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Contested spaces: copyright and Intellectual Property

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Intellectual property law is part of the 'art' world in the sense that it forms part of the milieu in which contemporary artists position themselves. Copyright says we can rework ideas we read in 'another's' imagery but our work shouldn't look substantially similar to the 'original'. Trade mark law asks us to respect the right of manufacturers to (usually) visually distinguish their product in the marketplace so we, as consumers, can identify that the goods or services originate from a particular trader. The 'sign' must remain distinctive of the proprietor's business. Intellectual property laws allow 'owners' to control the reproduction, distribution and circulation of their symbols and imagery. But artists are presented with a choice in how they position themselves in relation to their works. Who does the artist think is the 'owner' of an art work and its component imagery? Should artistic production always be confined by the strictures of intellectual property laws?

Like many fast and condensed forms of communication, corporate advertising seeks to conjure a range of emotional associations, embedded in instant recognition of their signs. We are exposed to these logos, slogans, jingles and imagery everywhere, every day. Just Do it!, Finger Licking Good, You Can't Say No: Whether we like it or not, they are part of our culture, our memories and our social life.

Art that appropriates advertising places the copyright and trade mark owners in a difficult position. Is their seemingly all pervasive corporate power and influence largely illusory? Is it so fragile that it is unable to withstand unauthorised use of the imagery in, usually one, work of art seen by a comparatively insignificant number of people in a gallery? Is art so powerful that it can rapidly dilute the impact of preferred product associations? Is the law so humourless that it is unable to take the joke? Corporations and the law risk making a martyr of the artist if they successfully pursue them, and in any case, generally the artist will have few assets to cover the legal costs where legal threats fail to suffice.

Confrontation is an established practice of artists whose freedom of expression speaks to and for all of us. Confrontation is also an established strategy for corporate success, but it is not usually a preferred means of communication to the public: Connecting people, SoNatural. In taking on an artist the corporation risks alienating consumers. The publicity of an intellectual property action reminds us that our memories are TM, our images[©] and purchasing choices are influenced by corporate design and manipulation.

Confrontation is also no stranger to an adversarial system of law, however much like the corporation, legal institutions want to be seen to be working with us and for us. So far as possible, judges resist responsibility for judging what is and isn't art fearing charges of elitism and/or lack of expertise. They also try to demonstrate a sense of humour, parody being a rare instance where a judge can demonstrate this, as well as an understanding of contemporary culture. In sometimes allowing an artist to parody

icons the law suggests an empathy with those who mistrust elite discourses and power. The force is with you.

Art that appropriates advertising imagery is difficult for corporations and the law to deal with. The production and display of this art does not really threaten corporate or legal power. But formulating a response to these works calls up vulnerabilities and insecurities that corporations, law and to some degree artists, would prefer to pretend were not really there.