

World Artistic Property Organization

WAPO

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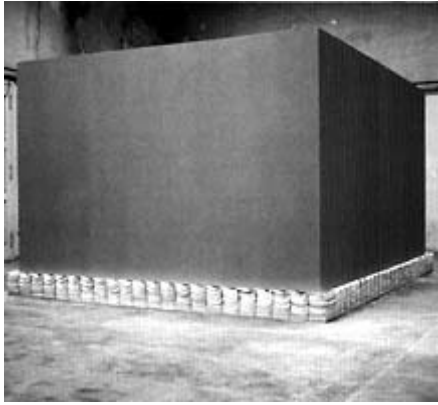
Up to now there has been no place where artists could exclusively control and present the multifaceted array of original and novel ideas on the basis of artistic property rights.

During the first phase of our project, questions centered on the difference between discovery and invention. We tried to grasp the character of what constitutes one's own, of property and of barter and define what 'new' meant in this respect. The second phase of the project, in Linz, includes various examples of the possibilities and limitations in presenting artistic works in computer models. Seen against this background, WAPO wants to serve as a forum for critical investigation and discussion and at the same time as a model platform.

WAPO — WHY?

There are few alliances more ambiguous or problematic than that between the artist and the bureaucrat. In general, neither is really happy, and yet it has a history as long as the history of Western Art itself. Integral to the nature of this uneasy alliance, usually its focus, is the artistic product. The pragmatic politician, expressing "the will of the people", puts art classes and support for the arts first on his list of expenses to be cut. He knows that no one really "needs" art. The proud and fiercely independent artist blazing his singular creative trail focuses his most critical vision on the functionary, the politician and the bureaucrat. These are the representatives of systems that he knows imprison and kill the creative spirit. The artistic production continues even as the struggle between the two goes on: silently, almost in secret, for usually neither is willing to admit just how much he needs the other.

In fact very few of the artworks that we consider milestones of western culture are not the result of this alliance: very few artworks are completed wholly by the artist working alone, without some kind of support from society. Conversely, very few of the spaces we inhabit, both public and private, would be considered habitable without the artist's touch, in ways both seen and unseen. Here we must consider not only cathedrals and monuments, but buildings, cars, railway stations; even the virtual space of television and electronic media reflects the role of the artist in Western Civilization, reaching well beyond the scope of traditional notions of painting and sculpture.



And yet despite that, or perhaps even because of it, there are few creative groups more unprotected from the unacknowledged taking and using of ideas than artists. Inventors have the patent office. Scientists and researchers have various publications and institutions to document their discoveries and developments. Musicians have numerous organizations very active in protecting the rights of their members' creative efforts. The work of these creative groups can usually be categorized or identified in some way. The inventor is the first to put his ideas before a board of experts, the researcher or scientist has his laboratory notes to confirm the originality of his work, the musician has the vertical structure of sound in the horizontal of time to properly identify the arc of his creation. But the artist, beginning even with the vagueness of the term, falls somewhere in-between. Which board of experts can confirm what is and is not "art"? How many artists keep notes with the precision of the scientific researcher? What are the x and y coordinates that identify, say, the developmental arc of a spontaneous performance piece? And yet it is there. Art is there - it exists.

Artists are always among the first to feel constrained by and to rebel against the imposed structures of systems, whether the systems are working for them or against them. This defines the core of the antipathy between artist and bureaucrat. The continuity of a system is the bureaucrat's reason for existence: the artist adopts or creates a system only in order to go against it, to break it into pieces. Bureaucracy defines limits so that it may patrol them. Art defines limits only so that it may violate them. This is art's greatest strength and its greatest vulnerability, and this defines the core problem of protecting the rights of the artist.



Whether by design, ignorance or indifference, there are no parties more guilty of the theft of artistic ideas than other artists. Working in a highly competitive, scarcely supported field, nearly every working artist has experienced the pain and frustration of seeing an artistic idea, perhaps dropped in casual conversation, taken and capitalized upon by someone quicker, less careful, and often less creative than the originator. The situation becomes doubly painful

when a stolen idea leads to the loss to someone else of a much-needed grant to continue a line of creative work. It is a very old problem among artists, a common complaint with new variations heard at every exhibition opening. Usually the source of the idea for the resulting work goes unacknowledged, even when the taker is confronted directly. It becomes a problem of documentation, for what proof is there of an idea dropped in an unguarded moment? And yet, documentation means systems. And systems mean procedures, categories, bureaucrats, border patrols - familiar and hostile ground for the artist. So, the artist finds himself between the devil and the deep blue sea. He can either systematize, fix, and thereby limit the boundary of his creativity in order that he might patrol it, or he can, in one way or another, accept that this is part of the life of the artist and hope that tomorrow he still feels that it's worthwhile to continue working. Obviously, neither option is very attractive. Often the artist publicly takes the latter approach, saying with brave resignation that he doesn't mind at all if other people take over his ideas without asking him. Ultimately though, not many artists can endlessly subsidize the creativity of others and still feel it worth the creative effort and struggle to survive.

It is upon precisely this set of problems that the World Artistic Property Organization (WAPO) will attempt to open a dialog. Specifically: Is it possible to create an organization that recognizes, protects, and supports artistic property without subjecting it to the stranglehold of bureaucratic systems? How could such a system be used to document artistic ideas without disintegrating into chaos? Is there a use for such a system, and how could its authority be established? How could it be supported? Is it feasible, given its ability for the endless mutation of categories and cataloging, to use a computer to aid in the establishment of such an organization? Would it be useful and meaningful to have such a system on-line on the World Wide Web, with examples of the artists' work accessible for research and available to anyone capable of connecting to it? If such a system were established, how could the rights of the artistic property contained in it be protected against the unlimited copying and manipulation that has become the hallmark of the emerging Digital Age?

