

## Marysia Lewandowska and Laurel Ptak on intellectual property

THIS TEXT MAY BE REPRODUCED; STORED IN A RETRIEVAL SYSTEM; AND TRANSMITTED BY ANY MEANS, ELECTRONIC, MECHANICAL, PHOTOCOPYING, RECORDING, OR OTHERWISE, WITHOUT PRIOR PERMISSION OF THE PUBLISHER OR AUTHORS.

Artist Marysia Lewandowska and curator Laurel Ptak have initiated a long-term conversation and collaborative research project on the subject of intellectual property, open culture, and art practice. They are presently co-organizing a series of events and co-editing a book around the subject. The following text is an imperfect facsimile and uncopyrightable trace of their ongoing dialogue around authorship, ownership, economy, difference, ethics, freedom, production, consumption, use, public, private, and the gift, as it has unfolded since the fall of 2009.

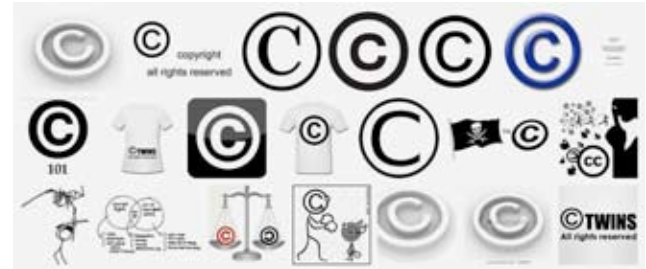
**LP:** For me debates around intellectual property are essentially questions about who owns ideas and knowledge; Who produces them? Who consumes them? Who profits from them? What are the politics, conditions and economies of their production, circulation, and distribution? Our work together explores and tries to articulate the scope and terms upon which ideas and knowledge might more ideally be shared—both inside and outside the art context.

**ML:** What is the value of culture that is predominantly owned rather than shared? This brings us to the question of the social dynamics of property. And relates directly

**Text** Marysia Lewandowska and Laurel Ptak



Bedford Square, London, 2010



Copyright

to neoliberal politics and the destruction of public space which includes publicly owned knowledge and creativity. The more enclosures you invent and legally enforce, the more you are creating a situation where the very concept of the public is being eliminated.

**LP:** You have lived for many years in London, and I've been based in New York City for a decade now. Between the twin figures of Thatcher and Reagan the instances and effects of deregulation and privatization they set into motion have been widely discussed and deeply felt. It seems to me that the changed social conditions shaped by these economic and political policies are well expressed inside recent struggles over intellectual property.

**ML:** You living and working and being connected to a community of other creative workers in New York City and myself engaged in debates across Western Europe, including the former East. Is it worth keeping trace of those differences?

**LP:** Yes, our geographic but also generational points of view have proven productively different for our work together. Let's contextualize.

**ML:** I was raised in Poland, in a culture where ownership was assumed to be collective, and private property was abolished and violated. It might seem a contradiction but the experience of collectivity under communism left me

with a very ambivalent relationship to property. (Although this may have had more to do with subjectivity itself and how you were not valued as an individual.) And yet my experience since moving to London in 1985 has gradually allowed me to get closer to a notion of knowledge that is produced collectively without having to always go back to the question of origin. I have also for the past six or seven years encountered the principle of the commons, originating in English land rights. So gradually through these contexts in which I lived and worked, I became more open, and that happened to coincide with larger cultural movements like digital peer-to-peer production, open source culture, ownership of knowledge and intellectual property debates.

A starting point for my interest in intellectual property is the question of generosity and the gift. It's an interest in the circulation of the gift and its need for dissemination that brought me to the point of considering creativity as an exchange of gifts. It may also have something to do with having had a long-term collaborative art practice that was based in negotiation and questioned authorship, even though not so explicitly. Another turning point for me was working with archives and the realization of how something that has been produced and supported by collective efforts is controlled through limiting access and becomes the site of struggle over property rights.

**LP:** My interest in these ideas radiates from a particular cultural moment that I experienced in New York City in the very early 2000s—the end of the 'dotcom boom'. This was the moment I graduated from college and it was when anyone



Sotheby's, London, 2007



U.S. Government Website Seizure Notice (It is unlawful to reproduce or distribute copyrighted material, such as movies, music, software or games, without authorization. Individuals who willfully reproduce or distribute copyrighted material, without authorization, risk criminal prosecution. First-time offenders convicted of criminal felony copyright laws will face up to five years in federal prison, restitution, forfeiture and a fine).

with a freshly earned liberal arts degree could teach themselves code, be recruited to work for an internet start-up company, and more or less have a hand in 'inventing' the internet. My adult subjectivity was formed directly under the conditions of this emerging digital and information economy, with its attendant post-Fordist conditions. Participating in the building of this new system for mass communication and commodification allowed me to reflect on its features, rules, and economies. I know it intimately.

