working with the curators, however, I was able to get a better picture  
of the works.  
(9) From interviews with Jeffrey Scott Mathews, December 12, 2011, and Fran  
Holstrom, December 3, 2011  
(10) Jeffrey Scott Mathews’ words, referencing Dave Hickey lecture, ‘The Evils  
of Creationism: Art History According to Darwin’  
(11) Press release for ‘Crash: Homage to JG Ballard’ February 11 - April 1,  
Gagosian London, 2010 <http://www.gagosian.com/exhibitions/february-11-2010-crash>  
(12) Stories, 254

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+ \* Introduction \*

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+ Since its beginnings in the late 90s, internet art has had a fickle relationship with the museum. While commissions and granting initiatives have been established for media arts in Europe and America, the relationship between internet art and its fluctuating appearance in institutions demonstrates that it has not yet been wholly embraced by mainstream contemporary art.

Due to its variable reproducibility, the curation and collection of net art has presented challenges and transformations to the traditional operations of art distribution. Sculptures, digital paintings, installations and performances appear on the internet as documentation of art, whilst animated gifs and videos are moving images that require browsers, screens or projections as the apparatus for (re)presentation. This essay traces the shifts in value of internet art from browser to gallery, and compares disparate examples of curation, collection and selling of net art from past and present. Some questions that started this inquiry were:

- \* Can internet art make money like other artistic genres?
- \* Who buys internet art?
- \* How has value been ascribed to net art as a freely accessible form?
- \* How has web-based been curated and sold in the gallery system?
- \* What implications does its monetization have on existing modes of distribution
- \* and the definition of the collectible art object?

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+ As a result of decentralized distribution, the media object undergoes reification when the documentation of an art object is reproduced and viewed more than the object that is represented within it. In its move from digital to physical exhibition spaces that may be self-organized or affiliated with professional institutions, webbased art accrues exhibition value. As Nicholas O'Brien has observed with the paradoxical installation demands of media objects:

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- \* "...there is an unexpected reliability and expectancy for physicality to
- \* substantiate a work - or else to give any ephemerality of a medium some sense
- \* of belonging within the gallery." (1)

Commodification occurs in the physical representation of a digital media object for exhibition in a physical gallery space, where screen-based media becomes an object of culture for visual consumption and contemplation. I will compare traditional approaches to selling with alternative, artist-run exhibitions to explore ways of creating value for net art beyond the computer interface. In this study I trace the shifts in value of net art (in particular, the conception of aura and the move from free distribution to spatialized, sellable commodities). Finally, I argue that the most effective way to monetize net art is not through selling a physical analogue of the digital object, but a contextual integration of the buying process into the completion of the artwork.

FULL TEXT HERE:

[http://dl.dropbox.com/u/1441203/Pool\\_Jennifer\\_Chan\\_TheCommodificationofNetArt.pdf](http://dl.dropbox.com/u/1441203/Pool_Jennifer_Chan_TheCommodificationofNetArt.pdf)

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