The issues of copyright and creative theft did not arise with the Digital Age, but the accessibility of digital work and the easy availability of the means of reproduction have pushed those issues into the spotlight. The rapidly increasing need for programs for use by the expanding realm of digital media will lead to a shortage, which will further intensify the demand for concepts and creative ideas. Already picture and sound archives are bought up on large scale (for example, from museums) and monopolized. Copy, montage and filter techniques provided by state of the art image-processing software, enables a traceless devouring of creative ideas. Art is increasingly less a decision or a position; it becomes instead a short-lived, self-consuming fashion. The works of artists, both present and past, are forming a huge, practically unprotected pool of creative ideas. It is time that we, as artists, begin a constructive dialog as to what we can do about it.

... ORIGINAL / QUOTE / DUPLICATE / REPLICA / PLAGIARISM / CLONE / COPY / SAMPLE / FALSIFICATION ...

The first phase of project WAPO materialized at the experimental studio of the Academy of Arts in Berlin in November 1993.¹ An office was established, equipped with European letters patent as well as photos produced in the two Berlin patent offices and information material on patent law and its application as well as on copyright law and the Verwertungsgesellschaft Bild-Kunst, an association responsible for matters of copyright in the field of fine art. Next to the office, covering an area of 23 square meters and 3 meters high, an installation of wooden walls mounted on a base of European letters patent was constructed and was accessible to

visitors. Over a period of three weeks discussions with visitors ensued on the basis of the following issues and questions:

All over the world 600,000 first-time applications for patents are registered every year. In almost any country a patent office is to be found, governed by laws which are similar all over the world. If we look at German patent law and copyright law we realize how the state, represented by the law, distinguishes between a technical invention and an artistic one. According to laws on industrial property, patent law covers technical inventions. To qualify for a patent an invention must fulfil the following substantive requirements: novelty (since January 1978 "absolute" novelty), inventive level and industrial and commercial applicability. Works of literature, music, science, art and computer programs are subject to copyright law. The following requirements have to be met: personal intellectual creation and creative level. We are dealing with discoveries, with originals.

According to this official definition, art is a matter of creativeness. Artistic production leads to new forms and systems, which exist solely because they have taken shape as ideas and as objects. These are not inventions but discoveries. A discovery lifts the cover so that that, which lies hidden, becomes visible. This, after all, means grasping the essence of what is there, the artist as assessor, critic, commentator and trickster. The artist as the one who uncovers what is hidden and not visible.

Whereas the original refers back to its moment of creation, the discovery deals with things that have already existed. Art straddles the two. Technical inventions are protected — against payment — by patent law for a period of 20 years, creative discoveries remain protected up to 70 years after the death of the creator at no cost.

According to law, the act of creation deserves protection from the very moment it comes into existence. Each and any creative act? Where are the limits? And for whom? Clearly, it is extremely difficult to assess the creative value of a creation.

Why does a copyright remain in effect even beyond the creator's death? What hopes, what claims are implied in this regulation? How is it possible that a creative act is at the same time of more or less valued than a technical one? — Obviously, different claims to power are in play, the question remains who benefits from them?

The term "art" is to be found neither in the patent office's book index nor in its computer, which does not come as a surprise. After all, the patent office deals with technical inventions. It is, however, interesting that the Verwertungsgesellschaft Bild-Kunst associated by decree of law, is supervised by the German patent office. Why is art denied a place of its own?

Patented inventions are innovations that have come about with a purpose in mind, i.e. reproduction. This is why they are legally protected, for example by the WIPO, the Geneva-based World Intellectual Property Organization.

Where is the interface between a discovery and an invention? What is the essence of something new? What is the meaning of new things in a society in which traditional values are disintegrating? When will the amounts of archive information become too much for us so that we can no longer handle it? What are the consequences for our need to communicate and to share?

Art results in discoveries, which in a certain way are more radical and complex than technical inventions since they came about by conscious as well as unconscious, intuitive acts. This makes the application of copyright law to works of art extremely difficult (cf plagiarism, copy, simulation). Where are the possibilities and the limits of legal safeguards: What is artistic property, what is intellectual property? What can be called one's own? How do we deal with our own things and those of others? We are reminded of a barter deal. Barter (in German 'Tausch', in Middle High German tuschen = to lie) means exchanging, giving one thing and receiving another. Lying is a crucial playful element of the barter, since we know that two things can never be identical [techna, Latin (Greek) (art), trick]. In bartering I can only give what belongs to me, and I can only grasp the value of what is my own by the approach, the realization and the experience of the other one. In a barter deal the two people concerned have to agree. Only if we accept this process, can our ideas, both material and spiritual, bear fruit: and only then does the act of communication and sharing lose its illusory character for a single moment.

¹ During the final preparation for the first phase of the project (Berlin, 10/93), Lisa Schmitz had intensive and extensive discussions with Peter Fend, who, because of his own statements on the Ocean Earth Development Corporation, became interested in the project. His publications about WAPO, "Organization of Invention" is in "Nummer". Koeln 1/1994; and in "Documents". Paris, 1994.