A decade later I think a lot about how much notions of communication, site, labor, production, distribution, community, sharing, as well as the boundaries between what is public and what is private are in flux through our experience of this technology.

**ML:** There might also be a convergence of the fall of communism in Eastern Europe and the internet entering into our lives. The possibilities of living without an ideologically centered ruling system. Something that comes with an understanding of freedom a new system promises is how easily it can be abused.

**LP:** It's interesting to me that we're both pointing to much larger systems of change which affect the ways authorship and ownership relate to one another—albeit in radically different contexts.

Network culture has certainly revealed how freely and inexpensively information and knowledge are able to flow and circulate. But it has rendered equally visible how hard the state, the corporation (add to this: the museum?) will fight to keep things copyrighted or privatized in the interest of certain economies. This is so starkly at odds with the ways that individuals demonstrate a will to use and share information, knowledge and their own creativity. Intellectual property is ultimately a legal and economic apparatus that transforms ideas into commodities. Like any legal system it is defined through its interpretation and enforcement, but what's always at stake are tensions between authorship, creativity, value, law, and the state.

**ML:** Every artwork always navigates precisely these concerns—but not necessarily transparently or even reflexively. Ownership and identity are strongly linked with each other. Collaboration and participation appear to be sites of exchange open to negotiation.

The object of that exchange is creativity itself. How we own and share what we collectively produce defines, as well as is defined by, a social framework.

**LP:** There are many conflicting narratives at play that contribute to this lack of transparency. Think of how hard it is to answer questions like: is art publicly or privately produced, owned, and funded? Is culture a social or economic form?



By Invitation Only, Moderna Museet, Stockholm, 2007



Manufacture of Sol LeWitt's copy, Van Abbemuseum, Eindhoven, 2010

It's always been interesting to me that while intellectual property issues have been well discussed inside certain discourses, like the legal one or the new media one, the art world still seems strangely oblivious or indifferent to these questions. There is work to be done there.

**ML:** During my early intellectual life in Poland, the most forming experience was contact with conceptual and de-materialized art production. Activities that didn't leave a lasting trace and were witnessed by gathering around an event and a community of like-minded people. Trust played a major role; it was a way of guaranteeing the legitimacy of the activities. What I observe today is how the proprietary battle changes the status and memories connected to those earlier practices.

**LP:** For me it was immaterialized art production and distribution that have had the most impact. The possibilities network culture opened up in terms of peer-to-peer sharing and co-production have interesting parallels to the '60s and '70s practices you bring up. I think both of these moments were/are an intense questioning and reformulation of the relations between authorship, objectness, labor, production, and value. Art becomes a productive means to negotiate how these aspects in society, much more broadly speaking, are in turmoil.

This is where a project like the recent *Free Sol Le Witt* at the Van Abbemuseum by Superflex (with lawyer Daniel

McClellan), is interesting to consider. It draws a direct parallel between these two moments by taking a LeWitt work from 1972, *Untitled (Wall Structure)*, and opening it up to the concerns and conditions of production and distribution more familiar to us today through online culture. The exhibition consists of a metal workshop set up inside the museum—so it's not the LeWitt work itself that's on display, but rather the performance of workers producing an exact replica of the artwork.

Copies of the artwork are offered for free to the museum's public in a lucky draw.

Extending the artwork to an end conclusion which feels very contemporary yet is different from LeWitt's original gesture (Superflex term this »setting the work free«) opens up room for us to interestingly contemplate how and why notions of authorship, objectness, labor, production, and value might have changed through time.

**ML:** What seems important to add is that the difference lies in the ownership of the »authorised« copy, which although produced with the same specifications does not equal the »original« work itself. A careful contract drafted by the intellectual property lawyer on behalf of the public museum and the widow of the artist makes that difference explicit in legal terms. One could speculate over how this »detail« might affect the future value of the »freed« work.



UCL Student Protests, London, 2010



Copyleft

**LP:** A lot of your work has certainly negotiated these ideas. Maybe you could talk about a few projects that have been important for you?

**ML:** In the last three years I have developed a number of works based in the research of the social function of the public museum, more actively exploring the model of open source production. A film, *Museum Futures: Distributed* (32') (2008), was commissioned by Moderna Museet in Stockholm for their Jubilee and was made as the last work in my long-term collaborative practice with Neil Cummings. It is a machinima record of the centenary interview with Moderna Museet's executive Ayan Lindquist set in June of 2058. The exchange between two women explores a possible genealogy for contemporary art practice and its institutions, by re-imagining the role of artists, museums, galleries, markets, and academies. It is also explicitly critical of proprietary regimes, characterized by false scarcity and artificially inflated art prices by market driven concerns. It may feel at times a dystopian vision of the devastating effects that overprotective copyright and corporate laws have left on creative exchanges and cultural production. But it shows a future that belongs to a well-nourished Public Domain as it emerges from those darker decades. The project proposes how voluntary contributions of one's own work to the common pool is a right that should not be restricted or determined by openly commercial interests.

**LP:** Where *Museum Futures* speculates about open culture and the fate of the public domain, some of your other projects deal more tactically with these concepts.

**ML:** I had a chance to work with Moderna again in the context of their survey exhibition *Modernautställningen 2010*. My project *How Public is the Public Museum?* (2010) explores questions of intellectual property, economy, and gift in relation to mechanisms of dissemination, engaging forms such as the poster, the exhibition catalogue, and the museum logo itself. By inviting all the participating artists, writers, photographers, and designers involved to consider having their works reproduced in the catalogue as non-proprietary, I encourage a clear declaration concerning exchanges in the creative field. Granting free access to one's work changes the mind set and perhaps reduces the fear of illegal violation. As a result of this request the catalogue appeared with the Creative Commons license - making it the first of its kind in the history of publications released by Moderna.

With the additional gesture of giving away a double-sided poster bearing the image of Robert Rauschenberg – whose handwriting is used by the museum for its logo – I offer a choice to the visitor of endorsing the creative commons license and releasing the object and image into the public domain. As one side bears the logo with the CC sign the other reminds us of its current status as a copyrighted entity. The double-sidedness of the poster articu-



Marysia Lewandowska, *How Public Is The Public Museum*, Moderna Museet, 2010



David Horvitz, artwork freed into the public domain, 2010

lates a possibility of active engagement in the thinking and deciding that the visitor and owner of the distributed gift is empowered through. A similar reminder appears on the façade of the museum building where the logo is clearly painted. By adding the copyright sign I wanted to bring to the public attention the fact that despite the original writing having been offered in a generous gesture by Rauschenberg, to ensure its exclusive rights it had to be withdrawn from free circulation and locked into an exercise of branding.

A similar spirit also characterizes the project through which we met at the Center for Curatorial Studies at Bard College, *Women's Audio Archive* (2010), which establishes a dedicated online archive ([www.womensaudioarchive.org](http://www.womensaudioarchive.org)) of conversations and public events, which I recorded during the 1980s in London and elsewhere. The work still continues as I'm involved in negotiations with all of the authors whose voices have now been digitized, to secure their agreement in making all of the recordings freely available as part of the public domain and knowledge commons.

All of these projects contribute to the debate concerning the constitution of a cultural commons, whose contents are freely re-usable and protected from privatization. The underlining desire is in creating and supporting a clear alternative to the currently existing restrictive procedures developed in the interest of capitalising on the wealth of ideas, rather than benefiting their authors.

Conceiving knowledge and expression as something essentially common, to be shared and made available as a resource for future creation, both semiotic and embodied, material and immaterial, seems an important basis for an artist's practice.

**LP:** Many of my curatorial projects over the last few years have likewise sought to address parallel concerns. I feel it is increasingly important to make explicit how intertwined the relations between economies and ideas have become—especially as our broader economy has come to rely so much on knowledge and information as commodity forms—but perhaps even more importantly to articulate, examine, and occasionally counteract problematic sets of social and power relations these conditions bring along with them.

One example of this is my recent collaboration with American artist David Horvitz and the 2010 graduating class of Bard College's MFA program, a project called *Like the English Language, Formulae of Newtonian Physics, the Works of Shakespeare, and Patents Over Powered Flight* (2010). The title comes from the Wikipedia entry on the Public Domain—it's a list of remarkable things that are immune to private ownership.

Horvitz approached me to see if I would want to collaborate on a project about intellectual property, which he knew I had been thinking about for a while. Much of his work deals interestingly with the concept of distribution and the gift—often engaging, re-working, or making



Public Library, Stockholm, 2006

transparent the logic that network culture in particular has brought to bare on these concepts. We wrote a letter to the entire graduating class of this MFA program (where Horvitz himself was enrolled), explaining why generosity might be important to consider in the field of art, how their work as professional artists would be constantly entangled in questions of intellectual property, ownership, and value that had never been directly addressed in the context of their education, and asking them to reflect on the relationships between artworks, ideas, property and culture. In the end they agreed to release 25 of their artworks into the public domain, meaning they relinquished all legal ownership and copyright over these works so that they could become public, rather than private, objects.

**ML:** It would have taken 70 years otherwise before these works would have become part of the public domain. In a period of 300 years, the legal protections of copyright have been extended from 14 years back in 1710 to 70 years today. Does that mean what we are producing now is more valuable? How is this value manufactured? How does the process and pressure of this extension of time relate to commercial exploitation?

**LP:** One of my favorite aspects of working on this project was editing and circulating a pirated PDF reader that assembled a wide range of texts on the subject of intel-

lectual property and the public domain that I had encountered and compiled in my own private research and now had occasion to share.

Out of this I began to get very interested in, and do research into, the history of pirated books. It's been fascinating to realize what a long tradition there has been of people making and distributing them, not to mention just how many stark parallels we can draw between the debates that unfolded centuries ago with the wide-spread use of mechanical movable type and the printing press and the internet and digital reproduction technologies we have at our disposal today. There was a powerful populist movement in the 1700s that argued that the pirating of books was in the public's interest—it practically mirrors today's discussion of peer-to-peer file distribution.

**ML:** Matthew Stadler has this great quote: »Publication is not the production of books but the production of a public for whom those books have meaning. There is no pre-existing public. The public is created through deliberate, willful acts: the circulation of texts, discussions and gatherings in physical space, and the maintenance of a related digital commons. These construct a common space of conversation, a public space, which beckons a public into being. This is publication in its fullest sense.« This idea deeply resonates with me, especially in the context of our exchanges over the past few months and with our desire to bring our ideas into published form.



National Union of Students March, London, 2010

**LP:** I'm rather interested in something Stadler suggests here, that today our very notion of public space is both comprised of an immaterial digital commons as well as our more traditional physical spaces for gathering or exchange. Can we think of online space as a public space in and of itself? And if so how might we characterize it? It seems to me a rather ad hoc kind of public space, and its non-physical, deterritorialized nature certainly makes it harder to ensure that protections here can be equally offered to everyone. On the one hand it seems to be a site with unique democratic potentialities—think of Iran's »twitter revolution« or Wikileaks »cablegate«. But it also smacks of a privatized, corporate sort of public space as well—like Facebook or Google. A parallel to the later might be to imagine urban corporate atriums or the food courts inside suburban malls. While we are all allowed to enter and occupy these spaces for »free« our behavior inside of them is always instructed by and ultimately subject to the rules and logic of the corporation. Maybe we need to start recognizing that the information architecture and code used in constructing a website is equally like architecture in physical space—on some level it embodies ideologies and controls our behavior.

**ML:** The protection of the embodied public sphere has taken a different turn with the recent student protests across the UK. I experienced them in London, witnessing self-organized responses against the fee increases and

cuts to higher education. The occupational strikes proved that all those involved in academic and art institutions, both tutors and students, were being subjected to business models of education, threatening their basic rights with harsh commercial considerations, which will soon lock publicly produced knowledge and resources into privatized zones of access. The accompanying motto »*Don't panic. Organize*« resulted in successful actions with occupied classrooms from the University College London to the Royal College of Art and beyond. A clear refusal and opposition to government proposals perceived by everyone as a violation to human rights was an indication of how intellectually and emotionally invested the subject of ownership has become.

The climate of increased pressure from policy makers that financial interests must shape our public life has created a strong need for non-proprietary, collaborative production and ownership. Through those moments of consolidated engagement one's attention shifts and explores rich areas of cultural activity that fall below the radar of state control and intervene into formulating our desires for an open access to knowledge and creativity. They must be part of what one thinks of as un-knowledged knowledge, often originating in networked contexts ridden with unexpected affiliations between people and the wider social imagination. ◆